

March 13, 2017

Governor's State Penalty Fund Proposal

LEGISLATIVE ANALYST'S OFFICE

Presented to:
Assembly Budget Subcommittee No. 5 on Public Safety
Hon. Shirley N. Weber, Chair





State Penalty Assessment One of Various Charges Added to Base Fine

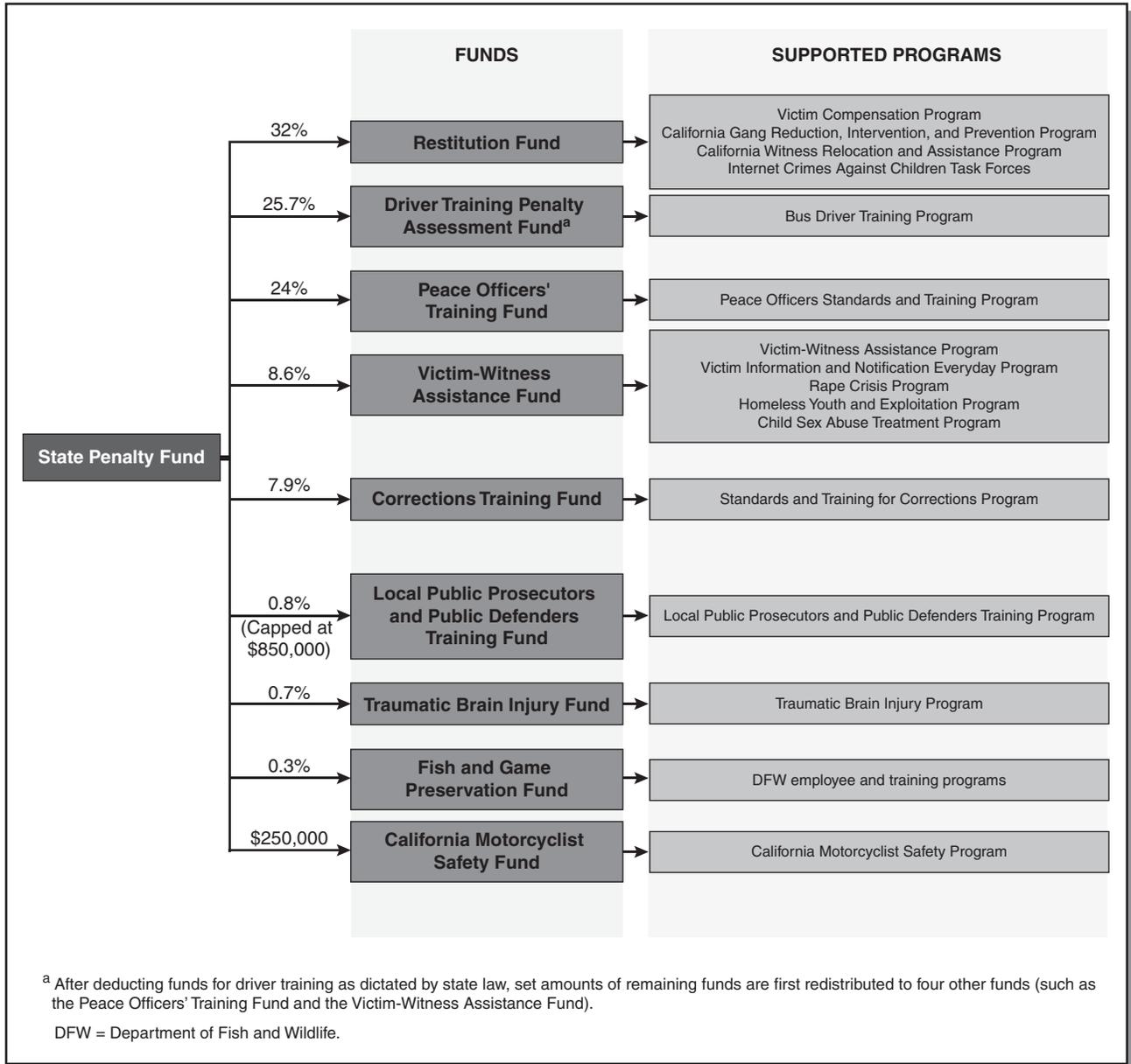
As of January 1, 2017

	How Charge Is Calculated	Stop Sign Violation (Infraction)	DUI of Alcohol/Drugs (Misdemeanor)
Standard Fines and Fees			
Base Fine	Depends on violation	\$35	\$390
State Penalty Assessment	\$10 for every \$10 of a base fine ^a	40	390
County Penalty Assessment	\$7 for every \$10 of a base fine ^a	28	273
Court Construction Penalty Assessment	\$5 for every \$10 of a base fine ^a	20	195
Proposition 69 DNA Penalty Assessment	\$1 for every \$10 of a base fine ^a	4	39
DNA Identification Fund Penalty Assessment	\$4 for every \$10 of a base fine ^a	16	156
EMS Penalty Assessment	\$2 for every \$10 of a base fine ^a	8	78
EMAT Penalty Assessment	\$4 per conviction	4	4
State Surcharge	20% of base fine	7	78
Court Operations Assessment	\$40 per conviction	40	40
Conviction Assessment Fee	\$35 per infraction conviction and \$30 per felony or misdemeanor conviction	35	30
Night Court Fee	\$1 per fine and fee imposed	1	1
Restitution Fine	\$150 minimum per misdemeanor conviction and \$300 minimum per felony conviction	—	150
Subtotals		(\$238)	(\$1,824)
Examples of Additional Fines and Fees That Could Apply			
DUI Lab Test Penalty Assessment	Actual costs up to \$50 for specific violations	—	\$50
Alcohol Education Penalty Assessment	Up to \$50	—	50
County Alcohol and Drug Program Penalty Assessment	Up to \$100	—	100
Subtotals		(—)	(\$200)
Totals		\$238	\$2,024

^a The base fine is rounded up to the nearest \$10 to calculate these additional charges. For example, the \$35 base fine for a failure to stop would be rounded up to \$40. DUI = driving under the influence; EMS = Emergency Medical Services; and EMAT = Emergency Medical Air Transportation.



State Penalty Fund (SPF) Supports Various Programs





Programs Receiving SPF Support

Program	Department	Description
Victim Compensation	VCB	Provides compensation to victims of violent crimes and eligible family members for various crime-related expenses (such as medical treatment).
Victim-Witness Assistance	OES	Provides grants to fund victim witness centers in each county. Centers provide multiple services to help victims.
Victim Information and Notification Everyday	OES	Provides immediate, automated telephone notification on the change in custody or case status of incarcerated offenders.
Rape Crisis	OES	Provides comprehensive services to victims of sexual assault to combat trauma and to navigate the criminal justice system.
Homeless Youth and Exploitation	OES	Provides services to homeless youth and youth involved in sexually exploitive activities. Services include food, shelter, and counseling.
Child Sex Abuse Treatment	OES	Provides services to children who are victims of sexual abuse and appropriate family members to assist in the child's recovery.
Peace Officers Standards and Training	POST	Sets minimum selection and training standards for California law enforcement, develops and runs training programs, and reimburses local law enforcement for training.
Standards and Training for Corrections	BSCC	Develops minimum standards for local correctional officer selection and training, certifies training courses for correctional staff, and reimburses local correctional agencies for some training.
CalGRIP	BSCC	Provides grant funds to cities that engage in collaborative approaches to reducing gang and youth violence. In 2015-16, 19 cities received grants.
CalWRAP	DOJ	Provides reimbursements to California district attorney offices for various services required by relocated witnesses and family members.
Motorcyclist Safety	CHP	Funds contracts for projects that increase motorcyclist safety.
Employee education and training	DFW	Supports employee education and training programs for the department.
Bus Driver Training	CDE	Certifies all school bus driver instructors and all instructors of bus drivers who transport farm laborers. Awards certification to drivers who complete a three-week classroom and driving course as well as other bus-related activities.
Traumatic Brain Injury	DOR	Provides vocational rehabilitation and independent living services to individuals who suffer traumatic brain injuries at seven locations across California. Also provides referrals to other available services.
Internet Crimes Against Children	OES	Provides grant funds to expand the activities (such as investigations) of five existing Internet Crimes Against Children Task Forces that respond to offenders who use the Internet or other technology to sexually exploit children.
Local Public Prosecutors and Public Defenders Training	OES	Provides grant funds for the California District Attorneys Association and the California Public Defenders Association to provide their attorneys with statewide training, education, and research.



SPF Expenditures Under Existing Law

(In Thousands)

Program	2016-17			2017-18			Change From 2016-17
	SPF	Other Funds ^b	Total	SPF	Other Funds	Total	
Victim Compensation	\$15,114	\$105,120	\$120,234	\$13,027	\$107,283	\$120,310	\$76
Various OES Victim Programs ^c	12,494	63,403	75,897	11,884	57,929	69,813	-6,084
Peace Officers Standards and Training	32,132	30,734	62,866	28,784	3,787	32,571	-30,295
Standards and Training for Corrections	17,418	3,706	21,124	16,880	100	16,980	-4,144
CalGRIP	9,519	—	9,519	9,519	—	9,519	—
CalWRAP	5,217	—	5,217	5,217	—	5,217	—
Motorcyclist Safety	250	2,941	3,191	250	2,941	3,191	—
DFW employee education and training	450	2,477	2,927	450	2,194	2,644	-283
Bus Driver Training	1,364	219	1,583	1,583	—	1,583	—
Traumatic Brain Injury	998	64	1,062	953	161	1,114	52
Internet Crimes Against Children	1,008	—	1,008	1,008	—	1,008	—
Local Public Prosecutors and Public Defenders Training	850	31	881	850	31	881	—
Totals	\$96,814	\$208,696	\$305,510	\$90,405	\$174,427	\$264,832	-\$40,678

^a Estimated expenditures based on current law, historical budgeting practices, and best available data.
^b Includes one-time funding to backfill reduction in SPF revenues—\$19.6 million from the General Fund and \$4.2 million from the Restitution Fund.
^c Includes Victim-Witness Assistance Program, Victim Information and Notification Everyday Program, Rape Crisis Program, Homeless Youth and Exploitation Program, and Child Sex Abuse Treatment Program.
OES = Office of Emergency Services; CalGRIP = California Gang Reduction, Intervention, and Prevention Program; CalWRAP = California Witness Relocation and Assistance Program; and DFW = Department of Fish and Wildlife.

☑ In 2016-17, the administration estimates that a total of \$306 million will be spent on programs supported by the SPF—\$97 million from the SPF and \$209 million from other funds (such as other state funds and federal funds), including \$24 million provided on a one-time basis to backfill a projected reduction in 2016-17 SPF revenues.

☑ In 2017-18, we estimate total expenditures would be about \$265 million under the state’s current distribution system—\$90.4 million from the SPF and \$174 million from other sources. This is a decline of \$41 million from the 2016-17 level—primarily due to the expiration of the one-time backfills. Programs would generally have flexibility in how they address reductions.



Governor Proposes Alternative SPF Expenditure Plan

(In Thousands)

Program	2016-17 ^a			2017-18 (Proposed)			Change From 2016-17
	SPF	Other Funds ^b	Total	SPF	Other Funds	Total	
Victim Compensation	\$15,114	\$105,120	\$120,234	\$9,082	\$111,228	\$120,310	\$76
Various OES Victim Programs ^c	12,494	63,403	75,897	12,053	57,929	69,982	-5,915
Peace Officers Standards and Training	32,132	30,734	62,866	46,496	3,787	50,283	-12,583
Standards and Training for Corrections	17,418	3,706	21,124	17,209	100	17,309	-3,815
CalGRIP	9,519	—	9,519	—	—	—	-9,519
CalWRAP	5,217	—	5,217	3,277	—	3,277	-1,940
Motorcyclist Safety	250	2,941	3,191	—	3,191	3,191	—
DFW employee education and training	450	2,477	2,927	450	2,194	2,644	-283
Bus Driver Training	1,364	219	1,583	1,038	100	1,138	-445
Traumatic Brain Injury	998	64	1,062	800	314	1,114	52
Internet Crimes Against Children	1,008	—	1,008	—	—	—	-1,008
Local Public Prosecutors and Public Defenders Training	850	31	881	—	—	—	-881
Totals	\$96,814	\$208,696	\$305,510	\$90,405	\$178,844	\$269,249	-\$36,261

^a Estimated expenditures based on current law, historical budgeting practices, and best available data.
^b Includes one-time funding to backfill reduction in SPF revenues—\$19.6 million from the General Fund and \$4.2 million from the Restitution Fund.
^c Includes Victim-Witness Assistance Program, Victim Information and Notification Everyday Program, Rape Crisis Program, Homeless Youth and Exploitation Program, and Child Sex Abuse Treatment Program.

OES = Office of Emergency Services; CalGRIP = California Gang Reduction, Intervention, and Prevention Program; CalWRAP = California Witness Relocation and Assistance Program; and DFW = Department of Fish and Wildlife.

The Governor proposes to eliminate existing statutory formulas that dictate how SPF revenues are to be distributed and instead appropriate specific dollar amounts directly to certain programs based on the administration’s priorities. The Governor proposes total expenditures of \$269 million for programs supported by the SPF—a reduction of \$36 million (or 12 percent) compared to the 2016-17 level.

Under the proposal, SPF funding for four programs would be eliminated. Programs prioritized by the administration (such as training for state and local law enforcement) would be required to address smaller expenditure reductions than they otherwise would under current law.



LAO Assessment

- Helps Increase State Control Over Use of Fine and Fee Revenue . . .*** One key problem with the state's existing fine and fee system is that various statutory distribution formulas make it difficult for the Legislature to control the use of fine and fee revenue. The Governor's proposal helps address this problem by eliminating SPF formulas, which allows the state to more easily reprioritize the use of funding to programs deemed to be high priority.
- . . . Budget Unclear What Impact Proposed Reductions Will Have.*** The administration's proposal, however, does not specify how programs are to address proposed funding reductions. Thus, the programmatic impact of the proposed reduction is unknown at this time.
- Proposal Does Not Include Plan if SPF Revenues Are Lower Than Estimated.*** The amount of criminal fine and fee revenue deposited into the SPF can fluctuate from year to year. Existing statutory formulas currently dictates how reductions will be allocated among programs if revenues are less than expected. In contrast, the administration does not provide a plan for allocating reductions if revenues are less than expected.
- Legislature May Have Different Priorities.*** It is likely that the Legislature has different priorities from the administration. The Legislature could decide that different programs should be eliminated or that programs should implement different levels of expenditure reductions. The Legislature may also want departments to address reductions in particular ways to ensure that funding is used consistent with legislative priorities.



LAO Recommendations



Modify Governor's Proposal to Reflect Legislative Priorities

- We recommend the Legislature (1) modify the proposal to reflect its spending priorities, (2) direct programs to take specific actions in implementing the expenditure reductions, and (3) specify a plan to the extent 2017-18 SPF revenues are lower than expected.
- To assist the Legislature with this, we recommend directing each department to report in budget hearings on (1) how it would implement expenditure reductions, (2) impacts on program operations, and (3) whether alternative fund sources could support program operations.



Alternatively, Deposit Most Criminal Fine and Fee Revenue in State General Fund

- We believe that taking a much broader approach to changing the overall distribution of fine and fee revenue would be preferable. Specifically, we find that eliminating *all* statutory criminal fine and fee distribution formulas would give the state maximum control over the use of such revenue.
- Accordingly, we continue to recommend requiring that nearly all fine and revenue be deposited into the state General Fund for subsequent appropriation by the Legislature.
- This would (1) ensure that funding is provided based on program workload and legislative priorities, (2) allow programs to no longer be disproportionately impacted by fluctuations in revenue, and (3) eliminate the need to continuously identify and implement short-term solutions to address problems with other state funds due to declines in criminal fine and fee revenue.