

JUDICIAL BRANCH BUDGET
Fiscal Year 2003–2004
Questions and Answers

Prepared by the Administrative Office of the Courts

- 1. The State is facing further budget reductions for the next fiscal year (July 1, 2003 – June 30, 2004) that may affect all areas of state and local government operations. Does the Judicial Council have any stated principle to guide discussion on possible reductions in the judicial branch?**

Yes. As the scope and magnitude of the state’s fiscal crisis has continued to grow and budget reductions have become a reality, the Judicial Council advocates the position that budget reduction discussions should be guided by the mandate to the branch and all court jurisdictions to preserve access for the public by maintaining open courts.

To that end, the council and the AOC are striving to:

- Mitigate adverse consequences of budget reductions on those services designed to reduce barriers to access, including those supporting non-English speakers, persons who are financially unable to retain counsel, as well as individuals with physical disabilities;
- Take all possible steps to avoid the unintended consequences of placing the burden of the financial crisis on court employees; and
- Protect programs where the judicial branch has a substantial investment that would be lost due to a reduction, deferral or cancellation.

- 2. Is the judicial branch facing further reductions and, if so, what is the maximum risk of reductions for the courts?**

The level of reductions to the branch and the courts is uncertain at this time. Based on the Governor’s proposed budget, which contained a variety of policy initiatives and unallocated cuts, the Judicial Council has advised the courts to prepare for a 5 percent or 9 percent reduction.

Governor’s Proposed Reductions

The Governor’s fiscal year (FY) 2003–04 budget proposal includes \$116 million in unallocated reductions for the trial courts, and a \$17.7 million unallocated reduction to the appellate courts, AOC, and Habeas Corpus Resource Center.

Governor's Policy Proposal

The Governor's budget includes policy changes totaling \$129.3 million that would result in either increased revenues or cost reductions for the branch.

The proposals include:

Increased Revenues

- | | |
|---|----------------|
| ▪ Increase trial motion fee from \$23 to \$33 | \$ 1.2 million |
| ▪ Undesignated fees | 31.0 million |
| ▪ Security fee of \$20 for all superior court matters | 34.0 million |
| ▪ Increase appellate filing fee from \$265 to \$630 | 2.1 million |

Cost Reductions

- | | |
|---|----------------|
| ▪ Security flexibility – permit trial courts to contract with any public law enforcement agency | \$22.0 million |
| ▪ Reporting of the record – permit use of electronic recording | 31.0 million |
| ▪ Ownership of the record – shift ownership of record from reporter to the state | 5.5 million |
| ▪ Consolidation of administrative services | 2.5 million |

How do these proposals save money?

The proposed revenue increases assume that through fee increases revenues will increase, permitting a corresponding reduction to the General Fund appropriation of the same amount.

The proposed policy changes assume trial court expenditures will be reduced as a result, thereby requiring a smaller allocation from the Trial Court Trust Fund. Therefore, this amount has been reduced from the General Fund.

The reductions above are in addition to the Governor's proposed \$116 million reduction for the trial courts and the \$17.7 million reduction for the Judiciary.

Is there any risk they won't save the projected level of funding?

Yes. Revenue and cost reduction projections are based on assumption that the proposals will be enacted without modification and implemented effective July 1, 2003. Given that a number of constituent groups have expressed concerns about these proposals and forecasts for an approved budget are several months into the next fiscal year, it now appears that both assumptions are uncertain. The Judicial Council is meeting with all constituent groups in an attempt to develop consensus on modifications to the proposals that could be presented to the Governor and legislative leadership.

Is the Judicial Council attempting to negotiate changes that may make efficiencies acceptable to those who would be affected?

Yes. For some of the proposals, including security flexibility, reporting of the record, and undesignated fees, judicial branch representatives currently are engaged in discussions with constituent groups in an attempt to reach agreement on the proposals.

If the proposals are implemented late or modified, will expected savings from the judicial branch be reduced?

No, not unless the Legislature takes specific action to restore the General Fund appropriation that has been reduced from the budget, assuming such savings will be realized.

Unfunded Mandatory Costs

While the proposed FY 2003–04 budget includes \$42.691 million in new funding for the trial courts, all of this funding is for mandatory, pass through costs. In addition to the funded mandatory charges, the trial courts are projected to have an additional \$120 million in unfunded mandatory costs. These costs include unfunded salaries and benefits for trial court employees, security salary and benefit increases, county charges, interpreter workload, and workers’ compensation and retirement costs.

Erosion of Base Budgets

Every year since trial court funding many of these mandatory cost increases (e.g., county charges, interpreter costs, security costs) have not been fully funded due to factors such as the:

1. Time lag between actual increases and actual funding;
2. Collective bargaining process for the trial court employees; and,
3. State fiscal crisis.

Over time, this lack of funding results in what is known as “erosion of the base,” since the courts must reallocate other operating funds to pay these mandatory costs.

3. What additional reduction plans have been proposed?

The Senate Republican Caucus proposes a 7% across-the-board reduction in spending in addition to what the Governor has proposed. This proposal does not include the Governor’s proposed revenue increase for the judiciary. This approach would be particularly devastating to civil, family law, domestic violence, and self-help center services to needy citizens.

4. Will cuts be made across the board?

No. As the attached pie charts indicate, 61 percent of the budget of the trial courts is restricted and 39 percent is unrestricted. “Unrestricted” funding includes such areas as family and civil case functions. Therefore, the majority of reductions will be in the family, domestic violence, self-help, and civil calendars. What this means is that a 10 percent reduction in the operating budgets of the trial courts is actually a 26 percent reduction in the unrestricted areas.

5. Is it the Judicial Council’s position that there should be no reductions?

No. The Judicial Council has taken a proactive role in confronting the state’s fiscal challenges by working closely with the administration and the Legislature. During FY 2001–02, trial court budgets were reduced by \$28.2 million; the combined appellate court/JC/AOC/HCRC budgets by \$9.3 million. During FY 2002–03, trial court budgets were reduced by \$184.145; the combined appellate court/JC/AOC/HCRC budgets by \$14.85 million. In addition, the council has voluntarily deferred spending proposals for critical funds in both FY 2001–02 and FY 2002–03.

6. What has been the impact on the trial courts and the public in FY 2002–03?

Courts

In FY 2002–03, courts’ reductions included such things as furloughs for court staff, closure of court facilities, staff layoffs, shortening of operating hours, and reductions for various operating and equipment line items.

Public

The impacts of budget cuts, including court closures and reductions in hours, can be severe for victims of domestic violence and their children. For example, after a domestic violence incident, victims often are told by law enforcement to seek a restraining order from the court. However, when courts are closed or are reducing their hours, those litigants are unable to receive the timely protection they need. They may be forced to call law enforcement more frequently or wait longer for protective orders from the court. In cases with children, the cutbacks severely affect a parent’s ability to secure a safe and meaningful child custody and visitation order. If Family Court Services mediators are not readily available, parents must wait longer to obtain visitation orders.

Real Life Examples

- (1) Maria came to the courthouse at noon on Friday to secure a restraining order to protect herself and her two children. Due to budget cutbacks, the court was closed from noon to 1 p.m. She went to lunch with her children. At 1:05 p.m., she returned to find a line waiting for the counter clerk. Because of the budget cutbacks, only one clerk was available to assist with all civil filings. Maria waited in line with her kids until 1:45 p.m. to get the right paperwork. She started filling out the forms and brought them back to the clerk at 2:20 p.m. but there was another line. She was told to leave the forms with the clerk because the courthouse was closing early (at 3 p.m.) due to the budget cuts. She had to return on Monday afternoon to see if the judge approved her restraining order. Maria, frightened and unable to go home without a restraining order to remove her violent husband, slept in her car with her kids until Monday.

- (2) Jane came to her hearing on Tuesday morning seeking a restraining order against her husband, with whom she has one child. Due to budget cutbacks, the mediator, who is at the court to help settle custody arrangements, is only available for about 5–10 minutes on the date of the court hearing. Prior to the budget cutbacks, the court would follow up the free short-term emergency mediation with up to six free hours of mediation to settle custody disputes. That assistance is no longer available. Other low-cost mediation services are overwhelmed by the need, leaving Jane with few options. Her only recourse is to hire a private mediator to provide further assistance. Since Jane has no funds available to hire the mediator, she must negotiate an agreement directly with her abusive husband, placing herself and her children at risk of harm.

7. What is the potential impact in FY 2003–04 compared to FY 2002–03?

Unallocated

In FY 2002–2003, the total budget reduction applied to the trial courts amounted to \$184.145 million. Impacts in FY 2002–03 such as those described above resulted from the initial \$65 million unallocated reduction to the courts. With additional midyear reductions recently approved by the Legislature and Governor, trial court budgets have been reduced by an additional \$22 million (for a total of \$87 million), resulting in further impacts in the current year. The remaining amount has been absorbed through the diversion of funding from statewide budgets that included reductions in education and training programs, technology projects, and pilot programs, as well as judicial salary and jury savings.

If the proposed FY 2003–04 reductions are implemented as across the board cuts, the impact will be two to eight times greater, depending on the following action:

- Nearly double, based on the proposed FY 2003–04 unallocated reduction of \$116 million.
- Quadruple if, in addition, the policy proposals are not approved unless a corresponding increase is made in the courts' budget.
- If the above two actions occur and unfunded mandates are not funded (e.g., labor contracts for employees, interpreter and security costs, costs for county provided services, etc.), the reduction will be six times the unallocated reduction made at the beginning of FY 2002–03.
- If the alternative proposal, noted above, to add a 10 or 20 percent across-the-board cut is approved, the level of reduction in FY 2003–04 would be devastating.

The total budget for all civil calendars (family, general and limited civil, probate, etc.), excluding judges salaries and security, and administration is approximately \$900 million per year.

If the proposed budget reductions are implemented at current or higher levels; legislative proposals fail to pass and there is no correlating restoration of trial courts' baseline budgets; if current funding requests for mandatory costs remain unfunded and an across-the-board 10 or 20 percent cut is adopted by the Legislature, then more than over half of the civil system will be eliminated.

In addition, if the pending proposed reductions in the judiciary's budget for FY 2003–04 remain, the Equal Access Fund will be reduced by \$2.75 million; the \$1 million for California Drug Court Projects will be eliminated; and the remaining programs (Court Appointed Special Advocates, Model Self-Help Program, and Family Law Information Centers) will be reduced by 10 percent.

The judicial branch budget contains \$9.5 million for local assistance for the Equal Access Fund. The fund distributes the money to legal services agencies that provide free civil legal services to needy Californians. A recent study documents that legal services are the most effective service available to victims of domestic violence, giving them long-term solutions rather than short-term assistance. Many domestic violence projects are funded by the Equal Access Fund. Reducing those services would increase reliance on the police, the courts, and the health care system and would result in increased spousal and child abuse, lost wages, and other negative impacts on the economy.

8. What level of reduction can be made without denying access to courts?

While current-year reductions of \$65.435 million in operating budgets (now being increased to \$87 million) have had an adverse impact on the courts and the public we serve, we are working hard to address the level of reductions to minimize the impacts on individual citizens seeking access to justice. Proposals have been recommended to the Legislature to:

Trial courts: Reduce proposed cut of \$116 million to under \$100 million
Judiciary: Reduce proposed cut of \$17.7 million to under \$8.5 million
Judicial branch: Hold the branch harmless should policy initiatives fail to produce anticipated savings

This would allow us to protect the Equal Access Fund and drug courts, and *minimize* court closures, reduction of hours, and layoffs.

9. What is the Judicial Council doing about the proposal?

The Judicial Council is:

- Negotiating with affected groups to achieve consensus or modifications to the Governor's proposals.
- Advocating reductions to the proposed unallocated cuts
- Developing a proposal to enhance collection of fines, which will directly benefit the trial courts, the state, the counties, the cities, and victims of crimes.

10. What can the courts and other constituents do to support this effort?

- Provide feedback to the Judicial Council/AOC through Ray LeBov or Eraina Ortega at 916-323-3121.
- Send representatives to meetings.
- Provide real-life examples involving civil and limited civil matters, family, domestic violence, self-help, equal access, and children to AOC Office of Governmental Affairs staff—Ray LeBov or Eraina Ortega.