

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE No. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER REGINALD BYRON JONES-SAWYER SR., CHAIR

WEDNESDAY, APRIL 3, 2013

1:30 P.M. - STATE CAPITOL ROOM 437

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ITEMS TO BE HEARD

0690 OFFICE OF EMERGENCY SERVICES

Effective July 1, 2013, pursuant to the Governor's Reorganization Plan No. 2 of 2012, the California Emergency Management Agency was re-named the Office of Emergency Services (OES).

The principal objective of the OES is to reduce vulnerability to hazards and crimes through emergency management, homeland security, and criminal justice to ensure a safe and resilient California. The OES responds to and coordinates emergency activities to save lives and reduce property loss during disasters, and facilitates/coordinates recovery from the effects of disasters. On a day-to-day basis, the OES provides leadership, assistance, training, and support to state and local agencies and coordinates with federal agencies in planning and preparing for the most effective use of federal, state, local, and private sector resources in emergencies. This emergency planning is based upon a system of mutual aid whereby a jurisdiction relies first on its own resources, and then requests assistance from its neighbors. The OES's plans and programs are coordinated with those of the federal government, other states, private sector, utilities, and state and local agencies within California.

During an emergency, the OES functions as the Governor's immediate staff to provide guidance and coordinate the state's responsibilities under the Emergency Services Act and applicable federal statutes. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, the OES is responsible for the development and coordination of a comprehensive state strategy related to all hazards, including terrorism that includes prevention, preparedness, and response and recovery.

Further, the OES improves the criminal justice system in California by providing financial and technical assistance to local governments, state agencies, and the private sector for homeland security, public safety, and victim services.

ISSUE 1: CALIFORNIA DISASTER ASSISTANCE ACT REDUCTION

The California Office of Emergency Services will open this issue with an overview of the state's processes for supporting disaster recovery costs as currently authorized by Item 0690-112-0001, Budget Act of 2012.

Governor's Proposal The issue before the Subcommittee is the Governor's proposals to permanently reduce General Fund support for the California Disaster Assistance Act (CDAA) by \$10 million.

PANELISTS

- Mark Ghilarducci, Secretary, California Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

The California Disaster Assistance Act (CDAA) authorizes the Secretary of the OES to administer a disaster assistance program that provides financial assistance from the state for costs incurred by local governments as a result of a disaster event. Funding for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster is made available when the Secretary concurs with a local emergency proclamation requesting state disaster assistance. The program also provides for the reimbursement of local government costs associated with certain emergency activities undertaken in response to a state of emergency proclaimed by the Governor. In addition, the program may provide matching fund assistance for cost sharing required under federal public assistance programs in response to a Presidential Major Disaster or Emergency Declaration. The implementing regulations for CDAA can be found in Title 19 of the California Code of Regulations, Chapter 6.

STAFF COMMENTS/QUESTIONS

The Administration has categorized the proposed reduction as technical in nature and necessary to align expenditure authority with the level of expenditures expected for Fiscal Year 2013-14. However, the Legislature has heard concerns as to whether this reduction is related to the recent letter from FEMA on the de-obligation of federal disaster relief funds.

Will the Administration please briefly discuss the "de-obligation" issue and provide clarification?

Staff Recommendation: Approve the Proposed General Fund Authority Reduction if Committee Members are satisfied with Administration's Clarification of the FEMA Funding Issue.

ISSUE 2: OVERVIEW OF PUBLIC SAFETY PROGRAMS (INFORMATIONAL ITEM)

The California Office of Emergency Services will open this issue with an overview of the Public Safety Programs still housed with the Agency.

PANELISTS

- Mark Ghilarducci, Secretary, California Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

The OES Criminal Justice/Emergency Management & Victim Services Division is comprised of two branches, the Criminal Justice/Emergency Management Branch and the Victims Services Branch. These branches administer more than \$140 million in state and federal funds annually, in support of approximately 70 law enforcement and victim services programs.

Criminal Justice/Emergency Management Branch - The Criminal Justice/Emergency Management Branch manages activities related to Emergency Management Grants, Criminal Justice, and Procurement. These program areas concentrate on, but are not limited to, grant funding to local emergency management offices, criminal justice programs that provide funding to forensic laboratories, reimbursement for law enforcement purchases of bullet proof vests, and programs to address gun crimes.

Victim Services Branch - The Victims Services Branch manages activities related to Children, Domestic Violence, Sexual Assault, Victims, and Witnesses. This Branch provides funding to programs serving victims of crime including, but not limited to, Child Abuse, Domestic Violence, Sexual Assault, and all other violent crimes. Working with community stakeholders, the Victim Services Branch partners with Tribal Governments, local law enforcement, district attorney offices, Courts, and community based organizations in an effort to provide services to crime victims.

Staff Recommendation: No Action (Informational Item)

0250 JUDICIAL BRANCH

The judicial branch is responsible for the interpretation of law, the protection of an individual's rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state's 58 counties, and statewide entities of the branch (the Judicial Council, Judicial Branch Facility Program, and the Habeas Corpus Resource Center). The branch receives revenues from several funding sources including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

ISSUE 1: TRIAL COURT FUNDING

The Legislative Analyst's Office will open this issue by walking through a handout prepared for the subcommittee. The handout provides a brief background on trial court funding and options the Legislature may wish to consider in addressing identified funding issues.

Governor's Proposal. The Governor's Budget proposes \$2.4 billion for the state's trial courts in 2013-14. This includes the restoration of a \$418 million one-time (General Fund) reduction to the trial courts made in 2012-13. The Governor's Budget also assumes that \$200 million in trial court reserves will be available for use by the trial courts to offset previously approved reductions.

PANELISTS

- Administrative Office of the Courts
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

During the mid-1990s, there were significant reforms in the Judicial Branch, court unification and the state assumption of funding responsibility for trial courts. Prior to state funding, many small courts were in financial crisis and needed emergency state funding to keep their doors open. One of the goals of state funding was to promote equal access to justice so that a citizen's access to court services was not dependent on the financial health of an individual county. Upon realignment of funding responsibility to the state, trial courts benefitted financially, as the state was initially able to stabilize and increase funding.

Since 2008-09, state General Fund support for the trial courts has been reduced by \$724 million on an ongoing basis. However, the Administration, the Legislature, and the Judicial Council have mitigated these reductions through a mix of permanent and one-time offsets, including transfers from special funds, fee increases, and use of trial court reserves. Overall expenditures for the trial courts have remained relatively flat due to these offsets. However, many of the one-time solutions have been exhausted and trial courts are currently faced with the need to operationalize nearly \$250 million in ongoing reductions by 2014-15. The following chart, created by the Legislative Analyst's Office, provides additional detail on Branch reductions and mitigating solutions adopted since the 2008-09 fiscal year.

Trial Courts Budget Reductions Through 2014-15							
<i>(In Millions)</i>							
	2008-09	2009-10	2010-11	2011-12	2012-13 (Estimated)	2013-14 (Budgeted)	2014-15 (Estimated)
General Fund Reductions							
One-time reduction	-\$92	-\$100	-\$30	—	-\$418	—	—
Ongoing reductions (cumulative)	—	-261	-286	-\$606	-724	-\$724	-\$724
Total Reductions	-\$92	-\$361	-\$316	-\$606	-\$1,142	-\$724	-\$724
Solutions to Address Reduction							
Construction fund transfers	—	\$25	\$98	\$213	\$299	\$55	\$55
Other special fund transfers	—	110	62	89	102	52	52
Trial court reserves	—	—	—	—	385	200	—
Increased fines and fees	—	18	66	71	121	121	121
Statewide programmatic changes	—	18	14	19	21	48	48
Total Solutions	—	\$171	\$240	\$392	\$928	\$476	\$276
Reductions Allocated to the Trial Courts^a	\$92	\$190	\$76	\$214	\$214	\$248	\$448

^a Addressed using various actions taken by individual trial courts, such as the implementation of furlough days and reduced clerk hours, as well as use of reserves (separate from those required by budget language or Judicial Council).

STAFF COMMENTS/QUESTIONS

Staff acknowledges the ongoing disagreement on the proper level of funding for the Judicial Branch. However, this Item is not intended to address that issue. Rather, this issue is intended to identify the actual level of reductions and impact mitigating solutions (funding redirections, fee increases, etc.)

Staff Recommendation: Approve \$418 Million General Fund Restoration.

ISSUE 2: TRIAL COURT EFFICIENCIES

The Administrative Office of the Courts will open this issue with an overview of the proposed statutory changes intended to mitigate the impacts of recent funding reductions.

Governor's Proposal. The issue before the Subcommittee is the proposed trailer bill language intended to reduce trial court workload and increase court revenue.

PANELISTS

- Administrative Office of the Courts
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

In May 2012, the Judicial Branch identified 17 proposals for trial court efficiencies in a report to the Legislature. The Governor is proposing to implement 11 of the 17 options. Of the 11 proposed changes, five changes would reduce trial court workload and operating costs, and six would increase user fees to support ongoing workload. These changes would provide the courts with approximately \$30 million in ongoing savings or revenues to help address prior-year budget reductions. Following is an outline of the 11 proposals, as presented by the LAO:

1. **Court-Ordered Debt Collection.** Courts (or sometimes counties on behalf of courts) may choose to utilize the state's Tax Intercept Program, operated by the Franchise Tax Board (FTB) with participation by the State Controller's Office (SCO), to intercept tax refunds, lottery winnings, and unclaimed property from individuals who are delinquent in paying fines, fees, assessments, surcharges, or restitution ordered by the court. Current law allows FTB and SCO to require the court to obtain and provide the social security number of a debtor prior to running the intercept. Under the proposed change, courts will no longer be required to provide such social security numbers to FTB. Instead, FTB and SCO (who issues payments from the state) would be required to use their existing legal authority to obtain social security numbers from the Department of Motor Vehicles. This change will reduce court costs associated with attempting to obtain social security numbers from debtors.
2. **Destruction of Marijuana Records.** Courts are currently required to destroy all records related to an individual's arrest, charge, and conviction for the possession or transportation of marijuana if there is no subsequent arrest within two years. Under the proposed change, courts would no longer be required to destroy marijuana records related to an infraction violation for the possession of

up to 28.5 grams of marijuana, other than concentrated cannabis. This proposed change would reduce staff time and costs associated with the destruction process.

3. **Preliminary Hearing Transcripts.** Courts are currently required to purchase preliminary hearing transcripts from certified court reporters and provide them to attorneys in all felony cases. In all other cases, the courts purchase transcripts upon the request of parties. Under the proposed change, courts would only be required to provide preliminary hearing transcripts to attorneys in homicide cases. Transcripts would continue to be provided upon request for all other case types. This change reduces costs as the court will no longer be required to purchase copies of all non-homicide felony cases from the court's certified court reporter, but will only need to purchase them when specifically requested.
4. **Court-Appointed Dependency Counsel.** Current law states that parents will not be required to reimburse the court for court-appointed counsel services in dependency cases if (1) such payments would negatively impact the parent's ability to support their child after the family has been reunified or (2) repayment would interfere with an ongoing family reunification process. Designated court staff currently has the authority to waive payment in the first scenario, but are required to file a petition for a court hearing to determine whether payment can be waived in the second scenario. Under the proposed change, staff would be permitted to waive payments under this second scenario, thereby eliminating the need for some court hearings.
5. **Exemplification of a Record.** Exemplification involves a triple certification attesting to the authenticity of a copy of a record by the clerk and the presiding judicial officer of the court for use as evidence by a court or other entity outside of California. The fee for this certification is proposed to increase from \$20 to \$50. The cost of a single certification is \$25. The increased fee is estimated to generate \$165,000 in additional revenue.
6. **Copies or Comparisons of Files.** The fee for copies of court records is proposed to increase from \$0.50 to \$1 per page, which is estimated to generate an additional \$5.9 million in revenue. Additionally, fees to compare copies of records with the original on file would increase from \$1 to \$2 per page.
7. **Record Searches.** Current law requires court users to pay a \$15 fee for any records request that requires more than ten minutes of court time to complete. Typically, courts interpret this to mean that the fee can only be applied when the search for any single record takes more than ten minutes to complete, regardless of the total number of requests made by the requester. Under the Governor's proposal, courts would charge a \$10 administrative fee for each name or file search request. A fee exemption is provided for an individual requesting one search for case records in which he or she is a party.

8. **Small Claims Mailings.** The fee charged for mailing a plaintiff's claim to each defendant in a small claims action would increase from \$10 to \$15 to cover the cost of postal rate increases that have occurred over the past few years.
9. **Deferred Entry of Judgment.** Courts would be permitted to charge an administrative fee—up to \$500 for a felony and \$300 for a misdemeanor—to cover the court's actual costs of processing a defendant's request for a deferred entry of judgment. This occurs when the court delays entering a judgment on a non-violent drug charge pending the defendant's successful completion of a court-ordered treatment (or diversion) program.
10. **Vehicle Code Administrative Assessment.** Courts would be required to impose a \$10 administrative assessment for every conviction of a Vehicle Code violation, not just for subsequent violations as required under current law. This new assessment is estimated to generate \$2.2 million in annual revenue.
11. **Trial by Written Declaration.** Currently, defendants charged with a Vehicle Code infraction may choose to contest the charges in writing—a trial by written declaration. Originally implemented to allow individuals living far from the court to contest the charge, courts have discovered that more and more individuals living close to the court have been using this service. If the local violator is unsatisfied with the decision rendered in the trial by declaration process, they may then personally contest the charges in court as if the trial by written declaration never took place. In recognition of the unintended increased workload, this proposal would eliminate the right to a trial in front of a judge after a defendant has chosen to proceed with a trial by written declaration.

STAFF COMMENTS/QUESTIONS

Staff notes that many of the proposed statutory changes are significant policy changes. As such, although they may have a budgetary impact, it would be more appropriate to evaluate a significant proportion of these policy changes through policy committees and not the budget process.

Staff Recommendation: Approve the proposed statutory changes identified above as:

#1 Court-Ordered Debt Collection, #5 Exemplification of a Record, and #8 Small Claims Mailings.

ISSUE 3: TRIAL COURT RESERVES

The Administrative Office of the Courts will open this issue by identifying the operational issues presented by the new Trial Court Reserves law.

Governor's Proposal. The Administration is proposing trailer bill language to address several trial court operational issues inadvertently caused by the trial court reserve law that goes into effect on July 1, 2014.

PANELISTS

- Administrative Office of the Courts
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997 allowed Judicial Council to authorize trial courts to establish reserves to hold any unspent funds from prior years. Chapter 850 did not place restrictions on the amount of reserves each court could maintain or how they could be used. Trial courts had \$531 million in reserves at the end of 2011-12. The judicial branch estimates that reserves will decrease to roughly \$125 million by the end of 2012-13. This decline reflects, in large part, the expectation in the 2012-13 budget that courts would use \$385 million of their reserves to offset General Fund reductions.

These reserves consist of funding designated by the court as either restricted or unrestricted. Restricted reserves include (1) funds set aside to fulfill contractual obligations or statutory requirements and (2) funds usable only for specific purposes. Examples of restricted reserves include funds set aside to cover short-term facility lease costs, service contracts, license agreements, and children's waiting rooms costs. Unrestricted reserves, on the other hand, are funds that are available for any purpose. Unrestricted funds are generally used to avoid cash shortfalls caused by normal revenue or expenditure fluctuations, to make one-time investments in technology or equipment, and to cover unanticipated costs.

As part of the 2012-13 budget package, the Legislature approved legislation to change the above reserve policy that allows trial courts to retain unlimited reserves. Specifically, beginning in 2014-15, each trial court will only be allowed to retain reserves of up to 1 percent of its prior-year operating budget. The judicial branch estimates that, in total, trial courts will be able to retain up to \$22 million in 2014-15. Additionally, legislation was approved to establish a statewide trial court reserve, managed by the Judicial Council, beginning in 2012-13. This statewide reserve consists of 2 percent of the total funds appropriated for trial court operations in a given year—\$27.8 million in

2012-13. Trial courts can petition the Judicial Council for an allocation from the statewide reserve to address unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable funding shortfalls. Any unexpended funds in the statewide reserve would be distributed to the trial courts on a prorated basis at the end of each fiscal year.

STAFF COMMENTS/QUESTIONS

The Judicial Branch, the Legislature, the Administration, and the LAO agree that the new trial court reserves law creates operational issues for the courts. All entities are currently working to identify which issues require statutory fixes. Considering that, this is still a work in progress, staff notes that the approval of any language would be premature.

The LAO has identified several issues that may require new judicial branch policies, procedures, and/or statutory changes. As stated by the LAO, these issues are:

Cash Shortfalls. Trial courts receive allocations from the state on a monthly basis, which sometimes is not enough cash to cover all operating expenses in a given month. Courts currently use their reserves to cover this gap in funding to pay all of their bills on time and avoid cash shortfalls. In addition, the courts often use their reserves to ensure that certain court programs can continue to operate even when there are delays in federal or other reimbursements for those programs. For example, federal reimbursements for child support commissioners and facilitators are often delayed by up to a year or longer, but courts are able to use their reserves to ensure that this program continues to operate. The potential for cash shortfalls is exacerbated by the requirement that the branch maintain a 2 percent statewide reserve. Each court will receive a monthly state allocation that is 2 percent smaller than what they would otherwise receive; thereby reducing the size of the local reserve, they are allowed to keep.

Payroll Requirements. Courts may process their own employee payroll or utilize a third-party vendor, such as the county personnel agency or a private company. These third-party vendors often require the court to maintain the equivalent of one or more months of court employee salaries in reserves to ensure that the court has sufficient funds to reimburse the county. This single reserve requirement can exceed 10 percent of a court's annual budget amount, which is well in excess of the 1 percent limit that will go into effect under current law. Without an exemption of these funds from the new reserves limit, courts may have difficulty making employee payroll on a monthly basis or may no longer be able to use the third party vendor.

Restricted Funds. Restricted reserves are funds constrained by statute, contract, or use for a specific purpose. As such, they are often not easily accessible for alternative uses by the courts. The new reserve policy does not exempt restricted funds from this 1 percent cap. Consequently, courts will have fewer unrestricted funds available for discretionary uses and may be forced to break existing contracts to reduce their reserves to meet the 1 percent cap. In some courts, obligations in restricted reserves may actually exceed the court's cap.

Projects Traditionally Funded Using Reserves. Historically, trial courts have used their reserves to fund certain projects and have not had to have these projects approved by the Judicial Council or the Legislature. For example, courts have built up reserves to purchase expensive technology or other services, often designed to help the court operate more efficiently, support additional workload, or provide the public with greater access to court services. Past projects include replacing or updating their case management systems as well as document management, collections, electronic filing, and electronic access technologies. Additionally, some courts report using their reserves to support other unique programs or practices. For example, the Shasta superior court uses its reserve to pay the salaries of their collections staff, who collect court-ordered debt for itself as well as a number of smaller trial courts, thereby minimizing the costs of collections for itself and all of its partners.

The current reserve policy limits the ability for courts to save and plan over time for similar projects and programs in the same ways. Instead, the Legislature and judicial branch will likely need to establish new processes for prioritizing and funding those projects determined to be of greatest value to the state.

Staff Recommendation: Hold Item open pending review of specific statutory language.
