

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Rudy Bermudez, Chair

WEDNESDAY, APRIL 5, 2006 1:30 PM
STATE CAPITOL, ROOM 437

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ITEMS TO BE HEARD

ITEM 0860 STATE BOARD OF EQUALIZATION

The State Board of Equalization (BOE) is comprised of four members elected specifically to the board from districts and the State Controller. The BOE administers the sales and use tax (including all state and local components), oversees local administration of the property tax, and collects a variety of excise and special taxes (including the gasoline tax, insurance tax, and cigarette and tobacco products taxes). The BOE establishes the values of state-assessed property: inter-county pipelines, railroads, and regulated telephone, electricity, and gas utilities. The BOE also hears taxpayer appeals of income-tax decisions made by the Franchise Tax Board (FTB).

The Governor's budget proposes \$370.6 million (\$212.8 million from the General Fund), and 3,802 personnel-years (PYs) of staff for the BOE in 2006-07. Total funding decreases by \$8 million (2.1 percent), and General Fund support declines by \$10 million (4.5 percent), compared with spending estimates for the current year. Proposed staffing increases slightly—by 7.5 PYs—from the current-year estimate. The primary reason for the spending reduction is that current-year spending includes a one-time augmentation of \$15 million (\$12.9 million General Fund) for repair of the BOE headquarters building in Sacramento. The administration is allocating this funding from the Emergency and Contingency appropriation from the 2005 Budget Act. The BOE also is redirecting an additional \$5 million within its 2005-06 budget for this project.

State Board of Equalization

Program	Actual 2004-05*	Estimated 2005-06*	Proposed 2006-07*
County Assessment Standards Program	\$7,804	\$8,654	\$8,414
State-Assessed Property Program	7,026	7,950	7,500
Timber Tax Program	1,940	2,157	2,168
Sales and Use Tax Program	267,609	293,832	285,474
Hazardous Substances Tax Program	3,073	3,827	3,827
Alcoholic Beverage Tax Program	1,608	1,573	1,481
Tire Recycling Fee Program	610	1,059	1,042
Cigarette and Tobacco Products Tax Program	9,624	15,394	16,627
Cigarette and Tobacco Products Licensing Program	7,114	8,925	9,445
Transportation Fund Tax Program	19,290	20,159	19,549
NAFTA Program	-	700	1,167
Occupational Lead Poisoning Prevention Fee Program	637	660	644
Integrated Waste Management Program	271	425	413
Underground Storage Tank Fee Program	2,211	2,194	2,112
Oil Spill Prevention Program	253	244	238
Energy Resources Surcharge Program	262	243	234
Annual Water Rights Fee Program	358	377	417
Childhood Lead Poisoning Prevention Fee Program	331	475	469
Marine Invasive Species Program	321	407	407
Emergency Telephone Users Surcharge Program	588	604	581
E-Waste Recycling Fee Program	3,095	5,177	4,950
Insurance Tax Program	258	144	136
Natural Gas Surcharge Program	317	433	406
Appeals from Other Governmental Programs	2,148	2,177	2,051
Administration	34,135	33,213	33,213
Distributed Administration	-33,399	-32,397	-32,397
Total Expenditures (All Programs)	\$337,484	\$378,606	\$370,568

Tax Gap and tax information systems coordination issues will be addressed at a subsequent hearing.

ISSUE 1: CONSENT BUDGET CHANGE PROPOSALS

The following budget requests are proposed for consent:

- **Out-of-State Tobacco Purchases.** The Governor's budget proposes \$1.9 million (\$216,000 General Fund) and 19.5 PYs (2-year limited-term) for the BOE to collect unpaid California taxes from cigarettes and other tobacco products that were purchased over the internet or through the mail from out-of-state sellers. As a result of legal action by the Attorney General, the BOE has obtained 450,000 sales invoices from out-of-state sellers, and the BOE has subpoenaed 65,000 purchase and delivery records from common carriers. The additional staff will process these records and develop tax assessments. The program will focus primarily on resellers and other significant purchasers of cigarettes and tobacco products who have evaded paying California cigarette and tobacco taxes and sales and use taxes. The BOE estimates the program will generate \$33.8 million in additional revenues in 2006-07. Most of the money will go to the Proposition 10 and Proposition 99 funds; \$3.9 million will go to the General Fund, and the Breast Cancer Fund would receive \$777,000. In 2007-08, the projected revenue gain drops to \$16.9 million, as the staff works down the backlog of purchase records.
- **Vehicle Inspection Station Tax Leads.** The Governor's budget proposes \$1.4 million (\$811,000 General Fund) and 15.1 PYs (2-year limited term) for the BOE to identify property brought into the state without the payment of applicable sales and use taxes. The two-year pilot program will be run from California Department of Food and Agriculture (CDFA) border inspection stations, through which all commercial vehicle traffic must pass. Under the program, CDFA staff will send to the BOE copies of bills of lading and registration documents from motor carriers who transport alcoholic beverages, tobacco products, fuel products, or personal property that is subject to sales or use tax. In addition, sales and use tax leads will be identified through BOE fuel tax compliance operations at CHP inspection stations. The BOE will then review the documents to determine whether the entities shipping or receiving the goods are registered with the BOE, and whether those entities have paid the applicable sales and use taxes on the products. The BOE estimates the program will generate \$7.4 million in additional sales and use taxes in 2006-07, of which \$4.2 million will go to the General Fund.

- **International Fuel Tax Agreement.** The Governor's budget proposes \$1.1 million in federal funds and 11.5 PYs for the second year of a program under which BOE temporarily maintains International Fuel Tax Agreement (IFTA) accounts for Mexican motor carriers who will begin operating in the state pursuant to the North American Free Trade Agreement (NAFTA). IFTA is an agreement among the contiguous 48 states and several Canadian provinces that simplifies the payment of taxes on fuel that is used in more than one state or province. Under this program, BOE uses federal funds to maintain IFTA records for Mexican carriers until Mexico is able to perform this service itself. This program was established administratively in the current year.
- **Property Tax Valuation Factors.** The Governor's budget proposes \$263,000 (General Fund) and 1.9 positions for the BOE to develop more accurate property tax valuation factors for biopharmaceutical and non-production computer equipment. Valuation factors are used by county assessors to determine the value of commercial business equipment for property tax purposes.
- **AB 71 Funding Shift.** The budget proposes to shift \$2.4 million of the cost of the \$9.4 million cost of the Cigarette and Tobacco Products Licensing Program--established by AB 71 (Horton) in 2003—from one-time licensing fees to the various funds that receive cigarette and tobacco tax revenues (primarily Propositions 10 and 99 funds), as contemplated by AB 71. The shift reflects the spending down of the one-time licensing revenues, and will increase to \$7.4 million in 2007-08, according to BOE estimates.

ISSUE 2: SALES AND USE TAX ADMINISTRATION COST ALLOCATION

LAO Recommends New Cost-Allocation Methodology

In adopting the 2004-05 Budget, the Legislature directed BOE to evaluate and report on alternative methodologies to allocate the costs of administering and enforcing the state and local sales and use tax (SUT). The current cost-allocation system is highly complex and was developed in the early 1990s when there were far fewer special taxing jurisdictions (STJs)—geographic areas with additional voter-approved SUT rates. The BOE prepared that report in consultation with the Department of Finance, the Legislative Analyst's Office (LAO), and representatives of local sales tax jurisdictions. Based on its review and analysis of the BOE report, LAO now recommends adoption of one of the alternative cost-allocation methodologies identified in the report. According to LAO, this methodology does the best job of meeting the following criteria:

- Relatively straightforward to determine.
- Methodology can be easily explained.
- Reasonably related to each tax component's cost.
- Can readily incorporate additional special tax jurisdictions.

Fiscal Effect of New Methodology. BOE estimates that use of the new methodology would reduce General Fund costs by \$5.7 million in 2006-07. Costs allocated to the uniform local SUT (the Bradley-Burns tax and uniform county transportation tax) would increase by \$14.5 million, while the costs allocated to local STJs would decrease by \$8.8 million. To place these cost shifts in context, state and local SUT revenues in 2006-07 will total about \$37 billion.

BACKGROUND

SUT Components. The basic state-wide SUT rate is 7.25 percent consisting of: 5 percent General Fund, 0.5 percent for the Local Revenue Fund (Realignment), 0.5 percent for the Local Public Safety Fund, 1 percent for the uniform local Bradley-Burns tax, and 0.25 percent for the uniform county transportation tax. In addition, in most areas, optional rates approved by local voters are levied by special taxing jurisdictions (STJs)—generally, these are countywide, but some are limited to cities. The highest combined tax rate currently is 8.75 percent in Alameda County and in the cities of Richmond and Avalon. The state also imposes a temporary quarter-cent SUT dedicated to paying off the Economic Recovery Bonds, and the Bradley-Burns rate has been reduced to 0.75 percent to hold the overall tax rates harmless. However, the state General Fund finances the replacement all of the lost local revenue, so the Bradley-Burns tax rate effectively remains at 1 percent.

\$300 million Administrative Cost. The BOE's cost of administering and enforcing all of the SUT components is almost \$300 million annually. These costs are allocated to the state General Fund, the Bradley-Burns and uniform county transportation tax, and to all STJs. However, no administrative costs are currently allocated to the Local Revenue Fund or the Local Public Safety Fund. The administrative process encompasses (1) registration of taxpayers, (2) processing of tax returns and payments, (3) auditing of taxpayers, and (4) collection of delinquent taxes.

More Special Taxing Jurisdictions. The first STJ was established in 1970 to fund the Bay Area Rapid Transit District. Currently there are 64 STJs, with more to come. There will be a net increase of six STJs beginning on July 1, 2006, and more are being considered for inclusion on the June 2006 and November 2006 ballots. Under agreements made with each of the STJs, the BOE is responsible for administering the application and collection of the tax in each of the special jurisdictions. This is more complicated than it might seem. Businesses throughout the state must be notified of the changing constellation of STJs. BOE information systems must be updated frequently and have to handle an increasingly complex database. There are subtle differences between the uniform taxes and the STJ taxes. Furthermore, the many differences in local tax rates provide incentives for businesses to attempt to shift the stated location of sales and increase enforcement workload.

Current Allocation of Administrative Costs. Current law requires the use of a "cost-allocation model" that is based on recommendations made in 1992 and 1996 reports by the Office of the Auditor General (now the Bureau of State Audits). In general, this model attempts to allocate costs according to the actual workload of each tax component. In addition, existing law caps administrative fees at a specified proportion of revenues.

Current Costing Model Is Complex and Obscure. The LAO points out that the BOE's cost-allocation model has become increasingly complex and expensive to administer. As new STJs have been established, adjusting the model has become an expensive and resource-intensive undertaking. Gathering the data necessary to calculate workload requirements is now a sizeable task, while the data gathered through such efforts (including number of seller permits, number of returns, and hours worked) often are not particularly reflective of the actual workload involved. (Workload is difficult to quantify because the existing time reporting system does not track costs to the necessary level of detail.) As a result of the cap mechanism referred to above, the General Fund subsidizes certain STJs for administrative costs; for these STJs, the link to actual costs is even more tenuous.

The complexity of the model has made its results increasingly difficult to explain to local agencies. This is especially true in situations where fees may increase as a result of workload changes, yet revenues to the particular STJ are actually decreasing. In fact, the ratio of administrative costs to revenue can vary widely depending upon circumstances. In addition, it is difficult to estimate with any precision the likely fees for new STJs that come on line.

LAO RECOMMENDATION

Recommended Cost-Allocation Methodology. Of the alternatives developed by BOE, LAO believes that the “modified revenue” model best meets the criteria cited above. Basically, the model identifies four key types of workload, and uses-for three of the workloads-revenue-related “proxies” as a way of allocating costs to the different funds/jurisdictions. The workloads and cost allocation methods are:

- **Registration—18 percent of costs.** Allocated based on total revenue actually received through the normal returns process.
- **Return Processing—25 percent of costs.** Allocated based on the number of return lines used in the filed tax returns.
- **Audits—41 percent of costs.** Allocated based on the tax change associated with audits of each of the taxes.
- **Collections—16 percent of costs.** Allocated based on revenue collected for the benefit of each SUT component.

The approach described above would eliminate the current arbitrary cap on administrative costs as a percent of revenue. Additionally, it would ease the cost of administration for BOE and provide a much more transparent process for other taxing entities. Finally, the methodology proposed could easily incorporate additional STJs as they are approved by voters, and accommodate adjustments to the rate or base of existing tax components.

The modified revenue model for allocating costs would have differential effects on individual components of the SUT. Any shift of costs is likely to bring objections from those who would pay more. Nevertheless, LAO believes that the recommended alternative is a more reasonable method through which to allocate costs than that currently used.

LAO Recommendations

LAO recommends adoption of budget trailer bill language to implement a simplified methodology that will nevertheless reasonably approximate the workload associated with each of the sales and use tax's major funding sources. Under the modified revenue proposal described above, the share borne by the state General Fund and the STJs would drop slightly, while the share borne by the uniform local tax would increase somewhat. These changes are shown in Figure 2. The reduction in the proportion of costs borne by the General Fund (from 72 percent to 70 percent) would translate to a General Fund savings of \$5.7 million in 2006-07.

Figure 1			
Comparison of Sales and Use Tax Cost Allocation			
<i>(Percent of Total Costs)</i>			
	<u>State</u>	<u>Local</u>	
	General Fund	Uniform	STJs
Current	72%	13%	15%
LAO Recommendation	70	17	13

Allocation of Costs to the LRF and the LPSF. LAO also recommends that the Legislature consider legislation allowing for the assessment of administrative costs that are attributable to administering the Local Revenue Fund (LRF) and the Local Public Safety Fund (LPSF). Enactment of this recommendation would result in additional General Fund savings of \$30 million.

COMMENTS

1. **Allocating costs to the LPSF and LRF may be problematic.** Allocating costs to the LPSF would appear to require a constitutional amendment because the LPSF is established in the state constitution and there is no provision for charging costs to it. Allocating costs to the LRF probably could be done through legislation. However, doing so might be perceived as undermining the funding commitment that the state made to counties when the costs of various health and social services programs were shifted as part of State-Local Realignment in the early 1990s.
2. **Is Bradley-Burns paying its fair share?** As discussed above, cities and counties continue to receive their full amount of Bradley-Burns revenue despite the temporary quarter-cent rate suspension. Accordingly, the Bradley-Burns SUT component should contribute to administration costs based on the full 1 percent rate. The LAO and BOE should provide the subcommittee with the following information:
 - a. Do the current cost-allocation methodology or the LAO-recommended methodology allocate costs to the Bradley-Burns tax based on the full 1-percent rate?
 - b. If not, then how much cost is misallocated to the General Fund and the STJs?

ISSUE 3: ELECTRONIC TECHNOLOGY PLANNING

According to the LAO, the advantages of shifting to electronic remittances and returns are significant. From the taxpayers' perspectives, using electronic filing can minimize record keeping requirements, increase filing accuracy, and reduce costs in the long term. From tax agencies' perspectives, electronic technologies decrease processing time, reduce storage costs, minimize personnel requirements, improve data accuracy, and facilitate sharing of information for enforcement and compliance purposes.

BOE Implementing Some Electronic Technologies. Although BOE has made some efforts in the electronic technologies and automation area, LAO believes that there are still substantial additional improvements that could be made. For instance, while BOE receives about 60 percent of total SUT payments through electronic funds transfer, electronic tax filings represent only a small share of total tax returns. The BOE implemented electronic filing for single-location taxpayers in September 2005. It plans to extend the e-filing technology to businesses with multiple locations in the future. In addition, in its report to the Legislature, "Field Office Operations," the agency indicated that it is developing additional electronic interfaces through the Internet, including registration; petitions; and claims for refund, account balances, and account maintenance.

Is the Pace Too Slow? LAO's largest concerns with BOE's plans center on the length of time that is projected for the various components to come "on line." For example, extending e-filing to businesses with multiple locations is not expected until 2008. The additional components discussed above as part of field office operations are not planned for implementation until well after that date.

Investing in electronic technologies is likely to have substantial payoff over the medium- to long-term in terms of budgetary savings, due largely to reduced staffing requirements as well as the number of required field offices. In addition, the technology is likely to have significant benefits for coordination and information sharing among the tax agencies for enforcement and compliance purposes. Finally, a shift to electronic filing will simplify filing requirements and result in reduced costs for taxpayers.

LAO Recommends that BOE Report on Its Plans

While converting to electronic filing and processing would result in annual savings for the state in the medium- to long-term, it is also important to note that investing in electronic technologies would likely require up-front investment. Given the complexity of the issues associated with electronic filing and processing—as well as the budgetary impact—LAO recommends that BOE report at budget hearings regarding its near- and medium-term goals regarding this technology, including estimates of related savings and costs.

ISSUE 4: IMPROVING STAFF RECRUITMENT AND RETENTION

The BOE is experiencing a high staff vacancy rate. As of February 2006 – the vacancy rate was at 9 percent. Of the 9 percent vacancy rate (approximately 300 positions); about half of those positions were field positions. Furthermore, of the vacancy rate, a majority of these positions are related to revenue positions. Of significance – vacancies consisted of the following: Tax Technicians (87 positions); Tax Auditors (84 positions); Property Appraisers (9 positions); Business Tax Representatives (31 positions); Business Tax Specialist (20 positions); Business Tax Compliance (23 positions); Office Support (34 positions); and Technology positions (22 positions).

The BOE indicates that it faces challenges with the recruitment and retention of its qualified workforce that may have direct and indirect impacts on the 26 tax and fee programs it currently administers.

Retention Problems. BOE is experiencing retention challenges for several classifications such as tax administrators, tax auditors, tax counsels, property appraisers and compliance specialists (with an emphasis on the tax auditor classification). The tax auditor salary is not competitive with wages in the private sector. For example, the Robert Half Finance and Accounting firm is recruiting auditors with an average salary range of \$50,000 to \$80,000. Additionally, the Bureau of Labor Statistics reports that federal government accountants average more than \$51,000 per year and federal government Auditors average more than \$73,000 per year.

The BOE has established a workforce group to develop a strategic response to the looming recruitment and retention challenges. This plan will focus on building and developing the current employee strength and skills and identify retention opportunities. This approach will benefit the BOE's future staffing models and support the agency in meeting its mission and goals and serving the taxpayers of California efficiently and cost effectively. BOE is confronting this challenge and plans to significantly reduce the number of vacancies over the next fiscal year.

COMMENTS

1. BOE should describe its recruitment and retention plans to the subcommittee, including specific goals and timelines.
2. BOE should identify any unbudgeted savings due to the large vacancy rate, any additional costs to implement its recruitment and retention plans, and any revenue impacts from the vacancies.
3. Senate Budget and Fiscal Review Subcommittee 4 adopted a \$1.3 million General Fund reduction due to anticipated additional vacancy savings.

ISSUE 5: UNALLOCATED REDUCTIONS

The Governor's budget includes the following proposals for unallocated reductions to state departments and programs:

- **Unallocated Reductions.** Budget Control Section 4.05 authorizes unallocated reductions in General Fund spending totaling \$150 million (\$50 million in 2005-06 and \$100 million in 2006-07). These one-time reductions are in addition to the \$100 million unallocated 2006-07 reduction provided for in Control Section 4.05 of the 2005 Budget Act (for a total of \$250 million in unallocated reductions). The budget indicates that the Department of Finance will work with agency secretaries and others to determine specific reductions.
- **One-Percent Personnel Reduction.** Control Section 3.45 requires the Director of Finance to reduce salaries and wages spending by \$58 million (General Fund) in 2006-07. According to the Governor's Budget Summary, this savings will be achieved primarily through vacancies.

The language of the proposed control sections does not exempt revenue-generating agencies, such as the BOE, from these reductions.

COMMENTS

The BOE and the Department of Finance should report to the Subcommittee on the following points:

1. The potential amount of budget reductions that may be allocated to BOE under the proposed control sections.
2. The BOE programs or activities that would absorb these reductions.
3. The potential revenue impact of these reductions.

ITEM 0250**JUDICIAL BRANCH**

The mission of the Judicial Branch is to resolve disputes arising under the law and to interpret and apply the law consistently, impartially, and independently to protect the rights and liberties guaranteed by the Constitutions of California and the United States, in a fair, accessible, effective, and efficient manner.

ISSUE 1: CONSENT - HABEAS CORPUS RESOURCE CENTER – SUPERVISORY POSITION

The Habeas Corpus Resource Center (HCRC) is responsible for assisting indigent petitioners in death penalty proceedings before the state Supreme Court and the federal court, by either acting as counsel or being a resource to private counsel. Since its inception, HCRC has nearly double its number of authorized staff positions. As a result, HCRC believes it is necessary to increase its supervisory structure to ensure clear communication, accountability, and equity of workload.

The authorizing legislation (Ch. 869, Statutes of 1998.) specifically allocated 30 attorney positions, as well as an executive director to operate the day-to-day operations. To date, the center has grown to 69 authorized positions, with 39 non-attorney positions. Presently, the Assistant Director is responsible for supervising all non-legal staff positions, including Habeas Corpus Investigators, Administrative Coordinators, receptionists, and office technicians.

HCRC believes they can no longer efficiently operate without enhancing their supervisory structure. The ability of the Assistant Director to provide adequate supervision has diminished due to the expansion and span of the non-legal staff.

The Center seeks to create a Supervising Administrative Coordinator to supervise the clerical support staff and temporary employees, giving a span of control of six to ten employees. HCRC requests a General Fund augmentation of \$114,000 to establish the position.

ISSUE 2: CONSENT - HABEAS CORPUS RESOURCE CENTER – CASE TEAM STAFFING

The HCRC is appointed by the California Supreme Court or by federal courts to represent indigent death-sentenced prisoners in post conviction (or habeas corpus) proceedings. Habeas corpus proceedings in California provide the opportunity for death-row inmates to present constitutional and statutory challenges to their convictions and sentences based on facts outside the trial record in the automatic appeal. To accomplish their mission, HCRC has organized itself into "dynamic case teams" consisting of a supervising attorney, two staff attorneys, a paralegal, and an investigator.

In 1998, SB 513 (Lockyer) was enacted to provide legal representation for indigent death row inmates to reduce the backlog of capital cases and to begin to comply with federal requirements for expedited federal habeas. The change provided that separate counsel must be appointed to represent death-sentenced prisoners in the automatic direct appeals and in the habeas corpus proceedings.

As of July 2005, 166 capital cases have been appointed with an appellate counsel but no habeas corpus counsel and 106 prisoners with no appellate or habeas counsel. Private attorneys have been reluctant to accept habeas appointments for a number of reasons, therefore increasing HCRC need to accept additional appointments.

Currently, HCRC has 48 appointments to capital cases (including eight in federal courts) and expects to receive another twenty cases before the conclusion of the budget year. With the addition of four additional cases teams, the Center believes each team can accept eight new cases immediately and up to twelve additional cases over a four-year period.

The Center proposes to create four additional habeas corpus case teams to reduce the number of death penalty prisoners without representation. Specifically, they seek a General Fund augmentation of \$1.2 million (1.8 million ongoing) to create 12 positions: 2 Habeas Corpus Counsel II, 2 Staff Attorney III, 2 Senior Paralegals, 2 Paralegals, 2 Investigator II and 2 Investigator I.

Comments:

There are two avenues to decrease the number of unrepresented inmates: HCRC and private counsel. HCRC noted that private counsel has been reluctant to accept habeas appointments for a number of reasons, most notably the lack of support and resources. The committee may wish to explore the issue of compensation for private counsel, as an additional method to reduce the number of unrepresented and the purveyance of crisis cases.

According to HCRC, the growing number of crisis cases is a serious concern for California's system of Justice. Crisis cases are cases in which HCRC has a shortened deadline for filing a habeas corpus petition, either because the Supreme Court was unable to make timely appointments or private counsel has decided to no longer represent an inmate.

ISSUE 3: CONSENT - NEW 5TH APPELLATE DISTRICT COURTHOUSE

The Fifth Appellate District Courthouse is a new three-story building (651,000 square feet), which is scheduled to be completed in March of 2007. Located in Fresno, the energy efficient structure is being constructed on a 1.25-acre site and will include chambers for 11 justices, offices for attorneys, clerks and administrative staff, a library, conference rooms, and a settlement conference suite.

The administration seeks to provide resources to fund occupancy and maintenance of the new courthouse. Specifically, the proposal requests a one-time increase in appropriation authority of \$1.3 million (Appellate Court Trust Fund) and a one-time General Fund augmentation of \$70,000.

ISSUE 4: INFORMATION TECHNOLOGY SUPPORT & MAINTENANCE

The administration proposes a General Fund Augmentation of \$3,310,000 (\$2,497,000 one-time) to provide increased information technology support for the Administrative Office of the Courts (AOC), the Supreme Court, and the Courts of Appeal. This proposal would support the establishment of 17 permanent positions: 9 positions in 2006-07 FY and 8.0 in 2007-08 FY within the Information Services Division.

Over the past seven years, the Administrative Office of the Courts (AOC) has expanded dramatically in both size and capability to service the state court system. The AOC completed the following tasks to meet their information technology demands:

- Introduced a new statewide email system linking over 1,800 accounts in the appellate court,
- Added laptops and smart phone to court inventory to accommodate an increasingly mobile user base,
- Configured a separate network for developing trial-court applications, and
- Utilize over 100 servers on three different operating system platforms to support critical application.

The present proposal seeks to accommodate workload growth within Information Services Division, due to the continued transfer of court operations. Additionally, the proposal provides for asset replacement, data security, and application development.

Comments

AOC currently possess 139.3 authorized positions within its Information Services Division, with 20 positions specifically dedicated to the Information Services Development and Support. The proposal suggests that existing resources are insufficient to provide for increase responsibilities of the AOC. However, the proposal does not clearly layout a list of projects current positions are working to complete, along side a listing of projects that are outstanding due to a lack of resources.

Likewise, the Information Services Division was established to provide support to the Supreme Court, Appellate Court, and the Judicial Council/AOC. However, this proposal seems to be expanding the role of the Information Services Division to incorporate information technology services for trial courts without any cost recovery.

Additionally, the Judicial Council has requested additional resources within Trial Court funding for information technology, above the calculated State Appropriations Limit adjustment. Therefore, it would appear the Council has overlapping proposals to provide a dramatic increase in available funding for technology services without demonstrated evidence that current resources are insufficient to cover expanded administrative staff.

ISSUE 5: INCREASING TRIAL COURT JUDGESHIPS

The Judicial Council asserts that the number of trial court judges has not kept pace with population growth and the resulting increased demand on the courts. Between 1990 and 2000, California's population grew by over 16%; yet the number of new judgeships created by the Legislature grew by less than 3%. The apparent difference between population growth and the number of new judgeship has led to a "judicial gap" that could lead to a number of disturbing long term consequences: a significant decrease in Californians' access to the courts; compromised public safety; an unstable business environment; and, in some courts, enormous backlogs that inhibit fair, timely, and equitable justice.

The Council also asserts that the lack of authorization for new judgeships has caused the court system to meet its workload demands by appointing commissioners and referees to act as temporary judges. The Council notes this is not a viable long-term solution, however. Increased reliance on SJOs has resulted in many critical court proceedings being heard by judicial officers who are not accountable to the public. Statewide, SJOs typically spend an average of 55% of their time serving as temporary judges; in large courts, the proportion is 75% to 80%.

In theory, SJOs are appointed to perform "subordinate judicial duties," such as hearing small claims cases, traffic infractions, and certain civil discovery issues. In practice, however, many SJOs act as de facto judges and hear misdemeanor and felony cases, family law matters, and civil cases, limited and unlimited, upon stipulation of the parties. The Council reports that where parties have refused to stipulate to the use of an SJO, cases must be re-calendared, thus adding to court congestion.

Accordingly, the Council proposes the addition of 150 new judgeships over a three-year period and the conversion of up to 161 subordinate judicial offices to judgeships. For the budget year, the Council proposes one-month of funding for 50 new judgeships and associated support staff (\$5.45 million). However, projected cost for 2007-08 is \$41.2 million and \$77 million for 2008-09.

Comments:

Senate Bill 56 (Dunn) was introduced on January 12, 2005 to address California's cited need for new judgeships. The legislation was amended on May 25, 2005, removing the call for 150 judgeships over a three-year period to an unspecified number. Currently, the bill remains with the Assembly Appropriations committee awaiting further action.

Consider the status of the legislation it may be too early for the Subcommittee to affirm the administration call for 150 judgeships when the Legislature has not completed its policy review of the proposal. As it stands, the Legislature may see a need to either increase or decrease the administrations proposal.

Likewise, committee staff requested information regarding potential cost of providing for a variety of judgeship levels. Such information would assist the Legislature in understanding the potential fiscal impacts of ramping up or trimming the proposal. Judicial Council has yet to provide this information.

Furthermore, the committee may wish to consider budget bill language to specifically direct any increase in funding for judgeships and their staff requirements. Nothing in current statute prohibits the movement of funds for judicial staff to other judicial priorities; therefore, there maybe a need to ensure any allocation for new judgeships.

ISSUE 6: TRIAL COURT INFORMATION TECHNOLOGY

The enactment of the Trial Court Funding Act removed a county's legal obligation to provide trial courts with a broad range of administrative services and information technology support. Judicial Council asserts that counties either have terminated or are in the process of ending the provision of these services to the courts. Additionally, the Judicial Council believes legislative mandates (mainly AB 233 (Chapter 15, Statutes of 2000) have called for an enhanced level of administrative and information technology support.

The Council points to AB 233, suggesting that the passage showcased a need for greater fiscal accountability for the trial courts. As a result, the Council is working towards placing all 58-trial courts on various statewide systems including Judicial Branch cash management and investment operations, a centralized accounting system, and Human Resources administration.

To accomplish their effort, the Judicial Council proposes an ongoing General Fund augmentation of \$12.3 million budget year for the development and implementation of administrative services to the trial courts. These administrative services are in accordance with the long-term fiscal responsibility and accountability plan that was designed to meet the requirements of the trial court funding act.

Comments:

The Legislative Analysis Office highlights this proposal in its *2006-07 Budget Analysis*. Specifically, the LAO recommend rejecting the request for \$12.3 million in information systems funding for the trial courts, because the proposal contains no detail on how the funding will be used and does not provide sufficient information to demonstrate that funding is needed above, and beyond the \$105 million proposed for the trial courts through the State Appropriations Limit adjustment.

The LAO notes that there has been a significant effort to provide statewide information systems for the trial courts to fill the vacuum of services no longer provided by the counties. The AOC has developed several information management systems and has begun to transition the courts to these systems. There are 15 programs currently being developed and implemented for the trial court system. In 2005-06, the trial courts will spend an estimated \$136 million for implementation and ongoing maintenance of these systems.

However, the LAO points out that the proposal lacks information on how the funding will be utilized. In particular, the proposal does not specify the amount of funding that will be designated for each project, nor does it identify specific programs that will be made in the budget year. However, more importantly, the AOC has not provided information to demonstrate that these trial court programs require an augmentation beyond the \$105 million SAL adjustment already included in the budget to fund the cost of inflation and growth in trial court operations.

ISSUE 7: TRIAL COURT SECURITY

Courts provide a variety of mandated, essential services, among which are the adjudication of criminal actions, resolution of civil disputes, and determination of matters involving families and juveniles. Many of these activities can provoke emotional responses in participants, witnesses, and the public, which may lead to a potentially dangerous situation for those in and around the courthouse. In an effort to reduce the potential for violence, the sheriffs or marshals provide security in the courthouse.

The Judicial Council seeks to address the baseline security need for the courts and public by providing each court facility (where it is logistically feasible and where local court management believes it is necessary) with a staffed entrance screening station and funding to replace the screening equipment on a regular basis. Their proposal requests \$18.7 million (General Fund) to add 97 new entrance-screening stations in superior court facilities and establish a five-year replacement cycle for new and existing screening equipment. Of that amount, \$13.5 million is ongoing funding for new sheriff and marshal staff.

Comments:

The current proposal will place a screening station at every court facility that has requested one. The Administrative Office of the Courts staff sent a form to all 58 trial courts asking them if they needed additional entrance screening stations for any of their facilities. Even if this proposal is funded, there will be 43 separate facilities in 24 court systems that will not have an entrance screening station. The courts did not request stations for these facilities.

The court facilities that did not request a screening station are either small facilities in rural counties, most with only one courtroom, or facilities in larger counties with a limited number of courtrooms. Courts have indicated that in several of these locations the courtrooms are in use no more than once a week. These courts may believe that the relatively small number of people utilizing these facilities would not justify the ongoing expense of a screening station. In several of the locations – a post office, a probation center, a veterans' memorial building, and juvenile facilities – the court is not the primary occupant. In these situations, the court may not have the authority to implement screening stations on their own.

County	Facility	County	Facility
Alameda	U.S. Post Office, 13th St. Oakland County Probation Center, 400 Broadway, Oakland Winton Avenue Building, Hayward George Psychiatric Pavilion, San Leandro	Napa	Juvenile Court, Napa
		Orange	Central Courthouse Annex, Santa Ana Harbor Justice Center, Laguna Hills Harbor Justice Center, Laguna Niguel
Alpine	Alpine County Courthouse	Placer	North Tahoe Court, Tahoe City
Butte	Downtown Oroville Branch Paradise Courthouse Gridley Courthouse Juvenile Hall, Oroville	Plumas	Chester Branch Greenville Branch Portola Branch
		San Benito	Juvenile Hall Courtroom, Flynn Road
Colusa	Colusa County Courthouse Colusa County Courthouse - Annex	San Diego	Ramona Branch, Ramona
		San Francisco	Youth Guidance Center, San Francisco
Contra Costa	Detention Facility -- Court Annex -- Martinez	San Luis Obispo	Juvenile Services Center, San Luis Obispo Veterans Memorial Building
Del Norte	Del Norte Superior Court -- Crescent City		
El Dorado	3368 Lake Tahoe Blvd., South Lake Tahoe	San Mateo	Southern Branch -- Traffic and Small Claims
Humboldt	Garberville Courthouse Hoopa Courthouse	Santa Cruz	303 Water Street
		Shasta	Burney Courthouse
Los Angeles	Monrovia Courthouse Catalina Island Courthouse, Avalon Torrance Annex, Torrance Beach Cities Courthouse, Redondo Beach	Sierra	Sierra County Courthouse
		Siskiyou	Happy Camp Dorris and Tule Lake
		Stanislaus	Ceres Branch Turlock Branch
Modoc	Barclay Justice Center, Alturas Modoc Superior Court, Alturas		

ISSUE 8: COURT INTERPRETERS - STAFF ITEM

Senate Bill 371 enacted the Trial Court Interpreter Employment and Labor Relations Act establishing a personnel system for court interpreters.

Under the Act, court interpreters were granted employment rights and protections and the trial courts, with support from Judicial Council, became responsible for employer-employee relations. Subsequently, in 2004, the Courts came under the jurisdiction of the Public Employment Relations Board.

Employee representatives alleged that Trial Courts have violated statute and committed a series of unfair labor practices during the implementation of the Act and in collective bargaining. Likewise, they allege that the Administrative Office of the Courts has played an active role in advising the Trials Courts.

Comments:

Since the General Fund represents a large portion of the funding for the Trial Courts and the Administrative Office of the Courts, the Subcommittee may want to provide some oversight to ensure public resources are spent on identified state priorities.

With regard to similar instances, the Subcommittee has chosen to adopt Budget Bill Language, which added some reporting requirements. In this case, any report document should span back to the initial implementation of the act, so the Legislature may possess a clear picture of the Courts performance as a manager of labor relations.

ISSUE 9: ORANGE COUNTY APPELLATE COURTHOUSE

The Orange County Appellate Courthouse is envisioned to be approximately 55,000 gross square feet, with the ability to accommodate nine justices and their support staff. Originally scheduled to begin construction in June of 2004, the project experienced a 33-month delay due to a project suspension as well as delays in site acquisition and subsequent design phases.

Funding for the working draws and construction phases was originally appropriated in 2002-03 and re-appropriated in 2003-04 and once more in 2004-05. Due to project delays the project cost have escalated the total project cost by \$6.8 million.

The Judicial Council is requesting a reappropriation of the existing \$14.4 million appropriation from the Public Building Construction Fund for working drawings and construction and an additional appropriation of \$6.8 million from lease revenue bonds from the Public Building Construction Fund for a total of \$21.2 million.

ISSUE 10: PLUMAS AND SIERRA COUNTIES COURTHOUSE

Judicial Council proposes to replace the existing part-time courthouse in Portola (Plumas County) with a new 6,500 building gross square foot courthouse in Sierra Valley. The Council believes the construction of this court facility will be a model for other throughout the state, because both Plumas and Sierra County will jointly use the courthouse. The cross-jurisdictional courthouse will be a jury capable, one-room courtroom courthouse that will allow existing judicial officers and staff from each county to coordinate full-time use of the facility.

In Plumas County, the proposed new facility would replace the Portola Branch court, a one-courtroom facility, located in a former storefront in downtown Portola. This facility includes a small courtroom, clerk's office, and judge's chamber. It does not have clerical support space or a separate jury deliberation room, and it is not ADA compliant.

In Sierra County, the new courthouse will replace a small court filing service center in the town of Loyalton, which is located in commercial lease space. The service center, which does not have a courtroom, provides court access for the distribution of documents and payment of filing fees and fines. The proposed new facility will provide the opportunity for court proceedings in the rural northeastern portion of Sierra County, where there has never been a courthouse.

Comments:

Senate Bill 1732 (Escutia) Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provides and requires counties to transfer the responsibility of court facilities to the Judicial Council. As enacted, the deadline for completing court facility transfers is June 30, 2007.

As of March 30, 2006, Plumas County has yet to transfer the Portola court facility. Such as, the committee should be hesitant to provide funding for facilities that are currently non-compliant with existing law. However, the Judicial Council noted that facilities transfers should be completed by June 30, 2006. Although, the Administration has included budget bill language that does not release the allocation until the transfer of court facilities, the Subcommittee may wish to add language that also calls for the revision of the funding if the transfer does not occur before the statutory deadline.

Additionally, the Subcommittee may also want to take into account the Legislature's consideration of the Governor's Strategic Growth Plan. The Governor's proposal includes AB 1831 (Jones) that would provide \$1.8 billion overtime for the acquisition, design, construction, or renovation of trial court facilities

ISSUE 11: CONTRA COSTA COURT HOUSE

The Judicial Council and the Department of Finance are currently revising their initial proposal for the construction of a new courthouse within Contra Costa County. Initially, the Council sought to construct a courthouse with four courtrooms on a nine-acre site. The Legislative Analysis Office (LAO) has raised a number of concerns with this proposal, centered on the issue of population growth.

As proposed, the facility would be built in east Contra Costa County to provide services to the Antioch-Brentwood-Oakley area. The new facility would replace an undersized Pittsburg-Delta facility. Although Judicial Council proposal provides for onsite future growth, the current proposal provides the same level of service as the existing "undersized" facility. Furthermore, the LAO disagrees with the Department of Finance's (DOF) evaluation of the current facility.

DOF asserts that the current facility only has four courtrooms, where as the LAO claims the courthouse as 4.5 courtroom. The LAO claims that court operations have converted a room to provide part-time accommodations for some levels of court activities.

Comments:

The area surrounding the Pittsburg courthouse has clearly experienced tremendous growth. In 2005, the Pittsburg court handled about 55,400 filings, but had to re-direct 6,393 filings (about 10% of the total filings) to the Martinez courthouse due to overcrowding. DOF has recognized that the LAO's claims has merit, and have decided to revisit their initial proposed to ensure that the new facility can accommodate current and near future workload growth.

Additionally, the county has yet to transfer the Pittsburg trial courthouse to the Judicial Council. As previously stated, the Subcommittee should be hesitant to provide funding for facilities that are non-compliant with current law. In response to this concern, the Legislative Analysis Office has recommended that the Subcommittee adopt budget bill language that would call to prohibit the appropriation of funding until the court facility has been transferred and the revision of the budget allocation if the transfer is not completed by June 30, 2007.

Furthermore, the Subcommittee may also want to take into account the Legislature's consideration of the Governor's Strategic Growth Plan. The Governor's proposal includes AB 1831 (Jones) that would provide \$1.8 billion overtime for the acquisition, design, construction, or renovation of trial court facilities

ITEM 0690**OFFICE OF EMERGENCY SERVICES**

The principal objective of the Office of Emergency Services is the coordination of emergency activities to save lives and reduce property losses during disasters and to expedite recovery from the effects of disasters. Additionally, the Office of Homeland Security is responsible for the development and coordination of a comprehensive state strategy related to terrorism that includes prevention, preparedness, and response and recovery.

ISSUE 1: STATE WARNING CENTER STAFF

The State Warning Center (SWC) is the centralized point of information coordination for any statewide emergency. Located in Mather, the center provides 24-hour notification to local emergency response personnel in anticipation of an imminent threat. In addition, SWC's workload also includes consistent verification of statewide contacts and various simulated exercises.

OES asserts that current staff levels within SWC are insufficient to provide continuous coverage. According to OES, adequate coverage of the center requires at least two Emergency Notification Controllers and One Emergency Services Coordinator (or Senior Communications Coordinator) per shift. Although they have scheduled a staffing pattern to meet this requirement, their staffing levels do not provide any support for staff absences due to sickness or family crisis.

The Administration requests an increase of 8.8 positions and \$617,000 General Fund to support workload increase and increased flexibility to ensure adequate round-the-clock coverage of the SWC.

ISSUE 2: UPDATED DISASTER ASSISTANCE PAYMENT PROJECTIONS

When the Governor proclaims a State of Emergency, funding through the California Disaster Assistance Act may be made available to local agencies to assist them in recovery from disasters. Similarly, when the U.S. President make a Declaration of Major Disaster, federal funds requiring a state match are made available to locals through the Federal Emergency Management Agency (FEMA). Both the CDAA and FEMA assistance require the state to pay a portion of the total disaster recovery costs.

Currently, the Department of Finance and OES are updating this proposal due to the Winter Storms of 2006.

ISSUE 3: TECHNICAL ADJUSTMENT – REIMBURSEMENTS

OES request a technical adjustment to properly align the office's budget reimbursements with the actual level of funds expected to be received in 2006-07. Specifically, this adjustment reduces OES's criminal justice program reimbursement by \$1 million to remove authority for the discontinued Gang Violence Suppression Program.

When the Office of Criminal Justice Planning (OCJP) was abolished in 2003-04, its public safety functions were transferred to OES and its juvenile justice programs went to the Board of Corrections, along with the funding from the federal Juvenile Justice Prevention Act (JJPA). Under OCJP, the Gang Violence Suppression Program was one of the juvenile justice program funding from the federal JJPA.

The Board of Correction committed to funding the Gang Violence Suppression Program for one year through reimbursements to OES. The Board filled that commitment in fiscal year 2003-04, but subsequently discontinued to fund the program.

ISSUE 4: TECHNICAL ADJUSTMENT – JUSTICE ASSISTANCE BLOCK GRANT

The United States Congress has replaced the Edward Byrne Memorial Block Grant and the Local Law Enforcement Block Grant (LLEBG) with the Justice Assistance Block Grant. OES proposes to make technical adjustments necessary to properly budget available federal funds, a budget year reduction of \$16.9 million.

The new JAG program allows for the same activities as the Byrne and LLEBG programs, which will result in current year net loss of \$14 million in federal funds. This resulted in a -24% reduction to all ~~of the funded~~ projects funded under the Anti-Drug Abuse Program and the Marijuana Suppression Program.

ISSUE 5: SAFE TEAMS

In 2002, the Legislature enacted AB 1858 to encourage the formation of regional law enforcement task forces consisting of officers and agents from several law enforcement agencies organized for the explicit purpose of reducing violent sexual assaults through proactive surveillance and arrest of habitual sexual offenders.

The Administration's proposal seeks to compliment existing law by providing state funding for the establishment and operation of SAFE teams. Under their proposal, OES would issue a sliding scale of grants on a county wide basis to provide a level of funding based on the percentage of registrants in that county. The largest grant possible under this proposal is almost \$1.4 million, and the smallest is \$19,658.

To date five counties have established SAFE teams, with no available state funding. The Administration seeks to increase the number of counties with teams to 38 (the number of counties with more than 200 registrants). Specifically, they request \$6,000,000 (General Fund) and 3.0 additional positions.

Comments

As previous noted five counties have already established SAFE teams under existing law with no direct assistance from the state. Of the five, four are currently utilizing the Department of Justice to provide taskforce leadership. DOJ's participation in county SAFE team costs an average of \$540,515 per team.

Currently, DOJ is funding their participation with the counties out of existing resources. However, it is reasonable to suspect that with the expansion of team throughout the state, DOJ might request additional resources to support their activities.

Based on information provide by DOJ and OES, additional cost outside this proposal could range from \$10 million to \$21.6 million. The \$10 million represents DOJ participation in counties with a grant level of more than \$70,000 (a grant of this size should cover a counties operating cost – 19 counties). To provide DOJ assistance to counties with more than 1% of registrants would cost approximately \$13 million, and to fund DOJ participant throughout the projected 40 counties is \$21.6 million.

Additionally, the committee may wish consider the direction of a state funded SAFE team program. Currently, the proposal allows for the broad usage of funds consistent with existing law. However, it maybe prudential to ensure public resources be utilize in a fashion that provides the most public impact. In this case, a major public concern is the high number of sex offenders that are non-compliant with Penal Code 290. Therefore, the committee may wish to consider narrowing the usage of funding to provide a legislative direction at the state's most critical need.

ISSUE 6: VICTIMS OF CRIMES COMMITTED BY PAROLEES

OES currently administers the legislatively mandated Victim-Witness Assistance Program. The program funds every county to operate comprehensive Victim-Witness Assistance Centers dedicated to providing, among other things, accompaniment services during criminal proceedings for victims of all types of crimes. However, no such program exists to support victims and witness during a parole revocation hearing.

Parole revocation hearings occur when a parolee is suspected to have violated a condition of their parole. The evidentiary hearing portion of the process is conducted by the Board of Parole Hearings in custodial settings and includes the testimony of lay witness.

OES asserts that Victim-witnesses are summoned to attend the hearing, without preparation or advocacy for their rights and personal safety. Accordingly, OES seeks to expand the service of the Victim-Witness Centers to provide services to victim-witness during parole revocation hearings. Specifically, they request one position and \$1.1 million for the Victim-Witness Assistance Fund

Comments:

During the reorganization process, the Department of Corrections and Rehabilitation (CDCR) has created an Office Victim and Survivor Services. The primary purpose of the Office is to proactively enforce and promote the rights of victims and survivors throughout the state's youth and adult correctional system.

Considering CDCR's newfound dedication to ensuring victims rights are enforced and that victims and survivors have a meaningful voice within the state correctional system: 1) it maybe premature to assess that there is a greater need for victim assistance in conjunction with a parole hearing and 2) CDCR may be the more appropriate place to address this issue, to ensure that California is not funding duplicative services.