

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember John Dutra, Chair

WEDNESDAY, APRIL 21, 2004
STATE CAPITOL, ROOM 437
1:30 P.M.

ITEMS PROPOSED FOR CONSENT

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ITEM 0250 JUDICIARY

OVERVIEW

Article VI of the California Constitution created the Supreme Court of California and the Courts of Appeal to exercise the judicial power of the state at the appellate level. The Constitution also created the Judicial Council of California to administer the state's judicial system.

Statutes in 1997 created the California Habeas Corpus Resource Center to represent those persons financially unable to retain appellate counsel before state and federal courts in capital cases. The Center also recruits and trains attorneys to expand the pool of private counsel qualified to accept appointments in death penalty habeas corpus proceedings.

The Governor's Budget proposes a budget in 2004-05 for the Supreme Court of \$39.1 million and 142 positions. This is similar to the estimated budget in the current year of \$39 million.

The budget proposed by the Administration in 2004-05 for the Courts of Appeal is \$173.7 million and 848 positions, which is \$218,000 larger than the estimated expenditures for the current year.

The Administration proposes a budget in 2004-05 for the Judicial Council of \$160.1 million and 571 positions. This represents a decrease of \$7.4 million from the estimated expenditures for the Council in 2003-04.

The Habeas Corpus Resource Center has a proposed budget of \$10.8 million and 66 positions. This is similar to the estimated budget for the current year of \$10.7 million.

COMMENTS:

No issues have been raised with regards to this budget and it is proposed that it be approved on consent.

ITEM 0450 STATE TRIAL COURTS

OVERVIEW

Chapter 850, Statutes of 1997 enacted the Lockyer-Isenberg Trial Court Funding Act of 1997 that consolidated the operations of the courts under state oversight and limited the cost to counties for its operations. Counties' general-purpose revenue contributions were held at the 1994-95 levels which were transferred to the Trial Court Trust Fund. Fine and penalty revenue collected by the counties on behalf of the courts are transferred quarterly to Trust Fund.

Chapter 1082, Statutes of 2002 enacted the Trial Court Facilities Act of 2002, which provided the process to transfer the responsibility for court facilities to the state by July 1, 2007. It is estimated that the transfer would ultimately affect over 400 buildings.

The Administration proposes a budget for the State Trial Court of \$2.218 billion. This is \$37 million less than the estimated level of expenditures in the current year.

COMMENTS

No issues have been raised regarding the budget for this agency. It is proposed for approval on consent.

ITEM 0820 DEPARTMENT OF JUSTICE**OVERVIEW**

Article V, Section 13 of the California Constitution states that, subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It is the duty of the Attorney General to see that the laws of the state are uniformly and adequately enforced. The Attorney General has direct supervision over every district attorney, sheriff and other law enforcement agency that may be designated by law. Should the Attorney General determine that any law of the State is not being adequately enforced in any county, it is his or her duty to prosecute any violation of law, as would a district attorney before the superior court. The Attorney General also has the duty to assist any district attorney when required by the public interest or directed to do so by the Governor.

The Attorney General represents the people in matters before the Appellate and Supreme Courts of California and the United States. The office also provides legal representation to state officials, departments, boards and commissions in civil matters.

The Department of Justice is the state's repository of criminal history and fingerprint information. It provides local law enforcement agencies access to information residing in other states, or with federal or international organizations. The department also stores DNA information on persons convicted of specified crimes. The use of this information is limited to public safety purposes.

The Governor's Budget proposes a budget of \$621 million and 4,862 positions. This represents a reduction of \$10.2 million from estimated expenditures in the current year.

ISSUE 1: UNDERWRITERS LITIGATION

The Department of Justice is requesting \$5.126 million from the General Fund to pay for costs associated with litigation in the *Underwriters* and *Allstate* lawsuits.

Between 1963 and 1978 the State of California was covered by over thirty insurance policies against liability for damages and clean-up costs at the *Stringfellow* toxic dump site in Riverside County. The state has been found liable for the clean up of the site pursuant to the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The judgement in that action is final. The magnitude of this judgement is as large as the present value of the costs of remediation of the *Stringfellow* site and is between \$400-600 million. Additionally, monitoring of the site may take as long as 400 years at which time the toxic chemicals are projected to sufficiently deteriorate to the point where it would no longer pose a contamination risk to the groundwater. In response to the adverse court decision, the state has entered into litigation against these insurers for, indemnification for its liability at the dumpsite. The first action, the *Underwriters* case was filed in 1993 against the state's five largest insurers, who provided seventy percent of the State's coverage. In 2002, the state brought action against the remaining insurers in the *Allstate* case.

The nature of the litigation that the state is undertaking regarding general liability insurance and toxic clean up costs is rare and the Attorney General currently does not have expertise in that specialty of law. As a result the State is seeking outside counsel to pursue these lawsuits under the provisions of Government Code Section 11040.

The department's request is based upon the assumption that the *Underwriters* case will go to trial in 2004-05. It is not clear how much of the requested funding will be used to support the *Allstate* case.

COMMENTS:

The ability to predict when a complex case will go to trial is difficult. When the 2002-03 Governor's Budget was released, it requested funds for the *Underwriters* case as the costs of the trial that had been anticipated in 2001-02 were not predicted in 2002-03. Should the anticipated legal costs associated with these two cases not materialize in the budget year, the subcommittee may want to adopt budget control language that requires the department to report the cost of litigation and to revert the unspent funds.

ITEM 5460 DEPARTMENT OF YOUTH AUTHORITY

OVERVIEW

The California Youth Authority (CYA) was created in 1941. By 1943 the agency began to operate "reform schools," providing institutional training and parole supervision for juvenile and young adult offenders. It is the largest youthful offender agency in the nation, with some 4,055 young men and women in institutions and camps at the end of the current fiscal year and further declining to 3,820 by the end of 2004-05. The parole population is also decreasing with an estimated 4,025 parolees at the end of the fiscal year and 3,810 by the end of the budget year.

As part of the state's juvenile justice system, the CYA works closely with law enforcement, the courts, prosecutors, probation, and a broad spectrum of public and private agencies concerned with and involved in the problems of youth.

The California Department of the Youth Authority's mission, as described in Section 1700 of the Welfare and Institutions Code, is to protect the public from criminal activity. The law mandates the department to:

- Provide a range of education, treatment, and training services for youthful offenders committed by courts;
- Direct these offenders to participate in community and victim restoration;
- Assist local justice agencies with efforts to control crime and delinquency; and
- Encourage the development of state and local programs to prevent crime and delinquency.

The CYA receives its youthful offender population from both juvenile and criminal court referrals, and offenders committed directly to the CYA do not receive determinate sentences. The Youthful Offender Parole Board, a separate administrative body, determines their parole release. Those committed by the criminal courts that cannot complete their sentence by age 21 are transferred to the Department of Corrections (CDC) prisons at age 18.

In practice, the period of incarceration is determined by the severity of the committed offense and the offender's progress toward parole readiness. The incarceration time may not exceed the limits of determinate sentences for adults committing the same crime.

ISSUE 1: AGE JURISDICTION

Under the law, CYA's jurisdiction for the most serious felony offenders, both juvenile and young adults, ends on the offender's 25th birthday. The Governor's Budget proposed statutory changes to reduce the department's jurisdiction to 22 years of age. As part of this change, it would allow CYA to transfer to the Department of Corrections, juvenile offenders that cannot "safely program" under current conditions. The department has indicated that this proposal will not be pursued for 2004-05 and therefore the complete details of the Administration's plan are not available. As a result, the subcommittee may want to reject this proposal. Should the Administration wish to revive this proposal, it would be appropriate for this subcommittee to consider it at that time.

ISSUE 2: EXPERT REPORTS

In January 2003, the Prison Law Office filed a class action lawsuit against the CYA regarding the terms of confinement of the wards in the department's institutions. In February 2004 five reports were released that covered: 1) mental health care and substance abuse treatment; 2) health care services; 3) education programs; 4) sex offender treatment programs and 5) general conditions including safety, use of force and segregation.

COMMENTS

To date CYA has not released a response to the recommendation included in these reports. The subcommittee may want to ask the Administration about the status of its response to these reports and the likelihood that the Legislature would receive information regarding its response or plan of action before the end of the 2004-05 fiscal year.

ISSUE 3: POPULATION

As part of the May Revision process the department will release a revised estimate for its institution and parole population. Therefore the subcommittee may want to leave this item open until that information becomes available.

ISSUE 4: CLOSURE OF FRED C NELLES YOUTH CORRECTIONAL FACILITY

In order to reduce excess capacity for juvenile offenders resulting from a decline in the institutional population, Chapter 1124 Statutes of 2002 (AB 3000, Oropeza) requires the Department of Youth Authority to develop a plan to close three correctional facilities by June 30, 2007. Chapter 158, Statutes of 2003 (AB 1758, Oropeza) directed the department to present a plan to the Legislature in May 2004 to close an additional facility by March 1, 2005. AB 1758 described the legislature intent to provide 50 percent of the first year savings from the closure to be used for programs that reduce recidivism.

The Governor's Budget proposes the closure of the Fred C. Nelles Youth Correctional Facility by July 2004. This closure would follow that of the Karl Holton, Ventura (partial) and Northern California Reception Center facilities. The closure is anticipated to result in savings of \$25.9 million in the budget year. The actual savings in 2004-05 may be affected by affected by changes in the institutional population. This adjustment may be taken into account when the department releases its revised population estimates as part of the May Revision.

The future plans for the land on which the Nelles facility is located is not clear at this time. The City of Whittier has expressed an interest in acquiring the property for development. The Governor's Budget proposes \$3 million in additional funding for the Department of General Services to address workload related to the disposition of surplus property owned by the Youth and Adult Correctional Agency (YACA). Neither CYA nor YACA have presented a plan to the Legislature for a future use of that property. The subcommittee may want to encourage a comprehensive review of alternate uses for the surplus property owned by the agency or departments reporting to the agency prior to considering any proposal for disposal.