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Making Targeted Reductions to the Judicial Branch

LEGISLATIVE ANALYST'S OFFICE

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On Corrections, Public Safety and the Judiciary

Hon. Loni Hancock, Chair





Governor Proposes Unallocated Reduction To Judicial Branch

- The Governor's budget for 2011-12 proposes a \$200 million (or roughly 5 percent) unallocated reduction to the General Fund budget of the judicial branch. This reduction would be ongoing.
- Although the judicial branch—and in particular the trial courts—have experienced reductions in General Fund support in the past several years, these reductions have been largely offset by fund shifts and additional revenue from court-related fee increases. As a result, the total level of funding for the judicial branch has remained relatively flat since 2007-08.
- In view of the above and the state's difficult fiscal problems, the Governor's proposal to achieve \$200 million in ongoing judicial branch savings merits serious legislative consideration.



Overview of LAO Recommendations for Cost Savings in Judicial Branch

(In Millions)

Recommendation	2011-12	2012-13	Full Implementation
Implement electronic court reporting	\$13	\$34	\$113
Ensure courts charge for civil court reporters	23	21	12
Implement competitive bidding for court security	20	40	100
Reduce trial court funding based on workload analysis	35	45	60
Contract out interpreting services	15	15	15
Reduce funding to account for trial court reserves	150	—	—
Transfer from Immediate and Critical Needs Account	100	50	—
Totals	\$356	\$205	\$300

- While we believe that the Legislature should carefully consider the advice of the judicial branch and stakeholders when setting funding levels, how any cut is made is also an important decision for the Legislature. With this in mind, we have identified specific actions for the Legislature to consider in implementing reductions for the judicial branch in a way that minimizes the impacts on access to the courts.

- In total, our recommendations would achieve \$356 million in savings in 2011-12—in excess of the \$200 million assumed for that year in the Governor's budget. Upon full implementation, but the phase-out of others with a limited effect, our proposed package would result in ongoing savings of \$300 million after several years.



Changes to Court Reporting Practices



Implement Electronic Court Reporting

- Under current law, trial courts use certified shorthand reporters to create and transcribe the official record of many court proceedings. However, many state and federal courts currently use electronic methods for recording proceedings. Moreover, a multiyear pilot study carried out in California found that electronic court reporting could achieve substantial savings.
- Accordingly, we recommend the Legislature direct the trial courts to phase in electronic court reporting. We estimate that the state could save about \$13 million in 2011-12 and in excess of \$100 million on an annual basis upon its full implementation.



Ensure Courts Charge for Court Reporting Services in Civil Cases

- Unlike in criminal cases, the parties in a civil case are required to pay for reporting services for any proceeding lasting more than an hour. However, the Administrative Office of the Courts (AOC) identifies a \$50 million shortfall between court reporting costs for civil cases and the amount of revenue collected to offset these costs. The AOC also reports that only 44 courts reported *any* revenue from court reporting fees.
- We recommend the Legislature amend existing state law to authorize trial courts to charge court reporting fees for proceedings lasting less than an hour. Moreover, we recommend reducing the courts' General Fund budget by \$23 million in 2011-12 to account for additional revenue that the courts should receive from being more effective in imposing and collecting court reporting fees.



Utilize Competitive Bidding for Court Security

- Current law generally requires trial courts to contract with their local sheriff's offices for the provision of court security. Courts thus have little control to influence either the level of security provided or the salaries of security officers. As a result, court security costs have grown from \$263 million in 1999-00 to \$500 million in 2009-10.

- As a part of an overall state-local realignment plan, the Governor proposes to shift funding for security from the trial courts to the counties. In our view, this approach does not make sense. While control of funding for court security would be shifted to counties, the state judicial system would continue to be responsible for the overall operation of the courts. Absent financial control, the courts would have difficulty ensuring that sheriffs provided sufficient security measures.

- We believe a better and more cost-effective approach would be to direct the courts to contract on a competitive basis with private and public entities, including sheriffs, for the provision of court security. We estimate that this change could save the state about \$20 million 2011-12 and \$100 million annually within a few years.



Reduce Trial Court Funding Based on Workload Analysis

- ☑ In 2005, AOC and the National Center for State Courts completed an indepth study on the level of funding a given trial court would need based on a specified workload, as measured in the number of cases filed. (This study is commonly referred to as the “resource allocation study.”)
- ☑ Based on recent data, 13 of the 58 trial courts in the state received more funding—totaling \$60 million—than needed to complete their workload. In other words, AOC’s resource allocation study suggests that these particular courts should be able to process their existing caseloads with less funding, while still achieving similar outcomes in terms of access to justice.
- ☑ In order to achieve budgetary savings in a manner that minimizes the impact on trial court operations and services, we recommend that the Legislature more closely align the level of funding for the above 13 courts to their actual workload need over a four-year period. We estimate that our recommendation would achieve General Fund savings of \$35 million in 2011-12 and \$60 million upon full its implementation in 2014-15.



Fully Utilize Contracting Out for Court Interpreter Services

- ☑ The California Constitution and subsequent court rulings require that individuals with a limited ability to understand English be provided interpreting services in criminal, delinquency, and some family law matters. In addition, federal law specifies that individuals with hearing disabilities are entitled to interpreter services free of charge in all court proceedings.
- ☑ To address the above requirements, the state court system directly employs interpreters and provides additional court interpreting services through independent contractors. In 2007-08, trial courts paid employee interpreters an average of \$161 per case (including salary, benefits, and travel expenses). In contrast, courts only paid \$68 per case on average in the same year to interpreters—about 58 percent less than their employee counterparts.
- ☑ Under certain circumstances, state law requires that courts that contract out interpreting services either offer the contracted interpreters regular employment or (eventually) create new positions for interpreters who speak the language for which they are relying on contractors to provide. These requirements limit the ability of courts to use less expensive contractors and have a tendency to increase state costs.
- ☑ Given that contracting out appears to be a more cost-effective approach to providing interpreter services, we recommend that the Legislature eliminate existing statutory restrictions on using contract court interpreters. We estimate that greater use of contract reporters could save the state roughly \$15 million.



Temporarily Offset General Fund Costs of Trial Courts



Reduce Funding to Account for Trial Court Reserves

- Under current law, individual trial courts are authorized to retain unexpended funds at the end of each fiscal year. This has allowed some trial courts to accumulate significant reserve balances. For example, the trial courts had about \$312 million in unspent funds at the beginning of 2010-11 that were not restricted by future contractual or statutory obligations.
- In view of these significant reserves and the state's massive General Fund shortfall, we recommend that the Legislature reduce funding for the trial courts on a one-time basis in 2011-12 by \$150 million, and direct the trial courts to use their considerable reserve funds to buffer against the loss of state funding.



Transfer Funds From the Immediate and Critical Needs Account (ICNA)

- The ICNA receives revenue from various civil and criminal fine and fee increases to support 41 trial court construction projects that were deemed to be immediate and critical by the Judicial Council.
- In recent years, the fund's expenditures have been lower than anticipated by AOC. As a result, the ICNA is projected to have a year-end balance in excess of \$100 million higher than expected over the next several years.
- In view of this, we recommend that the Legislature transfer \$100 million to offset the General Fund cost of the trial courts in 2011-12 on a one-time basis. A separate \$50 million could be transferred in 2012-13. Based on AOC's projected revenues and expenditures, our recommendation would not delay any of the planned projects funded by ICNA.