

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Rudy Bermudez, Chair

THURSDAY, MAY 18, 2006 1:00PM
STATE CAPITOL, ROOM 444

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ITEMS TO BE HEARD

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: STATE JUDICIARY STATE APPROPRIATIONS LIMIT

The Administration has proposed a new funding structure for both the Office of the Governor and the Judicial Branch in order to fund the three branches of government in the same manner. Specifically, the Administration is seeking to include a growth factor for the State Judiciary, which includes the Supreme Court, Court of Appeal, Habeas Corpus Center and the Judicial Council (Administrative Office of the Courts), similar to the growth factor for the State Legislature: the State Appropriations Limit (SAL).

Established in the State Constitution in 1979 by Proposition 4 and later amended by Propositions 98 (1988) and 111 (1990), the purpose of the SAL is to provide a limit on the annual spending for state and local government appropriations from tax revenue. Every year, the SAL is adjusted to account for changes in the cost-of-living (COLA) and population. It is currently used to establish minimum spending growth for trial court operations. Also, growth in the Legislature's overall budget is limited annually to the increase in the SAL.

The administration proposes adding \$308 million to SAL base allocation, plus an additional \$1.3 million (the SAL adjustment) to expand the use of SAL to the State Judiciary. Please note that Administration's request has been revised to reflect the May Revision SAL rate of 4.9%.

COMMENTS

In 2004, the Legislature enacted State Trial Court Funding, which provided a SAL adjustment to sixty-nine percent of the Judicial Branch budget. According to the Judicial Council, the primary purpose for extending SAL to the entire Judicial Branch is to ensure more predictable funding for the judiciary, protect public access and enhance the appropriate accountability for the third and co-equal branch of state government.

With regards to Judicial Council concern about providing predictable funding to the courts, it is hard to understand the Council's rationale for a few reasons. Taking into consideration fiscal years 1998-99 to 2004-05, the courts have not received a net reduction. In fact, an AOC analysis points out that the Legislature has appropriated more funding to the Courts under the existing budget process than the courts would have received under SAL. Therefore, it begs the question of whether or not the Legislature has over funded some aspects of court operations, because the Council is requesting a process that would seemingly provide them less funding in future years.

Likewise, with regard to public access, a majority of the Judicial Branch's caseload is at the Trial Court level. As previously noted, the trial court operations already receive a growth factor per SAL. Furthermore, there were three specific policy reasons for the application of SAL to the trial court: (1) it was believed that more predictable funding for trial courts would improve the process of collective bargaining with local court employee representatives; (2) it was intended to provide stability and predictability to the Trial Court funding during periods of state fiscal crisis; and (3) since the Trial Court funding represents a majority of Judicial Branch expenditures, the application of SAL provided a greater degree of financial independence and flexibility for the Judicial Branch.

Furthermore, Judicial Council asserts that the expansion of SAL would increase fiscal accountability. The LAO disagreed, noting in their Budget Analysis that this proposal would place the entire Court system on automatic spending without a clear policy rationale. Secondly, the LAO stated that this proposal increasing the likelihood that over budgeting and double dipping would occur, because the proposal allows for the continuous appropriation of the Judicial Branch budget, limiting the Legislature's oversight function.

Lastly, the Judicial Council also claims that the Judicial Branch should be budgeted in a manner similar to the Legislature because they are a separate branch of government. While the California Constitution clearly establishes three distinct branches of government, the separation of powers is related to the enactment, enforcement and interpretation of law. Within regards to the state budget, the Constitution clearly states that "the Legislature may control the submission, approval, and enforcement of budgets." (Article IV, section 12 (e) of the State Constitution) Therefore, it is more than appropriate for the Legislature, in conjunction with Governor, to set the funding priorities for statewide court operations in balance with the other statewide priorities (education, health care, etc.).

ISSUE 2: PROPOSED CHANGES TO STATE TRIAL COURT FUNDING

In addition to proposing to expand SAL to the entire Judicial Branch, the Administration is also seeking specific changes to the methodology for calculating SAL for the Trial Court. Existing law specifically excludes Judicial Compensation the SAL calculation per Government Code 77202 (a) (1). Additionally, the current year calculation also did not include funding sources that are allowable under existing law, specifically the Equal Access Fund; the portion of the Modernization Fund that is utilized for trial court operations; and the portion of the Improvement Fund that is transferred to the Trial Court Trust Fund for operational costs.

The inclusion of Judicial Compensation is a portion of the Administration's proposal to provide for future judgeships. Although it will not support new judgeships in the near term, the Administration and the Judicial Council believes that it is prudent for the state to set aside resources to support future growth.

The Administration proposes to add \$453 million to the SAL base allocation, plus \$19.3 million (the SAL adjustment) to include Judicial Compensation, as well as formalize the inclusion of the Equal Access Fund, Modernization and Improvement Fund. Please note that Administration's request has been revised to reflect the May Revision SAL rate of 4.9%.

COMMENTS

Numerous stakeholder meetings have been held to discuss the current process for calculating and distributing the SAL adjustment for the Trial Courts. Although numerous concerns have been raised regarding the distribution process for SAL, no concerns have been raised with regards to including the Modernization and Improvement Fund. With regards to the Equal Access Fund, staff has had productive discussions with Judicial Council representatives about the inclusion of provisional budget bill language to protect those resources from being utilized for other purposes.

The inclusion of Judicial Compensation is by far the larger fiscal policy question before the subcommittee. The Administration and Judicial Council contend that the inclusion of Judicial Compensation into the SAL adjustment will provide for new judgeships in the future, as well as provide for workload growth in the Assigned Judges program. However, in order to achieve that goal, Judicial Council will have to create significant savings in the Juridical Compensation program. Currently, the administration's proposal does not contain a mechanism that restricts the Council's usage of "savings" in any given year. Therefore, should the subcommittee consider the inclusion of Judicial Compensation, it should also adopt language that restricts the usage; requires the Council to annually report the number of new judgeships the "savings" could support and that all unspent funds revert to the General Fund.

ISSUE 3: NEW TRIAL COURT JUDGESHIPS

The Judicial Council asserts that the number of trial court judges has not kept pace with population growth resulting in increased demands on the court system. 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 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.

Considering the status of the legislation, it may be too early for the Sub-Committee 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 administration's 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 may be a need to ensure any allocation for new judgeships.

ISSUE 4: CONVERSION OF SISK FEDERAL COURTHOUSE

The Administration is requesting \$31.6 million to facilitate the conversion of the Sisk Federal Courthouse to a state trial court facility.

B.F. Sisk Federal Courthouse is a surplus courthouse that the federal government is proposing to transfer to Fresno during the spring of 2006. Upon receiving the transfer, the county is supposed to immediately transfer the building to the state. Upon receiving the transfer, Judicial Council proposes to renovate and seismically retrofit the facility.

COMMENTS

The transfer of the Sisk Courthouse represents a tremendous opportunity for the Judicial Branch to increase its capacity. Currently Fresno County has 8 judges in leased or constrained courtrooms. The proposed renovation would provide sufficient courtrooms for 8 judges. However, many proposals are seeking to increase the number of judgeships in Fresno County. There is no additional capacity available to accommodate any new judgeships.

The LAO recommends increasing the scope of the project to renovate the Sisk to have 16 courtrooms (since federal space standards are so much larger than state standards, this is possible). The cost of renovating the Sisk to have 16 courtrooms would cost \$61.3 million. However, building an entirely new courthouse for 8 additional judges would cost about \$68 million (for total of nearly \$100 million when adding Sisk 8 courtroom renovation with a new 8 courtroom courthouse).

Thus the LAO recommends appropriating \$61,327,000 from the State Court Facilities Construction Fund and approving the following **Budget Bill Language**:

Judicial Branch - Item 0250-301-3037

Of the funds appropriated in Schedule (1.2) of this item, \$61,327,000 is provided for the conversion of the Sisk Federal Courthouse in Fresno for a 16 courtroom facility. If Legislation to provide additional judgeships to Fresno County is not enacted in 2006, \$29,700,000 will revert to the fund from which it was appropriated and the funds remaining in the appropriation will be available for the 8 courtroom facility.

ISSUE 5: NEW PORTOLA/LOYALTON COURT

On April 19, 2006, the subcommittee approved \$481,000 from the State Court Facilities Construction Fund for the Acquisition and Preliminary Plans phases of a new courthouse in the Sierra Valley of Plumas County. The Court is designed to accommodate both Sierra and Plumas Counties. In the May Revision the administration requested an additional \$225,000 for this project (\$112,000 for Acquisition and \$113,000 for Preliminary Plans).

This request reflects updated cost information derived from a project study, currently being finalized and updated analysis of recent construction industry economic trends.

COMMENTS

The LAO recommends approval of this finance letter because some key funding elements such as environmental documents were left out of the original request. However, the department may receive free land for the new courthouse. If the private developer who owns the land does provide the land (a very good site) for free then the acquisition funds will not all be needed. However, if the developer does not provide the land the department will need to seek another site. Thus, the LAO proposes the following Budget Bill Language:

Judicial Branch - Item 0250-301-3037 (2)

The funds appropriated in this item include \$437,000 for acquisition and \$269,000 for preliminary plans. The funds appropriated for acquisition must be spent on acquisition related expenses and by June 30, 2007, any unspent portion of the acquisition funds will revert to the State Court Facilities Construction Fund.

ISSUE 6: PROGRAM SHIFT

The administration submitted a finance letter requesting that Item 0250-001-0932 be revised by replacing 45.10- Support of Operations of the Trial Courts with Program 30- Judicial Council, in the schedule for this Item, in order to allow the Judicial Council (Administrative Office of the Courts) to recover costs associated with providing services to trials courts.

The Department of Finance claims that this is a technical request to fix an error in the budget. Specifically, this item is utilized by the trial courts to reimburse the AOC for provided administrative and information technology services. However, in drafting the budget the Department of Finance placed the wrong program in this item; thereby allocating trial court reimbursements to the wrong program.

COMMENTS

Upon discovery of this error, the Department of Finance alerted committee staff that this request would be put forth. In response, committee staff voiced to both the Department of Finance and the Judicial Branch a concern that the placeholder amount of \$1,000 currently in the budget bill did not provide the Legislature with enough detail regarding the cost of services the AOC provides to the Trial Courts. Recently, the Court provides a more accurate estimate of \$9.02 million for services provided.

Although, the request is technical in nature, it does bring to light some concerns. First, the item contains a "placeholder" of \$1,000. The placeholder represents funds that the Trial Courts transfer to the AOC for services provided. Committee staff strongly urged the Department of Finance and the Judicial Council to provide a real number of the anticipated resources the AOC expects to receive from the Trial Courts. Agreeing with staff, the AOC revisited this matter and provided an estimate of \$9.02 million for various services.

Various stakeholders have voiced concerns about the cost and nature of services the AOC provides to the court. The subcommittee has wished to hear testimony from both stakeholders and the AOC to provide clarification of the kinds of services provided.

ISSUE 7: PROVISIONAL LANGUAGE -- CONSENT

Throughout the Budget Bill, provision language has been included to provide flexibility and/or direction for various appropriations. Each year, committee staff reviews the budget bill, highlighting provisional language the subcommittee may wish to provide. Below are the suggested revisions and additions:

Existing	Revised
<p>A. Item 0250-001-0159 Provision: 1. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall increase this item as necessary for recovery of costs for administrative services provided to the Trial Courts by the Administrative Office of the Courts.</p>	<p>Item 0250-001-0159: revise Provisions: 1. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall increase this Item up to \$12,509,000 for recovery of costs for administrative services provided to the Trial Courts by the Administrative Office of the Courts. 2. Upon approval by the Director of the Administrative Office of the Courts, and notification to the Department of Finance, the Chairpersons of the committees in each house of the Legislature that consider appropriations and the Budget, and the Chairperson of the Joint Legislative Budget Committee, the Controller shall additionally increase this item by an amount, or amounts totaling no more than \$1,250,000. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.</p>
<p>B.</p>	<p>Item 0250-001-0932: add Provision: X. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall increase this Item by an amount appropriate to allow for the expenditure of any transfer to this Item made pursuant to Item 0250-101-0932, Provision 8.</p>

<p>C. Item 250-101-0932 Provision: 8. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall transfer such funds as are necessary between this item and Item 0250-001-0932 for recovery of costs for administrative services provided to the Trial Courts by the Administrative Office of the Courts.</p>	<p>Item 0250-101-0932: revise Provisions 8. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall transfer up to \$9,019,000 to Item 0250-001-0932 for recovery of costs for administrative services provided to the Trial Courts by the Administrative Office of the Courts. X. Upon approval by the Director of the Administrative Office of the Courts, and notification to the Department of Finance, the Chairpersons of the committees in each house of the Legislature that consider appropriations and the Budget, and the Chairperson of the Joint Legislative Budget Committee, the Controller shall additionally increase the amount of the transfer by an amount, or amounts no more than \$901,000. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.</p>
<p>D. Item 0250-001-3060 Provision 1. Upon approval of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Appellate Court Trust Fund, which is in addition to the amount appropriated in this item.</p>	<p>Item 0250-001-3060: revised Provision 1. Upon approval of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Appellate Court Trust Fund, which is in addition to the amount appropriated in this item. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.</p>

<p>E. Item 0250-101-0932: Provision</p> <p>5. Upon order of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Trial Court Trust Fund, which is in addition to the amount appropriated in this item.</p>	<p>0250-101-0932: revised Provision</p> <p>5. Upon order of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Trial Court Trust Fund, which is in addition to the amount appropriated in this item. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.</p>
<p>F. Item 0250-112-0556: Provision</p> <p>1. Upon approval of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Judicial Administration Efficiency and Modernization Fund, which is in addition to the amount appropriated in this item.</p>	<p>0250-112-0556: revised Provision</p> <p>1. Upon approval of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Judicial Administration Efficiency and Modernization Fund, which is in addition to the amount appropriated in this item. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.</p>
<p>G.</p>	<p>0250-101-0001: delete Provision</p> <p>1. Notwithstanding any other provision of law, up to \$5,000,000 appropriated in Item 0250-001-0001 may be transferred to Item 0250-101-0001 by the Controller at the request of the Administrative Office of the Courts, to cover any short-term cashflow issues that occur. Any funds transferred shall be repaid from this item to Item 0250-001-0001.</p> <p>The Judicial Council shall notify the Department of Finance and the Joint Legislative Budget Committee when any transfer is made pursuant</p>

	to this provision, and upon repayment of the transfer.
H	<p>Item 0250-001-0001: delete Provision 3. Notwithstanding any other provision of law, up to \$5,000,000 appropriated in this item may be transferred to Item 0250-101-0001 by the Controller at the request of the Administrative Office of the Courts, to cover any short-term cashflow issues that occur. Any funds transferred shall be repaid to this item from Item 0250-101-0001. The Judicial Council shall notify the Department of Finance and the Joint Legislative Budget Committee when any transfer is made pursuant to this provision, and upon repayment of the transfer.</p>

ISSUE 8: MAMMOTH LAKES COURTHOUSES -- CONSENT

The Administration is requesting \$2.1 million for the acquisition and preliminary plans phase for a new Mammoth Lakes Courthouse in Mono County. Total project cost is estimated to be \$15 million.

The Southern Mono Hospital District, the town of Mammoth Lakes and the county are currently negotiating a land exchange with the US Forest Service for a site to construct a new government civic center. The center intended to include a new hospital, police facility, city and county offices and potentially a courthouse.

The potential courthouse would be a 20,000 square foot facility with two courtrooms. The AOC contends that this facility will meet current and future growth needs in this two-court jurisdiction. The County of Mono transferred its existing facilities to the state in September 2005.

ISSUE 9: EAST CONTRA COSTA COURTHOUSE -- CONSENT

The administration has submitted a finance letter requesting to (1) augment acquisition and preliminary plans by \$2,232,000 for a total of \$9,469,000 for acquisition and preliminary plans; and (2) withdraw working drawings funding request (\$1,965,000).

In the January 10th budget proposal, the Judicial Council submitted a request for \$2 million to fund the working drawings phase of this project. However, the LAO voice concerns about the total capacity of the proposed structure. Specifically, the administration requested to build a new four hearing room courthouse to replace the existing four-hearing room courthouse, in a region experiencing rapid growth. The Subcommittee raised similar concerns, strongly urging the Administration to revisit their request.

In the May revision, the administration proposes to expand the Contra Costa Courthouse project to include 3 additional hearing rooms, bring the total to seven.

ISSUE 10: REVISION OF PREVIOUS ACTION – CONSENT

On April 5, 2006, the subcommittee adopted Budget Bill Language requiring the Judicial Branch to report specific information related to trial court interpreters. Specifically, the committee adopted:

The Judicial Council shall report in writing to the Legislature and the Department of Finance, before July 1, 2007, all Judicial Branch expenditures to defend charges of violations of Section 71825 of the Government Code and unfair labor practice charges before the Public Employee Relations Board. The report shall specifically detail expenditures for Judicial Branch counsel; privately-retained counsel; and back-pay awards the Judicial Branch has made or will make based upon decisions of arbitrators in all cases where back pay has been awarded.

It has been brought to the committee staff attention that the subcommittee may wish to broaden the scope of the report to provide a clearer picture of Courts performance as a manager of labor relations. Specifically revision to language as follows:

The Judicial Council shall report to the Joint Legislative Budget Committee and the Legislature's fiscal committees regarding expenditures by the Administrative Office of the Courts and each individual trial court in fiscal years 2003-2004, 2004-2005 and 2005-2006 for the following purposes:

1. An analysis of expenditures from this line item for the following categories of interpreters and interpreter related positions in each trial court: interpreter supervisors and coordinators, certified and registered employees, certified and registered contractors, and interpreters who are not certified or registered;
2. The number of interpreter supervisor positions created upon or after implementation of the TCIELRA and an analysis of the salary and expenditures from this line item in each trial court for such positions;
3. Expenditures for lawyers fees, including in-house attorneys from the trial courts and the Administrative Office of the Courts, and contracted private counsel, and arbitration fees and costs for arbitrations in Regions 1, 2 and 4 related to charges by employee organizations that Courts violated the Trial Court Interpreter Employment and Labor Relations Act (TCIELRA, SB371) during its implementation;
4. Expenditures for back pay awards paid by each trial court to interpreters pursuant to decisions by arbitrators in Regions 1, 2 and 4 regarding violations of the TCIELRA;
5. Expenditures for lawyers fees including for in-house attorneys from the trial courts and the administrative Office of the Courts, and contracted private counsel to represent the Courts in unfair labor practice charges presented by employee organizations before the Public Employment Relations Board; and

6. An analysis of expenditures by each trial court for premiums paid to independent contractors above the Judicial Council established rates for contract interpreters.

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: VERTICAL PROSECUTION BLOCK GRANTS

The administration submitted a finance letter request an additional \$10.1 million (General Fund) for a total budget appropriation of \$18.3 million for the Vertical Prosecution Block Grants program. Consist with the Governor's Jan 10 proposal, the Vertical Prosecution Block Grants program has been historically funded at \$8.2 million.

Prior to 2003-04, the Vertical Prosecution Block Grants were split into five separate programs: Career Criminal Prosecution, Child Abuser Vertical Prosecution, Elder Abuse Vertical Prosecution, Major Narcotic Vendor Prosecution, and Statutory Rape Vertical Prosecution. The 2003-04 Budget Act consolidated all general fund vertical prosecution programs into one Vertical Prosecution Block Grant with a total allocation of \$8.2 million. The statewide distribution of the \$8.2 million was determined in coordination with the California District Attorney's Association.

The Block Grant is available to all 58 county district attorneys. The funds are to support the use of highly experienced and skilled prosecutors who prosecute a reduced caseload of specific types of serious criminal cases from the filing of the case through sentencing. The administration asserts that returning General Fund support to a funding level prior to program consolidation will double the usage of vertical prosecution.

COMMENTS

Although no one argues the effectiveness of vertical prosecution, the subcommittee should be hesitant to commit additional General Fund revenue in consideration of the state's fiscal condition. While it appears state revenues have significantly increased, the state faces many fiscal uncertainties. Likewise, many of the additional revenue is projected to be one-time; and therefore, should not be committed to ongoing programs, such as vertical prosecution.

Additionally, this program is a local responsibility that should to be supported by local resources. Especially, in light of the passage of Proposition 1a, the state should be extremely hesitant to support local activities instead focusing on statewide responsibilities.

Furthermore, the remainder of the General Fund grant programs were also reduced during the State Fiscal crisis. The administration has offered no rationale for why these programs (Vertical Prosecution and War on Methamphetamine) should be restored to prior budget levels, instead of the other note worthy programs.

ISSUE 2: CALIFORNIA MULTI-JURISDICTIONAL METHAMPHETAMINE ENFORCEMENT TEAM PROGRAM FUNDING

The administration submitted a finance letter requesting an additional \$20 million and 1 position to provide further resources to the War on Methamphetamine grant program (or Cal-MMET). Consistent with the Governor's January 10th proposal, the War on Methamphetamine grant has been funded at \$9.5 million for the last few fiscal years.

Currently the War on Methamphetamine program provides \$9.5 million in resources to support local efforts to curb methamphetamine manufacturing and trafficking. This proposal would reshape the program providing funding for five regional areas representing all fifty-eight counties. Additionally, an Advisory Board would be established in each region, consisting of county Sheriffs within the region. Funds shall be distributed to County Sheriff Departments and administered by OES in consultation with the Regional Advisory Boards.

COMMENTS

Although no one argues the significance of the Cal-MMET program, the subcommittee should be hesitant to commit additional General Fund revenue considering the state's out-year fiscal condition. While it appears state revenues have significantly increased, the state faces many fiscal uncertainties. Likewise, much of the additional revenue is projected to be one-time in nature; therefore, should not be committed to ongoing programs, such as Cal-MMET.

Absent, the additional funding the administration has not provided sufficient data to warrant an additional position. Currently, OES administers the program with conjunction with an executive board consisting of local sheriffs. Although, the proposal creates additional communication requirements, it is uncertain why existing staff could not absorb the additional workload.

Regardless, the War on Methamphetamine program is in need of additional oversight. At no fault to OES, the present program lacks Legislative direction. Additionally, this program is a local responsibility that ought to be supported by local resources. Especially, in light of the passage of Proposition 1A, the state should be extremely hesitant to support local activities instead focusing on statewide responsibilities.

Furthermore, the remainders of the General Fund grant programs were also reduced during the State's fiscal crisis. The administration has offered no rationale for why these programs (Vertical Prosecution and War on Methamphetamine) should be restored to prior budget levels, instead of the other noteworthy programs.

Lastly, this proposal would restore the program back to a level of funding that was to provide for a variety of one-time purchases. Committee staff has suggested to the administration that a more accurate level would be the 2002-03 funding level: \$15.0 million.

ISSUE 3: COLLAPSE CRIMINAL JUSTICE PROGRAM COMPONENTS TO ELEMENT LEVEL

The Administration submitted a finance letter requesting to collapse the Criminal Justice Program's budget components to the element level. This will streamline workload related filing claim schedules with the State Controller's office.

COMMENTS

The subcommittee should be extremely hesitant to grant this request, because it will limit the Legislature oversight concerning OES's distribution of General Fund grants. The administration should provide the committee with a comprehensive proposal to ensure proper Legislative oversight, while streamlining workload. Without that presentation, the committee should be cautious about accepting this request.

The LAO asserts that this is consistent with budgeting practices used by other departments. It would also streamline accounting operations for OES and its grantees. Still, recognizing the need for legislative oversight due to past accounting deficiencies and interest in specific programs, the LAO recommends the Legislature (a) direct the Department of Finance to present a special display table in the Governor's budget that provides an itemization of grant-level funding and (b) require new reporting requirements for all LEVS budget items (0690-102-0001, 0690-102-0241, 0690-102-0425, 0690-102-0597, 0690-102-0890):

X. The Department of Finance shall provide a budget display table in the Governor's Budget each year that itemizes existing and proposed funding by law enforcement and victim services grant program and fund source. In addition, the Office of Emergency Services, in consultation with the Department of Finance, shall provide the Joint Legislative Budget Committee an annual law enforcement and victim services report no later than January 10th each year which includes: total funds awarded and spent by law enforcement and victims services programs and grantees, and performance statistics to document program outputs and outcomes in order to assess the state's return on investment.

ISSUE 4: REAPPROPRIATION OF FROZEN FEDERAL FUNDS -- CONSENT

The administration submitted a finance letter requesting the reappropriation of \$10.4 million for the Federal Trust Fund to allow the encumbrance and expenditure of frozen federal funds. These funds support Criminal Justice Programs. They were frozen by the U.S. Department of Justice because OES was unable to comply with federal certification requirements due to poor recordkeeping by the former Office of Criminal Justice Planning.

ITEM 0690**OFFICE OF HOMELAND SECURITY****ISSUE 1: ADMINISTRATIVE WORKLOAD INCREASE**

Prior to fiscal year 2005-06, administrative support for OHS was provided solely by the OES. As OHS's role and mission has expanded, OES has been unable to keep pace with the OHS's administrative needs. The 2005 Budget Act provided Federal Trust Fund resources to provide contracted services to address OHS administrative support in the following areas: 1) fiscal services, 2) information technology, and 3) legal counsel. It also authorized 1.0 managerial positions to oversee the coordination of these contracted services and to provide limited internal administrative support.

OHS now believes that it is more appropriate to conduct these contracted administrative services in-house due to the increase complexity. They are requesting 9.0 positions (\$444,000 from special funds) to increase the administrative and management support.

COMMENTS

The administration's proposal to increase OHS administrative support takes into account that a policy direction the Legislature has not been approved. Currently, OHS rests within the jurisdiction of OES. Therefore, as noted above, OES handles a portion of their administrative needs. Therefore, while most would conclude that OHS administrative support does need an increase, it is currently unclear the number of positions actually needed to support OHS, since this proposal assumes separation from OES.

In response to concerns raised by the subcommittee, committee staff met with the Department of Finance, OES, OHS and the LAO to further discuss this item. At the conclusion, the stakeholder group revised the staff proposal to include 6 positions (\$147,000 from Federal Funds).

ITEM 0820**DEPARTMENT OF JUSTICE**

The Department of Justice is responsible for providing skillful and efficient legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state; represents the people in actions to protect the environment and to enforce laws; and assists district attorneys in the administration of justice. The Department also coordinates efforts to address the statewide narcotic enforcement problem; assists local law enforcement in the investigation and analysis of crimes; provides person and property identification and information services to criminal justice agencies; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

ISSUE 1: DNA FINGERPRINT, UNSOLVED CRIME AND INNOCENCE PROTECTION ACT

The Administration submitted a finance letter requesting \$2 million (General Fund) to augment the Proposition 69 DNA program within the Bureau of Forensic Services, Division of Law Enforcement.

Proposition 69 requires every person convicted of a felony to submit DNA samples for inclusion in the Forensic DNA Identification Database and Data Bank. Any person who must register as a sex offender is also required to submit DNA samples for inclusion in the DNA Data Bank. Additionally, any adult arrested for, or charged with, any degree of murder or voluntary manslaughter or for felony sexual offenses is required to submit a DNA sample for inclusion in the DNA Data Bank. In the fifth year of implementation, all felony arrestees become eligible under this proposition.

The implementation of the Proposition 69 program was delayed as the revenues for the counties into the state's DNA Identification Fund were much less than anticipated. As such, the DNA program will only be able to expend \$11.6 million of the DLE's originally authorized \$17.0 million budget. The revenue shortfalls curtail spending on infrastructure items such as data processing and sample tracking systems, as well as staffing and training, which have been pushed out into the budget year and subsequent years.

Without additional funding, BFS will be unable to handle the increased volume of samples received in a timely manner. The current Data Bank structure is unable to handle the increased volume of samples being received.

COMMENTS

Although no one questions the significance of this program or the role of the General Fund, it has been suggested that the administration should seek out another additional revenue sources to alleviate General Fund cost pressures.