

COUNTIES AND THE 1996-97 STATE BUDGET

How Should the Legislature Respond to Budget Proposals Affecting County Finances and the State-County Relationship?

Summary

County fiscal affairs and program operations depend, to a significant extent, on legislative actions on the state budget and its implementing legislation. This piece provides an overview of state budget proposals affecting counties, and takes a closer look at three proposals that contemplate significant changes to the state-county relationship.

The proposed income tax “check-off” program for local law enforcement—“Citizens’ Option for Public Safety (COPS)”—poses important questions about the state’s role in local programs. Traditionally, local agencies have funded and controlled law enforcement programs. If the Legislature wants to facilitate an expansion of local programs, we recommend the Legislature partially reverse the property tax shift, instead of earmarking income taxes for local purposes.

The budget also proposes to increase county control over general assistance grant levels, but preclude counties from assisting legal immigrants denied aid as a result of welfare reform. Our review indicates that much of the state-county tension over general assistance stems from the division of policy control and funding responsibility for the program. Specifically, one level of government sets the general assistance program’s rules and another level of government pays the bills. We recommend the Legislature take action this year to clarify its goals regarding general assistance, and bring program policy control and funding responsibility into alignment.

Finally, the proposal to consolidate funding for the trial courts addresses significant problems with the current funding system. From a fiscal and programmatic standpoint, the administration’s proposal makes sense. We note, however, several important issues that should be addressed prior to the Legislature approving this proposal.

INTRODUCTION

The previous piece, *A Perspective on County Fiscal Constraints*, looked at the difficulties California counties face providing services to the state's residents, and more broadly at the state-county relationship. This piece provides an overview of the major 1996-97 budget proposals affecting counties and examines three budget proposals in greater detail:

- Creating an income tax check-off program for local law enforcement.
- Increasing county authority over general assistance grant levels and precluding counties from providing assistance to certain legal noncitizens.
- Consolidating part of the responsibility for funding trial courts.

We look at whether these proposals are likely to achieve their intended goals, and whether they would improve the tangled state-county relationship.

WHICH PROPOSALS AFFECT COUNTIES?

The budget introduces measures that would make important changes to county finances and program responsibilities. The most significant budget proposals are in the areas of health care, welfare, juvenile justice, and law enforcement programs. Figure 1 summarizes these proposals and specifies where we discuss them in the *Analysis*. The remainder of this piece focuses on: the income tax check-off for law enforcement (which provides funds for cities as well as counties), the GA program changes, and the trial court funding consolidation.

CHECK-OFF FOR PUBLIC SAFETY

Background

In California, both cities and counties provide law enforcement services. Together, they employ about 56,000 sworn law enforcement officers. Counties also provide other programs related to public safety, such as prosecution and defense of those arrested and operation of local correctional and probation programs. Finally, counties fund a large share of the court system.

Figure 1

**Major Budget Proposals Affecting Counties
1996-97**

Proposal	County Fiscal Impact
Public Safety/Criminal Justice	
Transfer Trial Court funding responsibility to state. (See Item 0450 in <i>Analysis</i> .)	Future Savings. Tens of millions in 1997-98 and growing substantially thereafter.
General obligation bond measure to fund juvenile detention facilities. (See Item 5460 in <i>Analysis</i> .)	Revenues. \$150 million. Requires 25 percent county match.
Allow income tax check-off for local law enforcement. (See Item 9210 in <i>Analysis</i> .)	Revenues. Potentially \$100 million to cities and counties annually.
Increase county costs to commit juveniles to the Youth Authority. (See Item 5460 in <i>Analysis</i> .) ^a	Costs. About \$10 million in 1996-97, \$38 million annually thereafter.
Funding for county camps and ranches for juvenile offenders. (See Item 5460 in <i>Analysis</i> .) ^a	Revenues. \$33 million in 1996-97.
Health and Social Services	
Eliminate or reduce MOEs for mental health and indigent health (Proposition 99). ^a	Savings. Up to \$168 million in 1996-97.
Eliminate eight optional Medi-Cal services. (See Item 4260 in <i>Analysis</i> .)	Costs. Potentially millions of dollars annually in cost shifts to county indigent care.
Eliminate funding for prenatal services for undocumented women. (See Item 4260 in <i>Analysis</i> .)	Costs. Potentially tens of millions of dollars annually in cost shifts to county indigent care.
Expand family planning services and teen pregnancy programs. (See Item 4260 in <i>Analysis</i> .)	Revenues. \$34 million annually in grants available to counties and other agencies.
Welfare	
Assume enactment of federal welfare reform. Preclude counties from assisting legal noncitizens removed from federal welfare programs. (See Item 5180 in <i>Analysis</i> .)	Costs. Unknown, potentially major annual General assistance costs.
Enact law allowing general assistance grant reductions and a time limit on aid. ^a	Savings. Up to about \$100 million annually.
Other Programs	
Eliminate MOEs for streets and roads (Proposition 111) ^a and libraries.	Savings. Unknown, potentially major annual savings.

^a Legislation implementing these proposals enacted in 1996.

Proposal

The budget contains a proposal for providing state funds for local law enforcement programs. Specifically, the state would allow taxpayers to designate on their personal income tax forms whether one percent of their income tax liability should be allocated to local agencies for local law enforcement purposes. All revenues must augment, not replace, existing local law enforcement expenditures.

Administration officials advise us that cities and counties may use these “Citizens' Option for Public Safety” (COPS) funds for local police, sheriff, and prosecution programs. Figure 2 shows the portion of the local criminal justice system eligible for this funding.

Figure 2			
Only Some Local Programs Eligible for COPS Funds			
(In Millions)			
Program	City	County	County and State
Eligible for COPS Funding			
Police	\$4,452	—	—
Sheriff	—	\$1,602	—
Prosecution	—	792	—
Subtotals	(\$4,452)	(\$2,393)	(—)
Not Eligible for COPS Funding			
Public Defense	—	\$348	—
Courts	—	—	\$1,774
Probation	—	811	—
Jails	—	1,186	—
Subtotals	(—)	(\$2,345)	(\$1,774)
Totals	\$4,452	\$4,739	\$1,774

How Would the Money Be Allocated? Under the program, taxpayers would choose a county to receive the check-off funds. The specific community within the county to receive the money would be determined by local agencies through a process of mutual decision making. Specifically, individual cities within a county and the county itself would determine how the revenues would be divided. The proposal does not include a process for resolving local agency disputes.

Analysis

Will the Program Achieve Its Stated Goals?

The administration estimates that the program will allow local agencies to hire over 2,000 police officers, almost 4 percent more than California cities and counties currently employ. Our analysis indicates that the extent to which the proposal achieves this goal depends on: the amount of funds raised by the program, whether the local agency uses these funds to hire sworn personnel, and whether local agencies use all these funds to augment existing law enforcement programs, as intended.

Fund Estimate Appears High. The administration estimates that three-quarters of California taxpayers will participate in the check-off program, yielding \$150 million for local agencies annually. After reviewing data on the percentage of Californians favoring increases in local public safety expenditures and the rate of participation for analogous check-off programs, we estimate that the annual amount generated under this program probably would not exceed \$100 million. Thus, the administration's revenue estimate appears to be at least \$50 million high.

Agencies May Be Reluctant to Hire Cops. The annual salary and benefit package for a police officer is about \$75,000. Each law enforcement officer requires additional ongoing local expenditures for equipment, training, and supervision. Given these expenses, local agencies make decisions to add law enforcement officials very carefully, always cognizant of the locality's current and future fiscal condition. Due to uncertainties regarding the COPS revenues, local agencies—especially smaller and medium-sized communities—may be reluctant to rely upon these funds to hire staff. Specifically, while all tax revenues vary with the economy, the COPS revenues are likely to fluctuate more than traditional local revenues, such as the property tax. The COPS revenues will depend on:

- Taxpayers' check-off participation rate.
- Taxpayers' designation of counties to receive funds.
- Inter-local agency agreements regarding fund allocation.
- The economy.
- State actions regarding the personal income tax rate, the check-off program, and establishment of any competing check-off programs.

Given these uncertainties, many communities are likely to use at least part of the funds for one-time law enforcement purposes, such as equipment and vehicle purchases, rather than hiring sworn personnel.

Impossible to Ensure All Funds Are Used for Law Enforcement.

Although the administration proposes to eliminate or reduce maintenance-of-effort (MOE) requirements over local expenditures for mental health, indigent health, roads, and libraries, it indicates that it will propose a strict MOE to ensure that all COPS funds are used to augment local law enforcement expenditures. Our review indicates that—even if desirable—such a level of state control over 528 cities and counties is virtually impossible. Specifically, in order to ensure that the COPS funds are used *exclusively* for law enforcement—and not for other high priority purposes—the MOE would need to address a near limitless number of possibilities. For example, the MOE would need to define the level of law enforcement expenditures which is appropriate when a local agency:

- Included unusual one-time expenditures in its law enforcement budget for the MOE base year.
- Annexes new land or transfers land to another jurisdiction
- Reorganizes its public safety program to include or exclude sub-programs.
- Develops a new method for allocating central administrative costs to departments.
- Sustains significant reductions to its general purpose tax base.

Given the unique conditions of California's cities and counties, it will be virtually impossible to design an MOE that can account for this range of issues and assure that *all* funds are used to augment existing law enforcement expenditures. The next section examines whether such extensive state control over local funding decisions is desirable.

What Is the Appropriate State Role Regarding Local Public Safety?

Before 1993, law enforcement in California was a matter of local control. While the state established laws regarding criminal conduct and sentencing, control and funding for law enforcement was determined locally.

California local government's significant autonomy regarding local law enforcement was similar to other states. This local autonomy is consistent with the concept of allowing communities wide discretion

over programs for which the benefits and costs are realized locally. Other programs generally considered to be inherently “local” include parks, recreation, local road construction, and libraries. This is not to say that the state has no interest in these programs, but rather that the state acknowledges that local communities are in the best position to decide the manner and level at which the program should be maintained. Accordingly, state involvement or requirements governing local programs are generally considered inappropriate as they may thwart local preferences regarding program scope and operations.

1993 Change Stemmed From Extreme State Fiscal Condition. Concerned that state actions to shift property taxes might force local agencies to reduce funding for public safety, the Legislature proposed and voters enacted Proposition 172 in 1993. This measure provides revenues from a one-half cent sales tax (about \$1.5 billion annually) to local governments for public safety. The Legislature also enacted an MOE (Ch 886/94 [AB 2788, W. Brown]) controlling Proposition 172 allocations. Although this Proposition 172 MOE provides considerable flexibility to local agencies (unlike the MOE proposed for the COPS program), the Proposition 172 MOE does specify a minimum funding level for local public safety programs. Thus, Proposition 172 and its implementing MOE represent a change to the tradition of local control over public safety programs. The legislative history of these measures, however, suggest that they reflected the state's extraordinary fiscal condition, rather than a policy preference for greater state control.

Should Local Agencies Fund Local Law Enforcement? Over the years, local agencies have demonstrated capacity to fund and operate law enforcement programs consistent with local resident preferences. The COPS proposal provides no statement as to why new money for law enforcement should come from state, rather than local sources—or why a *second* MOE controlling local law enforcement expenditures is appropriate. While the property tax shifts decreased local agency ability to fund public safety and other programs, these revenue losses do not alter the underlying reason law enforcement traditionally has been controlled at the local level.

Is Law Enforcement Money The Only Local Need?

Over the last decade, local government revenues and revenue-raising capacity have been limited by the property tax shifts and voter-approval requirements. These actions have reduced local agency ability to fund many programs, including libraries, parks, social services, and public safety.

During this period, the only major new source of revenues provided by the state for local agencies has been Proposition 172. Public safety

has benefited the most from these half-cent sales tax funds. At the same time, California local agencies also received \$100 million from the federal “Cops on the Beat Program” and could receive \$320 million annually in public safety block grants under legislation currently pending in Washington. (We discuss the proposed federal crime bill and the “Cops on the Beat” measure in the Judiciary and Criminal Justice Crosscutting Issues section of the *Analysis*).

No significant new funds, however, have been made available to local communities for programs other than public safety. Given this, it is not clear that local residents would prefer that new funds be used exclusively for law enforcement. Instead, residents might prefer to use some of the new revenues to fund other local priorities, such as libraries, parks, or programs to reduce crime or rehabilitate young offenders. The check-off proposal does not offer taxpayers this option.

The COPS Program Will Affect Funding for Other County Programs. Providing funds to local government to hire police officers and prosecutors will increase county and state costs to pay for the rest of the local criminal justice system. As shown in Figure 2 (page 128), these costs include:

- Public defenders' costs to provide legal defense to the indigent.
- County sheriff's costs to jail defendants awaiting trial and incarcerate those sentenced.
- Costs to administer the courts.
- County probation department costs to supervise adult and juvenile probationers and to incarcerate juvenile offenders.

As a result, the COPS program is likely to have the unintended result of requiring counties to reduce funding for nonpublic safety programs to pay increased public defender, jail, court, and probation department costs attributable to this program.

What Should the Legislature Do?

Reverse the Property Tax Shift Instead of “COPS”

The property tax is the mainstay of local government finance throughout the United States. The tax's characteristics make it well suited to finance programs serving discrete local areas. The decision to shift property taxes from local governments to offset state school expenses in 1992-93 and 1993-94 was spawned from the extreme fiscal conditions the state faced, not a policy interest in reducing local government's property taxes.

The property tax shifts have had negative effects on local agency ability to provide services. In addition, the shifts have undermined local government incentives to promote property developments, and to maintain the fairness and effectiveness of the property tax collection system.

To the extent that the Legislature wishes to offset some of the fiscal constraints faced by local government, we recommend the Legislature take action to partially reverse the property tax shift, rather than provide subventions of state income taxes. A reverse property tax shift of \$150 million would have the same state fiscal effect as a \$150 million income tax subvention, but would provide local agencies with a more stable and certain revenue source.

Let Local Governments Manage Local Programs

In addition, we recommend that cities and counties be allowed to use any new funds flexibly, to meet the highest priority needs of their community. Given the significant interest in public safety, we presume that communities would use a significant portion of any new money for this purpose. Even in this case, however, the expenditure of funds by local communities may not be identical to the expenditures envisioned in the budget proposal. For example, a community may prefer to spend part of the money to build jails, fund programs to reduce crime, or rehabilitate youthful offenders.

GENERAL ASSISTANCE

Background

The general assistance (GA) is California's welfare program of last resort. Part 5 of the Welfare and Institutions Code (commencing with Section 17000) requires counties to provide assistance to indigents who lack an adequate means of support. In general, these indigents are single adults not eligible for assistance under the Aid to Families With Dependent Children (AFDC) program or the Supplemental Security Income/State Supplementary Program (SSI/SSP).

Unlike other large states, California counties pay all GA program costs. County expenditures (approximately \$460 million in 1994-95) are not reimbursed by the state because this program responsibility predates the 1975 mandate requirement specified in Article XIII B, Section 6 of the State Constitution.

Because GA programs are operated separately by 58 counties, there is considerable variation between programs and little cross-county data. Moreover, eligibility rules and grant levels have been subject to considerable court interpretation.

What We Know About County General Assistance Programs

The eight counties shown in Figure 3 have about 90 percent of the state's GA caseload. While these counties provide *maximum* grants of \$221 to \$345 a month, many counties reduce grants to reflect different housing arrangements. Thus, the *average* grant is about \$222 per month. Recipients typically supplement GA with food stamps. Counties may reduce GA grants by up to \$40 per month on January 1, 1997, pursuant to Ch 6/96 (SB 681, Hurtt).

Figure 3

Eight Largest General Assistance Programs

County	Maximum Grant One Person ^a	Average Months on Aid	Percent Employable	GA Budget 1994-95 (Millions)
Los Angeles ^b	\$294	6.8	59%	\$233.7
San Francisco	345	6.0	45	50.8
Alameda	221	14.6	59	34.2
Sacramento	221	4.5	45	31.3
San Diego	294	NA	54	17.2
Contra Costa	300	NA	60	10.7
Santa Clara	300	NA	27	9.4
Orange	299	7.3	23	8.4
Total				\$396.0

^a Part of grant may be provided as a voucher or in-kind benefit.

^b Authority to reduce grants to \$221 approved by Commission on State Mandates and awaiting final Board of Supervisors' approval.

California counties provide GA to about 160,000 people, roughly two-thirds of whom are men. Welfare departments report that people unable to work due to mental or physical problems comprise almost half of their caseloads. Some disabled people receive GA while applying for SSI/SSP benefits.

Proposal

The budget includes two proposals related to GA:

- Enact provisions allowing counties to reduce grants and impose a time limit on eligibility for employable recipients. (The Legislature enacted these provisions in Chapter 6.)
- Preclude counties from providing aid to legal noncitizens who become ineligible for AFDC, SSI/SSP, or other programs due to federal welfare reform. (We describe the federal welfare proposal in the Health and Social Services section of the *Analysis*.)

Analysis

These budget proposals raise fundamental questions about which level of government should control GA, whether it is possible for two levels of government to “share” program policy control, and what services California wants to provide people denied aid due to federal and state welfare reform.

Split Between Policy Control and Funding Responsibility Yields Tensions

Ideally, a government determines a program's scope and funding level after evaluating its community's need for various programs. While budgeting always entails difficult trade-offs, the process of making these trade-offs helps ensure that government offers programs that meet its residents' highest preferences.

The budgeting process is very different when one level of government determines a program's scope and policies while requiring another level of government to pay the bills. In these cases, program control and funding responsibility are split, and the budgeting process cannot respond to the preferences of community members. Intergovernmental tension inevitably results.

The long-standing state-county tension regarding the GA program stems from this separation of program policy and funding responsibility. This is not to say that counties have no control over GA; however, the important decisions regarding program scope and minimum grant levels reside with the state. The state has maintained this level of policy control over GA to ensure the existence of a minimum “safety net” to meet the basic needs of the indigent.

Legislature Increased County Authority Over General Assistance

Especially over the last five years, as county fiscal conditions have declined, counties have sought greater control over the GA program. In response, the Legislature has enacted measures allowing counties to reduce grant levels. Figure 4 summarizes these actions. Using the authority granted under these measures, counties have reduced the average amount of aid provided to indigents by more than a third over the last three years, and cut GA program costs by more than 20 percent.

Recent Action to Expand County Authority. Earlier this year, the Legislature took further action to expand county authority over GA. Specifically, effective January 1, 1997, counties may decrease grants by an amount equal to the “in-kind” value of county costs to provide health care coverage, up to \$40 per month. (Most counties have costs in excess of this amount.) This provision allows counties to reduce grant levels and county GA costs by about 12 to 20 percent. The Legislature also took its first major step toward granting counties authority over the scope of GA. Specifically, Chapter 6 allows counties to limit an employable person's time on aid to three months out of a 12-month period. This action could reduce county GA costs by 10 percent or more.

Expanded County Control Has Not Solved Problem

Although these legislative actions have afforded counties significant fiscal relief, they have not fundamentally altered the split between GA program policy control and funding responsibility. As a result, counties remain constrained in their ability to decide the scope and funding level for this program, while the state continues to have no funding responsibility for implementation of its policy objectives.

Our review also indicates that these efforts to expand county control have had some unintended consequences on local control and state administration.

Caseload Migration Limits Local Control. Giving counties greater flexibility over GA grants has led to large disparities in aid provided by neighboring counties. For example, effective March 1, 1996, San Francisco County's grant will be more than 50 percent higher than Alameda's; Orange County's grant is expected to be more than a third higher than Los Angeles'. To the extent these differences reflect individual policy choices by counties and do not affect other counties, they are appropriate. However, one county's actions can “spill over” onto another, impairing the second county's ability to meet the preferences of

Figure 4**Major Recent General Assistance Legislation****1991**

- **Chapter 91 (AB 948, Bronzan).** Allows counties to reduce grants while satisfying GA requirement (Section 17000 of Welfare and Institutions Code) by paying 62 percent of the 1991 federal poverty level (at that time \$342 per month). Counties may adjust this GA standard to conform with future AFDC grant level changes.

1992

- **Chapter 719 (AB 1012).** Authorizes (until 1995) counties to impose: sanctions on people not following work or training requirements, a 15-day residency requirement, and grant reductions for people sharing housing. (Sanction and residency provisions extended in 1994—see below).
- **Chapter 721 (AB 2883).** Allows counties to count "in-kind" aid in meeting GA standards. Authorizes regional grant cuts of up to 4.5 percent.

1993

- **Chapter 72 (SB 1033).** Allows counties to apply to the Commission on State Mandates for a finding of "significant financial distress." Requires the commission to issue the finding if the county makes a compelling case that, absent the finding, basic county services (including public safety) cannot be maintained. Receipt of a finding permits counties to lower GA grant levels to 40 percent of the 1991 federal poverty level for a period of one year. (Grant reduction period extended in 1996—see below.)

1994

- **Chapter 952 (AB 1965, Goldsmith).** Extends to January 1, 1997 authority to impose work-related sanctions and maintain residency requirements.

1996

- **Chapter 6 (SB 681, Hurtt).** Allows counties to: reduce GA grants for the value of medical care up to \$40 per month; limit GA eligibility for employable people to three months out of a 12-month period; reduce GA grants by up to 25 percent for people sharing housing; and screen recipients for substance abuse and require participation in treatment programs. Extends from 12 months to 36 months the period that counties may reduce GA grants pursuant to a Commission on State Mandates' finding.

its residents. Specifically, differing grant levels can encourage the indigent to move to those counties providing higher aid levels. The cost of providing assistance to these new residents, in turn, may constrain a county's ability to achieve its objective of providing a higher standard of living for its indigent residents. The migration effect creates incentives for all counties to reduce grants.

Grant Reductions Subject to Bureaucratic Review. Of all the GA cost reducing measures, the Commission on State Mandates process (created

in 1993 and described in Figure 4—page 137) permits the greatest savings: reductions of about \$70 per month per grant. Our review of county fiscal conditions—and the commission's procedures for determining whether a county faces “significant financial distress”—leads us to believe that most California counties could obtain the requisite finding to impose grant reductions. The process the commission undertakes to evaluate counties, however, is extraordinarily complicated. Specifically, counties must submit applications (typically exceeding 4,000 pages) detailing their financial condition. Commission staff review each application at an average cost to the state of about \$90,000. The commission's review is so extensive that bankrupt Orange County withdrew its application rather than complete it—and small counties find the application costs outweigh their potential savings. Moreover, counties and the state incur additional costs defending grant reductions taken pursuant to commission findings. In 1995, two of the three grant reductions were subsequently litigated; one was overturned. Chapter 6's provisions making commission findings valid for three years will decrease county interaction with the commission; however, the process will remain an administrative hurdle that, as a practical matter, accomplishes little.

Welfare Reform Likely to Increase General Assistance Costs

The prospect of welfare reform is of significant concern to counties. Under state and federal reform proposals, about 200,000 people would be removed from the SSI/SSP and AFDC programs beginning January 1, 1997, because they are: legal noncitizens (172,600 people), sponsored aliens (8,300), drug or alcohol dependent (8,500), or children with a disability demonstrated by an “individualized functional assessment” (3,500). In addition, hundreds of thousands of people subsequently would no longer be eligible for AFDC or its successor program because they have reached a time limit for benefits (generally ranging from two to five years). Under current law, many of these people would qualify for GA if they do not secure employment. County GA costs, in turn, could increase by hundreds of millions of dollars.

Would the “Preclusion” Policy Shield Counties From Increased GA Costs? While the budget proposes to preclude counties from providing GA to legal noncitizens removed from federal welfare programs, this preclusion is not proposed for the other groups removed from aid due to welfare reform. Specifically, the preclusion policy would not apply to the 12,000 drug and alcohol dependent people and disabled children who would begin to lose assistance on January 1, 1997—or to the potentially hundreds of thousands of families who could lose benefits due to AFDC-related time limits. Thus, in the short run, the proposed preclusion policy would shield counties from most GA cost increases initially

attributable to welfare reform. Over the longer term, however, county GA costs are likely to increase significantly due to time-limited aid, unless the people removed from aid become—and remain—employed.

Does Preclusion Make Sense From a Policy Perspective? The proposed preclusion would yield some odd results from a policy perspective. For example, the preclusion policy would result in counties providing GA to healthy, single, legal noncitizens (who currently qualify for GA, but not other forms of aid), while denying aid to old and disabled legal immigrants (formerly on SSI/SSP) and immigrant families (formerly on AFDC).

What Should the Legislature Do?

Legislature Should Make Major Decisions Regarding General Assistance This Year

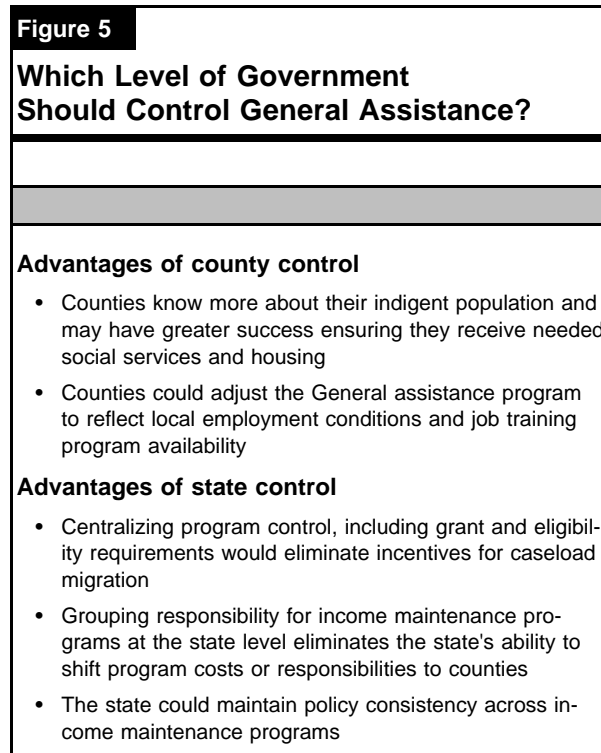
The combination of pending welfare reform and counties' weak fiscal conditions puts the GA program at a crossroads. Few counties have the fiscal flexibility to absorb the major costs counties could incur from enactment of time-limited aid. While the Legislature could respond to these conditions in a manner that sustains the current awkward state-county partnership, we recommend that the Legislature take action this year to state its policy goals for the GA program and ensure that the program is controlled and funded in a manner that can achieve these goals.

The budget proposals represent a reasonable starting point for the Legislature to debate the appropriate actions pertaining to GA. Similarly, the Governor's redesign of the AFDC program presents the opportunity to consider the state's welfare system in a broader perspective (see our analysis of the redesign in the Health and Social Services chapter of the *Analysis*). Ultimately, however, the Legislature should consider a *wider* range of alternatives for GA than those included in the budget. These options should range from giving counties full autonomy over the GA program to state assumption of program policy and funding responsibility.

First Step: Determining Who Should Control General Assistance

The fundamental question facing the Legislature is: Which level of government should control GA? Which level should establish the rules regarding eligibility, grant levels, and employment requirements?

There are policy reasons to find that GA should be controlled at either the state or county level. Figure 5 displays the different rationales. The following sections examine the viability of these alternatives.



County Control of General Assistance

To administer the GA program effectively, counties would need increased fiscal capacity and expanded program control. Specifically, without the ability to raise revenues or lower expenditures, county choices regarding the level of GA program expenditures would be severely constrained. Similarly, counties would need full program control over GA grant levels and eligibility, including the ability to insulate their caseloads from the impact of welfare policies adopted by higher levels of government and adjacent counties.

Applying the Concept. The following legislative actions are consistent with a decision to transfer program responsibility to counties:

- Enhance county fiscal flexibility to allow greater discretion to reduce expenditures and raise revenues.

- Allow counties to set their own grant levels, without going through the Commission on State Mandates' process.
- Authorize counties to eliminate the GA program, if desired, as proposed in AB 9 (Goldsmith).
- Reject the proposed "preclusion" policy, on the basis that GA policy decisions should be made locally.
- Permit counties to grant or deny aid to groups of people, such as legal noncitizens, the employable, or people formerly on state or federal welfare programs.

Limitations of County Control. While the legislative actions shown above address most of the important powers necessary for effective administration of GA, one is notably absent. Specifically, under this scenario, counties remain vulnerable to actions taken by neighboring jurisdictions. Absent some mechanism to control inter-county migration, counties would be constrained in their ability to adopt new GA policies. Differing grant levels and aid policies could attract indigent populations from across county lines. While counties may be able to develop policies to partially insulate themselves from these actions, the potential for such cost shifting would remain a significant concern.

State Control of General Assistance

Alternatively, if the Legislature designated the state as the entity to control GA, then the state should fund the program as well. Assigning funding responsibility to the level of government with policy control increases accountability, and ensures that policies are made by decision-makers fully cognizant of program costs.

Options for a State-Controlled GA program. There are numerous ways the state could administer GA. For example, the state could integrate this program with the redesigned AFDC program proposed in the budget. GA could be administered under contract by counties, private vendors, or a regional entity. A state GA program could include the provisions in current GA statutes, such as time limits on aid. Moreover, state control need not reduce local incentives to provide training and social services to the indigent. For example, the state could assign cities and counties a share of the state's GA costs if the community had an unusually large number of employable people on aid for lengthy periods. Such an arrangement would take advantage of local knowledge about labor market and social conditions. Finally, transferring funding responsibility for GA to the state need not increase overall state costs, if this program shift of about \$460 million were offset by a comparable state-county transfer of program responsibility.

Analyst's Recommendation. We believe state control of GA is the better option. State control allows the Legislature wider control over state welfare programs and eliminates incentives for cross-county migration. In addition, as we discussed in our *Making Government Make Sense* proposal (please pages 111-132 of the *1993-94 Perspectives and Issues*), funding for redistributive programs is more appropriately undertaken by the state.

TRIAL COURT FUNDING

Background

California's judicial system is comprised of three levels of courts: the State Supreme Court, the courts of appeals, and the trial courts. While the supreme and appeals courts are funded entirely by the state, the trial courts are funded jointly by the state and the counties. The state's contribution to the trial courts is determined annually as part of the state budget process, and the remaining cost of the trial courts is paid by the counties. In 1995-96, the state funded approximately 37 percent of the \$1.8 billion total budget for the trial courts, with the counties paying the remaining 63 percent.

The Trial Court Realignment and Efficiency Act of 1991 stated the Legislature's intent to increase state support for trial court funding as a means of promoting equal access to justice. Due to fiscal constraints, however, the state contribution for trial courts has not increased in accordance with the intent of this measure.

Proposal

The Governor's Budget proposes a major consolidation of funding responsibility for the trial courts. Under the Governor's proposal, the state would assume significant responsibility for financing trial courts. Specifically, counties would be responsible for contributing an amount to the Trial Court Trust Fund equivalent to their 1994-95 level of funding for trial courts. The state would be responsible for all trial court costs in excess of the county contribution, including all future cost increases. Counties would continue to contribute fine and penalty revenues to the state, but they would now get a share of the growth in this revenue source.

Analysis

The Governor's Budget addresses significant problems with the current trial court funding system. The proposal also raises the fundamental question of which level of government should be responsible for policy control and funding of the courts.

What Problems Does the Governor's Proposal Address?

Current System Fails to Promote Equal Access to Justice. The state has a clear interest in equal access to justice. Those accused of comparable crimes have a right to expect that the state's laws will be applied uniformly, regardless of the county in which the crime occurred. Litigants bringing civil suits should be able to expect equal treatment in every region of the state. Yet, the current system does not assure this equal treatment. Under the current system, court budgets are largely determined by the level of financial support available from the county. The result can be widely differing levels of support for the courts depending on county fiscal capacity and budget priorities. Such a funding system creates disparities in access to the courts and the administration of justice.

Current System Fails to Provide Accountability. Both the state and the counties have an interest in ensuring that the courts operate in an efficient and effective manner. However, under the current system of divided funding responsibility, neither the state nor the counties can exercise effective fiscal oversight of court operations. Counties are limited in their ability to control court costs and review court operations. For example, counties have limited authority to conduct performance audits of court operations. In addition, state law provides a procedure for trial courts to seek additional funds from counties if budgeted funds are insufficient to meet the "needs of the court."

The state also has limited ability to exercise effective fiscal oversight. Since the level of funding for an individual court system is largely determined by the county, it is difficult for the state to use fiscal incentives or sanctions to promote its goals for court operations. Increases—or decreases—in state support may not translate into changes in the level of funding provided if counties alter their financial contribution in response to state policy changes.

Current System Places Strain on County Finances. While the state and the counties both pay for the operation of the trial courts, the county is responsible for funding all trial court costs in excess of the state contribution. Although the Legislature has expressed an intent to increase the state share of trial court funding according to a schedule

outlined in statute, in practice, the level of state funding for the trial courts is the outcome of the state's annual budget process and has varied from year to year. As a result, counties face considerable uncertainty in planning for court expenditures and the state-county relationship is strained.

Current System Doesn't Maximize Fines and Penalties. The current system requires that fine and penalty revenue collected locally be remitted to the state General Fund. This fails to provide counties with incentives to collect fines and penalties. The current system also creates tension in the state-county relationship because if counties do not collect fines at a statutorily determined level, they face a state-imposed sanction.

Which Level of Government Should Control the Trial Courts?

Both the state and local governments can exercise considerable influence over court workload and operations. The state writes the laws defining what constitutes a crime, determines appropriate punishment for those crimes through sentencing laws, and controls the number of judges. In addition, the state controls, to a large extent, the rules governing court operations and, in some cases, the type and number of court employees. On the other hand, the number of criminal cases filed in the courts is largely determined by local law enforcement officials who exercise a certain amount of discretion in deciding who to arrest and which cases to prosecute.

In evaluating which level of government should control the courts, the Legislature should seek to balance the significant interest of the state in maintaining equal access to justice with the fact that local officials will maintain some control over court workload. In our view, the state's interest in equal access to justice overrides the concern about local influence on court workload. Moreover, even if the state assumes full responsibility for trial court funding, counties would continue to face incentives to minimize court workload because counties pay for pretrial incarceration, prosecution, and defense of the indigent as well as probation and post-sentencing incarceration of low-level offenders (misdemeanants).

What Should the Legislature Do?

The state has an interest in ensuring uniform access to justice through the courts. Transferring funding responsibility for the courts from the counties to the state offers the best means of ensuring such uniformity. Policy control and funding responsibility would be largely

consolidated with the same level of government, improving accountability. Such a policy would also ease county fiscal distress and improve the state-county relationship both by relieving counties of their obligation to fund increases in court costs as well as by creating the appropriate incentives for collection of fine and penalty revenues. Therefore, from both a fiscal and a programmatic standpoint, the Governor's proposal makes sense.

Unresolved Issues

There are significant policy issues, however, which remain to be resolved. Under the Governor's proposal, the state would be responsible for all future increases in court costs. These increases could be on the order of \$30 million to \$80 million annually. If the state is to be responsible for these costs, it must also have the ability to exercise program control. Several important factors relating to accountability and court costs remain to be resolved. Namely:

- **Performance Expectations Are Needed.** If the state is to have funding responsibility for court operations, it must also have the ability to hold the courts accountable for performance. Currently, there is insufficient data available to evaluate progress toward meeting specific output goals or to permit cross-court comparisons.
- **Proposal Does Not Have a Mechanism for Controlling Costs of Trial Court Personnel.** Trial courts employ thousands of nonjudicial personnel (such as administrators, attorneys, and clerical staff) in addition to judges. Under the Governor's proposal, most of these non-judicial court employees would continue as county employees. Consequently, counties would determine increases in salary and benefit levels, yet they would not be required to pay any costs associated with these increases. To effectively control costs and exercise program oversight, trial court employees should over time be converted to state employees.

In principle, the Governor's proposal to transfer control over operations and funding responsibility for the courts from the counties to the state makes both fiscal and programmatic sense. Without resolution of the issues discussed above, however, the proposal remains incomplete. (Please see the *Analysis*, Item 0450 for a more in-depth discussion of the Governor's Trial Court Funding consolidation proposal.)

CONCLUSION

While the budget does not introduce measures comparable in magnitude to the property tax shifts or the realignment proposals of the last few years, the budget does contain proposals that would affect counties significantly.

Our review of the proposed check-off plan suggests that the measure is not likely to accomplish its stated goals, and represents an unnecessary intrusion into local affairs. To the extent the Legislature wishes to provide fiscal relief to local agencies, we recommend the Legislature partially reverse the property tax shift, rather than subvene income taxes. In addition, we recommend that the Legislature consider a wider range of alternatives regarding GA than those included in the budget. We recommend the Legislature take action this year to clarify its goals regarding GA and to ensure that the level of government controlling GA has funding responsibility. Finally, the trial court funding proposal better aligns program funding and policy control, but fails to address important issues related to accountability and program costs. We recommend the Legislature approve the trial court proposal if these issues can be resolved.
