

The 2023-24 Budget:

Judicial Branch Budget Proposals

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SUMMARY

Provides Assessment of Two Budget Proposals. This brief provides our findings and recommendations related to two judicial branch budget proposals. The first proposal is for \$29.9 million General Fund in 2023-24 (increasing to \$100 million annually in 2025-26) to support court-specific costs related to the implementation of the Community Assistance, Recovery, and Empowerment (CARE) Program. The second proposal seeks to address the solvency of the State Court Facilities Construction Fund (SCFCF) by (1) shifting \$55.5 million in ongoing SCFCF support of trial court operations to the General Fund and (2) providing a \$34 million General Fund backfill to the SCFCF in 2023-24 (increasing to \$120 million annually in 2024-25). The proposal would also make \$15 million in SCFCF funding for facility modification projects scheduled to expire ongoing.

Recommend Only Providing Funding for CARE Program in 2023-24 and Require Reporting on Implementation. We find that the funding needs for the CARE Program are uncertain as the program has not been implemented. While it is reasonable to provide funding in 2023-24 based on assumptions, actual implementation data is important for determining appropriate future funding levels. Accordingly, we recommend the Legislature only provide the requested funding in 2023-24. We also recommend the Legislature require the courts scheduled to first begin CARE Program implementation report monthly on key metrics that directly impact the estimates for the level of implementation funding needed. Such information would help the Legislature ensure that appropriate levels of funding are provided in future years.

Recommend Approving SCFCF Budget Proposal, Requiring Annual Reporting of SCFCF Condition, and Weighing Facility Modification Funding Extension Against Other Priorities. We find the Governor's SCFCF proposals to be generally reasonable as they address the SCFCF's insolvency on an ongoing basis. As such, we recommend the Legislature approve shifting support for trial court operations from the SCFCF to the General Fund. While we agree with the Governor's proposal to provide a General Fund backfill to the SCFCF, the amount required will change over time. Thus, we recommend the Legislature direct Judicial Council to report annually on the SCFCF's long-term fund condition to enable the Legislature to ensure that the budget is adjusted annually to include the appropriate General Fund backfill in future years. Finally, we recommend the Legislature weigh the proposal to make SCFCF facility modification funding ongoing against its other budget priorities, since it would result in additional General Fund cost pressures. Reducing or rejecting the proposed ongoing spending on facility modification projects would provide the Legislature with a budget solution to help address the projected out-year deficits that would occur under the Governor's proposed budget.

OVERVIEW

The judicial branch is responsible for the interpretation of law, the protection of people’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 (Judicial Council, the Judicial Council Facility Program, and the Habeas Corpus Resource Center). The branch receives support from several funding sources including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

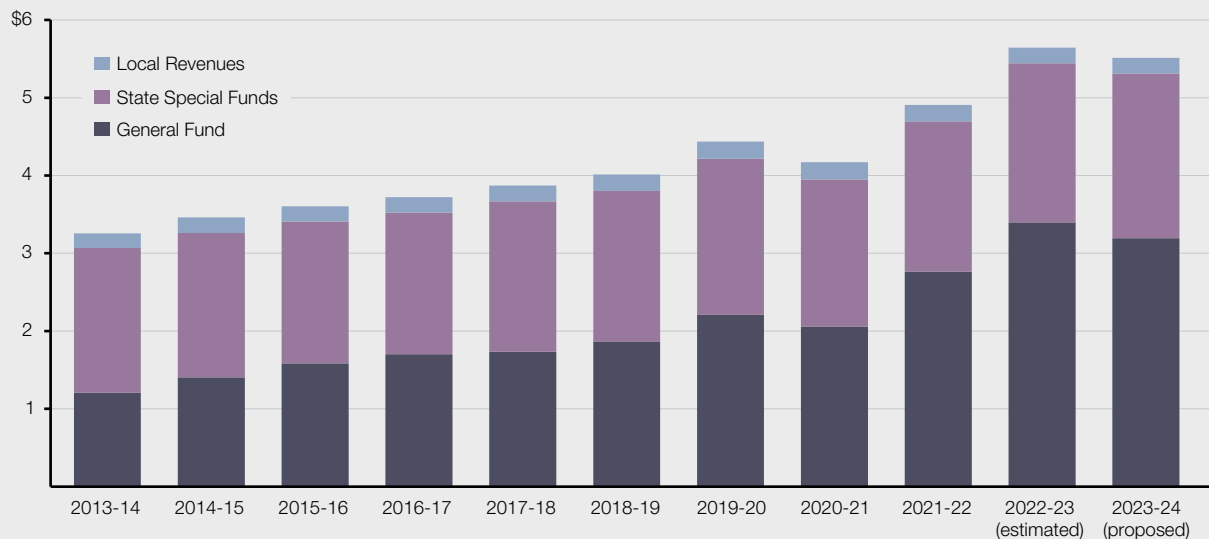
General Fund Becoming Greater Share of Judicial Branch Budget. As shown in **Figure 1**, total operational funding for the judicial branch has steadily increased from 2013-14 through 2022-23. The percent of total operational funding from the General Fund has also steadily increased during this period, from 37 percent in 2013-14 to

60 percent in 2022-23. Since 2019-20, the majority of the judicial branch budget has been supported by the General Fund. This growth is generally due to increased operational costs as well as the use of General Fund resources to backfill decreases in fine and fee revenue.

Governor Proposes \$5.3 Billion in State Funds for Judicial Branch. For 2023-24, the Governor’s budget includes nearly \$5.5 billion from all fund sources in support for the judicial branch. This amount includes about \$5.3 billion from all state funds (General Fund and special funds), a decrease of \$130 million (2.4 percent) below the revised amount for 2022-23, as shown in **Figure 2**. (These totals do not include expenditures from local reserves or trial court reserves.) Of this amount, about \$3.2 billion (or 63 percent) is from the General Fund. This is a net decrease of \$205 million (or 6 percent) from the 2022-23 General Fund amount. This decrease is generally due to the expiration of one-time General Fund support provided in 2022-23.

Figure 1

Total Judicial Branch Funding^a (In Billions)



^a State law requires excess property tax revenues collected by county offices of education beyond their annual funding allotment be used to offset state General Fund support of trial courts. This chart reflects these revenues as state special funds.

Figure 2

Judicial Branch Budget Summary—All State Funds

(Dollars in Millions)

	2021-22 Actual	2022-23 Estimated	2023-24 Proposed	Change From 2022-23	
				Amount	Percent
State Trial Courts	\$3,517	\$3,904	\$3,973	\$69	1.8%
Supreme Court	51	57	54	-2	-4.2
Courts of Appeal	256	285	281	-4	-1.4
Judicial Council	224	387	394	7	1.9
Judicial Branch Facility Program	634	791	591	-200	-25.3
Habeas Corpus Resource Center	16	19	19	—	-0.2
Totals	\$4,698	\$5,443	\$5,313	-\$130	-2.4%

CARE ACT COURT IMPLEMENTATION

Background

Overview of CARE Program. Chapter 319 of 2022 (SB 1338, Umberg) created the CARE Program—a new civil court proceeding that will allow specific people to seek assistance for certain adults with severe mental illness. Only people that meet certain criteria may be admitted to the CARE Program. These criteria include the person being over the age of 18 as well as currently experiencing both a severe mental illness and having a diagnosis of schizophrenia or other psychotic disorders. People in other civil and criminal proceedings—specifically assisted outpatient treatment, conservatorship, or misdemeanor proceedings in which the person has been determined to be incompetent to stand trial—could also be referred by courts to the program.

The CARE process starts with a CARE Program petition seeking to admit a person to the program being filed by certain people (such as a family member, first responder, county behavioral health provider, or a licensed behavioral health professional who has provided treatment to the person within the past 30 days). A person may also file such a petition to seek to admit themselves to the program. The court then reviews the petition to assess whether the person meets the criteria for admission. If the court determines by clear and convincing evidence that the person does meet the criteria, the court oversees the preparation, implementation, and compliance with an individualized plan for the person.

These plans consist of the provision of behavioral health care, stabilization medications, housing, and other supportive services, which are expected to be delivered by the counties. CARE participants are entitled to government-paid legal counsel to represent them in all CARE-related proceedings and provide legal assistance throughout the process. Participants are also permitted to have a “supporter,” an adult providing the participant with decision-making and other assistance throughout the process. The court-ordered CARE plan lasts up to one year, but may be extended one time for up to one additional year under certain conditions.

Senate Bill 1338 includes various other requirements. For example, the California Health and Human Services Agency (CalHHS) or Department of Health Care Services (DHCS) is generally required to contract with an independent, research-based entity to conduct an evaluation of the CARE Program. A preliminary evaluation report is required to be provided to the Legislature three years after implementation of SB 1338 and a final evaluation report is due five years after implementation. Additionally, DHCS is required to collect data from courts and counties and report annually on the CARE Program and its impact—including statutorily specified data and outcome measures.

Court-Related Responsibilities.

The court-related responsibilities in the CARE process include:

- **Court Proceedings.** State law specifies a particular legal process for CARE proceedings. For example, within 14 court days of determining from a cursory review of a CARE Program petition that a person could be eligible for the program, trial courts are generally required to either (1) schedule a hearing on the CARE Program petition or (2) order the county to investigate (if needed) and report in writing on whether the person subject to the petition meets the CARE eligibility criteria, the outcome of any efforts to engage the person, and conclusions and recommendations on the person's ability to voluntarily engage in services. Subsequent hearings are required to adopt a CARE plan and to regularly monitor participant and county compliance with the plan. At the one-year status hearing, the court will determine whether to allow the participant to leave the program or continue in the CARE Program for up to an additional year. Judicial Council is required to adopt forms and rules to ensure statewide consistency in the CARE legal process, provide training and technical assistance to judges, and assist with data collection from the trial courts.
- **Legal Representation.** State law requires that legal counsel be provided to any person who is the subject of a CARE Program petition if it appears that the person may meet the eligibility requirements. Such legal counsel is to be provided by the government through a qualified legal services project (such as a legal-aid organization) or a county public defender if no legal services project is available to accept CARE cases. However, a person may choose to retain their own private counsel instead. Counsel is required to represent the person through all court proceedings (including appeals) as well as in any matters related to the CARE plan. State law requires DHCS, in consultation with other state departments, to provide training to counsel regarding the CARE process as well as the services and supports that can be included in court-ordered plans.

CARE Program Implementation Plan and Recent Developments. Senate Bill 1338 specified that one group of counties ("Cohort 1")—which

included Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne Counties—are generally required to begin CARE Program operations no later than October 1, 2023. All remaining counties ("Cohort 2") are generally required to begin CARE Program operations no later than December 1, 2024. In January 2023, Los Angeles County—a member of Cohort 2—announced plans to implement the CARE Program by December 1, 2023, a year earlier than required. Additionally, in January 2023, a group of disability and civil rights advocates filed a lawsuit with the California Supreme Court challenging the constitutionality of SB 1338 and seeking to block its implementation.

Initial Funding Provided in 2022-23.

The 2022-23 budget package provided a total of \$88.3 million General Fund in 2022-23 (decreasing to \$38.7 million annually beginning in 2023-24) for the CARE Program. This amount included funding for:

- **Judicial Branch.** The budget provided \$5.9 million in 2022-23 (increasing to \$37.7 million ongoing in 2023-24) for judicial branch preparation to implement the CARE Program and \$250,000 one-time in 2022-23 for legal-aid planning and preparation. Of the amount provided to the judicial branch in 2022-23, \$2.8 million was allocated directly to the trial courts in Cohort 1 to support their administrative and other costs related to planning for CARE Program implementation.
- **DHCS.** The budget allocated \$77.2 million in 2022-23 (declining to \$1.1 million annually in 2023-24) to DHCS for the implementation of the CARE Program. Of this amount, \$20.2 million in 2022-23 (declining to \$1.1 million annually beginning in 2023-24) is for the department's implementation costs, such as preparing to meet its reporting requirements. The remaining \$57 million is for allocation to counties for the implementation of the CARE Program.
- **CalHHS.** The 2022-23 budget provided \$5 million to CalHHS for the implementation of the CARE Program.

Governor's Proposal

The Governor's budget includes several proposals related to the implementation of the CARE Program. As shown in **Figure 3**, the administration proposes a total of \$52.4 million General Fund in 2023-24—increasing to \$214.6 million annually beginning in 2025-26—to support state and local implementation costs.

Court-Specific Costs. Roughly half of the proposed total funding would be provided to the judicial branch to support court operations as well as legal representation costs. Specifically, the budget proposes General Fund support totaling \$29.9 million in 2023-24, increasing to \$100 million in 2025-26 and ongoing.

- **Court Operations.** As previously mentioned, the 2022-23 budget package assumed a funding level of \$37.7 million annually beginning in 2023-24 to support CARE hearing and other court operations. The Governor's budget proposes to adjust this planned funding level. Specifically, the proposed budget includes \$23.8 million in 2023-24 (increasing to \$50.6 million in 2024-25 and to \$68.5 million annually beginning in 2025-26). **Figure 4** summarizes how the proposed funding for court operations would be allocated.
- **Legal Representation Costs.** The Governor's budget proposes \$6.1 million in 2023-24 (increasing to \$31.5 million annually beginning in 2025-26) to provide legal representation in the CARE process.

Figure 3

Summary of Total Proposed CARE Program Funding

General Fund (In Millions)

Entity	Purpose	2022-23	2023-24	2024-25	2025-26 and Ongoing
Judicial Branch					
Judicial Branch	Court Operations	\$5.9	\$23.8	\$50.6	\$68.5
Judicial Branch	Legal Representation	0.3	6.1	21.8	31.5
Totals, Judicial Branch		\$6.1	\$29.9	\$72.4	\$100.0
Health Entities					
CalHHS	Training	\$5.0	—	—	—
DHCS	Training, Data Collection, and Other Activities	20.2	\$6.1	\$6.1	\$6.1
DHCS	County Grants	57.0	16.5	66.5	108.5
Totals, Health Entities		\$82.2	\$22.6	\$72.6	\$114.6
Total CARE Program Funding		\$88.3	\$52.4	\$144.9	\$214.6

CARE = Community Assistance, Recovery, and Empowerment; CalHHS = California Health and Human Services Agency; and DHCS = Department of Health Care Services.

Figure 4

Summary of Allocation of Proposed Court Operations CARE Program Funding

(In Millions)

Judicial Branch Entity	Purpose	2022-23	2023-24	2024-25	2025-26 and Ongoing
Judicial Council	Trial court support, training and resources, and data collection costs	\$3.0	\$3.2	\$2.6	\$2.6
Trial Courts	Hearings, self-help attorneys, and other administrative costs	2.8	20.5	48.0	66.0
Totals		\$5.9	\$23.8	\$50.6	\$68.5

CARE = Community Assistance, Recovery, and Empowerment.

The above cost estimates assume that 18,000 CARE Program petitions would be received annually upon full implementation, resulting in 12,000 participants. These estimates are adjusted for 2023-24 and 2024-25 based on Cohort 1's and Cohort 2's share of total state population and the statutorily specified implementation dates. For example, the seven counties of Cohort 1 represent about 26 percent of the state's population and will operate CARE Programs for nine months of the 2023-24 year (or 75 percent) assuming an implementation date of October 1, 2023. This results in 3,510 CARE Program petitions for review and 2,340 participants in 2023-24. For judicial branch operations, the administration assumes that a certain amount of judicial and court staff time and resources are needed to process each CARE Program petition and case. This includes an average of one hearing to review initial petitions and an average of nine hearings for each CARE participant. Similarly, for legal representation costs, the administration assumes that an average of 20 hours of representation would be needed per CARE client.

Other Costs. The other half of the proposed funding—\$22.6 million in 2023-24, increasing to \$114.6 million ongoing beginning in 2025-26—would be provided to DHCS for data collection and various other responsibilities, as well as for grants to counties for behavioral health related costs for CARE participants. (Our analysis of these costs can be found in a separate report, *The 2023-24 Budget: Analysis of the Governor's Major Behavioral Health Proposals*.)

Assessment

Funding Needs Uncertain as Program Has Not Been Implemented. The CARE process is a new court process which is not anticipated to be first implemented until October 1, 2023 when the seven counties in Cohort 1 begin operations. Because the program has not yet been implemented, the proposed funding levels for 2023-24 and future years is uncertain. This is because state and local entities are currently planning how this new program will be implemented—including working to resolve some operational and funding details.

For example, it is not clear in which counties legal representation will be provided by qualified legal services projects versus county public defenders. Moreover, once implemented, operational processes may need to be adjusted to address unintended challenges that emerge. In view of the above, the underlying assumptions made by the administration in developing the budget request could end up overestimating or underestimating actual program costs.

For 2023-24, the administration's assumptions and requested resources appear reasonable for the initial implementation of the CARE Program. However, the program costs in subsequent years could be significantly different than assumed in the Governor's budget. For example, upon full implementation, the Governor's budget assumes 18,000 CARE Program petitions will be filed annually resulting in 12,000 participants. We note that, at the time SB 1338 was being considered, however, county stakeholders raised concerns that the number of participants could be higher, potentially by tens of thousands of people. If this actually occurs, General Fund costs would be significantly higher.

Actual Implementation Data Important for Determining Appropriate Funding Levels After 2023-24. When implementing a new program like the CARE Program, it can make sense to test implementation on a small group first. This enables the state to monitor whether implementation and costs occur as expected or if there any unintended challenges or unanticipated impacts that could require legislative or operational changes. For example, actual implementation by Cohort 1 could show that more time is needed by judicial and court staff to process CARE Program petitions or by legal counsel to appropriately represent their clients. This additional time could be needed for various reasons, including to ensure that all participants have the ability to be heard (which could simply require more time and resources) or to address conflicting interpretations or application of the language (which could be resolved legislatively or through statewide Judicial Council guidance). Information collected on the implementation of Cohort 1, and any associated changes, would then inform the estimated costs needed to implement the program across the state.

As such, data collected from Cohort 1 should be used to determine Cohort 1's future year costs as well as the costs to expand the CARE Program statewide to ensure that the CARE process is being implemented as intended and that the appropriate level of resources is provided to do so.

Other Factors Can Also Impact Actual Funding Needs. Other factors—such as county decisions and court rulings—can also impact the actual level of funding needed to implement the CARE Program statewide. For example, as noted above, Los Angeles County announced intentions to begin CARE Program implementation by December 1, 2023. If this occurs, it would result in the need for additional General Fund support in 2023-24 above the amount currently proposed in the Governor's budget. This is because the Governor's budget assumes that only Cohort 1 (representing about 26 percent of the state's population) will require resources in the budget year and that no other counties will begin implementation prior to July 1, 2024. Since Los Angeles County consists of about 25 percent of the state's population, additional resources in the range of \$10 million would be needed in 2023-24 to support the court-related costs. Similarly, additional resources would likely be needed in 2024-25 as Los Angeles County will require a full-year of General Fund support, rather than only seven months which would be required if implementation occurred on December 1, 2024. Additionally, it is unclear whether any other counties have the intention of launching CARE Program implementation earlier than expected. Finally, as of the writing of this brief, it is unclear whether a court ruling could delay or prevent implementation of the CARE Program, such as if a court rules in favor of the group of disability and civil rights advocates seeking to block implementation of SB 1338.

Recommendations

Provide Only One-Year Funding. We recommend the Legislature only provide the requested funding in 2023-24—meaning to not commit to providing a specific amount of funding beyond the budget year. We recognize that there will be costs in subsequent years that require state funding. However, since the CARE Program has not been implemented, there is significant fiscal uncertainty regarding the extent to which the

assumptions underlying the Governor's requested resource are accurate. Major differences between such assumptions and actual data collected when the program is implemented could significantly change the level of resources needed in future years. Providing funding for one year can ensure that data is collected from Cohort 1 to inform legislative deliberations to ensure that the appropriate level of funding is being provided in future years as well as whether potential legislative changes are needed to ensure the CARE Program operates as intended and/or to control the cost of the program. Additionally, given the budget pressure on the General Fund in 2023-24, the Legislature may want to consider whether to limit the number of counties in Cohort 2 that begin implementation prior to July 1, 2024. Such action would limit the amount of additional General Fund resources needed in 2023-24 (and 2024-25) to support the implementation of the CARE Program in such counties.

Require Reporting From Cohort 1. Senate Bill 1338 requires DHCS and Judicial Council to work with courts and counties to report annually on key outcome and performance metrics, including some (such as the number of petitions filed) which could help inform calculations of the level of funding needed in future fiscal years. However, such information would likely be reported after deliberations next year on the 2024-25 budget have concluded. As such, we recommend the Legislature require each court in Cohort 1 report monthly in 2023-24, beginning the month after the court begins to operate the CARE Program. In these monthly reports, we recommend the Legislature specify key metrics for courts to report on that directly impact the estimates for the level of funding needed to implement the CARE Program. At minimum, such reports should include: (1) the number of CARE Program petitions received and dismissed, (2) the number of people admitted to the CARE Program, (3) the number of court proceedings conducted and the amount of time needed for those hearings, (4) the amount of judicial and staff time required to process cases, and (5) the amount of time spent by legal counsel representing and working with CARE clients. Such information would help provide the Legislature with key data to ensure that appropriate levels of funding are provided in future years.

STATE COURT FACILITIES CONSTRUCTION FUND SOLVENCY

Background

Judicial Branch Facility Needs. The judicial branch currently manages around 450 facilities across all 58 counties. Its facility program is responsible for various activities including maintaining these facilities, managing leases, and constructing new courthouses to replace outdated facilities. In a November 2019 assessment of its facilities, the judicial branch identified a need for a total of 80 construction projects—56 new buildings and 24 renovations—totaling \$13.2 billion. These projects were categorized into five groups—and ranked within each group—in the following descending priority order: 18 immediate need projects (\$2.3 billion), 29 critical need projects (\$7.9 billion), 15 high need projects (\$1.3 billion), 9 medium need projects (\$1.6 billion), and 9 low need projects (\$100 million). Additionally, in August 2022, the judicial branch identified 22,042 deferred maintenance projects totaling around \$4.5 billion.

SCFCF Insolvent. State law authorizes Judicial Council to construct trial court facilities and established a special fund, the SCFCF, to support the judicial branch's court facility-related projects. (A different construction account was consolidated into the SCFCF as part of the 2021-22 budget.) Specifically, state law increased certain criminal and civil fines and fees and deposited the revenues into the SCFCF to finance trial court construction and other facility-related expenses. Existing state law also allows funds to be transferred from the SCFCF to support trial court operations. Such transfers were initially implemented to mitigate the impacts of budget reductions on trial court operations. The amount of revenue deposited has steadily declined over time, largely due to declining criminal fine and fee revenue. This has resulted in SCFCF expenditures—such as debt service and facility modifications—routinely exceeding revenues. (Currently, a total of \$55.5 million is redirected annually from the SCFCF to support trial court

operations.) To support this level of spending, the judicial branch has been expending funds from the SCFCF fund balance. As a result, the SCFCF faces insolvency in 2023-24.

New Construction Supported by General Fund. Given the insolvency of the SCFCF, the 2021-22 budget shifted support for the construction of any future courthouses to the General Fund. Accordingly, the 2021-22 and 2022-23 budgets included General Fund support to start the construction or renovation of nearly a dozen of the highest ranked immediate need projects identified in the judicial branch's 2019 assessment of facilities.

Additional Support for Ongoing Facility Modification Provided in 2022-23. The annual budget typically provides the judicial branch with a specified amount of funding to support trial court facility modification projects that arise during the year. This funding is used at Judicial Council's discretion to generally address the highest-priority needs that arise. The 2022-23 budget provided \$65 million from the SCFCF to support trial court facility modification projects. This amount included \$50 million in annual funding and \$15 million in temporary funding. The temporary funding of \$15 million annually for ten years was first provided as part of the 2014-15 budget package, which means that it is scheduled to expire at the end of 2023-24.

Additionally, the 2022-23 budget included \$15.4 million in ongoing General Fund support for trial court facility modification projects. In combination, as shown in **Figure 5**, this increased total support for trial court facility modification projects to \$80.4 million annually in 2022-23 and 2023-24—before declining to \$65.4 million annually beginning in 2024-25 due to the expiration of the temporary SCFCF funding. The expiration of the temporary funding would restore funding levels to the amount available annually between 2014-15 and 2021-22.

Governor’s Proposal

The Governor’s 2023-24 budget includes one proposal for ongoing SCFCF expenditures and two proposals to provide a total of \$89.5 million General Fund in 2023-24 (increasing to \$175.5 million annually beginning in 2024-25) to address the SCFCF insolvency. Specifically, the Governor’s budget proposes to:

- Make SCFCF Funding Scheduled to Expire Ongoing.** The Governor’s budget proposes to make permanent the \$15 million to support trial court facility modification projects that was previously approved for ten years— permanently increasing the amount available to support trial court facility projects from \$65.4 million to \$80.4 million annually. We note, however, that this proposal would make the condition of the SCFCF worse beginning in 2024-25.
- Shift SCFCF Support of Trial Court Operations to General Fund.** As noted above, a total of \$55.5 million is currently redirected annually from the SCFCF to support trial court operations. The Governor’s budget proposes to shift such support from the SCFCF to the General Fund in order to address the insolvency of the SCFCF while maintaining trial court funding levels.
- Provide General Fund to Backfill Remaining Shortfall.** Despite removing SCFCF support for trial court operations, the SCFCF still faces insolvency. Revenues are estimated to be \$215 million, while expenditures are estimated to be about \$336 million. This results in a \$120 million shortfall that the Governor proposes to backfill with General Fund support on an ongoing basis. In 2023-24, a significant portion of this shortfall is addressed by depleting the SCFCF’s fund

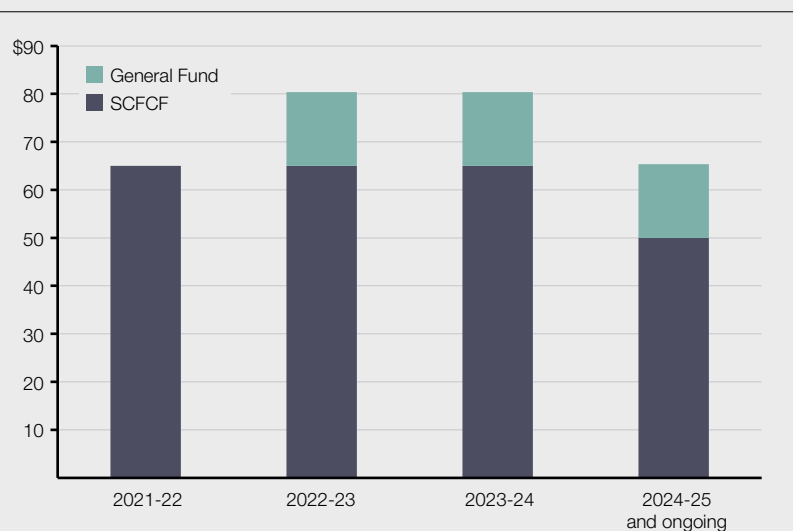
balance—thereby only requiring a \$34 million General Fund backfill. However, the full backfill amount of \$120 million is needed on an ongoing basis beginning in 2024-25. Budget bill language authorizes the Department of Finance to increase the backfill amount 30 days after notification to the Legislature if SCFCF revenues are lower than expected.

Assessment

Proposal Generally Reasonable. We find the Governor’s SCFCF proposals to be generally reasonable as they address the SCFCF’s insolvency on an ongoing basis. Shifting ongoing support for trial court operations to the General Fund maintains existing operational levels. Additionally, committing to an ongoing General Fund backfill of the SCFCF ensures that, going forward, it is clear that the General Fund will address any shortfall in the ability of the SCFCF to meet its construction-related obligations (such as debt service for previously constructed courthouses). This is important as it will ensure that these obligations are accounted for and considered when evaluating the state’s overall fiscal condition and determining General Fund priorities.

Figure 5

Total Amount Available for Facility Modification Projects as of the 2022-23 Budget
(In Millions)



SCFCF = State Court Facilities Construction Fund.



General Fund Backfill Amount Will Change Over Time. The backfill amount required by the SCFCF will change over time. Revenues could increase or decrease. For example, the number of people required to pay criminal fines could differ by year for various reasons—including the number of tickets written by law enforcement. Additionally, expenditures will also change over time. Most notably, SCFCF debt service payments are expected to decrease by about \$40 million annually beginning in 2032-33 as six construction projects are fully paid off. Such debt service obligations will continue to decrease over time as more projects are fully paid off. For example, there will be a further decrease of about \$50 million beginning in 2038-39, and another of about \$40 million in 2039-40.

Making Facility Modification Funding Permanent Helps Address Facility Needs, but Results in Additional General Fund Cost Pressures. As discussed earlier, the judicial branch has identified significant facility needs that will eventually need to be addressed. The Governor's proposal to make the temporary SCFCF facility modification funding permanent would be a step forward in that direction on an ongoing basis. However, because the SCFCF is insolvent, the proposal would effectively result in \$15 million in additional cost pressure on the state General Fund to backfill the SCFCF.

As we discuss in [The 2023-24 Budget: Overview of the Governor's Budget](#), the Governor's budget proposes various budget solutions which, taken together, would enable the state to meet its constitutional requirement to adopt a balanced budget in 2023-24. The proposed solutions, however, are insufficient to keep the state budget balanced in future years, with projected out-year deficits in the \$4 billion to \$9 billion range. Allowing the expiration of the temporary SCFCF funding would provide \$15 million in General Fund relief in future years relative to the Governor's budget.

Recommendations

Approve Proposed Shift of Trial Court Operations Support to General Fund. We recommend the Legislature approve shifting \$55.5 million in support for trial court operations from the SCFCF to the General Fund. This action would help maintain solvency of the SCFCF and existing trial court funding levels.

Direct Judicial Council to Report Annually on Condition of SCFCF. We recommend the Legislature direct Judicial Council to report annually on the SCFCF's long-term fund condition—including projected revenues, expenditures, and fund balance—as long as a General Fund backfill is required to address the SCFCF's insolvency. This information will enable the Legislature to ensure that the budget is adjusted annually to include the appropriate level of General Fund resources. For example, as noted above, there is expected to be a significant decline in SCFCF expenditures in 2032-33 due to decreased debt service payments at that time. Such reporting would help ensure that the backfill was appropriately decreased—thereby making General Fund available for other legislative priorities. Similarly, if revenues are significantly lower (such as in response to a change in state law) than expected, the backfill could be appropriately increased to ensure that all SCFCF obligations are being met.

Weigh Proposed Facility Modification Funding Increase Against Other Budget Priorities. The judicial branch has identified significant unaddressed facility needs which could merit additional support. However, the Legislature will want to weigh what level of additional SCFCF funding to provide, if any, as well as how long this increased funding should be provided against its other budget priorities. Moreover, reducing or rejecting the proposed ongoing spending on facility modification projects would provide the Legislature with a budget solution to help address the projected out-year deficits that would occur under the Governor's proposed budget.

LAO PUBLICATIONS

This report was prepared by Anita Lee, and reviewed by Drew Soderborg and Anthony Simbol. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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