

April 9, 2018

Governor's Trial Court Construction Proposal

LEGISLATIVE ANALYST'S OFFICE

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





Overview of Trial Court Construction Program

- ☑ ***Responsibility for Trial Court Facilities Shifted to State.***
Chapter 1082 of 2002 (SB 1732, Escutia) shifted responsibility for facilities to the state and gave Judicial Council the authority to assess, select, and construct trial court facilities.

- ☑ ***Supported by Two Special Fund Accounts.*** The state has supported trial court construction through the following two accounts:
 - ***State Court Facilities Construction Fund (SCFCF).***
Senate Bill 1732 increased certain criminal and civil fines and fees and required that the revenues be deposited in SCFCF to finance trial court construction projects and other facility-related expenses. Subsequent legislation in 2007 prohibited Judicial Council from committing any additional expenditures above the amount appropriated in the *2007-08 Budget Act* to ensure there would be sufficient funding to finance already approved projects.

 - ***Immediate and Critical Needs Account (ICNA).***
Chapter 311 of 2008 (SB 1407, Perata) increased certain criminal and civil fines and fees for deposit into ICNA to finance up to \$5 billion in trial court construction projects and other facility-related expenses. The legislation authorized Judicial Council to select specific courthouses that were of “immediate” or “critical” priority need for replacement, but prohibited it from approving projects that could not be fully financed through ICNA. In total, 41 projects were initially approved.



Lack of Revenue in Both Construction Accounts

Transfers From SCFCF and ICNA			
<i>(In Millions)</i>			
	SCFCF^a	ICNA^b	Total
2009-10	\$40.0	—	\$40.0
2010-11	25.0	\$73.4	98.4
2011-12	70.0	453.3	523.3
2012-13	59.5	240.0	299.5
2013-14	5.5	250.0	255.5
2014-15	5.5	10.0	15.5
2015-16	5.5	50.0	55.5
2016-17	5.5	50.0	55.5
2017-18 (estimated)	5.5	50.0	55.5
Totals	\$221.9	\$1,176.7	\$1,398.6

^a All transfers to the Trial Court Trust Fund (TCTF) except \$40 million in 2009-10 which was transferred to the General Fund.
^b All transfers to TCTF except \$310.3 million in 2011-12 and \$200 million in 2013-14 which were transferred to the General Fund.
 SCFCF = State Court Facilities Construction Fund and ICNA = Immediate and Critical Needs Account.

☑ **\$1.4 Billion Redirected.** As shown in the above figure, since 2009-10, a total of nearly \$1.4 billion has been transferred from the SCFCF (\$222 million) and ICNA (\$1.2 billion) to the General Fund and the Trial Court Trust Fund (TCTF), which supports trial court operations. These redirections were generally made during the fiscal downturn to reduce pressures on the General Fund or to offset reductions to trial court operations. Currently, a total of \$55.5 million is redirected annually to the TCTF.

☑ **Decline in Revenue Deposited.** Additionally, the amount of revenue deposited into both accounts has declined steadily for roughly the past ten years. It is currently estimated that the SCFCF will receive revenues of \$78 million in 2018-19—a decline of \$65 million (or 46 percent) since peak revenues in 2008-09. Similarly, ICNA revenues are projected to be nearly \$195 million in 2018-19—a decline of \$135 million (or 41 percent) since peak revenues in 2010-11.



Insufficient Funding to Complete Planned Projects

Summary of ICNA Trial Court Construction Projects

Completed Projects (12 Projects)

Alameda—New East County (Dublin) Courthouse
 Butte—North Butte County (Chico) Courthouse
 Los Angeles—Deukmejian (Long Beach) Courthouse^a
 Kings—New Hanford Courthouse
 Merced—Los Banos Courthouse
 San Diego—New San Diego Courthouse
 San Joaquin—Juvenile Justice Center Renovation
 Santa Clara—Family Justice Center
 Solano—Old Solano County Courthouse Renovation
 Sutter—New Yuba City Courthouse
 Tehama—New Red Bluff Courthouse
 Yolo—New Woodland Courthouse

Projects Canceled (3 Projects)

Los Angeles—Lancaster Courthouse^c
 Alpine—Markleeville Courthouse
 Sierra—Downieville Courthouse

Projects On Hold (16 Projects)

El Dorado—New Placerville Courthouse
 Glenn—Renovation and Addition to Willows Courthouse
 Imperial—New El Centro Courthouse
 Inyo—New Bishop Courthouse
 Lake—New Lakeport Courthouse
 Los Angeles—New Eastlake Courthouse
 Los Angeles—New Mental Health Courthouse (Hollywood Courthouse)^b
 Mendocino—New Ukiah Courthouse
 Riverside—New Indio Juvenile and Family Courthouse
 Riverside—New Mid-County Civil Courthouse
 Santa Barbara—New Santa Barbara Courthouse
 Shasta—New Redding Courthouse
 Siskiyou—New Yreka Courthouse
 Sonoma—New Santa Rosa Criminal Courthouse
 Stanislaus—New Modesto Courthouse
 Tuolumne—New Sonora Courthouse

Projects Indefinitely Delayed (11 Projects)

Fresno—County Courthouse
 Kern—Delano Courthouse
 Kern—Mojave Courthouse
 Los Angeles—Glendale Courthouse
 Los Angeles—Santa Clarita Courthouse
 Los Angeles—Southeast Los Angeles Courthouse
 Monterey—South Monterey County Courthouse
 Nevada—Nevada City Courthouse
 Placer—Tahoe Area Courthouse
 Plumas—Quincy Courthouse
 Sacramento—New Sacramento County Courthouse^d

^a Project was financed as a public-private partnership. However, ICNA is now paying the financing payments related to this project.

^b Original construction project was canceled, but was replaced with a renovation of an existing courthouse to house this facility.

^c Original construction project was canceled, but was included as a facility modification project in 2016-17.

^d One-time funding was provided to complete pre-construction activities only.

ICNA = Immediate and Critical Needs Account.



Insufficient Funding to Complete Planned Projects

(Continued)

- At this time, the construction of all 14 trial court construction projects financed by SCFCF has been completed.

- Only 12 of the planned ICNA-financed projects have been completed. Additionally, the Judicial Council indefinitely delayed 11 projects in 2012-13 in response to the significant ICNA revenue redirections. Another 16 projects were initiated, but were put on hold in 2016-17 due to the lack of available revenues.



Insufficient Funding to Support Current Obligations



Difficult to Address Existing Commitments in Both Funds.

The continued decline in fine and fee revenues, as well as prior-year transfers from both accounts, make it difficult to address existing commitments in both funds (such as debt service for completed courthouses and funding for facility modification projects). The SCFCF is estimated to have \$146 million in ongoing funding commitments in 2017-18—significantly higher than the \$86 million in projected revenue. Similarly, ICNA is estimated to have nearly \$225 million in ongoing funding commitments in 2017-18, which is higher than its projected annual revenue of \$212 million. The funds have supported this spending by drawing down the fund balances that accumulated in prior years.



Funds Projected to Become Insolvent. Absent any changes in revenues or existing ongoing expenditures, both SCFCF and ICNA are currently projected to become insolvent in the next few years.

Trial Court Construction Projects Funded by Administration's Proposal

(In Millions)

Courthouse Project	Construction		Estimated Debt Service	
	2018-19	2019-20	Annual	Total
Glenn—Renovation and Addition to Willows Courthouse		\$38.3	\$3.2	\$75.9
Imperial—New El Centro Courthouse	\$41.9		3.4	80.9
Riverside—New Indio Juvenile and Family Courthouse	45.3		3.5	83.7
Riverside—New Mid-County Civil Courthouse		75.8	6.1	146.2
Sacramento—New Sacramento County Courthouse		459.8	32.5	780.7
Shasta—New Redding Courthouse	138.8		11.2	267.7
Siskiyou—New Yreka Courthouse	59.2		4.6	109.3
Sonoma—New Santa Rosa Criminal Courthouse		160.7	12.9	310.1
Stanislaus—New Modesto Courthouse		237.2	20.0	479.5
Tuolumne—New Sonora Courthouse	57.7		4.6	111.4
Totals	\$343.0	\$971.9	\$101.9	\$2,445.4

- The Governor's 2018-19 budget proposes to use lease-revenue bonds backed from the General Fund—rather than ICNA—to finance the construction of ten trial court projects totaling about \$1.3 billion by 2019-20. Of these ten projects, nine had been placed on hold and one had been indefinitely delayed due to the decline in ICNA revenues.

- The budget proposes selling \$343 million in lease-revenue bonds to finance the construction of five projects in 2018-19 and another \$972 million to finance the construction of another five projects in 2019-20. The annual debt service on these bonds is estimated to total about \$102 million annually for nearly 25 years.

- The budget also proposes \$32.2 million from ICNA for three projects to complete pre-construction design activities so that they can move into construction in 2019-20.

- Proposal Effectively Backfills Transfers From Construction Accounts.*** The Governor's proposal effectively backfills the \$1.4 billion previously transferred from the construction accounts. Because these transferred funds were intended for facility-related purposes, the Governor's proposal is reasonable.
- Unclear Whether Proposed Projects Are of Highest Priority.*** While the ten proposed projects are those that are closest to construction, it is unclear whether they are the highest priority. Judicial Council assessed and selected these projects nearly a decade ago based on its priorities. It is unclear whether the Legislature would select the same projects if it was involved in the selection process or if other projects would be a greater priority if a reassessment was done.
- Does Not Provide Long-Term Solution for Trial Court Construction.*** The proposal does not provide a long-term solution to address three key problems that exist with current approach to trial court construction:

 - Continued decline in fine and fee revenue will make it difficult for the construction accounts to meet existing or new obligations.
 - Insufficient revenue to pay existing debt service for completed projects, resulting in General Fund resources—potentially ranging from \$90 million to \$140 million annually for about 15 years—likely being needed to pay for the debt service for completed projects.
 - No long-term plan for funding future construction projects, making it unclear whether future projects will also be funded from the General Fund or if projects will remain on hold until sufficient revenues become available in ICNA.



Recommend Alternative System for Court Construction

- Shift Funding Responsibility for Trial Court Construction to the General Fund.*** Recommend that all current and any future trial court construction projects be funded from the General Fund. This would help ensure that the number of projects approved and completed are determined by the Legislature rather than the amount of revenue available in SCFCF and ICNA. Additionally, the Legislature would be fully aware of the General Fund impact before approving projects. Finally, this shift would help ensure that existing debt obligations are addressed.
- Shift SCFCF and ICNA Revenues to General Fund.*** To partially offset the costs of shifting the debt service to the General Fund, we recommend changing state law to deposit all SCFCF and ICNA revenues into the General Fund.
- Shift Nonconstruction Related SCFCF and ICNA Expenditures to General Fund.*** Recommend appropriating \$159 million annually from the General Fund to maintain funding levels for nonconstruction related purposes (such as facility modification projects and trial court operations) which currently receive support from the funds.
- Appropriate Funding for Construction Projects Based on Legislative Priorities.*** Recommend the Legislature determine which projects to fund based on its priorities. In addition, require Judicial Council to reassess trial court facility needs. The Legislature could also require the reassessment to include certain factors it believes should be considered.



Modify Governor's Proposal if Maintaining Existing System Desired

- Consolidate SCFCF and ICNA.** Consolidating the two accounts ensures that no projects move forward unless there is sufficient overall revenue to support them—potentially reducing any General Fund backfill needed in the future.
- Appropriate Funding for Trial Court Operations From General Fund Rather Than Construction Accounts.** We would recommend terminating the annual \$55.5 million transfer from SCFCF and ICNA to support trial court operations and instead provide these resources from the General Fund. This action would increase the amount available for facility-related purposes and likely delay a General Fund backfill.
- Provide New Construction Account With \$102 Million General Fund Annually for 25 Years.** We would recommend transferring \$102 million annually for 25 years (the amount equal to the debt service associated with the Governor's proposal) from the General Fund to the consolidated construction account, but requiring Judicial Council to ensure that all existing obligations are addressed before using the revenue to finance any new projects. While existing obligations would likely be met, it is unclear whether new projects could be financed in the near future.
- Require Long-Term Fund Condition Statements With Construction Requests.** We would recommend directing the judicial branch to submit a long-term fund condition statement with each construction request to demonstrate that the fund has sufficient revenues to meet all existing obligations in addition to the new requested project.
- Direct Judicial Council to Reassess Trial Court Facility Needs.** An updated assessment would help determine whether the proposed projects represent the greatest needs under the judicial branch's existing system for assessing needs.