

Senate Subcommittee Report

Agency: Board of Indigents' Defense Services

Bill No. SB 422

Bill Sec. 13

Analyst: de Boer

Analysis Pg. No. Vol. 1, Pg. 250

Budget Page No. 64

Expenditure Summary	Agency Request FY 2023	Governor Recommendation FY 2023	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	\$ 58,459,436	\$ 45,727,377	\$ 0
Federal Funds	0	0	0
Other Funds	606,000	606,000	0
<i>Subtotal</i>	<u>\$ 59,065,436</u>	<u>\$ 46,333,377</u>	<u>\$ 0</u>
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Federal Funds	0	0	0
Other Funds	0	0	0
<i>Subtotal</i>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u><u>\$ 59,065,436</u></u>	<u><u>\$ 46,333,377</u></u>	<u><u>\$ 0</u></u>
 FTE positions	 344.3	 244.3	 0.0

Agency Request

The **agency** requests \$59.1 million, including \$58.5 million SGF, for FY 2023. This is an all funds increase of \$15.4 million, or 35.2 percent, and an SGF increase of \$15.4 million, or 35.7 percent, above the FY 2022 revised estimate.

Significant items in the agency request include the following:

- **ENHANCEMENT–RECRUITMENT AND RETENTION PLAN.** The agency requests \$4.1 million SGF to address recruitment and retention issues via pay scale adjustments and establishment of an internal training program for public defenders and assigned counsel.
- **ENHANCEMENT–ETHICAL CASELOADS STAFFING AND SUPPORT PLAN.** The agency requests \$8.1 million SGF to support 88.0 FTE positions to address chronic attorney caseload issues and insufficient support staffing in its public defender offices.
- **ENHANCEMENT–EXPANSION OF PUBLIC DEFENDER OFFICES.** The agency requests \$1.2 million SGF to establish a public defender office and 12.0 FTE positions in the 7th Judicial District (Douglas County).

- **ENHANCEMENT–INFRASTRUCTURE UPGRADES.** The agency requests \$526,512 SGF for the anticipated ongoing maintenance for the new Case Management System, additional Death Penalty Defense Unit office space, additional costs for Westlaw upgrades, and new licensing for video evidence software.
- **ENHANCEMENT–ASSIGNED COUNSEL RATE INCREASE.** The agency requests \$3.6 million SGF to fund assigned counsel rate increase up to \$120 per hour.

The agency request also includes 344.3 FTE positions, which is an increase of 100.0 FTE positions above the FY 2022 revised estimate.

Governor’s Recommendation

The **Governor** recommends expenditures of \$46.3 million, including \$45.7 million SGF, for FY 2023. This is an SGF decrease of \$12.7 million, or 27.5 percent, below the agency’s FY 2023 request. The decrease is primarily due to the Governor not recommending the agency’s enhancement requests for caseload staffing and expansion of public defenders offices. There is also a decrease due to the assigned counsel caseload adjustment. This is partially offset by partial funding for the agency’s enhancement requests for infrastructure upgrades and recruitment and retention.

The recommendation includes 244.3 FTE positions, which is 100.0 FTE positions below the agency’s FY 2023 request. This is due to the Governor not recommending the agency’s enhancement requests for ethical caseload staffing and the expansion of the public defender offices.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governor’s recommendation for FY 2023 with the following recommendation:

1. The Subcommittee recommends the Committee review the agency’s enhancement requests related to pay raises, an internal training program, and an increase in FTE positions.

Senate Committee Recommendation

The **Committee** concurs with the Subcommittee’s recommendation for FY 2023 with the following adjustments:

1. The Committee recommends adding language to set the maximum compensation rate for assigned counsel at \$120 per hour for FY 2023.
2. The Committee recommends reviewing the agency’s enhancement requests related to pay raises, an internal training program, and an increase in FTE positions at Omnibus.

Senate Committee of the Whole Recommendation (Sub. for SB 444)

The **Committee of the Whole** concurs with the Committee's recommendation for FY 2023.

House Budget Committee Report

Agency: Board of Indigents' Defense Services **Bill No.** HB 2588 **Bill Sec.** 13
Analyst: de Boer **Analysis Pg. No.** Vol. 1, Pg. 250 **Budget Page No.** 64

Expenditure Summary	Agency Request FY 2023	Governor Recommendation FY 2023	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	\$ 58,459,436	\$ 45,727,377	\$ (3,984,475)
Federal Funds	0	0	0
Other Funds	606,000	606,000	0
<i>Subtotal</i>	\$ 59,065,436	\$ 46,333,377	\$ (3,984,475)
Capital Improvements:			
State General Fund	\$ 0	\$ 0	\$ 0
Federal Funds	0	0	0
Other Funds	0	0	0
<i>Subtotal</i>	\$ 0	\$ 0	\$ 0
TOTAL	\$ 59,065,436	\$ 46,333,377	\$ (3,984,475)
FTE positions	344.3	244.3	0.0

Agency Request

The **agency** requests \$59.1 million, including \$58.5 million SGF, for FY 2023. This is an all funds increase of \$15.4 million, or 35.2 percent, and an SGF increase of \$15.4 million, or 35.7 percent, above the FY 2022 revised estimate.

Significant items in the agency request include the following:

- **ENHANCEMENT–RECRUITMENT AND RETENTION PLAN.** The agency requests \$4.1 million SGF to address recruitment and retention issues via pay scale adjustments and establishment of an internal training program for public defenders and assigned counsel.
- **ENHANCEMENT–ETHICAL CASELOADS STAFFING AND SUPPORT PLAN.** The agency requests \$8.1 million SGF to support 88.0 FTE positions to address chronic

attorney caseload issues and insufficient support staffing in its public defender offices.

- **ENHANCEMENT–EXPANSION OF PUBLIC DEFENDER OFFICES.** The agency requests \$1.2 million SGF to establish a public defender office and 12.0 FTE positions in the 7th Judicial District (Douglas County).
- **ENHANCEMENT–INFRASTRUCTURE UPGRADES.** The agency requests \$526,512 SGF for the anticipated ongoing maintenance for the new Case Management System, additional Death Penalty Defense Unit office space, additional costs for Westlaw upgrades, and new licensing for video evidence software.
- **ENHANCEMENT–ASSIGNED COUNSEL RATE INCREASE.** The agency requests \$3.6 million SGF to fund assigned counsel rate increase up to \$120 per hour.

The agency request also includes 344.3 FTE positions, which is an increase of 100.0 FTE positions above the FY 2022 revised estimate.

Governor’s Recommendation

The **Governor** recommends expenditures of \$46.3 million, including \$45.7 million SGF, for FY 2023. This is an SGF decrease of \$12.7 million, or 27.5 percent, below the agency’s FY 2023 request. The decrease is primarily due to the Governor not recommending the agency’s enhancement requests for caseload staffing and expansion of public defenders offices. There is also a decrease due to the assigned counsel caseload adjustment. This is partially offset by partial funding for the agency’s enhancement requests for infrastructure upgrades and recruitment and retention.

The recommendation includes 244.3 FTE positions, which is 100.0 FTE positions below the agency’s FY 2023 request. This is due to the Governor not recommending the agency’s enhancement requests for ethical caseload staffing and the expansion of the public defender offices.

House Budget Committee Recommendation

The **Budget Committee** concurs with the Governor’s recommendation for FY 2023 with the following adjustments:

1. Delete \$4.0 million SGF for the agency’s pay plan adjustment for FY 2023 and recommends the House Committee on Appropriations consider the agency’s pay plan during review of the statewide 5.0 percent pay increase.

The Budget Committee notes support for the agency’s salary adjustment plan.

2. The Budget Committee recommends that the agency fund the internal training program portion of the recruitment and retention enhancement request, totaling \$140,125, from existing resources for FY 2023.

The Governor did not recommend this portion of the agency’s enhancement request.

House Committee Recommendation

The **Committee** concurs with the Budget Committee's recommendation for FY 2023 with the following adjustments:

1. Add \$4.0 million SGF for the agency's pay plan adjustment and exclude these employees from the statewide 5.0 percent statewide pay increase for FY 2023.
2. The Committee recommends adding language to set the maximum compensation rate for assigned counsel at \$120 per hour for FY 2023.

House Committee of the Whole Recommendation (House Sub. for Sub. for SB 267)

The **Committee of the Whole** concurs with the Committee's recommendation for FY 2023.

Conference Committee Recommendation (House Sub. for Sub. for SB 267)

The **Conference Committee** concurs with the Governor's recommendation for FY 2023 with the following adjustments:

1. Add \$4.0 million SGF for the agency's pay plan adjustment and exclude these employees from the statewide 5.0 percent statewide pay increase for FY 2023.
2. Add language to set the maximum compensation rate for assigned counsel at \$120 per hour for FY 2023.

Omnibus Action (HB 2510)

1. Add language to include employees in the statewide 5.0 percent pay increase for FY 2023.

State Finance Council

1. Add \$638,178 SGF for a 5.0 percent salary adjustment for most state employees for FY 2023. This adjustment excludes statewide elected officials, current beneficiaries of the 24/7 pay plan, with other specific limitations for employees who receive salary adjustments in other portions of the appropriations bill.

	Governor's Recommendation FY 2023	Legislative Action	Legislative Approved FY 2023	Governor's Veto FY 2023	Final Legislative Approved FY 2023
All Funds					
State Operations	\$ 46,333,377	\$ 0	\$ 46,971,555	\$ 0	\$ 46,971,555
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
<i>Subtotal - Operations</i>	<i>\$ 46,333,377</i>	<i>\$ 0</i>	<i>\$ 46,971,555</i>	<i>\$ 0</i>	<i>\$ 46,971,555</i>
Capital Improvements	0	0	0	0	0
TOTAL	\$ 46,333,377	\$ 0	\$ 46,971,555	\$ 0	\$ 46,971,555

State General Fund

State Operations	\$ 45,727,377	\$ 0	\$ 46,365,555	\$ 0	\$ 46,365,555
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
<i>Subtotal - Operating</i>	<i>\$ 45,727,377</i>	<i>\$ 0</i>	<i>\$ 46,365,555</i>	<i>\$ 0</i>	<i>\$ 46,365,555</i>
Capital Improvements	0	0	0	0	0
TOTAL	\$ 45,727,377	\$ 0	\$ 46,365,555	\$ 0	\$ 46,365,555

FTE Positions	244.3	0.0	244.3	0.0	244.3
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