

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk



Thursday, January 27, 2011
10:00 a.m. (or upon adjournment)
Room 113

Consultant: Brian Brown

<u>Item Number and Title</u>	<u>Page</u>
0855 California Gambling Control Commission.....	2
0690 California Emergency Management Agency	5
1870 California Victim Compensation and Government Claims Board	8
0250 Judicial Branch.....	12

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California Gambling Control Commission (0855)

Departmental Overview. The California Gambling Control Commission (CGCC) has jurisdiction over gambling establishments (cardrooms), Tribal casinos, and charitable organizations that offer remote caller bingo, pursuant to its authority under State law and Tribal-State Gaming Compacts.

There are 89 licensed cardrooms in California over which the Commission has regulatory authority. This authority extends to the operation, concentration, and supervision of the cardrooms and all persons and things related to each licensed establishment.

The Commission has fiduciary, regulatory, and administrative responsibilities related to Tribal gaming that include: (1) oversight of Class III gaming operations, which are primarily casino-type games, (2) distribution of tribal gaming revenues to various State funds and to authorized, federally-recognized, non-Compact Tribes, (3) monitoring of Tribal gaming through periodic background checks of tribal key employees, vendors, and financial sources, (4) validation of gaming operation standards through testing, auditing, and review, and (5) fiscal auditing of Tribal payments to the State pursuant to Compact provisions.

The Commission has fiduciary, regulatory, and administrative responsibilities related to remote caller bingo that include: (1) regulation of the licensure and operation of remote caller bingo, (2) validation of gaming operations standards through testing, auditing, and review, and (3) fiscal auditing of the organizations and vendors of equipment that conduct remote caller bingo.

Budget Overview. The CGCC has a proposed budget of \$108.4 million in 2011-12, a \$30 million decrease from the current year. The reduction reflects the one-time \$30 million augmentation of the Indian Gaming Special Distribution Fund in 2010-11. The Commission has no General Fund in its budget with the Indian Gaming Revenue Share Trust Fund the source of 89 percent of its budget authority. According to the Governor's budget, the Commission has about 73 authorized positions.

Issue 1 – Gambling Control Licenses

Proposal. The Commission requested \$45,000 in one-time funding from the Gambling Control Fund for information technology upgrades necessary to process delinquency fees for late renewals of gambling licenses based on authority provided in AB 2596 (Portantino, Chapter 553, Statutes of 2010).

Staff Comments. The Department of Finance has notified the committee of the administration's request to withdraw this proposal. According to DOF, the Commission has determined that it can absorb this workload within existing resources.

Staff Recommendation. Deny this request. The Committee needs to take the formal action of rejecting the proposal in order to remove it from the Governor's budget, as requested by the administration.

Issue 2 – Remote Caller Bingo

Background. The Remote Caller Bingo Act (SB 1369 [Cedillo], Chapter 748, Statutes of 2008) was approved by the Legislature to authorize remote caller bingo as a game that allows specific nonprofit organizations to use audio or video technology to remotely link designated in-state facilities to cosponsor live bingo games. The Commission is required to regulate remote caller bingo, including licensure and development of regulations. In addition, the Remote Caller Bingo Act requires the Commission to license persons that manufacture, distribute, supply, vend, lease or otherwise provide card-minding devices for bingo ("traditional" bingo and remote caller bingo).

The Commission currently has five positions authorized to manage the workload associated with this program. These positions were approved on a two-year limited term basis that will expire at the end of the current fiscal year.

While the Commission has recognized charitable organizations as eligible to conduct remote caller bingo games, no games have yet been conducted. The program was intended to be funded entirely from program fees, but it has primarily been funded from loans from the Gambling Control Fund and the Indian Gaming Special Distribution Fund because the program has only generated about \$52,000 since its inception. To date, ten organizations have been recognized to conduct remote caller bingo, and six more organizations are currently in the application process or scheduled to be considered by the Commission.

Proposal. The Commission requests 1.0 position and \$104,207 from the California Bingo Fund on a one-time basis to address workload associated with the California Remote Caller Bingo Act.

Staff Comments. While the Commission clearly has a statutory responsibility to license and regulate remote caller bingo games, it is unclear that the amount of workload fully justifies even a single full position. This is particularly true considering that there have been no games yet conducted, and the amount of fee revenues collected in the three years since passage of the bill authorizing remote caller bingo have been too low to support even one position.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Given the relatively low number of applications coming to the Commission, can the department absorb this workload?
- What is the department's plan for repaying the special fund loans to the California Bingo Fund?

Staff Recommendation. Deny without prejudice. This is still a relatively new program with some, albeit small, workload for the department. By holding this issue over to later in the Spring, it will allow the Legislature to see if additional workload arises that would justify the continuation of the requested position.

California Emergency Management Agency (0690)

Department Overview. The principal mission of the California Emergency Management Agency (CalEMA) is to reduce the state's vulnerability to hazards and crimes through emergency management and criminal justice programs.

The CalEMA was created by Assembly Bill 38 (Chapter 372, Statutes of 2008) as an independent entity reporting directly to the Governor. The CalEMA was formed by merging two departments, the Office of Emergency Services (OES) and the Office of Homeland Security (OHS).

During an emergency, CalEMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, CalEMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response, and recovery.

Further, CalEMA also provides financial and technical assistance to local governments, state agencies, and the private sector for public safety and victim services.

Budget Overview. The department has a 2011-12 budget of \$1.4 billion, more than \$1 billion of which is funded through federal funds. The Governor's budget includes about \$200 million in General Fund. The CalEMA has 573 authorized staff positions.

Issue 1 – Federal Justice Assistance Grant

Background. The CalEMA is the administering department for the justice stimulus funding that came to California as part of the American Recovery and Reinvestment Act of 2009 (ARRA). This included three major programs – the Justice Assistance Grant (\$135.6 million), Victims of Crime Act (\$2.8 million), and Violence Against Women Act (\$12.0 million). The table below shows the amount of funding that has been allocated for each program authorized and the amount expended to date. (Note that under federal requirements, expenditures to grant recipients are paid on a reimbursement basis.)

CalEMA ARRA Program Expenditures to Date
(As of December 31, 2010)

Program	Allocations	Expenditures
Justice Assistance Grant (JAG)	\$134.5	\$33.7
Substance abuse treatment	44.4	22.6
Evidence-based probation	45.0	5.9
Anti-drug abuse task forces	19.8	2.6
Parolee reentry courts	10.0	0.1
CA multi-jurisdictional meth enforcement	4.5	0.9
Anti-human trafficking	3.8	0.4
Firearms trafficking	3.3	0.1
Regional anti-gang intelligence	2.1	0.4
Victim information and notification	1.5	0.6
Drug task force training	0.2	0.0
Victims of Crime Act (VOCA)	\$2.8	\$2.6
Child abuse treatment	0.7	0.7
Domestic violence assistance	0.2	0.2
Sexual assault program	0.7	0.7
Special emphasis victim assistance	0.1	0.1
Victim/witness assistance	1.1	0.9
Violence Against Women Act (VAWA)	\$12.0	\$9.8
Domestic violence assistance	1.5	1.5
Medical training center	0.6	0.4
Farmworker women program	0.4	0.2
Equality in prevention for domestic abuse	0.4	0.3
Native American training	0.6	0.5
Court education and training	0.6	0.5
Law enforcement training	0.3	0.1
Prosecutor training	0.3	0.2
Probation specialized unit	1.2	1.0
Sexual assault program	1.8	1.8
Victim/witness assistance	0.7	0.6
Special emphasis victim assistance	0.1	0.1
Sexual assault specialized response	1.2	0.7
Sexual assault training	0.3	0.1
Vertical prosecution	2.0	1.8

Note: In millions of dollars.

Proposal. The CalEMA requests \$592,000 in federal fund authority in 2011-12 to continue to administer ARRA JAG funds.

Staff Comments. The level of funding requested is consistent with the amount authorized by the Legislature last year.

The committee may wish to use this opportunity to receive an update from CalEMA on its progress administering the stimulus funds. While 83 percent of the VOCA and VAWA stimulus dollars have been expended to date, only 25 percent of the JAG dollars have been expended.

Staff Recommendation. Approve as budgeted.

Issue 2 – John R. Justice Grant

Background. The CalEMA was awarded \$1,046,000 in September 2010 from the federal Department of Justice for the John R. Justice Grant (JRJ). This program provides loan repayment assistance for local, state, and federal public defenders and local and state prosecutors who commit to new or continued employment as public defenders or prosecutors for at least three years.

Proposal. The CalEMA requests \$1,046,000 in Federal Trust Fund authority to administer the federal John R. Justice Grant Program. Of this amount, \$52,000 (5 percent) will be retained for state administration costs. There is no state match requirement.

The CalEMA will collaborate with the California Student Aid Commission in distributing these funds. The Commission will also retain about 5 percent of the total federal award for its administrative costs. The department plans to award up to 188 applicants approximately \$5,000 each, equally dividing the funds between eligible prosecutors and public defenders.

Staff Comments. It is typical for departments to retain between 5 and 10 percent of grant funding for administrative costs.

Staff Recommendation. Approve as budgeted.

CA Victim Compensation and Government Claims Board (1870)

Department Overview. The governing body of the California Victim Compensation and Government Claims Board (VCGCB) consists of three members: the Secretary of the State and Consumer Service Agency who serves as the chair, the State Controller, and a public member appointed by the Governor. The VCGCB provides responsive financial compensation to remedy the financial burdens of victims of crime through a stable Restitution Fund, and for those with claims against the State, an opportunity to resolve those claims or proceed with other remedies. The primary objectives of the VCGCB are to:

- Compensate victims of violent crime and eligible family members for certain crime-related financial losses.
- Review and act upon civil claims against the state for money or damages.
- Resolve bid protests with respect to the awarding of state contracts for the procurement of goods and services. Provide for reimbursement of counties' expenditures for special elections called for by the Governor to fill vacant seats in the Legislature and Congress.
- Determine the eligibility of individuals for compensation for pecuniary injury sustained through erroneous conviction and imprisonment.
- Process claims for the Missing Children Reward Program to assist local law enforcement agencies or other parties involved in the identification and recovery of missing children in California.
- Assist with the administration of the California State Employees Charitable Campaign.
- Process claims through the Good Samaritan Program to private citizens who are injured rescuing another person, preventing a crime, or assisting a law enforcement officer.

Budget Overview. The Board has a proposed budget of \$155.2 million in 2011-12, an increase of about \$3.9 million over the current year. The Restitution Fund makes up about three-quarters of the department's budget expenditure authority. The department has no General Fund. The Board is authorized for about 283 positions in the budget year.

Issue 1 – Restitution Fund Insolvency

Background. Victims of crime and their families are eligible to receive state funding for crime-related financial costs through the Restitution Fund. The Restitution Fund

also funds other crime-related programs, including \$15.2 million to support local anti-gang grants and the Internet Crimes Against Children Task Force administered by CalEMA, as well as the Witness Protection Program administered by the Department of Justice. The Restitution Fund also funds \$11.6 million for 161.5 positions in 20 Joint Powers local claims processing units and \$1.3 million for 44 restitution specialists in the offices of 25 district and city attorneys. These specialists – mostly paralegal and support staff – work with local officials to pursue the imposition of and promote the collection of restitution fines and orders. To encourage collection of restitution, the law provides a 10 percent rebate to counties.

Proposal. The Board proposes several changes designed to ensure the solvency of the Restitution Fund through 2011-12. In total, these changes would reduce Restitution Fund expenditures by \$5,827,000 and increase Federal Trust Fund expenditures by \$500,000. More specifically, the changes proposed by the Board are as follows:

- Reduce operating expenditures by \$2.2 million in 2011-12 (and \$3.5 million in 2010-11).
- Limit growth in Restitution Fund claim payments to 2.5 percent by reducing the rate of payment for mental health interns and a more stringent review of additional sessions authorized via an Additional Treatment Plan (ATP).
- Shift \$500,000 in Restitution Fund claim payment expenditures to federal funds in the current and budget years.
- Reduce Joint Powers claims processing and restitution specialist contracts by 5 percent (\$707,000).
- Reduce the baseline budget for the 10 percent county rebates by \$2.4 million to more closely align with actual expenditures.

Staff Comments. The fiscal health of the Restitution Fund has oscillated over the years from periods that included high fund balances to periods of projected insolvency. According to the Board, the fund has periodically faced fiscal challenges because there is no direct association or control between the Restitution Fund revenues and program expenditures. So, for example, in 1993 the Legislature decided to provide the Fund with a \$44 million loan from the General Fund. More recently, the Restitution Fund provided an \$80 million transfer to the General Fund.

In recent years, the Restitution Fund has been heading for insolvency because its annual expenditures exceed its annual revenues. The table below shows the Fund's projected expenditures, revenues, and year-end balance assuming approval of this request.

Restitution Fund Condition

(In millions of dollars)

Fiscal Year	Beginning Balance	Revenues	Expenditures	Ending Balance
2009-10	\$51.8	\$117.3	\$123.4	\$45.8
2010-11	\$45.8	\$113.3	\$131.7	\$27.4
2011-12	\$27.4	\$112.3	\$134.8	\$4.9

As shown in the figure above, Restitution Fund revenues are declining, while expenditures are climbing. In 2011-12, the projected revenues are \$22.5 million less than projected expenditures, even with the changes proposed in this request. This raises fundamental questions about the long-term health of the Restitution Fund.

Addressing the long-term solvency of the Restitution Fund involves two questions: (1) how can restitution revenues be increased, and (2) how can expenditures be decreased? It is unclear why restitution revenues are decreasing, though one possibility is that, given the state's economy, offenders are less able to pay fines and penalties and/or judges are ordering less. Another possibility is that due to state and local budget cuts, counties and courts have had to reduce their collection efforts.

According to the Board, the main driver of increased Restitution Fund costs are the number of claims filed. The following table shows the increase in applications received and allowed over the past three years.

Restitution Applications and Payments

Fiscal Year	Applications Received	Bills Received	Total Payments
2007-08	53,693	243,043	\$81,209,610
2008-09	54,572	308,057	\$94,027,080
2009-10	57,254	206,315	\$96,575,800

It is also worth noting that in 2008, both the Legislative Analyst's Office and the Bureau of State Audits issued reports that, among other findings, identified what appeared to be excessive administrative costs in the department. The LAO found that in 2006-07, administrative costs equaled 31 percent of the total state and federal funding for the program, an amount significantly higher than several other states. Similarly, the BSA found that administrative costs ranged between 26 and 42 percent of Restitution Fund disbursements annually.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Even with this proposal to reduce some costs, the Board projects Restitution Fund expenditures to increase by a total of \$3.1 million in 2011-12. Why?

- What are the operational changes being implemented to achieve the \$2.2 million in 2011-12 (and \$3.5 million in 2010-11)?
- What progress has the Board made in reducing administrative costs?
- Will the reduction in restitution specialists contracts reduce the amount of restitution revenues collected?
- What steps is the Board considering to ensure the long-term solvency of the Restitution Fund? More specifically, what viable options are available to (1) increase revenue, and (2) reduce costs?
- How does California compare to other states with respect to our ability to collect restitution from offenders?

Staff Recommendation. Deny without prejudice. Holding this issue over until this Spring will provide the subcommittee with more time to consider this request, as well as an opportunity to consider possible alternatives to address the longer-term fiscal insolvency of the Restitution Fund.

Judicial Branch (0250)

Departmental Overview. The California Constitution vests the state's judicial power in the Supreme Court, the Court of Appeals, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state supported. Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle), shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts.

The Judicial Branch consists of two components: (1) the judiciary program (the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center), and (2) the Trial Court Funding program, which funds local superior courts. The 2005-06 Budget Act merged funding for the judiciary and Trial Court Funding programs under a single "Judicial Branch" budget item. It also shifted local assistance funding for a variety of programs, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

Budget Overview. The Governor's budget provides a total of \$2.8 billion (includes net reduction from \$860 million offset from the Governor's proposed redevelopment agency shift) in 2011-12. Historically, the General Fund has provided about half of the total funding for the Judicial Branch.

The Branch is authorized for 2,039 state positions, primarily for the Courts of Appeal and Judicial Council. This figure does not include trial court employees throughout the state.

In addition to the proposals described below, the administration proposes to use \$860 million in funds that historically would have gone to redevelopment agencies to offset trial court General Fund costs in 2011-12.

Issue 1 – \$200 Million Unallocated Reduction

Proposal. The Governor's budget includes an ongoing \$200 million unallocated reduction in General Fund support of the Judicial Branch.

Staff Comments. The Governor's budget does not specify how the courts will be expected to achieve this unallocated reduction, but the administration indicates that it intends to work with stakeholders to identify ways to implement the reduction in a

manner that is least harmful to the courts and preserves service levels provided to the public. In previous years when unallocated reductions were included in the Branch's budget, the Branch was able to utilize balances in its special funds and trial court reserves to offset at least part of the budget reductions allocated to the Branch. The table below shows the projected balances for select special funds and trial court reserves at the end of the budget year. It should be noted that some amount of the trial court reserves are already designated for specific purposes and may not all be available for other purposes.

2011-12 Year-End Special Fund Balances

(In millions of dollars)

Fund	Projected Fund Balance or Reserves
Trial Court Reserves – Non-TCTF*	\$293.2
Trial Court Reserves – TCTF*	\$205.6
Immediate and Critical Needs Account	\$186.8
Trial Court Trust Fund	\$15.2
Trial Court Improvement Fund	\$3.6

* Data for year-end 2009-10.

TCTF: Trial Court Trust Fund

The LAO has issued a report recommending a combination of seven changes for the Legislature to consider in implementing reductions to the judicial branch. In total, the LAO's recommended changes would result in \$356 million in savings in the budget year. While some of the recommended budget solutions are one-time in nature, others would increase in out-years, resulting in about \$300 million in ongoing savings when fully implemented. The LAO recommended options are listed below.

LAO Recommendations for Cost Savings in Judicial Branch			
<i>(In Millions)</i>			
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

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Is utilization of special fund or trial court reserves the best option for absorbing the proposed unallocated reduction? How would this impact operation of the courts?
- What other options does the Judicial Branch have to absorb the proposed unallocated reduction?
- How would implementation of the LAO's recommendations affect operation of the courts?

Staff Recommendations. Hold open. The Judicial Branch, administration, Legislature, and stakeholders need to continue discussions to determine how this level of reduction could be accomplished and how it would impact operation of the court system.

Issue 2 – Construction Fund Loan

Background. The State Court Facilities Construction Fund was created to deposit state court construction penalty assessments, surcharges on parking offenses, and filing fee surcharges on civil actions to pay to acquire, rehabilitate, construct, and finance court facilities.

Proposal. The Governor's budget includes a one-time loan of \$350 million to the General Fund from the State Court Facilities Construction Fund. The loan is to be repaid, without interest, within three years.

Staff Comments. The Fund has a projected balance of \$342 million at the end of the current year and is projected to have a year-end balance of \$62 million in the budget year even with the proposed loan. The fund balance is projected to remain

positive until the \$350 million is repaid. Accordingly, it appears that the fund has a healthy enough balance to sustain this borrowing proposal.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Will the proposed loan affect the construction of any currently planned projects?

Staff Recommendation. Approve as budgeted.

Issue 3 – Conservatorship Program Repeal

Background. The Conservatorship and Guardianship Reform Act of 2006 (AB 1363, Jones) was designed to increase court oversight of the conservatorship and guardianship system. Among other change, the Act requires Judicial Council to develop qualifications and continuing education requirements for probate court judges, attorneys, and court investigators and to establish uniform standards for conservatorships and guardians. It also requires the probate court to review conservatorships at a noticed hearing six months after appointment of the conservator and annually thereafter. Due to budget constraints, the state budget has delayed funding this program on a one-year basis each year since the Act was passed.

Proposal. The Governor’s budget assumes a permanent decrease of \$17.4 million to reflect the elimination of statutory requirements to implement the Act. The proposed change would relieve the courts of the mandated responsibilities under the Act, but would still allow for individual courts who have been implementing parts of the Act to continue to do so. The Legislature has not yet received the administration’s proposed trailer bill language.

Staff Comments. Given the state’s General Fund condition, it would not be prudent to begin funding a new program such as the Conservatorship and Guardianship Act in the coming fiscal year. A question for the Legislature is whether to actually repeal

the requirements of the Act or simply delay its funding, as has been the approach adopted in past years.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Should the Act be repealed, the activities made discretionary rather than required, or the funding simply delayed for another year?
- Under the Governor’s proposal to repeal the Act, to what extent would trial courts continue to conduct any of the activities authorized by the Act?

Staff Recommendations. Hold open pending receipt and review of the administration’s trailer bill language.

Issue 4 – Civil Representation Budget Bill Language

Background. In 2009, the Legislature enacted AB 590 (Feuer, Chapter 457) which, among another changes, requires the Judicial Council to develop one or more model pilot projects to provide legal counsel to low-income parties in certain civil matters. The bill also increased by \$10 fees for certain court services, such as issuing an abstract of judgment and registering a license or certificate.

Proposal. The administration proposes Budget Bill Language to support implementation of the Civil Representation Pilot Program. The language will provide for increased expenditure authority in the Trial Court Trust Fund for full expenditure of any revenues collected for this program, consistent with the requirements of AB 590. The language also allows \$500,000 to be retained for administrative activities by the Administrative Office of the Courts.

Staff Comments. According to the AOC, fee revenues are expected to be about \$10.2 million. The proposed language would allow the Branch the flexibility to spend more on the program if a higher level of revenue were to materialize. The amount of

funding designated for administration – about 5 percent - seems reasonable. The Branch reports that the administrative activities will include project oversight, technical assistance, and preparation of legislatively required reports.

The committee may wish to use this opportunity to ask the Judicial Branch about its progress implementing the pilot program.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What pilot sites have been chosen? How close are those courts to implementing this program?
- What services will be provided under this program? How many low-income clients are expected to receive these services?

Staff Recommendations. Approve as budgeted.

Issue 5 – CFTF Appropriation Adjustment

Background. The Trial Court Facilities Act (Chapter 1082, Statutes of 2002) transferred responsibility for operation and maintenance of court facilities to the state. The Act established a process by which counties provide funding for facilities operation and maintenance costs based on historic funding patterns through a county facility payment (CFP) to the state.

Proposal. The Judicial Branch requests an adjustment to the Court Facilities Trust Fund of \$8,205,000, which includes \$3,210,000 in reimbursement authority for the amount of additional funding coming from counties. The proposed increase in funding authority supports ongoing operations and maintenance of court facilities transferred to state responsibility.

Staff Comments. This is a standard adjustment made as court facilities are transferred to the state and new courts are constructed to replace old facilities.

Staff Recommendation. Approve as budgeted

Issue 6 – Court Appointed Counsel Budget Bill Language

Background. California has a constitutional mandate to provide adequate legal services to indigents in criminal and juvenile matters before the Courts of Appeal. Private attorneys are appointed by the courts of appeal to provide representation to these appellants. Statewide, the attorneys are selected, trained, and mentored by five non-profit appellate projects that contract with the Courts of Appeal to oversee the attorneys' work on each individual case and ensure competency, efficiency, and cost-effectiveness.

Proposal. The Judicial Branch requests Budget Bill Language authorizing the Branch to submit a deficiency request to address a shortfall in the Courts of Appeal Court Appointed Counsel Program should one occur in 2011-12. The language also specifies that the Branch is authorized to accrue current year claims when the appropriated funding is insufficient.

Staff Comments. This program has had funding shortfalls in each of the past three years, ranging from \$3.8 million to \$7.5 million. The following table shows the shortfall over each of the past few years.

Court-Appointed Counsel Shortfalls *(In millions of dollars – General Fund)*

Fiscal Year	Expenditures	Budget Authority	Savings/(Shortfall)
2006-07	\$52.4	\$52.7	\$0.2
2007-08	\$60.9	\$57.1	(\$3.8)
2008-09	\$67.0	\$58.8	(\$7.5)
2009-10	\$63.8	\$58.8	(\$5.0)

According to data provided by the Judicial Branch, it appears that total project costs have risen in recent years primarily due to increases in the number of appointments and hourly rates paid. However, costs did decrease in 2009-10.

While the Branch is currently projecting a shortfall in 2011-12, the decrease in project costs in 2009-10 suggests the possibility that the trend may be reversing, raising uncertainty about whether a budget year deficiency is to be expected. This uncertainty is particularly true considering that, at the time the Branch's request was prepared, it only had one month of actual data for the current year. Therefore, it may be worth waiting a few more months during the current year to see actual current year cost trends for this program.

Additionally, staff notes the requested language may set unusual precedents. Specifically, departments are expected to either request additional funding or identify ways to absorb new costs when they foresee increased costs in the budget year. Asking for language to allow the Branch to incur a deficiency is, therefore, unusual.

Also, it is unclear why the Branch would seek to accrue current year claims to be paid in the following budget year. Standard budgeting practice is for claims to be charged to the fiscal year in which they were incurred.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- In anticipating a budget year shortfall in this program, what steps has the Branch considered to either reduce or otherwise absorb program costs so as not to incur a deficiency?
- Why is the Branch not proposing an increase in base funding if it anticipates a funding shortfall in the budget year?
- Why is the Branch requesting language that would allow it to accrue current year claims? Won't this simply push the problem to the next year?

Staff Recommendations. Deny without prejudice in order to see how current-year program costs trend. Request the Judicial Branch examine possible ways to reduce or otherwise absorb program costs within its existing budget.

Issue 7 – Capital Outlay Requests
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Background. The Immediate and Critical Needs Account (ICNA) was established under current law for the purpose of constructing additional courthouses throughout the state. The revenue from these funds comes primarily from increased fines and court fees.

Proposals. The Governor's budget includes funding for working drawings and/or construction of 17 new courthouses and 2 courthouse renovation projects. These projects are lease-revenue bond funded projects with lease-revenue payments coming from the ICNA. The table below identifies information about each of these 19 projects.

Courthouse Construction Projects

(Dollars in millions)

Project	Phase*	Requested Amount	Total Project Cost Estimate
New Delano (Kern)	W	\$2.533	\$41.425
New Los Banos (Merced)	W	\$1.974	\$32.208
New Hanford (Kings)	W	\$8.342	\$136.460
New Yreka (Siskiyou)	W	\$5.861	\$95.370
Renovate Fresno (Fresno)	W	\$6.142	\$113.348
Renovate Juvenile Justice Center (San Joaquin)	W, C	\$3.633	\$3.877
New Sonora (Tuolumne)	W	\$4.268	\$69.236
New San Diego Central (San Diego)	W	\$32.367	\$642.596
New Family Justice Center (Santa Clara)	W	\$14.637	\$241.950
New Sacramento Criminal (Sacramento)	W	\$22.924	\$437.519
New El Centro (Imperial)	W	\$3.496	\$59.484
New Red Bluff (Tehama)	W	\$3.982	\$72.313
New Lakeport (Lake)	W	\$3.646	\$55.967
New Redding (Shasta)	W	\$9.055	\$170.598
New Indio Juvenile and Family (Riverside)	W	\$3.789	\$65.682
New Yuba City (Sutter)	W	\$4.693	\$73.906
New South Monterey (Monterey)	W	\$2.985	\$49.061
New Woodland (Yolo)	W	\$9.639	\$167.374
New North Butte (Butte)	W	\$4.358	\$76.947

* W = Working drawings; C = Construction

Staff Comments. Earlier phases of each of these projects have all been approved by the Legislature in past years in recognition of the benefits of constructing new courthouses to address capacity, programmatic, and facility safety issues.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What is the current status of site acquisition and preliminary planning for these projects?
- What is the long-term projected fund balance for the ICNA?

Staff Recommendations. Hold open. Staff raises no technical concerns with proposals, but recommends holding proposals open in light of statewide budget problem and pending further budget deliberations.