

**AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION**

Assemblymember Warren Furutani, Chair

**TUESDAY, APRIL 13, 1:30 PM
STATE CAPITOL, ROOM 447**

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CONSENT ITEMS**ITEM 0250 JUDICIAL BRANCH****ISSUE 1: COURT FACILITIES TRUST FUND ADJUSTMENT - GOVERNOR'S BUDGET AND APRIL 1 FINANCE LETTER**

The Governor's budget includes \$19.2 million in increased Court Facility Trust Fund authority, including \$10.1 million in Reimbursement Authority for the ongoing maintenance of court facilities transferred to state responsibility in accordance with the Trial Court Facilities Act.

An April 1 Finance Letter includes an additional Court Facilities Trust Fund appropriation of \$11.8 million (\$5.6 million of which is Reimbursement Authority).

These Court Facilities Trust Fund Augmentation are comprised of: 1) Court Facility Payments (maintenance funding provided by counties), 2) Rental revenue derived from the lease of court facilities transferred to the state, 3) Interest earned through the Surplus Money Investment Fund, 4) Reimbursements from counties from shared use facilities, and 5) Reimbursements for expenditures made on behalf of the court for court leases assigned to the Administration Office of the Courts (AOC), such as for court storage.

ISSUE 2: CAPITAL OUTLAY REAPPROPRIATIONS – APRIL 1 FINANCE LETTER

An April 1 Finance Letter proposes to reappropriate funding from the State Court Facilities Construction Fund for the following projects:

1. Madera County – New Madera Courthouse (\$4.9 million).
2. San Joaquin County – New Stockton Courthouse (\$15.5 million).
3. Riverside County – New Riverside Mid-County Region Courthouse (\$3.1 million).
4. Tulare County – New Porterville Courthouse (\$4.7 million).

These reappropriations were all needed due to delays in site acquisition.

ITEM 0855 CALIFORNIA GAMBLING CONTROL COMMISSION

ISSUE 1: GAMBLING CONTROL ACT – CARDROOM REGULATION

The Governor's budget includes \$37,000 from the Gambling Control Fund on a two-year limited-term basis to support new workload associated with AB 293 (Chapter 233, Statutes of 2009), which requires the California Gambling Control Commission (CGCC) to promulgate regulations by December 31, 2011.

The Gambling Control Fund has a projected 2010-11 year-end balance of \$11.7 million.

ITEM 8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

ISSUE 1: GRANT REIMBURSEMENT INCREASE

The Governor's budget includes an increase of \$700,000 in Reimbursement Authority to account for projected increases in Violence Against Women Act, Homeland Security, and Human Trafficking Grants.

ITEMS TO BE HEARD

8910 OFFICE OF ADMINISTRATIVE LAW

The Office of Administrative Law (OAL) is responsible for reviewing administrative regulations proposed by over 200 state regulatory agencies for compliance with standards set forth in California's Administrative Procedure Act (APA), for transmitting these regulations to the Secretary of State, and for publishing regulations in the California Code of Regulations. The Office assists state regulatory agencies through a formal training program, as well as through other less formal methods, to understand and comply with the APA. Through its Reference Attorney service, the Office provides direct legal advice to state agencies and members of the public regarding California rule making law.

In response to petitions by interested persons, the Office evaluates whether rules being used by state agencies constitute underground regulations which have not been properly adopted pursuant to the requirements of the APA and issues formal determinations reflecting those evaluations. The Office oversees the publication and distribution, in print and on the Internet, of the California Code of Regulations and the California Regulatory Notice Register.

Following are expenditures and positions (dollars in thousands):

	2008-09 (actual)	2009-10 (estimated)	2010-11 (proposed)
Expenditures	\$2,735	\$2,535	\$3,104
Personnel Years	20.2	19.9	21.4

ISSUE 1: CONVERT FUNDING TO FEE FOR SERVICE

The Governor's budget proposes to eliminate OAL's General Fund appropriation (\$1.7 million) and Central Service Cost Recovery Fund appropriation (\$1.1 million) for 2010-11 and replace them with a \$2.8 million appropriation from the newly created Regulatory Oversight Revolving Fund. This will shift OAL to a fee for-service model, in which OAL would directly bill regulation-issuing departments for its costs.

BACKGROUND

The OAL ensures that state agencies comply with the APA. The OAL carries out this responsibility by reviewing regulations proposed by the state's regulatory agencies, as well as determining whether other forms of regulation proposed by state agencies (such as an order, bulletin rule, or guideline) are valid. In addition, in the underground regulations program, OAL investigates whether certain rules should be subject to the APA. The office is also charged with publishing and continuously updating the official copies of adopted regulations, known as the California Code of Regulations. Currently,

the OAL is funded through the General Fund and the Central Service Cost Recovery Fund.

The LAO finds that The Governor's proposal to link the specific activities of OAL to the departments promulgating regulations has merit. Not all departments need to issue regulations every year. Linking OAL's funding to departments that issue regulations, some of which are funded through special funds, would better link the activities to the funding, and should help reduce General Fund costs.

The LAO notes, however, that the proposed fee-for-service mechanism would increase costs for General Fund departments that issue regulations and perhaps for non-General Fund departments that issue regulations frequently. The LAO also raised the following questions; 1) Will overhead and administrative costs be captured in the fee? 2) How will transition to this funding mechanism work?

COMMENTS

In addition to the concerns noted above, concerns have also been raised that this proposal would create a financial disincentive for OAL clients, resulting in delays in the regulations process and an increase in underground regulations.

ISSUE 2: AB 32 WORKLOAD

The Governor's 2010-11 budget proposes \$273,000 (\$212,000 Regulatory Oversight Revolving Fund and \$61,000 Reimbursement Authority) and 1.5 PYs to address AB 32 (California Global Warming Solutions Act of 2006) workload, convert training abatements to Reimbursement Authority, and cover increased Office of Technology costs.

BACKGROUND

AB 32 Workload. AB 32 establishes a comprehensive program of regulatory and market mechanisms to achieve real, quantifiable, cost-effective reductions of greenhouse gases. Among other requirements, the California Air Resource Board (CARB) has to report and verify greenhouse gas emissions, monitor and implement regulations to reduce emissions of gases that cause global warming, and adopt a statewide greenhouse gas emissions limit.

CARB and other state agencies will have to engage in extensive rulemaking, requiring OAL review. In December 2008, the Air Resources Board adopted a Scoping Plan which provides the outline for actions to reduce California's greenhouse gas emissions. On August 10, 2009, CARB issued its Scoping Plan Measures Implementation Timeline. The timeline sets forth 73 specific regulatory measures to be taken by multiple state agencies.

This request includes \$199,000 from the Regulatory Oversight Revolving Fund, 1 full-time Staff Counsel III, and a .5 Legal Assistant to review and administer the technical and complex regulatory filings related to AB 32 mandates. The OAL reports that its current staffing level of 20 positions is not sufficient to handle this workload.

Reclassify Abatements to Reimbursements. The OAL provides training to state agencies on the state's regulatory process. Funds received for this training have historically been classified as abatements (negative expenditures). This proposal would treat these receipts as reimbursements in 2010-11, similar to how they are treated by other departments. In 2008-09, the OAL had \$61,000 in abatements resulting from training provided to other state agencies.

Data Center Increase. This proposal includes \$13,000 from the Regulatory Oversight Revolving Fund to fund increased state data center costs.

COMMENTS

Staff notes that the majority of the proposals funding method depends on the approval of Issue 1 (Converting funding to fee for service).

0250 JUDICIAL BRANCH

The California Constitution vests the state's judicial power in the Supreme Court, the Courts of Appeal, and the Trial Courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state-supported. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts. *Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)*, shifted fiscal responsibility for the trial courts from the counties to the state.

Following are expenditures and positions (dollars in thousands):

	2008-09 (actual)	2009-10 (estimated)	2010-11 (proposed)
Expenditures	\$3,752,726	\$2,194,469	\$3,413,723
Personnel Years	1,859.0	2,029.2	2,032.0

Significant changes reflected in the 2010-11 Governor's budget include:

- A reduction in 2009-10 of \$1.5 billion to account for local reimbursements pursuant to Control Section 15.45. In 2010-11, local reimbursements are estimated to be \$350 million;
- A General Fund reduction in 2010-11 of \$296.9 million to reflect new revenue from an Automated Speed Enforcement Proposal;
- An increase of \$41 million, also from Automated Speed Enforcement Revenue, for trial court security;
- A General Fund augmentation in 2010-11 of \$100 million to restore the trigger reduction included in the 2009 Budget Act. However, this funding is also included in the Governor's 2010-11 trigger proposal; and,
- A General Fund augmentation of \$17.9 million in 2010-11 to fund trial court employee retirement costs and employee and retiree health benefit costs.

ISSUE 1: FACILITY MODIFICATION FUNDING

The Governor's Budget proposes a \$35 million two-year limited-term increase from the State Court Facilities Trust Fund (including \$5 million in Reimbursement Authority) to support facility modification projects.

BACKGROUND

SB 1732 (the Trial Court Funding Act of 2002) was enacted for the purpose of transferring the responsibility for trial court facilities to the Judicial Council. In December 2005, to address improvements to existing facility infrastructure, the Judicial Council approved a policy for the categorization and prioritization for court facility modifications.

Facility modifications, as defined by the Administrative Office of the Courts (AOC), are any physical modification to a facility that restores or improves the function of the facility; except when it is routine maintenance, increases the facility's gross area, or changes the use of the facility. Facility modifications range from major repairs to renovations and system renewals. Facility modifications are defined by the nature of work and not by dollar amount.

The AOC categorizes facility modifications into six priorities: 1) Immediate or potentially critical; 2) Necessary but not yet critical; 3) Recommended; 4) Does not meet current codes or standards; 5) Beyond rated life, but serviceable; and, 6) Hazardous materials, managed but not abated.

The Trial Court Facility Modification Working Group (Working Group) is charged with review and funding approval of facility modification projects. The Working Group meets bi-monthly to review facility modification requests and provide overall guidance to the AOC on the prioritization and funding of facility modifications.

The current facility modification budget for 2010-11 is \$50 million, plus \$10 million in reimbursements (for projects undertaken in shared-use facilities). The AOC reports that they currently have approximately 3,850 identified projects statewide.

COMMENTS

Notwithstanding the merits of this request, this proposal should be held open pending reconciliation of total funding for the state's trial courts in the budget year.

Staff notes that budget bill language has been recommended that would require the AOC to report quarterly on detail (including project description and cost) of facility modification projects.

ISSUE 2: THIRD APPELLATE DISTRICT COURT – TEMP SPACE

The Governor's budget proposes a reduction of \$1.95 million General Fund in 2010-11 and increases of \$1.92 million in 2011-12 and \$1 million in 2012-13 to fund temporary space costs for the Third Appellate District Court and Clerk's staff during the construction phase of the State Library and Courts building capital outlay renovation project.

BACKGROUND

The Third Appellate District Court relocated to 60,924 square feet of temporary space in 2008-09 in preparation of the planned renovation of the State Library and Courts Building. The original project timeline assumed completion of the renovation by October 2010 and funding was provided for temporary space costs through January 2011.

According to the AOC, the project has been delayed as a result of the Pooled Money Investment Board's decision to suspend disbursements for lease revenue bond funded projects. The current estimated project completion date is July 2012. This proposal reduces funding previously approved for 2010-11, for rent and tenant improvements, and adds additional resources for rent in 2011-12 and 2012-13.

COMMENTS

Although this proposal results in additional out-year General Fund costs, the project delay resulted from factors outside of the AOC's control.

ISSUE 3: STATE COURT FACILITIES TRUST FUND PROJECTS

The Governor's budget proposes \$845.7 million in Lease Revenue Bond Authority for the construction phase of seven projects. The State Court Facility Construction Fund will support the annual lease revenue bond debt service payments.

BACKGROUND

The seven projects are:

- 1. Madera County – New Madera Courthouse (\$88.2 million).** Will support the construction phase of a new ten-courtroom, 99,879 square foot courthouse in downtown Madera in Madera County. This project will consolidate two court locations with seven courtrooms and addresses security and crowding issues currently facing the court.
- 2. San Bernardino County – New San Bernardino Courthouse (\$304.7 million).** Will support the construction phase of a new 35-courtroom and 2-hearing room, 356,390 square foot courthouse in the city of San Bernardino in San Bernardino County. The project will consolidate court operations from nine facilities and will address space, security, and building issues currently facing the court.
- 3. San Joaquin County – New Stockton Courthouse (\$243.3 million).** Will Support the construction phase of a 30-courtroom, 282,763 square foot courthouse in Stockton and San Joaquin County.
- 4. Riverside County – New Riverside Mid-County Region Courthouse (\$54.5 million).** Will support the construction phase of a new six-courtroom, 60,725 square foot courthouse in the city of Banning in Riverside County. This projects replaces the existing two-courtroom facility in Banning.
- 5. Tulare County – New Porterville Courthouse (\$81 million).** Will support the construction phase of a new nine-courtroom, 90,000 square foot courthouse in Porterville in Tulare County.
- 6. San Benito County – New Hollister Courthouse (\$33.5 million).** Will support the construction phase of a new three-courtroom, 42,870 square foot courthouse in the city of Hollister in San Benito County.
- 7. Calaveras County – New San Andreas Courthouse (\$40.4 million).** Will support the construction phase of a new four-courtroom, 39,878 square foot courthouse in the city of San Andreas in Calaveras County.

COMMENTS

These projects have all been approved through the acquisition, preliminary planning, and working drawing phases. Additionally, since the debt service will be supported by the State Court Facilities Trust Fund, the cost of these construction projects will not require General Fund support.

ISSUE 4: IMMEDIATE AND CRITICAL NEEDS ACCOUNT PROJECTS

The Governor's budget proposes \$73.7 million (\$23.7 in Lease Revenue Bond Authority and \$50 million from the Immediate and Critical Needs Account Fund) support two court construction projects. The Immediate and Critical Needs Account Fund will support the annual lease revenue bond debt service payments.

BACKGROUND

The two projects are:

- 1. Solano County – Renovation to Fairfield Old Solano Courthouse (\$23.7 million).** Will support the working drawings and construction phase for renovation of the Old Solano Courthouse to provide three-courtrooms for civil cases. The 29,900 square foot courthouse is now vacant and is one of the few standing historic courthouses in the State of California.
- 2. Alameda County – New East County Courthouse (\$50 million).** Will support the state's contribution to the construction phase of a new 13-courtroom, 148,031 square foot courthouse in the city of Dublin in Alameda County. This project is for a shared use facility with the county. The county will finance and manage the design and construction of the project.

COMMENTS

Previous phases of these projects have been approved in prior budgets. Additionally, since the debt service will be supported by the State Court Facilities Trust Fund and the Immediate and Critical Needs Account Fund, the cost of these construction projects will not require General Fund support.

ISSUE 5: COURTS LEGISLATIVE PROPOSALS

The courts have identified four issues (three of which were proposed jointly with the California State Association of Counties) that would require statutory changes that have been proposed to be included in budget trailer bill language.

BACKGROUND

The four trailer bill proposals are:

- 1. *Comprehensive Collections Program.*** During discussions on SB 1407 (Perata) the AOC and the California State Association of Counties (CSAC) codified a joint commitment to examine mechanisms to enhance collection of court ordered debt. The AOC and CSAC identified the following elements intended to improve the overall return on collection efforts and improve recovery efforts statewide, these elements are: 1) Strengthen existing authority and responsibility for a comprehensive collections program of delinquent court-ordered debt; 2) Develop and implement an amnesty program; 3) Clarify authority related to discharge of accountability; 4) Pursue intercept proposal on unclaimed property in cooperation with the State Controller's office; and, 5) Clarify authority for enforcing court-ordered debt beyond the 10-year period applicable to civil judgments.
- 2. *Parking Penalties: Audit Provision.*** In 2007, the public safety omnibus bill (SB 425, Margett), amended Government Code (GC) Section 70375(b) to clarify an unrelated matter. In doing so, the legislation eliminated an "offset" provision and made mandatory the collection and remittance of a \$1.50 parking penalty.

In recognition of the fact that the impact of this statutory change was overlooked, CSAC and the Judicial Council are proposing that counties not be penalized for failure to remit the \$1.50 in parking penalty revenue prior to 2009. Counties have since been informed of this statutory requirement and were instructed to ensure compliance going forward.

- 3. *GC Section 7600(e) Fix.*** SB 1732 (Escutia) added subdivision (e) to GC Section 7600 to address the amount of surcharge that could be collected for a "local courthouse construction fund established by Section 76100 as of January 1, 1998 when the money in the fund is transferred to the state under Section 70402" (i.e. after a county transfers all of its trial court facilities to the state). The limitation contained in subdivision (e) were not intended to affect or limit the amount of surcharge that can be collected to support other local funds such as Criminal Justice Facility Funds.

This proposal intends to revise the table contained in subdivision (e) to reflect the amount that Plumas County (\$7.00) needs to support its Criminal Justice Facility Construction Fund and Maddy Emergency Medical Services Fund.

- 4. *Possessory Tax Language – Long Beach Project.*** The Capital Outlay Project for the New Long Beach Courthouse is a Performance Based Infrastructure (PBI) project. PBI utilizes a public-private partnership to design, construct, maintain and finance a capital outlay project. There is a concern that the private entity's involvement may create a possessory tax interest, which could result in additional state cost. The estimated impact of the possessory tax interest is \$4-\$5 million in annual state cost.

COMMENTS

Staff has been working with the AOC and CSAC in an effort to draft language for these proposals that will meet objectives of all parties and address any concerns that have been raised.

ISSUE 6: BUDGET TRANSPARENCY

The Assembly Committee on Accountability and Administrative Review voted at its January 20, 2010 hearing to recommend that the Assembly Budget Committee work with the AOC to expand the information it provides to the Legislature regarding the Judicial Branch budget.

BACKGROUND

Below are the specific recommendations:

- 1. Require that the courts' annual budget provide line items for each of the 11 divisions within the Administrative Office of the Courts.** Currently there is no breakdown of spending on divisions within the AOC.
- 2. Require the Administrative Office of the Courts to annually provide an Operating and Expense Schedule.** An O&E Schedule depicts spending trends on items such as travel and outside consultants. Executive branch agencies annually provide these with the budget; the AOC currently does not.
- 3. Require that the courts' annual budget provide more detail regarding the Trial Court Trust Fund.** There is no breakdown in the budget depicting spending on items such as security or information technology, whose aggregate costs total more than \$1 billion annually. The AOC could coordinate with the Budget Committees and Department of Finance to agree on the proper line items.
- 4. Require legislative notice for intraschedule transfers.** Currently there is no requirement paralleling executive branch agencies that the courts report transferring monies among different schedules in the same fund. Executive branch agencies are required to report any transfer in excess of \$200,000 or 10 percent of the amount appropriated in the item to the Budget Committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee. The Legislature could ask that the Judicial Council follow the same procedure.
- 5. Require that the Judicial Council's next annual report regarding Information Technology projects provide total estimated costs of the CCMS project and a funding plan.** The AOC should develop a total cost for CCMS, including anticipated costs to law enforcement and other agencies, and a plan for financing the final phases of CCMS.

COMMENTS

Staff has been working with the AOC to address the recommendations of the Accountability and Administrative Review Committee. While all of the issues raised above may not be addressed in the current budget process, recommendations for the subcommittee will be finalized by the next hearing involving court issues.