



Board Report

File #: 14-711, Version: 1

- a. Approve an increase in estimated revenues and appropriations of \$223,000 for the Public Defender's FY 2013-14 Budget funded by increased State reimbursements for Prison Defense costs (4/5th Vote Required);
- b. Approve transfer of \$568,131 from Department 1050 CAO Non-Departmental, Unit 8064 Contingencies, Appropriation CAO020 to Department 2270 Public Defender, Appropriation PUB001 due to an anticipated budget shortfall (4/5th Vote Required); and
- c. Authorize the Auditor-Controller's Office to approve the adjustments in estimated revenues and appropriations and funds transfer as detailed under Financing.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a) Approve an increase in estimated revenues and appropriations of \$223,000 for the Public Defender's FY 2013-14 Budget funded by increased State reimbursements for Prison Defense costs (4/5th Vote Required);
- b) Approve transfer of \$568,131 from Department 1050 CAO Non-Departmental, Unit 8064 Contingencies, Appropriation CAO020 to Department 2270 Public Defender, Appropriation PUB001 due to an anticipated budget shortfall (4/5th Vote Required); and
- c) Authorize the Auditor-Controller's Office to approve the adjustments in estimated revenues and appropriations and funds transfer as detailed under Financing.

SUMMARY:

The California Penal Code directs that counties are responsible for the defense of indigent persons accused of crimes, juveniles prosecuted for delinquency and /or truancy offenses, mental health related involuntary detentions, Sexually Violent Predator civil commitments, crimes alleged to have been committed within penal institutions in the jurisdiction and capital offenses. To meet these mandates, the County has established an Office of the Public Defender and when the Public Defender has a conflict of interest or other disability prohibiting acceptance of appointment, an Alternate Defender's Office, and beyond that, Court-appointed individual Panel Attorneys. When the Superior Court appoints the Public Defender, Alternate Defender, or Panel Attorneys, and required ancillary services including trial related expenses and investigation, state law directs that funding be provided from the County's General Fund.

DISCUSSION:

Funding requirements have continually exceeded appropriations for six years. Such is the situation that exists now.

Alternate Defender's Office. Appropriations for the ADO in FY 2013-14 total \$2,158,855 and include \$105,077 for salary and benefits and \$2,053,778 for services and supplies. The ADO allocates its services and supplies budget as follows: \$1,047,000 for nine contract attorneys retained by the County to accept appointments from the Superior Court in adult and juvenile felony and misdemeanor criminal cases; \$719,668 for panel attorneys; \$200,000 for investigations; \$82,068 for trial related services; and \$5,042 for miscellaneous expenditures, including expenditures for county provided services. Areas of expected current year budget shortfall include:

- The year end projection for Court ordered appointments of Panel Attorney costs is \$1,194,963 while appropriations available is \$719,668 resulting in a deficit of \$475,295.
- The year end projection for Investigation costs is \$344,783 with appropriations of \$200,000 resulting in a deficit of \$144,783.
- The year end projection for Trial Related Expenses is \$213,761 with appropriations of \$82,068 resulting in a deficit of \$131,693.13.

Alternate Defender has some projected savings in other line items arriving at a net deficit in the amount of \$748,481.

Contributing to the shortfall, the ADO does not budget for the Court's appointments of the following panel costs:

- Truancy defense attorneys which amount to \$72,000;
- Court Ordered Contempt defense counsel which amount to \$7,225;

- Defense costs in a public integrity prosecution which amount to \$160,374;
- Completion of trial expenses for what originally was charged as a death penalty prosecution which amount to \$55,387;
- Defense of prison and non-prison capital murder cases, which amount to \$70,297;
- Defense counsel for misdemeanor appeals which amount to \$50,000;
- Defense counsel in Sexually Violent Predator civil commitment proceedings which amount to \$15,045;
- The Court’s confidential allocation of funds pursuant to Penal Code sec. 987.9 (request and amount to remain confidential pursuant to Penal Code sec. 987.9).

The Public Defender’s Office anticipates that the State of California will remit to the County prison defense reimbursements of approximately \$223,000 at the end of July 2014. This amount exceeds budgeted revenues due to additional prison death penalty case appointments during the fiscal year, and partially offsets the department’s appropriations shortfall.

Public Defender’s Office. The Public Defender’s Office expects a net appropriations shortfall of \$42,650. Contributing factors are as follows:

- The Public Defender was required to fund a non-budgeted outside H.R. investigation for a total cost of up to \$10,000;
- The Public Defender has been provided a projected year end H.R. cost in the amount of \$73,585, \$4,203 over the provided budget amount;
- The Public Defender’s year end projection for trial related services is \$219,019, \$59,019 in excess of the amount budgeted; and
- The Public Defender was required to fund unbudgeted vacation buy back requests in the amount of \$79,411.

The Office of the Public Defender is preparing a Caseload/Workload study of benchmark counties with Public Defender Offices, with applicable professional standards, for the Board of Supervisors. Upon completion, this will be shared with the Board of Supervisors and the County Administrator’s Office in developing indigent defense recommendations for the Board’s consideration.

OTHER AGENCY INVOLVEMENT:

The County Administrative Office has reviewed this report.

FINANCING:

The current balance in the contingencies appropriation is \$2,751,648. This request would lower the contingencies balance to \$2,186,517 and may require future budget action to maintain budgetary balance.

<u>Fund</u>	<u>Approp</u>	<u>Dept</u>	<u>Unit</u>	<u>Rev/Obj</u>	<u>Title</u>	<u>Amount</u>	<u>Action</u>
001	PUB001	2270	8168	5050	Other State Aid	\$223,000	Increase
001	CAO020	1050	8034	7811	Contingencies	<u>\$568,131</u>	Decrease
					Total	\$791,131	
001	PUB001	2270	8168	6302	Trial Related Services	\$128,403	Increase
001	PUB001	2270	8168	6606	Outside Counsel	\$475,295	Increase
001	PUB001	2270	8168	6831	Criminal Justice	\$144,783	Increase
001	PUB001	2270	8169	6302	Trial Related Services	<u>\$ 42,650</u>	Increase
					Total	\$791,131	

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