

# SUBCOMMITTEE NO. 5

# Agenda

Senator Loni Hancock, Chair  
Senator Joel Anderson  
Senator Holly Mitchell



## OUTCOMES

Thursday, April 10, 2014  
9:30 a.m. or Upon Adjournment of Session  
State Capitol - Room 113

Consultant: Julie Salley-Gray

### Items Proposed for Vote-Only

<u>Item</u>	<u>Department</u> .....	<u>Page</u>
<b>0250</b>	<b>Judiciary</b>	
Issue 1	Trial Court Facility Modification Program Augmentation .....	2
Issue 2	Glenn-Willow Temporary Swing Space & Tenant Improvements .....	2
Issue 3	AB 1293 (Bloom), Chapter 382, Statutes of 2013.....	2

### Items Proposed for Discussion

<u>Item</u>	<u>Department</u> .....	<u>Page</u>
<b>8120</b>	<b>Commission on Peace Officer Standards and Training</b>	
Issue 1	POST Expenditure Plan.....	4
Issue 2	9/11 Memorial License Plate Antiterrorism Fund BCP .....	5
Issue 3	Mental Health and Conflict Resolution Training .....	6
<b>0250</b>	<b>Judiciary</b>	
Issue 4	Trial Court Funding .....	11
Issue 5	Trial Court Construction .....	20

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**DEPARTMENTS PROPOSED FOR VOTE ONLY****0250 Judiciary Branch**

1. **Trial Court Facility Modification Program Augmentation.** The Governor's budget includes a \$15 million (State Court Facilities Construction Fund) augmentation to support trial court facility maintenance and modification projects. These projects were reviewed, approved, and prioritized by the Trial Court Facilities Modification Advisory Committee. The requested \$15 million augmentation brings the baseline funding for this program to \$65 million, plus \$10 million in reimbursement authority.
2. **Glenn-Willow Temporary Swing Space & Tenant Improvements.** The Governor's budget includes \$807,000 (Immediate and Critical Needs Account) to complete tenant improvements and provide temporary workspace for court staff during the construction phase of the Willows Courthouse project. This proposal also calls for the approval of \$145,000 in 2015-16 and \$74,000 in 2016-17, all from the Immediate and Critical Needs Account.
3. **Trial Court Trust Fund Augmentation - AB 1293 (Bloom) Chapter 382, Statutes of 2013).** The Governor's budget includes a \$190,000 (Trial Court Trust Fund) expenditure authority augmentation to accommodate new projected revenues authorized by AB 1293. AB 1293 is expected to increase revenues for the courts by creating a new probate fee. Specifically, this measure added, until January 1, 2019, a new \$40 fee for filing a request for special notice in a decedent's estate, guardianship, conservatorship, or trust proceeding. This measure also clarified that the \$40 fee is in addition to any other fee charged for a paper filed concurrently with the request for special notice.

**Action: APPROVED Items 1 through 3**

**Vote: 3 – 0**

## **8120 Commission on Peace Officer Standards and Training (POST)**

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competence level of law enforcement officers in California by establishing minimum selection and training standards, improving management practices, and providing financial assistance to local agencies relating to the training of law enforcement officers.

The Governor's 2014-15 budget proposes funding of \$55.6 million (special funds) for POST operations in 2014-15, a decrease of 8 percent from the 2013-14 spending plan.

The Governor's proposal also includes authority for 123.0 positions, maintaining staffing at the 2013-14 level.

(dollars in thousands)

<b>Funding</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
Peace Officers' Training Fund	\$54,577	\$58,537	\$53,189
Other Funds	1,115	1,959	2,459
<b>Total</b>	<b>\$55,692</b>	<b>\$60,496</b>	<b>\$55,648</b>
<b>Positions</b>	119.7	123	123

## ITEMS TO BE HEARD

### Issue 1: POST Expenditure Plan

**Governor's Budget.** The Governor's budget includes a reduction of \$1.1 million in 2013-14 and \$6.6 million in 2014-15, to maintain solvency of the Peace Officers' Training Fund (POTF) through June 2015. The savings plan, in effect from January 2014 to June 2015, includes suspending certain training cost reimbursements, reducing contracts, and postponing some symposia, workshops, and seminars conducted by POST.

The proposed reduction is based on projections indicating that the POTF will become insolvent during the 2014-15 fiscal year, if left unchecked. The Administration has identified an unanticipated decline in State Penalty Assessment Fund revenue (from \$40 million in 2006-07 to \$31 million in 2012-13) as the main driver of the shortfall. This proposal will likely create cost and/or access issues for law enforcement personnel and agencies seeking training. To address any such issues, the Administration has identified the use of learning portal courses.

**Legislative Analyst's Office (LAO).** Despite the budget reductions, the proposed expenditures from the POTF are expected to exceed revenues by about \$9 million in 2014-15. An expected reserve balance of \$11.8 million at the end of 2013-14 would help keep the fund solvent through 2014-15. However, the reserve balance is estimated to be only \$2.8 million at the end of 2014-15. Thus, if POST plans to continue the same level of activities in 2015-16, the reserve will not be large enough to cover all of the expenditures for such activities, resulting in the fund becoming insolvent partway through 2015-16.

Because of the possibility that the POTF could become insolvent in the near future, the LAO recommends that the Legislature take steps to further reduce expenditures in the budget year. In order to permanently bring the fund into balance, POST must make additional ongoing reductions of around \$9 million annually—equivalent to a 64 percent reduction in local assistance payments beginning in 2014-15. This could be accomplished by eliminating various types of local assistance that POST currently provides. For example, POST could reduce reimbursements to local law enforcement for tuition costs and the salary costs of officers attending training courses.

POST indicates that law enforcement agencies have begun to send more officers to POST trainings. This could be a sign that local law enforcement budgets have begun to recover. Given this possibility and the limited resources available from the POTF to support training, it seems appropriate for POST to scale back its reimbursements. Although such actions would make training more expensive for local law enforcement, they may be necessary to help ensure that the POTF can continue to support local law enforcement in the long run.

**Action: Held Open**

**Issue 2: 9/11 Memorial License Plate Antiterrorism Fund**

**Governor's Budget.** The Governor's budget includes a one-time \$500,000 augmentation from the Antiterrorism Fund to continue its plan to develop and deliver anti-terrorism training to law enforcement personnel.

The budget assumes total revenue of \$2.8 million in the Antiterrorism Fund and proposes \$1.8 million in expenditures. Along with the \$500,000 expenditure for POST, \$723,000 is proposed to be spent within the Office of Emergency Services and \$548,000 within the California Department of Food and Agriculture. The remaining fund balance for 2014-15 would be \$992,000.

**Background.** In enacting Chapter 38, Statutes of 2002, the Legislature created the memorial plate, which supported the Memorial Scholarship Program (scholarship program) and still supports antiterrorism activities. The revenue generated from the sale of memorial plates provided scholarships of \$5,000 to each eligible dependent of California residents killed in the terrorist attacks that occurred on September 11, 2001, in New York City, at the Pentagon, and in Pennsylvania through the scholarship program, and it continues to provide funding for antiterrorism activities. State law required the Department of Motor Vehicles to deposit 15 percent of the revenue generated from the memorial license plates into the California Memorial Scholarship Fund until all of the recipients have reached their 30<sup>th</sup> birthdays or July 1, 2015. The remaining 85 percent is deposited into the Antiterrorism Fund.

**Action: Approved as budgeted.**

**Vote: 3 – 0**

### Issue 3: Mental Health and Conflict Resolution Training

#### Background

POST regulations requires that every peace officer, unless exempt, complete the regular basic training course before being assigned duties which include the exercise of peace officer powers.

In addition, POST regulations requires continuous professional training (CPT) for certain peace officer and dispatcher personnel who are employed by POST participating departments. The purpose of CPT is to maintain, update, expand, and/or enhance an individual's knowledge and/or skills. Officers must complete 24 hours of CPT every two years.

Of those 24 hours, 12 hours must be in what POST refers to as perishable skills training; four hours of arrest and control, four hours of driver training/awareness or driver simulator, and four hours of tactical firearms or force option simulator. POST also requires two hours of tactical or interpersonal communication. The remaining 10 hours of training topics are at the discretion of the agencies.

***Mental Health and Developmental Disability Specific Training.*** According to POST, they have long recognized the importance of law enforcement training in the area of mental illness and developmental disability issues.

In July 1990, in response to the legislative mandate of Penal Code Section 13519.2, POST developed training for in-service law enforcement on interaction with persons with developmental disabilities or mental illness.

POST also developed *Learning Domain 37: People with Disabilities* and added it as mandated content in all basic courses. That training is required for all academy recruits, and they must show proficiency in differentiating between behavior indicative of a mental health issue, or an unseen disability, as a condition of course completion. This is done through evaluated role play scenarios.

In February 2002, POST developed the course *Police Response to People with Mental Illness or Developmental Disability*. This course was made available to law enforcement instructional teams throughout California. With this course POST made available student handbooks and ready reference material for officers to carry with them in the field.

Since 2002, POST has produced and distributed seven training videos pertaining to mental health and developmental disabilities issues. The most recent was released in August 2013.

This month, POST started production on a video to meet the Penal Code 13515.30 mandate for interaction with persons with mental illness and developmental disabilities

living in state mental hospitals or state developmental centers. This video will be released in fall of 2014.

Finally, POST has reviewed and certified 36 courses on this topic that are currently presented by various law enforcement agencies and private presenters throughout the state.

***In-Service Training.*** For in-service training, a majority of agencies develop their own courses and submit them to POST for review and certification. If the course is developed to fulfill a legislative mandate, POST establishes the minimum content requirement. All courses certified must contain that minimum content.

In response to a critical identified training need, or legislative directive, POST staff will develop training in-house. To accomplish this POST brings together subject matter experts who represent all disciplines related to the topic. This includes law enforcement, academia, community advocates, ombudsmen, legal, medical, and any other identified association or person(s) who are identified as critical to create relevant and effective training.

The agencies assume the responsibility to provide the training to their employees that meet legislative and regulatory requirements.

**Questions for the Administration.** The department should be prepared to address the following questions:

1. How much of the POST training is done online or through video, rather than in-person, particularly in terms of CPT training?
2. How does POST evaluate the effectiveness of its training? Particularly, how do you evaluate on-line or video training to determine whether or not it is effective?
3. Does POST keep track of incidents throughout the state, primarily in terms of the treatment of individuals with mental illness and developmental disabilities, and evaluate whether or not additional training needs to be conducted in those specific areas?
4. How often do you review your training requirements to determine whether or not they are effective or the correct types of training to adequately prepare new peace officers for their jobs?
5. Does POST provide any conflict resolution training in order to assist officers in defusing potentially dangerous and violent situations?
6. Communities throughout the nation are using crisis intervention team models as a more effective means of dealing with individuals with mental illness. These teams are comprised of specially trained officers. In particular, the Los Angeles

Police Department has a specialized mental evaluation unit that is partially staffed by mental health clinicians. Does POST provide any specialized training for police departments that may be interested in using this approach?

**Staff Comment.** Increasingly throughout California, and the nation, police officers are coming into contact with people who have serious mental illnesses. Occasionally, those interactions have tragic results. Most recently, two police officers in Lodi fatally shot a man with a mental illness outside of his neighbors' home. It is unclear whether the man was armed with a knife at the time of the shooting. In 2011, two Fullerton police officers were caught on camera beating a man with a mental illness who later died from the injuries. In New Mexico recently, a man with a mental illness was shot and killed by police who have reported that the man pulled out two knives and threatened them.

While these examples are unusual and extreme when compared to the number of interactions police have with individuals with mental illnesses throughout the nation on a daily basis, the incidences do illustrate the need for intensive, on-going training for police officers who are regularly interacting with people who at one time would have had access to mental health services in their communities. A 2013 report by the National Sheriff's Association and the Treatment Advocacy Center found that at least half of the people shot and killed by the police have mental health problems.

In light of incidences involving confrontations between police officers and individuals with mental illness, the Legislature may wish to consider creating a taskforce to investigate whether or not peace officers are being adequately trained to safely and properly interact with this population, both for the safety of the individuals and the safety of the officers.



## **0250 Judicial Branch**

### **Background**

The judicial branch is responsible for the interpretation of law, the protection of an individual's rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state's 58 counties, and statewide entities of the branch (the Judicial Council, Judicial Branch Facility Program, and the Habeas Corpus Resource Center). The branch receives revenue from several funding sources, including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Due to the state's fiscal situation, the judicial branch, like most areas of state and local government, received a series of General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. A number of these offsets were one-time solutions (such as the use of trial court reserves) and for the most part, those options have been exhausted. In addition, trial courts partially accommodated their ongoing reductions by implementing operational actions, such as leaving vacancies open, closing courtrooms and courthouses, and reducing clerk office hours. Some of these operational actions resulted in reduced access to court services, longer wait times, and increased backlogs in court workload.

### **Key Legislation**

AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997, enacted the Lockyer-Isenberg Trial Court Funding Act of 1997, to provide a stable and consistent funding source for the trial courts. Beginning in 1997-98, consolidation of the costs of operation of the trial courts was implemented at the state level, with the exception of facility, revenue collection, and local judicial benefit costs. This implementation capped the counties' general purpose revenue contributions to trial court costs at a revised 1994-95 level. The county contributions become part of the Trial Court Trust Fund, which supports all trial court operations. Fine and penalty revenue collected by each county is retained or distributed in accordance with statute.

AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for the responsibility for court facilities to be transferred from the counties to the state, by July 1, 2007. It also established several new revenue sources, which went into effect on January 1, 2003. These revenues are deposited into the State Court Facilities Construction Fund (SCFCF) for the purpose of funding the construction and maintenance of court facilities throughout the state. As facilities were transferred to the state, counties began to contribute revenues for operation and maintenance of court facilities, based upon historical expenditures.

SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into the Immediate and Critical Needs

Account (ICNA) to support the construction, renovation, and operation of court facilities. (ICNA is discussed in more detail below.)

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, altered the administration of trial court reserves by limiting the amount of the reserves individual courts could carry from year to year to one percent of their funding and establishing a statewide reserve for trial courts, which is limited to two percent of total trial court funding.

In enacting these changes, the Legislature sought to create a trial court system that was more uniform in terms of standards, procedures, and performance. The Legislature also wanted to maintain a more efficient trial court system through the implementation of cost management and control systems.

### Budget Overview

The Governor's proposed budget includes \$3.3 billion (\$1.3 billion General Fund and \$2 billion in other funds) in 2014-15 for the judicial branch. Of that amount, \$2.5 billion is provided to support trial court operations. The following table displays three-year expenditures and positions for the judicial branch as presented in the Governor's budget.

(dollars in thousands)

Program	2011-12	2012-13	2013-14
Supreme Court	\$40,706	\$43,773	\$43,500
Courts of Appeal	199,112	202,492	204,886
Judicial Council	120,601	148,862	150,795
Judicial Branch Facilities Program	173,796	224,312	263,083
State Trial Court Funding	2,680,140	2,267,631	2,430,566
Habeas Corpus Resource Center	12,425	13,576	13,576
Local Property Tax Revenue Offset	-126,681	-	-
<b>Total</b>	<b>\$3,100,099</b>	<b>\$2,900,646</b>	<b>\$3,106,406</b>
<b>Positions</b>	<b>1,832.0</b>	<b>1,980.2</b>	<b>1,979.9</b>

**Issue 4: Trial Court Funding****Panel 1 – Overview of Court Funding**

**Anita Lee**, Fiscal and Policy Analyst, Legislative Analyst's Office  
**Drew Soderborg**, Managing Principal Analyst, Legislative Analyst's Office

**Panel 2 – Impact of Trial Court Funding (5 minutes each witness)**

**Steven Jahr**, Administrative Director of the Courts  
**Victor Orozco**, Court Services Assistant III, Los Angeles County Courts  
**Paulino Duran**, Chief Public Defender, Sacramento County  
**Julie McCormick**, Staff Attorney, Children's Law Center, Los Angeles County

**Panel 3 – Governor's Budget Proposal**

**Jay Sturges**, Principal Budget Analyst, Department of Finance  
**Madelyn McClain**, Budget Analyst, Department of Finance

**Governor's Budget.** The Governor proposes an ongoing General Fund augmentation of \$100 million to support trial court operations, and the budget also proposes a \$5 million augmentation to support state level court and Judicial Council operations. The proposed budget requires that the \$100 million allocation to the trial courts be based on the new workload-driven funding formula recently adopted by the Judicial Council. However, the trial courts would have flexibility in how these funds are spent.

**Trial Court Funding.** In 2013-14, the budget included an ongoing augmentation of \$60 million to improve public access to trial court services. This reduced the trial courts' ongoing funding reductions to \$664 million. The Governor's budget proposal of an additional \$100 million augmentation for trial court operations would further reduce the courts' ongoing funding reductions to \$564 million. However, approximately \$200 million in one-time solutions from trial court reserves, previously used to offset such ongoing reductions, will no longer be available in 2014-15. Thus, under the Governor's budget, trial courts will continue to need to absorb reductions on an ongoing basis, which could include further operational actions that reduce access to court services.

Trial court General Fund support reductions and offsets are shown in the chart below. However, at this point, almost all one-time solutions have been exhausted or are no longer available.

**Trial Court Funding Reductions and Offsets  
(Dollars in Millions)**

Source: Legislative Analyst's Office, 2014

<b>Trial Court Reductions</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
One-time reduction	-\$92	-\$100	-\$30	\$0	-\$418	\$0	\$0
Ongoing reductions (ongoing)	\$0	-\$261	-\$286	-\$606	-\$724	-\$664	-\$564
<b>Total</b>	<b>-\$92</b>	<b>-\$361</b>	<b>-\$316</b>	<b>-\$606</b>	<b>-\$1,142</b>	<b>-\$664</b>	<b>-\$564</b>
<b>Funding Offsets</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
Transfer from other funds	\$0	\$135	\$160	\$302	\$401	\$107	\$107
Trial court reserves	\$0	\$0	\$0	\$0	\$385	\$200	\$0
Increased fines and fees	\$0	\$18	\$66	\$71	\$121	\$121	\$121
Statewide programmatic changes	\$0	\$18	\$14	\$19	\$21	\$18	\$18
<b>Total</b>	<b>\$0</b>	<b>\$171</b>	<b>\$240</b>	<b>\$392</b>	<b>\$928</b>	<b>\$446</b>	<b>\$246</b>
<b>Total Trial Court Reductions</b>	<b>-\$92</b>	<b>-\$190</b>	<b>-\$76</b>	<b>-\$214</b>	<b>-\$214</b>	<b>-\$218</b>	<b>-\$318</b>

**Budget impacts on trial court services.** Under Government Code (GC) Section 68106, courts must provide written notice to the public and to the Judicial Council at least 60 days before instituting any plan to reduce costs by designating limited services days. The council, in turn, must post all such notices on its internet site within 15 days of receipt. Since this requirement went into effect on October 19, 2010, the Judicial Council has received notice of the following reductions:

- 51 courthouses closed.
- 205 courtrooms closed.
- 30 courts with reduced public service hours.
- 37 courts with reduced self-help/family law facilitator services.

**Budget impact on children in the child welfare system.** When a child is removed from his or her home because of physical, emotional, or sexual abuse, the state of California assumes the role of a legal parent and local child welfare agencies are entrusted with the care and custody of these children. County child welfare works in partnership with the courts, attorneys, care providers, and others to meet desired outcomes of safety, permanency, and well-being for foster children. Through the dependency court, critical decisions are made regarding the child's life and future – i.e.,

whether the child will return to his or her parents, whether the child will be placed with siblings, and what services the child will receive.

Every child in the dependency court system is assigned his or her own attorney who represents that child's interests. Budget reductions over the years have increased the caseloads of children's attorneys. Children's attorneys represent, on average 250 clients per year, far above the recommended American Humane Society optimal standard of 77 clients and maximum of 188 clients per attorney. Inadequate funding can impede services to children and families and may result in delays in court hearings, all of which undermines county child welfare's efforts for improved outcomes for children, such as reunifying children with their families, placing children with siblings, and finding a permanent home through adoption or guardianship.

Included in the Chief Justice's trial court funding proposal (described below), is \$33.1 million for dependency court attorneys, which would reduce the current caseloads to a maximum of 188 cases per attorney.

**The Chief Justice's Blueprint for Trial Court Funding.** The Chief Justice has proposed a three-year blueprint that she believes will enable California to return to a more robust, fully functioning court system. According to the blueprint, the trial courts need a total budget of approximately \$2.6 billion to operate a fully functioning court system. By her estimates, the current shortfall stands at approximately \$875 million. The Chief Justice is asking for an additional \$612 million in 2014-15 growing to an on-going increase of \$1.2 billion by 2016-17.

### **Legislative Analyst's Office (LAO)<sup>1</sup>**

#### ***Challenges to Addressing Ongoing Budget Reductions***

***Increased Employee Benefit Costs.*** The trial courts indicate that they will face increased cost pressures in 2014-15 related to growing retirement and benefit costs. Currently, individual trial courts (primarily presiding judges and/or court executive officers) conduct separate and independent negotiations with local labor organizations representing most trial court employees. This differs from the collective bargaining process for most state employees, where the California Department of Human Resources oversees statewide labor negotiations on behalf of the Governor. In addition, unlike memoranda of understanding (MOU) negotiated with state employees, agreements negotiated with trial court employees are not subject to ratification by the Legislature and cost increases are not automatically included in the budget. Moreover, some trial court employees continue to participate in county retirement and health benefit programs. As a result, both the state and individual trial courts lack control over the level of these benefits set by the counties and provided to these trial court employees, and more importantly, the costs that must be paid to provide those benefits.

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<sup>1</sup> Information contained in this section is from the LAO's *The 2014-15 Budget: Governor's Criminal Justice Proposals* (pages 7 – 19), February 19, 2014.

In recent years, concerns have been raised regarding whether trial courts have been effectively containing costs in their negotiations with trial court employees. For example, the Governor's Budget Summary raises the concern that trial court employees in a number of courts are not (1) making retirement contributions, or (2) making contributions in a manner similar to executive branch employees, who are generally required to contribute 8 percent to 10 percent of their salary toward these costs. In view of such concerns, the Administration has not proposed additional funding specifically for increased trial court retirement and benefit costs since 2010-11. According to the judicial branch, these unfunded cost increases will reach an estimated \$64.1 million by the end of 2013-14. Without additional resources to support these costs, trial courts will use more of their operational funds to meet these obligations, which could result in reduced levels of service to the public.

***Few Statutory Changes to Increase Efficiency Adopted to Date.*** In 2012-13, the Legislature requested that the judicial branch submit a report on potential operational efficiencies, including those requiring statutory amendments. The Legislature's intent was to identify efficiencies that, if adopted, would help the trial courts address their ongoing budget reductions. In May 2012, the judicial branch submitted to the Legislature a list of 17 measures that would result in greater operational efficiencies or additional court revenues. To date, only four administrative efficiencies and user fee increases have subsequently been implemented. In order to effectively absorb ongoing budget reductions, additional changes to make the courts operate more efficiently will likely need to be adopted.

***Less Resources Available to Offset Reductions.*** Over the last five years, the state has transferred funds from various judicial branch special funds (such as those related to court construction) to help offset budget reductions to the trial courts. However, the availability from these funds to offset reductions in the budget year will be limited. For example, most of the transfers to the trial courts have come from three special funds: the State Court Facilities Construction Fund (SCFCF), the Immediate and Critical Needs Account (ICNA), and the State Trial Court Improvement and Modernization Fund (IMF). However, the repeated transfer of dollars from these three funds has greatly reduced their fund balances. As a result, additional transfers would likely delay planned projects or reduce certain services typically supported by the fund (such as judicial education programs and self-help centers). Additionally, the fund balances for the SCFCF and ICNA have been identified as potential sources for temporary cash flow loans, which places further constraints on the availability of these funds to offset reductions.

Similarly, trial courts used their reserves to minimize the impact of ongoing funding reductions upon court users. However, the repeated use of reserve funds over the past five years, and the full implementation of the new trial court reserves policy mean minimal reserve funds will be available to help offset budget reductions in 2014-15.

***Limited Ability to Increase Revenues to Offset Reductions.*** The Legislature has approved increases in criminal and civil fines and fees in recent years to fund court facility construction projects and to offset reductions to trial court funding. Revenues

from the recent fee increases are projected to decline in 2013-14 but will generally meet the original revenue estimates of the courts. Moreover, revenues for most of the individual fee increases are lower than what was projected. This could be an indication that, at least for some fines and fees, additional increases may not result in as much revenue as previously achieved. This could also be a signal of reduced access to justice as fewer people are accessing the civil court process because of the increased costs.

### ***Augmentation May Only Minimize Further Service Reductions***

***Access to Court Services May Not Substantially Increase.*** While the Governor's budget provides an additional \$100 million in ongoing General Fund support for trial court operations, these funds may not result in a substantial restoration of access to court services. First, the Governor's budget does not include a list of priorities or requirements for the use of these additional funds, such as requiring that they be used to increase public access to court services. The LAO notes that the 2013-14 budget requires that the trial courts use the \$60 million augmentation provided to specifically increase access to court services, as well as report on both the expected and actual use of the funds. Second, as discussed above, trial courts (1) face increased cost pressures in 2014-15, and (2) will need to take actions to absorb around \$100 million in additional ongoing prior-year reductions, as one-time solutions previously used to offset these reductions will no longer be available in 2014-15. Thus, trial courts will need to take actions to absorb these cost increases and reductions on an ongoing basis, which could include further operational reductions. In view of the above, it is possible that the increased funding proposed in the Governor's budget will only lessen further reductions in court services.

***Impact of Funding Increase Will Vary by Court.*** The LAO also notes that the impact of the proposed funding increase will vary across courts. This is because there are differences in:

- ***Cost Pressures Faced by Courts.*** Individual trial courts face different cost pressures. For example, some trial courts may have better controlled retirement and health costs through negotiations with employees, and therefore may be free to use more of the proposed augmentation for other purposes, such as increasing services to the public.
- ***Operational Actions Taken to Address Reductions.*** Trial courts also differ in the operational choices they made over the past few years to address their ongoing reductions. For example, some courts may have addressed most, or all, of their share of ongoing reductions through actions that resulted in ongoing savings. Thus, these particular courts may be able to use their share of the augmentation to restore services to the public. Other courts may have used limited-term solutions. To the extent that such limited-term solutions are no longer available, these courts will need to use more of the augmentation as a backfill to help minimize further service reductions.

- **Workload Allocation Funding Methodology (WAFM) Funding.** The implementation of WAFM impacts individual trial courts differently. The old pro-rata allocation methodology preserved existing funding inequities among the trial courts, as it was based on the historic share of funding received by courts rather than workload faced by the court. WAFM corrects these inequities by redistributing funds among the courts based on workload. Thus, courts that historically have had more funding relative to their workload will benefit very little from the augmentation proposed by the Governor. In contrast, courts with less funding relative to their workload will benefit comparatively more from the augmentation.

## LAO Recommendations

**Define Legislative Funding Priorities for Proposed Augmentation.** Given the cost increases in employee benefits and the limited availability of resources to help trial courts absorb an increasing amount of ongoing reductions in 2014-15, as well as legislative concerns regarding the likely negative impacts of such challenges on court users, the LAO finds that the Governor's proposed \$100 million augmentation merits consideration. However, if the Legislature determines that (1) minimizing the amount of additional impacts on court users is a statewide priority and (2) efficiencies or other options do not allow the courts to provide the level of service it desires, the Legislature could choose to provide additional General Fund support on either a one-time or an ongoing basis.

Regardless of the amount of additional funding provided to the trial courts in 2014-15, the LAO recommends that the Legislature establish priorities for how the increased funding should be spent—for example, increasing access to court services. They also recommend that the Legislature require the courts to report on the expected use of such funds prior to allocation, and on the actual use of the funds near the end of the fiscal year. Such information would allow the Legislature to conduct oversight to ensure that the additional funds provided are used to meet legislative priorities.

**Consider Implementing More Efficiencies.** The LAO recommends that the Legislature consider further actions to help the trial courts operate more efficiently. For example, the Legislature could reevaluate the proposed statutory changes that were not enacted last year. These changes would allow the courts to do more with existing dollars, thereby reducing the impact of their budget reductions. Additionally, in conversations with courts and other judicial branch stakeholders, a number of other such statutory changes exist that would increase efficiency. For example, courts have informed the LAO that under current law, they may only discard death penalty files and exhibits upon the execution of the defendant. Since most individuals on death row are not executed, but die due to natural causes, courts cannot destroy their case records and bear the costs of storing these files and exhibits indefinitely. The Legislature could modify current law to allow death penalty files and exhibits to be discarded on the death of the defendant, regardless of how the defendant died, which would reduce storage costs. Such changes could help provide the judicial branch with additional ongoing savings or revenues that could help further offset ongoing reductions. If the Legislature



is interested in implementing a broader range of efficiencies beyond those already proposed, it could consider convening a task force to identify and recommend efficiencies.

**Establish Comprehensive Trial Court Assessment Program.** Currently, there is insufficient information to assess whether trial courts are using the funding provided in the annual budget effectively. This makes it difficult for the Legislature to ensure that (1) certain levels of access to courts services are provided, (2) trial courts use existing and increased funding in an effective manner, and (3) funding is allocated and used consistent with legislative priorities. For example, it is unclear exactly how each trial court has absorbed past reductions and how such actions have impacted court outcomes. Thus, the LAO recommends that the Legislature take steps towards establishing a comprehensive performance assessment program for the trial courts. While the judicial branch collects some statewide information related to certain measures of trial court performance (such as the time it takes a court to process its caseload), it currently lacks a comprehensive set of measurements for which data is collected consistently on a statewide basis.

In developing a comprehensive performance assessment program, the LAO first recommends that the Legislature specify in statute the specific performance measurements it believes are most important and require the Judicial Council to collect data on each measurement from individual trial courts on an annual basis. In determining the specific performance measurements, the LAO believes that it will first be important for the Legislature to solicit input from the Judicial Council. Thus, they recommend the Judicial Council report to the Legislature by a specified date on its recommendations regarding appropriate measurements. In preparing this report, the Judicial Council should examine the measurements currently used by federal courts and other state courts.

After the Legislature adopts specific performance measurements for the trial courts in statute, and once data on these measurements have been reported by the Judicial Council for at least two years, the LAO recommends that the Legislature establish a system for holding individual courts accountable for their performance relative to those standards. Such an accountability system would involve the establishment of (1) a specific benchmark that the courts would be expected to meet for each measurement and (2) steps that would be taken should the court fail to meet the benchmark over time (such as by requiring a court that fails to meet a benchmark to adopt the practices of those courts that were successful in meeting the same performance benchmark).

### Staff Comments

**\$100 million may not forestall additional reductions in court services.** As discussed in detail above, in their *Overview of the Governor's Budget*, the Legislative Analyst's Office (LAO) notes that the \$100 million proposed by the Governor may not result in a substantial restoration of access to court services, in part because the funding is not directed toward services. In addition, the LAO points out that current year

funding for the courts includes \$200 million in one-time funds that will no longer be available in 2014-15, thus requiring the trial courts to absorb this reduction on an on-going basis. The courts will also be faced with increased pension and benefit costs, estimated to be approximately \$65 million in 2014-15.

**In the past, the Legislature has expressed frustration with the fact that they lack sufficient information to determine exactly how budget reductions and augmentations are likely to impact the publics' access to court services.** Typically, individual courts have broad discretion to determine how they use funding appropriated for trial court operations. The Legislature may wish to consider targeting any augmentations in order to ensure it is used to improve access to trial court services.

**The Chief Justice's Three-Year Blueprint lacks detail.** If the Legislature is interested in augmenting the judicial branch's budget, based upon the blueprint released by the Chief Justice, they may wish to ask for more detail on her funding request. For example, it would be important to receive information that specifically outlines how services are currently being impacted and how the augmentations proposed by the Chief Justice in the first year for various services and programs (see chart above) would directly improve the current level of service. The need for more detailed information is especially great in regards to the largest portion of the funding request, \$353 million, which would go toward "closing the funding gap." The Legislature may wish to ask specifically how closing the funding gap would directly improve services. Could the courts demonstrate that providing that funding to close the gap would result in the reopening of 51 courthouses and 205 courtrooms?

In addition, it would be important to understand why the \$600 million would need to grow to \$1.2 billion by the third year and exactly how that additional funding would be spent and how that would directly impact court services.

Finally, it is not possible to reconcile the funding in the blueprint with the funding proposed in the Governor's budget. The blueprint states that \$1.5 billion is budgeted for the state's trial courts and that the need is \$2.6 billion. However, the Governor's budget proposes funding the states trial courts at a level of \$2.5 billion. The blueprint does not provide enough detail to reconcile the document with the Governor's budget. Given this discrepancy, it is difficult to understand the magnitude of the problem or determine whether or not an additional augmentation is necessary beyond the Governor's proposal.

**Questions for the Administrative Office of the Courts (AOC) and the Administration.** The AOC and the Administration should be prepared to address the following questions:

1. Please provide an update on the current trial court fund balance, and what the balance was in 2012-13 and coming into this year.

2. Given the recent projection of a \$70 million revenue shortfall in 2014-15, please explain both the AOC's and the Administration's process for monitoring court revenue and estimating future revenue.
3. Has the AOC and/or the Administration recently assessed the current fees and fines to determine whether or not any of them should be increased to help cover the funding shortfall in the courts? Alternatively, have you done an analysis of whether fees might be too high and are causing people to use private judges and mediation rather than the court system?

**Action: Held Open**

## Issue 5: Trial Court Construction

**Background.** The judicial branch's two primary court construction funds receive funding from fees and penalty assessments. The Governor's budget projects a fund balance for SCFCF of \$361 million for 2014-15, which includes a \$130 million General Fund loan repayment. The budget also assumes \$133 million in expenditures from that fund in 2014-15. The ICNA was originally established to support 41 trial court construction projects, deemed to be immediate and critical by the Judicial Council. Due to the economic downturn, and the subsequent redirection of funding to support trial court operations, this program has been significantly impacted. Of the 41 court construction projects funded through ICNA, two have been cancelled, 11 have been indefinitely delayed, and several others have faced temporary delays during their design phase. The proposed budget projects a \$316 million fund balance in 2014-15, and proposes expending \$237 million in ICNA funds.

The Judicial Council's facilities consist of the Supreme Court, appellate courts, trial Courts, and the AOC. The Supreme Court is located within the San Francisco Civic Center Plaza (98,155 square feet (sf)) and the Ronald Reagan State Office Building in Los Angeles (7,598 sf). The Courts of Appeal are organized into six districts, operate in 10 different locations, and consist of 508,386 sf. The trial courts are located in 58 counties statewide consisting of more than 500 buildings, 2,100 courtrooms, and approximately 12.5 million sf of usable area. The space includes public courtrooms, judges' chambers, staff workspace, storage space, training rooms, and conference rooms. The AOC facilities are primarily located in San Francisco, Burbank, and Sacramento and occupy 261,935 sf.

**Governor's Budget.** The Governor's 2014-15 budget proposal includes \$210.4 million (\$101.7 million from bond sales and \$108.7 million from fees and penalties) to support sixteen major projects in various stages of construction (See Stage column for project status. A = Acquisition, C = Construction, P = Preliminary Plans, W = Working Drawings).

Projects by County	Actual		Estimated		Proposed	
	2012-13	Stage	2013-14	Stage	2014-15	Stage
<b>BUTTE COUNTY</b>	<b>\$51,324</b>		<b>\$-</b>		<b>\$-</b>	
Butte County-New North County Courthouse	51,324	C	-		-	
<b>CALAVERAS COUNTY</b>	<b>\$-</b>		<b>\$1,188</b>		<b>\$-</b>	
Calaveras County-New San Andreas Courthouse	-		1,188	C	-	
<b>EL DORADO COUNTY</b>	<b>\$-</b>		<b>\$1,084</b>		<b>\$3,696</b>	

El Dorado County-New Placerville Courthouse	-		1,084	A	3,696	P
<b>GLENN COUNTY</b>	<b>\$-</b>		<b>\$2,600</b>		<b>\$34,793</b>	
Glenn County-Renovation and Addition to Willows Courthouse	-		2,600	W	34,793	C
<b>IMPERIAL COUNTY</b>	<b>\$-</b>		<b>\$3,344</b>		<b>\$-</b>	
Imperial County-New El Centro Courthouse	-		3,344	W	-	
<b>INYO COUNTY</b>	<b>\$-</b>		<b>\$-</b>		<b>\$1,930</b>	
Inyo County-New Inyo County Courthouse	-		-		1,930	A,P
<b>KINGS COUNTY</b>	<b>\$99,497</b>		<b>\$-</b>		<b>\$-</b>	
Kings County-New Hanford Courthouse	99,497	C	-		-	
<b>LAKE COUNTY</b>	<b>\$-</b>		<b>\$-</b>		<b>\$3,550</b>	
Lake County-New Lakeport Courthouse	-		-		3,550	W
<b>LOS ANGELES COUNTY</b>	<b>\$-</b>		<b>\$-</b>		<b>\$52,348</b>	
Los Angeles County-New Mental Health Courthouse	-		-		33,457	A
Los Angeles County-New Eastlake Juvenile Courthouse	-		-		18,891	A
<b>MADERA COUNTY</b>	<b>\$90,810</b>		<b>\$-</b>		<b>\$-</b>	
Madera County-New Madera Courthouse	90,810	C	-		-	
<b>MENDOCINO COUNTY</b>	<b>\$-</b>		<b>\$3,466</b>		<b>\$4,550</b>	
Mendocino County-New Ukiah Courthouse	-		3,466	A	4,550	P
<b>MERCED COUNTY</b>	<b>\$-</b>		<b>\$1,974</b>		<b>\$21,889</b>	
Merced County-New Los Banos Courthouse	-		1,974	W	21,889	C
<b>RIVERSIDE COUNTY</b>	<b>\$-</b>		<b>\$3,898</b>		<b>\$4,259</b>	

Riverside County-New Indio Juvenile and Family Courthouse	-		3,484	W	-	
Riverside County-New Mid-County Civil Courthouse	-		414	A	4,259	P
<b>SACRAMENTO COUNTY</b>	<b>\$-</b>		<b>\$10,000</b>		<b>\$-</b>	
Sacramento County-New Sacramento Criminal Courthouse	-		10,000	A	-	
<b>SAN BENITO COUNTY</b>	<b>\$52</b>		<b>\$1,099</b>		<b>\$-</b>	
San Benito County-New Hollister Courthouse	52	C	1,099	C	-	
<b>SAN DIEGO COUNTY</b>	<b>\$-</b>		<b>\$515,997</b>		<b>\$-</b>	
San Diego County-New San Diego Courthouse	-		515,997	C	-	
<b>SAN JOAQUIN COUNTY</b>	<b>\$-</b>		<b>\$246,471</b>		<b>\$-</b>	
San Joaquin County-New Stockton Courthouse	-		243,266	C	-	
San Joaquin County-Renovate and Expand Juvenile Justice Center	-		3,205	C	-	
<b>SANTA BARBARA COUNTY</b>	<b>\$-</b>		<b>\$-</b>		<b>\$4,411</b>	
Santa Barbara County-New Santa Barbara Criminal Courthouse	-		-		4,411	P
<b>SANTA CLARA COUNTY</b>	<b>\$-</b>		<b>\$205,258</b>		<b>\$-</b>	
Santa Clara County-New Family Justice Center	-		205,258	C	-	
<b>SHASTA COUNTY</b>	<b>\$-</b>		<b>\$-</b>		<b>\$6,028</b>	
Shasta County-New Redding Courthouse	-		-		6,028	P
<b>SISKIYOU COUNTY</b>	<b>\$-</b>		<b>\$3,277</b>		<b>\$4,518</b>	
Siskiyou County-New Yreka Courthouse	-		3,277	P	4,518	W
<b>SOLANO COUNTY</b>	<b>\$21,926</b>		<b>\$-</b>		<b>\$-</b>	

Solano County-Renovation to Fairfield Old Solano Courthouse	21,926	C	-	-	-
<b>SONOMA COUNTY</b>	<b>\$-</b>		<b>\$-</b>	<b>\$7,670</b>	
Sonoma County-New Santa Rosa Criminal Courthouse	-		-	7,670	P
<b>STANISLAUS COUNTY</b>	<b>\$-</b>		<b>\$6,860</b>	<b>\$11,026</b>	
Stanislaus County-New Modesto Courthouse	-		6,860	11,026	P
<b>SUTTER COUNTY</b>	<b>\$-</b>		<b>\$51,308</b>	<b>\$-</b>	
Sutter County-New Yuba City Courthouse	-		51,308	-	C
<b>TEHAMA COUNTY</b>	<b>\$-</b>		<b>\$3,982</b>	<b>\$46,662</b>	
Tehama County-New Red Bluff Courthouse	-		3,982	46,662	C
<b>TUOLUMNE COUNTY</b>	<b>\$-</b>		<b>\$-</b>	<b>\$3,049</b>	
Tuolumne County-New Sonora Courthouse	-		-	3,049	P
<b>YOLO COUNTY</b>	<b>\$121,450</b>		<b>\$-</b>	<b>\$-</b>	
Yolo County-New Woodland Courthouse	121,450	C	-	-	
<b>Totals, Major Projects</b>	<b>\$385,059</b>		<b>\$1,061,806</b>	<b>\$210,379</b>	

**Spring Finance Letter.** The Administration's spring finance letter requests an increase of \$900,000 for the working drawings phase of the New Lakeport Courthouse in Lake County. In addition, the letter requests reductions in four projects in Tuolumne, Sonoma, Shasta, and Santa Barbara counties resulting in approximately \$11 million in savings.

**Questions for the Judicial Branch.** The AOC should be prepared to present the proposal and to address the following questions:

1. Please be prepared to provide an update on courthouse construction projects, especially on those that have been delayed.
2. How is the decision made to delay construction of a courthouse? Do the local courts have an opportunity to influence that decision?

3. How long do you anticipate the projects being delayed, and at what point do you review the delayed projects to determine whether or not they should proceed?

**Action: Approved as budgeted (Including April 1<sup>st</sup> spring finance letter adjustments).**

**Vote: 3 – 0**