

**AGENDA
SUBCOMMITTEE No. 4
ON STATE ADMINISTRATION**

ASSEMBLYMEMBER JUAN ARAMBULA, CHAIR

PART III

**TUESDAY, MAY 22, 2007
STATE CAPITOL, ROOM 437
2:00 P.M.**

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ITEMS ON CONSENT

0840 STATE CONTROLLER'S OFFICE

ISSUE 1: SPRING FINANCE LETTER

The administration has submitted a Spring Finance Letter requesting various changes to the budget for the State Controller. This includes:

- \$192,000 (reimbursements) and two one-year limited term positions for workload associated with developing, implementing, and monitoring the California Child Support Automation System project.
- \$110,000 (General Fund) and \$312,000 (reimbursements for postage).
- Various adjustments budget adjustments and Budget Bill Language for the estimated rent increase at the Cannery Business Park.
- A funding reduction due to the cancellation of the Bank Reconciliation System Project.
- Reappropriation of funds for the Unclaimed Property System Replacement Project due to a delay in procuring the primary vendor contract.

ITEMS TO BE HEARD

0250 JUDICIAL BRANCH

ISSUE 1: NEW TRIAL COURT JUDGESHIPS

The Judicial Branch requests \$27.8 million to fund 50 new judgeships in the budget year. In addition, the Branch also requests \$74.3 million to support 50 additional judgeships, for a total of 100 new judgeships. The proposal also calls for the conversion of 161 subordinate judicial officers (SJO).

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 lead 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%.

COMMENTS

The California State Assembly has championed diversity for state's judiciary, in order to more accurately reflect the state's population. The Legislature has also championed the need to ensure residents of California are able to receive timely adjudication of disputes and equitable levels of services across local court jurisdictions. To that end, the Legislature authorized 50 new judgeships in the current year, which are scheduled to be appointed in June of 2007.

Furthermore, at a prior hearing regarding judicial retirement, the Office of the Administrative Courts estimated that up to 16 SJO positions per year would become available under the current proposal.

Additionally, it should be noted that the proposal does not reflect increase retirement cost associated with authorizing new judgeships and/or the conversion of subordinate judicial officers. Pursuant to Government Code Sections 75101 and Section 75600.5, funding for judicial retirement is continuously appropriated for the General Fund to CalPERS on a monthly basis. Staff estimates that the retirement cost will add approximately \$34,200 per judgeship.

ISSUE 2: ACCESS TO JUSTICE

The Judicial Branch requests a General Fund augmentation of \$5 million for the first year of a three-year pilot program to determine the most effective way to increase legal representation in civil proceedings. The funds would establish an Access to Justice Legal Representation pilot program in three superior courts. The funding would also allow the AOC and the trial courts to develop criteria for determining which individuals seeking help in self-help centers are most in need of legal representation. The courts would then pay for the legal services of those individuals who have been determined to be most in need.

LAO

More Cost-Effective Approaches Available. Based upon the LAO's analysis, it is unclear how creating this new program would be preferable to other approaches to providing civil legal services to the poor. Under the proposed approach, a significant portion of the funds allocated for the pilot programs would be used to pay administrative costs associated with creating the new program.

Pilot Project Could Lead to Significant Future Costs. The LAO's additional and larger concern is that this proposal moves the courts in the direction of providing legal services to unrepresented litigants in civil cases on a statewide basis. Funding affordable legal services for the poor, while a commendable goal, would ultimately be a very expensive new commitment for the state. The Commission on Access to Justice, a group of lawyers, judges, and community leaders appointed by the State Bar and other state agencies, estimated in a 2002, report that an additional \$384 million annually would be needed to provide legal services for all the poor in California.

COMMENTS

Committee staff shares the concerns of the LAO, especially in light of the state's General Fund condition. Addition the committee staff believes that resources would be

better allocated and more effective within the existing structure for statewide legal assistance.

Furthermore, the inclusion of a new program disregards the intent of the Legislature to address the lack of interpreters and self-help programs. In fact, last year the Legislature augmented the Governor's budget to address those concerns.

ISSUE 3: COUNTY FACILITY PAYMENT – INFLATIONARY COST ADJUSTMENT

Chapter 1082, Statutes of 2002 enacted the Trial Court Facilities Act of 2002 which requires the transfer of responsibility and/or title of more than 450 court facilities from the county's jurisdiction to the state. In accordance with the recommendations of the State Task Force on Courthouse facilities, the Act requires the Judicial Council and local counties to complete mandated negotiations for transfer of responsibility for court facilities by June 20, 2007.

Upon completion of the transfer of facilities, local counties are no longer responsible for the ongoing cost of maintaining courthouses. However, local counties are required to submit a quarterly county facility payment (CFP). The CFP is based on the historical cost of operate the existing facilities. Specifically, it is derived from fiscal year 1995-1996 to fiscal year 1999-2000 data, inflated to the date of transfer.

Current law provides a SAL growth factor adjustment for county facility payments two (2) years after the transfer of the facility.

The Judicial Branch requests an ongoing General Fund augmentation of \$399,000 to offset inflationary cost increases on authorized County Facility Payments. The May Revision include a reduction of \$198,000, for a revised total of \$201,000.

LAO

The LAO acknowledges that costs for the maintenance and operation of court facilities are likely to increase between the current and budget years. However, the LAO has a technical concern with the specific way that inflationary adjustments for this purpose were calculated. The request assumes that 68 facilities will transfer to the state by June 30 in addition to the 17 that have already transferred. At this time, however, it is unclear how many of the 68 facilities will actually be transferred by that time.

COMMENTS

Existing law requires that county transfer court facilities to the state by June 30, 2007. Along with the transfer of the facility, the counties are to negotiate with the Judicial Council a county facility payment.

This request, even with the reduction by May Revise, clearly signals the need to reshape the parameters for the next phase of court facility transfers, post the June deadline. The Judicial Council is currently sponsoring SB 145, which would extend the current provisions for court facilities transfer to December 2008. If enacted, the legislation would require General Fund contributions for facilities management for all new court facilities.

ISSUE 4: PROGRAM WORKLOAD AND NETWORK REFRESH

The Governor's Budget provided \$3.2 million and 19.1 positions to support additional positions within numerous departments and division within the Administrative Office of the Courts.

The Governor's Budget provided \$1.1 million in on-going General Fund support to provide a three-year replacement cycle for network equipment in the appellate courts.

COMMENTS

At the March 14, 2007, hearing the Department of Finance provided testimony regarding their application of the SAL growth factor to the state judiciary and their review of the Judicial Branch budget. Finance testified that they budgeted the state judiciary in a manner consistent with the trial courts, despite the Legislature's rejection of the SAL expansion proposal last year. Therefore, Finance did not perform their normal responsibility to review proposals for accuracy and to confirm justification. Instead, the provided \$16.7 million in General Fund support and the allowed the Judicial Branch to program accordingly.

These proposals appear to be "gap" proposals. The Department of Finance did not perform their obligation to the state of California, ensuring the proposals received by the Legislature are reasonable and justified. Due to constitutional restrictions, the Legislature is no longer adequately staffed to perform the fiscal oversight functions of the administration, and depends on the Department of Finance to operate in good faith to ensuring the merit of public investment.

For example, in a prior hearing, the subcommittee reviewed an Information Technology Infrastructure Upgrade proposal for the Department of Veterans affairs. As proposed by the CDVA, the request proposed to implement a 5 year desktop refresh cycle. However, when the proposal was transmitted to the Legislature that provision had been removed by the Department of Finance, because the administration does not support contingency budgeting. However, the Judicial Branch proposal maintains the refresh cycle.

In addition, the subcommittee directed the Judicial Council staff to re-submit the proposal based on the present needs of the Appellate Court. To date, subcommittee staff has yet to receive a revised proposal.

ISSUE 5: STATE APPROPRIATIONS GROWTH FACTOR

The Governor's Budget provides \$130.1 million is for the Trial Courts based on the State Appropriations Growth Factor.

Chapter 850, Statutes of 1997, enacted the Lockyer-Isenberg Trial Court Funding Act of 1997 with the goal of providing stable and consistent funding for trial court operations. With the Act, funding for the Judicial Branch was consolidated at the state level, giving the Legislature authority to make appropriations and the Judicial Council responsibility to allocate funds to local trial courts.

Additionally, the Act provided counties with a tremendous amount of fiscal relief by capping their financial responsibility for trial court operations. With the state assuming the responsibility for future year costs beginning in fiscal year 1997-98, counties are required to make Maintenance of Effort (MOE) Payments to the state reflecting the adjusted county support for trial court operations in fiscal year 1994-95.

Chapter 227, Statutes of 2004 (SB 1102, Committee on Budget) changed the process for budgeting the Trial Court Funding program from the traditional state process in which annual adjustments are separately requested and approved based on demonstrated need to a formulaic funding process. Specifically, current law requires use of the year-to-year growth in the State Appropriations Limit (SAL) to adjust the trial court budget every year. The language requires that the SAL growth factor be applied to trial court operating costs, excluding judicial officer salaries. This establishes a minimum funding level for the courts, which can be provided from any combination of the three revenue sources: the General Fund, filing fees and surcharge revenues, and the fixed county contribution. Additionally, under current law the Judicial Council can request additional funding above and beyond the SAL adjustment for (1) nondiscretionary costs that are growing faster than SAL, or (2) operational or programmatic changes that require additional funding

Use of the SAL growth factor was thought to benefit the trial courts for three reasons. First, it was intended to provide stability and predictability to the Trial Court Funding program during periods of state fiscal crisis. Second, it was believed that more predictable funding for the trial courts would improve the process for adjusting local court employee salaries. Specifically, use of the SAL would allow local court administrators to know how much they could expect to receive from the state prior to negotiating salary increases with local court employees. Finally, since the Trial Court Funding program represents the vast majority of Judicial Branch spending, using SAL

also provided a greater degree of financial independence and flexibility for the Judicial Branch.

Despite the intent, some stakeholders believe that the implementation of the SAL, as a budgetary growth factor, has yet to accomplish its intention to provide a stable and predictable resources for trial court operations. Stakeholder concern centers on Judicial Council's ability to set funding priorities for the Trial Court Trust Fund. For example, in the current year, the Judicial Council prioritized a portion of SAL to fund under-resourced courts. While all agree with the notability of the effort, many stakeholder where concerned with the potential reduction in available funding for all trial court operations to provide supplemental support to a few trial courts. The Judicial Council, however, asserts that the Trial Court Funding Act mandates they prioritize funding to promote equal access to courts statewide.

ISSUE 6: NEW COURTHOUSE CONSTRUCTION – CONSENT

The Governor's January Budget proposed included a total of \$14 million in State Court Facilities Construction Fund for the acquisition phrase for four new courthouse facilities in counties of Madera (\$3.44 million), San Bernardino (\$4.77 million), San Joaquin (\$3.32 million) and Riverside County (\$3.28 million). Subsequently, the Department of Finance submitted a Spring Finance letter requesting an additional \$3.2 million to increase the square footage of the New Stockton Courthouse project.

The Department of Finance submitted a Spring Finance Letter requesting the following provisional language:

xx. Of the funds appropriated for the San Bernardino County, New San Bernardino Courthouse project, \$4,774 will be reimbursed from funds donated by the County of San Bernardino.

COMMENTS

The proposed courthouses are anticipated to transfer before the June 30, 2007 deadline.

ISSUE 7: OMNIBUS CONSERVATORSHIP AND GUARDIANSHIP REFORM ACT OF 2006 – CONSENT

The Omnibus Conservatorship and Guardianship Reform Act of 2006 (AB 1363) reformed the conservatorship and guardianship system, including significantly increasing court oversight. These reforms were initiated after evidence that the state's conservatorship system for elderly and dependent adults was fraught with fraud and abuse.

The Governor proposes \$17.4 million (\$3.3 million one-time) General Fund to implement the Conservatorship and Guardianship Reform Act of 2006. This Act increases court oversight over the conservatorship and guardianship system for elderly and dependent adults. These funds are proposed on a two-year limited-term basis so that the courts can better estimate the total costs to implement this new law.

ISSUE 8: OPERATION SUPPORT FOR NEW TRIAL COURT FACILITIES – CONSENT

The Governor's budget included \$412,000 General Fund augmentation to the Court Facilities Trust Fund to increase facilities cost increases, related to new larger facilities replacing existing facilities. The May Revision includes a \$65,000 reduction to the Paso Robles project due to construction delays, for a revised total of \$347,000.

The May Revision also requests an increase from the Court Facilities Trust Fund of \$732,000 to provide the authority necessary to expend funds that the Judicial Council will receive from county facility payments for the operation and maintenance of court facilities.

ISSUE 9: COURT APPOINTED COUNSEL PROGRAM – CONSENT

California has a constitutional mandate to provide adequate legal services to indigents in criminal and juvenile matters before the Court of Appeal. In the 2005-06, 9,168 appointments were made to a pool of over 800 attorneys. The attorneys are selected, trained and mentored by five non-profit appellate projects that contract with the Court of Appeals.

The Court-Appointed Counsel program provides services to counsel appointed to represent indigent appellant in non-capital criminal cases and juvenile delinquency and dependency matters. The provided services include: 1) recruiting attorneys for the panel; 2) recommending attorneys for cases; 3) providing assistance to appointed attorneys; 4) programmatic training; and 5) evaluating panel attorney compensation claims.

Currently, there is a three-tier rate system for panel attorney compensation (\$80/\$90/\$100 per hour) based on the expertise and experience. The existing rates reflect a significant level of growth over the past 12 months. Prior to October 2005, the rates for panel attorneys were \$65/\$75/\$80 per hour. The increases were due to Legislative and Judicial Council actions.

The Judicial Branch requests a General Fund augmentation of \$1.6 million to support increased cost to the Court Appointed Counsel Program.

ISSUE 10: EXISTING COURT CONSTRUCTION – CONSENT

The Department of Finance submitted a Spring Finance Letter requesting the following:

1. \$3.1 million in authority from the Public Buildings Construction Fund to fund increase construction costs for the new courthouse for the Fourth District Court of Appeals in Orange County. The request brings the total cost of the project to \$24.5 million, of which \$24.3 million will be funded from lease revenue bonds for working drawings and construction. The escalation is attributed to increase construction costs, consistent with recent bids received on similar project
2. Requested reappropriations
 - a. Contra Costa: New Antioch Area Courthouse—Preliminary Plans
 - b. Fresno County: Sisk Federal Courthouse Renovation – Working Drawing and Construction
 - c. Mono County: New Mammoth Lakes Courthouse – Preliminary Plans
 - d. Plumas and Sierra Counties: New Portola/Loyalton Courthouse – Preliminary Plans

0840 STATE CONTROLLER'S OFFICE**ISSUE 1: MAY REVISION PROPOSAL: 21ST CENTURY PROJECT**

The Governor's May Revision includes an increase of \$460,000 (\$996,000 General Fund, offset by a \$536,000 decrease of federal funds) and budget bill language for issues related to the 21st Century Project: a fund shift of \$536 million from federal funds to General Funds to comply with federal requirements; an increase of \$67,000 for retention pay, an increase of \$93,000 for a communications manager; and an increase of \$300,000 for additional training room build-out costs.

COMMENTS

In total, the changes would result in an additional \$996,000 General Fund for the program and a reduction of \$536,000 federal funds in 2007-08.

The LAO recommends approval of the requests to: (1) replace \$536,000 of federal support for the project with an equal amount of General Fund dollars; and (2) appropriate an additional \$300,000 General Fund to the project to cover increased costs of building materials. The department has justified these amounts.

The LAO recommends that the Legislature reject the administration's proposals to appropriate \$93,000 to support the addition of staff to serve as a Project Communications Manager; and to appropriate \$67,000 in order to support changes to the allocation methodology of the retention pay program to provide larger bonuses to project Information Technology staff.

The LAO's recommendation to reject the Administration's proposal for a Project Communications Manager is based upon a lack of information demonstrating failures associated with the current process for communication about the project. Their recommendation to reject the administration's proposal to increase bonuses available to IT staff through the retention pay program is based upon the fact that the proposal represents a piecemeal approach to address a statewide issue which is most appropriately handled in the collective bargaining process-the process established to develop statewide compensation policies.

ISSUE 2: STATEWIDE DEBT COLLECTION

The State Controller's Office (SCO) requests 13 positions and \$1.2 million to enhance the state's debt collection effort.

The SCO believes this investment will result in \$6 million being generated in debt collections to the state.

COMMENTS

SCO currently has a small collection service for delinquent debt for just three departments, including the Department of Insurance, the Department of Conservation, and the Board of Equalization. This effort resulted in \$23 million in revenue in 2005-06.

The SCO intends to use some of the new resources to perform compliance reviews of state agencies' collection practices. The SCO intends these reviews will bring to light state agencies with deficient debt collection practices. The SCO believes the compliance reviews will also have a deterrent value and will spur the agencies to improve their internal debt collection practices.

This proposal is not included in the Governor May Revision.

The SCO should provide justification of this proposal at the hearing.

ITEM 0890 SECRETARY OF STATE

ISSUE 1: MAY REVISION PROPOSAL

The Governor's May Revision includes \$11.7 million to fund the additional costs associated with the February Presidential Primary. The funds will be used to provide the voters with an adequate supply of voter registration cards and ballot pamphlets, and to conduct election night reporting.

COMMENTS

The administration notes that the full county costs will not be known until May of 2008, and the reimbursements of those costs will be included in the budget for 2008-09.

ITEM 8320 PUBLIC EMPLOYMENT RELATIONS BOARD

The mission of the Public Employment Relations Board (PERB) is to administer and enforce California public sector collective bargaining laws in an expert, fair and consistent manner, to promote improved public sector employer-employee relations, and to provide a timely and cost effective method through which employers, employee organizations and employees can resolve their labor relations disputes.

The Governor's proposed budget includes \$6.2 million for PERB in the budget year.

ISSUE 1: CARD CHECK REGULATIONS

PERB has recently proposed regulations on the card check recognition process that may make it much more difficult for public sector unions to organize using card check.

COMMENTS

The Legislature has shown significant support for card check recognition. The proposed regulations appear contrary to the general Legislative direction.

PERB should report at the hearing on the status of the proposed regulations and to address the concerns that the regulations are contrary to Legislative intent.