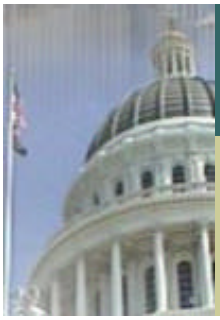

Judicial Council of California
Administrative Office of the Courts
Office of Governmental Affairs

Volume 5, Issue 1

January 2003

THE CAPITOL CONNECTION

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Deadline to introduce bills
February 21

Spring recess
April 10

GOVERNOR RELEASES BUDGET PROPOSAL

On January 10, 2003, Governor Gray Davis presented a budget that proposes state spending in Fiscal Year 2003-04 of $96.4 billion. Among other things, the budget identifies funding of $2.8 billion for the judicial branch, which includes $344.8 million for the Supreme and Appellate courts and the Administrative Office of the Courts; $3.1 million for the Commission on Judicial Performance; and $2.2 billion for the trial courts.

Faced with the administration's projected $34.6 billion shortfall, the Governor's budget included reductions for nearly all state agencies and departments and proposals for raising additional revenues through tax increases. The Governor identified reductions for the judicial branch of $44.5 million in the current year 2002-03. This reduction will be in addition to the $154 million unallocated reduction approved in the Budget Act of 2002. The 2003-04 budget year proposal includes unallocated reductions of $133.7 million. The budget proposal for the judicial branch also includes new funding for retirement and health benefits costs for court employees ($34 million), court interpreter costs ($8 million), and security costs ($33 million).

The Governor's budget identified proposals for new revenues of $66.2 million for deposit in the Trial Court Trust Fund that include a new $20 security fee, a $10 increase

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THE *ATKINS* DEBATE

In 2002, the U.S. Supreme Court ruled in *Atkins v. Virginia* (2002) 122 S.Ct. 2242 that the death penalty could not be imposed on mentally retarded defendants. The Court left it to the states to craft statutes to ensure compliance. Last year, now termed-out Assembly Member Dion Aroner (D-Berkeley) authored AB 557, which was the first attempt to address *Atkins*. AB 557 would have established the process through which defendants may be found to be mentally retarded. The bill was amended in the Senate but was not taken up by the Assembly to concur in the Senate amendments before the 2001-02 session came to a close.

This year, Sen. John Burton (D-San Francisco) has introduced SB 3, which is nearly identical to AB 557. Like its predecessor, SB 3 is sure to generate debate among California's prosecutors and criminal defense bar. Recently, *The Capitol Connection* asked Paul Gerowitz, director of the California Attorneys for Criminal Justice, and Larry Brown, executive director of the California District Attorneys Association, to share their thoughts on the *Atkins* decision and the legislative efforts to comply.

CC: What was your organization's reaction to the *Atkins* decision?

Gerowitz: We were pleased with the decision, of course.

Brown: The District Attorneys certainly would have preferred the high court to have decided the case differently. Death penalty litigation is already replete with safeguards pertaining to mental infirmities—both alleged and real—including incompetency, insanity, and several factors in mitigation for the jury to consider in the penalty phase. To carve out yet another niche under the rubric of "mental retardation" serves to invite even greater, and more creative, defense litigation in capital cases. Moreover, we firmly believed that prosecutors in California were not seeking the death penalty in cases involving a truly mentally retarded murderer in the first place.

Perhaps more globally, another concern was that the *At-*

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THE *ATKINS* DEBATE

(Continued from page 1)

kins decision represented a victory of sorts for the death penalty abolitionist movement, which has deftly chosen hot-button issues such as retardation and juvenile offenders in their attempt to weaken support for the law in general.

CC: What was your organization's position on AB 557?

Gerowitz: CACJ supported the bill. We felt it provided adequate, if not ideal protections for mentally retarded defendants in capital cases.

Brown: AB 557, in the version presented to the Senate Public Safety Committee last summer, was unacceptable. It provided the defense with "two bites at the apple" to litigate the issue, at a pre-trial hearing and, if unsuccessful, as a stand-alone jury verdict after the finding of guilt. For good measure, the proponents also placed the burden of proof on the People to prove the defendant *not* mentally retarded. They argued that this was warranted by the court's subsequent decision in *Ring*, a premise we completely reject. Additionally, the definition of mental retardation failed to specify a benchmark IQ, such as 70 or below, thus allowing defendants with much higher IQs to try to take improper advantage of *Atkins.*

Gerowitz: Certainly, the defense bar may disagree with the prosecutors on the issue of when is the best time and place to decide whether or not a person charged with special-circumstance murder is mentally retarded. We feel this should be done before the jury has been empanelled for the criminal case. One reason for this is that a capital murder trial is much more expensive for all concerned than one in which the death penalty is not at stake. Another reason is that the facts of the case are irrelevant to the question of mental retardation, but once they have been adduced at trial, these facts could greatly prejudice the jury against the defendant. The facts are irrelevant to the issue because a person either is or is not mentally retarded, based on factors that have existed since childhood. The Supreme Court implicitly recognized this in deciding *Atkins.* Clearly there was nothing about the facts of the defendant's case in *Atkins* that would have made the court question the applicability of the death penalty, regardless of how heinous those facts were. The sole question was one of diagnosis, which the court answered without reference to the facts.

I'd also like to explain our position regarding who should bear the burden of proof. The U.S. Supreme Court has said that a fact that, if proved, results in a significantly greater penalty, must be regarded as an element of the offense. As such, this fact must be proven, beyond a reasonable doubt, to a unanimous jury. The court, in *Atkins*, said that the state cannot sentence a person who is mentally retarded to death. Thus, if a person is mentally retarded, the greatest penalty he or she can receive is life without parole. If a person is not mentally retarded, the death penalty becomes an option. That sounds to me a lot like not being mentally retarded is an element of capital murder in California. If so, the absence of mental retardation ought to be proven beyond a reasonable doubt, with the burden of proof on the prosecution. I am sure the prosecution would have problems with a bill that did that.

Brown: In an effort to facilitate compromise, CDAA opted not to oppose AB 557 out the gate, but instead adopt a position of "further study" and commit to working with all concerned. We were cautiously optimistic agreement could be reached, but recognized that there wasn't a good deal of time left in the session to debate the issue. We engaged in extensive–and productive–discussions with the proponents, with the Attorney General's Office serving as a key ally of ours in the process.

Without betraying what offers were floated by each side, when all was said and done, the one nut we collectively could not crack was: at what point should the issue of retardation be resolved? The proponents insisted on having it determined pre-trial by a judge or possibly a non-death-qualified jury. Prosecutors insisted on a procedure akin to litigating insanity, namely after the finding of guilt by the same jury. In attempt to bridge the divide, we offered up what Missouri law provides: mental retardation is litigated post-guilt, unless both parties agree to have it resolved pre-trial. I referred to this as our "Missouri Compromise." Despite such clever billing...the offer was rejected, and we simply ran out of time.

CC: What are your organization's plans for legislative action in 2003?

Gerowitz: John Burton has introduced SB 3, which is virtually identical to last year's bill. I am sure we will be supportive of his efforts. I think the bill must be viewed as something of work in progress, however, in that I am sure it will go through changes as it moves through the legislative process.

Brown: A lot of groundwork was laid last summer. This will expedite discussions among all concerned. However, there is every reason to believe that we will once again reach an impasse on when the issue is litigated. Senator Burton, who was a principal co-author of AB 557, has introduced SB 3, which is substantially identical. We will oppose this legislation, unless

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THE *ATKINS* DEBATE

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amended. Additionally, CDAA and the Attorney General's Office are co-sponsoring a separate bill, SB 51, authored by Senator Morrow (R-Oceanside).

CC: How do you expect the Legislature and governor to react to your legislative efforts?

Gerowitz: AB 557 passed through the Senate in 2002 without any trouble. I would expect the same to be true of SB 3 in 2003. I don't see why the bill also would not get through the Assembly. In 2002, it got back to the Assembly fairly late in the summer, and there was not adequate time to fully air the issues and get the bill passed. This year I think the bill will pass both houses without too much difficulty. As to the Governor, I think he must be aware of the need to pass and sign some legislation in this area. It is an issue that is just too important to leave to the disparate forces of litigation in different counties, not to mention the potential costs of relitigating it in each and every case. The question is, will he be listening to just one side of the issue, or will he be prepared to sign a reasonable bill that the prosecutors are not entirely happy with.

John Paul Stevens

The U.S. Supreme Court Associate Justice authored the opinion declaring unconstitutional the execution of mentally retarded defendants.

I expect there will be much discussion in the Legislature about the burden of proof, the timing of the hearing, and the finder of fact, as the bill moves along. It should be a lively and enlightening debate.

Brown: As Pro Tempore of the Senate, and an able and passionate legislator at that, Senator Burton most likely could get his bill through the Legislature as introduced, if he so chooses. This is particularly true given the legislation has been crafted to not directly amend the death penalty law. As such, the Legislative Counsel's Office has opined that Senator Burton's bill need not garner a two-thirds vote in each house, but instead a simple majority. Moreover, the Senator not only serves on the Senate Public Safety Committee, where the issue will first be heard, but he often holds considerable sway with the Democratic majority members of the committee. As a result, he can also create a significant roadblock for CDAA's sponsored legislation.

However, based on past efforts in such areas as post-conviction DNA testing and last year's motions to vacate convictions based on government fraud, in which the Senator insisted that all sides work together to identify their bottom lines, we would not expect him to simply steamroll SB 3 through the Legislature.

The process will also be greatly facilitated, of course, by the always-important consideration of where Governor Davis stands on the issue. Based on last year's discussions over AB 557, and the Governor's long-standing commitment to public safety, it is highly unlikely he would be supportive of legislation opposed by District Attorneys and the Attorney General's Office.

In the final analysis, all sides should remain motivated to craft a balanced and workable law to implement *Atkins.* In the absence of legislation, and given the lack of direction from the U.S. Supreme Court, courts will be placed in the posture of crafting their own, perhaps conflicting, procedures to litigate mental retardation. This has in fact already occurred with trial judges in Imperial and Riverside Counties adopting procedures similar to insanity, while a judge in Stanislaus County has opted for a pre-trial court hearing to resolve the issue. In the long run, such conflicting practices can only make worse the interminable delays in enforcing California's death penalty laws.

Ed. Note: SB 3 was amended on January 9, 2003, to provide for a trial to determine whether a defendant is mentally retarded prior to the adjudication of guilt with the burden on the prosecution to prove beyond a reasonable doubt that the defendant is not mentally retarded. No post-guilt review of the mental retardation is provided.

SB 51 (Morrow) seeks to address the Atkins decision by providing for a defendant to file a pre-trial application for a special finding that he or she is mentally retarded. If the court finds that the application presents sufficient evidence that good reason exists to believe that the defendant is mentally retarded, the court shall appoint panel of three psychologists to examine the defendant for purposes of a determination of mental retardation. The trier of fact would then make a special finding regarding mental retardation once the defendant has been convicted.

GOVERNOR'S BUDGET

(Continued from page 1)

to the trial court motion fee, and the transfer from counties of certain undesignated fees totaling $31 million. The proposal also includes an increase from $265 to $630 for the appellate filing fee for deposit of $2.1 million in the state's General Fund.

The Governor has also proposed a number of structural reforms in the judicial branch that, if adopted, will result in savings. These reforms include consolidation of administrative functions in the appellate and trial courts, providing flexibilities in court contracts for security, permitting expanded use of electronic recording, and shifting ownership of the court record. Each of the proposals will require changes in the law. The Department of Finance will introduce budget trailer bills to make the necessary statutory changes.

The Assembly and Senate budget subcommittees met to consider the Governor's budget proposals for reductions in the current fiscal year. Both subcommittees approved $44.5 million in unallocated midyear reductions proposed by the Governor for the 2002-03 budget. The Governor has asked the Legislature to act on the midyear reduction proposals by the end of January. Action on the new revenue and structural reform proposals were deferred until FY 2003-04 budget year discussions; those hearings are expected to occur in March.

SENATE SUBCOMMITTEE NO. 4 TO HEAR BRANCH BUDGET

There has been a change in which Senate Budget Subcommittee has jurisdiction over judicial branch and trial court budgets. Now, Subcommittee No. 4, chaired by Senator Joe Dunn (D-Santa Ana) will hear the judiciary's budget and make a recommendation to the full budget committee. Subcommittee No. 4 also hears the legislative and executive branch budgets, as well as the budgets for public safety programs. Subcommittee No. 4 also includes Sen. Dick Ackerman (R-Tustin) and Sen. Denise Ducheny (D-San Diego). In past years, the judicial branch's budget was heard by Subcommittee No. 2.

In the Assembly, the judiciary's budget will continue to be heard by Assembly Budget Subcommittee No. 4, which hears budget matters related to state administration. The subcommittee is chaired by freshman Assembly Member Rudy Bermúdez (D-Norwalk). Assembly Member Bermúdez is a former city council member and mayor of Norwalk, and worked as a parole agent for more than 20 years with the California Department of Corrections and the California Youth Authority. Rounding out the subcommittee are Assembly Members Dave Cogdill (R-Modesto), George Nakano (D-Torrance) and Sarah Reyes (D-Fresno) and another newly elected member, Rick Keene (R-Chico).

LEGISLATURE CONSIDERS CHANGE TO UNFAIR COMPETITION LAW

One of California's oldest and most significant consumer protection laws has come under scrutiny by the Legislature. Business and Professions Code section 17200 and following, known as the Unfair Competition Law or UCL, was enacted in 1933 to allow both public prosecutors and private plaintiffs to bring civil actions to enjoin acts of unfair competition or false advertising.

The Judiciary Committees of the Senate and Assembly held a joint informational hearing on January 14 to hear from government officials, business groups, consumer advocates, and from one of the law firms that has allegedly been abusing the statute.

Nearly all of those who testified before the committee, and the committee members themselves, agree that the UCL is a useful tool in efforts to protect both consumers and businesses from firms that use deceptive advertising and other unfair practices. However, most also agreed that, in its current form, the statute is open to abuse.

At issue is the alleged abuse of the UCL by a handful of law firms that have been filing suit against thousands of minority-owned businesses based largely upon information posted on the Department of Consumer Affairs website. According to testimony from representatives from the target businesses, these lawsuits are often based on technical violations of state regulations, which have already been remediated through administrative action and for which no demonstrated competitive advantage or

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UNFAIR COMPETITION LAW

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harm to consumers exists.

Two partners of the Trevor Law Group, which is the subject of a State Bar investigation into their allegedly extortionate practices in seeking settlements, also appeared before the committee. While they insisted their filings were in the public interest, their testimony faced harsh and critical questioning from the committee. At one point, Senate Judiciary Committee Vice-Chair Bill Morrow (R-Oceanside) called the lawyers "two-bit legal whores" interested only in money.

The joint committee also sought information regarding potential fixes to the UCL that would eliminate the abuses without impacting the effectiveness of the statute in keeping businesses from using unfair practices. One suggestion that was repeated by several of the witnesses was to provide some kind of oversight of 17200 settlements by the courts. Assembly Member Robert Pacheco (R-Walnut) has introduced AB 102, which defines actions brought by private attorneys under the UCL as "representative actions," and then establishes a procedure for judicial review of such actions.

The Assembly Judiciary Committee has also introduced AB 95, which is expected to be amended to address some of the concerns raised at the hearing. Assembly Member Lou Correa (D-Anaheim), Chair of the Assembly Business and Professions Committee, also recently held an informational hearing on the UCL. Assembly Member Correa has introduced AB 69, which declares the Legislature's intent to address the issue of abusive suits under the existing UCL.

RIPPED FROM THE HEADLINES

"Ripped From the Headlines" highlights news stories of interest including headlines and lead paragraphs, without editorial comment from *The Capitol Connection.*

"Chief Justice Draws the Line on Court Budget Cuts" ***Metropolitan News-Enterprise*** (December 16, 2002)
Chief Justice Ronald George, who in recent days said the courts must do their part to cut costs in the midst of a state budget crisis, made clear Friday that he would not permit cuts so deep as to jeopardize the courts' constitutional duties.

"As we consider how to reduce our budget-and we shall reduce the courts' budgets-we must fulfill the public's trust to protect the values of our American justice system, which make our system of government so unique," George told the Judicial Council at its San Francisco meeting.

"In making appropriate, responsible decisions, this council and all decision-makers must guard against the temptation to make swift, across-the-board decisions that may have unintended consequences of loss far greater than this financial crisis," he said.

"A Public Peril - The State Law On High-Speed Cop Pursuits" *Sacramento Bee* (December 22, 2002)
Its hands tied by the Legislature, a California appeals court has issued a long overdue call to reconsider state law giving government a near-total immunity from liability in accidents involving high-speed police pursuits.

The Fourth District Court of Appeal ruled earlier this month that the family of an Orange County boy could not sue the city of Westminster in a case in which the boy was killed after police chased a stolen van onto a high school campus. The police rammed the van, which slid against a trash dumpster, crushing the boy. He lapsed into a coma and died three months later.

The city can't be held liable in the case, the court said, because state law absolves government of responsibility as long as the agency has adopted a policy giving police guidelines to follow in chasing criminal suspects. But the court, in an unusual move, also pleaded with legislators to change the law, which it said gave public entities a "get out of liability free" card.

"Unfortunately," the court said, "the adoption of a policy which may never be implemented is cold comfort to innocent bystanders who get in the way of a police pursuit. We do not know if the policy was followed in this instance, and that is precisely the point. We will never know."

"Child Support Collection Lags" *San Francisco Chronicle* (December 23, 2002)
Overhaul improved state system a bit - rate still draws federal fine.

A new statewide department created two years ago was supposed to help 800,000 families who have trouble collecting child support.

But the collection rate has shown virtually no improvement, and the state faces years of federal fines because it has yet to set up a statewide computer system to track collections.

Officials collected about $1 billion of the support that was due last year, just 41 percent of the total amount owed.

That's up just a hair from 40 percent in the previous year and barely meets the federal requirement of 40 percent.

"That is an absolutely unacceptable number," acknowledged

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RIPPED FROM THE HEADLINES

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Curt Child, director of the new department. "It is our real focus now."

Supporters of the new department, including lawmakers who sponsored the original legislation, are happy with the revamped customer service focus, but nearly everyone agrees there is a long way to go.

"Inmate Early Release Is A Budget Option" *Orange County Register* (December 24, 2002)
Some leading Democrats suggest chopping some sentences to shave state costs.

Proposals to release some nonviolent and elderly prisoners early have emerged in California and other states confronting massive budget shortfalls.

Kentucky Gov. Paul Patton enraged prosecutors by recently allowing hundreds of low-level felons to leave jails and prisons early as part of a plan to fill a corrections shortfall. And proposals to release some inmates early, cut parole time or reject the return of criminals nabbed in other states have emerged in Washington, Connecticut, Oregon, Nevada and Oklahoma.

"Eye of the Beholder" Headlines...

"Cuts spare no one"
The Sacramento Bee (January 11, 2003)

"Davis plan spares prisons"
The San Francisco Chronicle (January 13, 2003)

California is facing a nearly $35 billion budget deficit, and some leading Democratic lawmakers are suggesting chopping some sentences to shave state costs.

A spokeswoman for Gov. Gray Davis' said the governor would likely try to resist releasing prisoners early to help fill the budget hole.

"Solving Budget With Rule Change" *Stockton Record* (December 28, 2002)
Maybe it's not spending or lack of taxes that makes it hard for California to balance a budget. Maybe it's that pesky rule about a two-thirds majority and the way it gives a handful of Republicans power to block the majority Democrats' spending plan.

Assemblyman John Longville thinks so. The Democrat from Rialto thinks voters should change the constitution to do away with the rule.

After all, he says, Arkansas and Rhode Island are the only other states with such a requirement.

In California, the two-thirds requirement means final say on the budget is in the hands of six Republicans in the Assembly and two in the Senate, since without that many GOP votes, Democrats can't meet the two-thirds threshold.

The irony about Longville's measure is that it requires a two-thirds vote to put it on the ballot. So unless a number of Republicans want to cut themselves out of the budget process, the measure appears dead on arrival.

Longville said that if he can't garner votes for the measure in the Legislature, he'd take another route, relying instead on a special-interest group to fund a signature drive, putting the initiative on the ballot without input from lawmakers.

"State Facing Surplus Of Ideas To Aid Budget" *Bakersfield Californian* **(December 29, 2002)**
Nearly all of the ideas involve steps that would have been considered draconian or taboo in better times: releasing some prisoners early, slashing school funding, taxing the Internet, taxing services like lawyers' and consultants' fees.

Some imaginative thinking will be necessary, along with the political courage on the part of the governor and the Legislature to implement what are certain to be some unpopular, but necessary, choices.

Back when the official estimate of the budget deficit was still $21 billion, Assembly Speaker Herb Wesson, D-Los Angeles, put the problem in perspective:

"That's a hole so deep and so vast," Wesson said, "that if we fired every single person on the state payroll -- every park ranger, every college professor and every highway patrol officer -- we would still be more than $6 billion short."

"Amid Budget Crunch, It's Every Lobbyist for Himself" *Los Angeles Times* (January 3, 2003)
Scores of lobbyists are lining up to offer lawmakers surprisingly specific plans for plugging the state's $34.8-billion budget gap. While they are not all fully baked, the plans all share a common theme: They point the finger at someone else.

Unions propose slashing corporate tax breaks instead of the salaries of middle-class state workers. Pharmacy owners fearing their Medi-Cal reimbursements will be reduced suggest that lawmakers target the drug companies instead. And a coalition of local government agencies, worried that they could take a beating in lost state revenue, proposed their own laundry list of new taxes and revenue shifts with the predictable common thread -- all the proposals leave their coffers intact.

With the deficit as huge as it is this year, lobbying has been turned on its head. It's a defensive game now, with interests scurrying to save what they've got instead of trying to get more, as they do in boom times.

Longtime alliances are crumbling in this race for self-preservation. It is not enough for lobbyists to merely warn that proposed cuts would cripple the ability of their clients to provide essential government services. They must show lawmakers where to find money elsewhere. Sometimes they point at their friends.

"Budget Solution Could Go To Courts" *Orange County Register* (January 5, 2003)
California's budget may wind up in the courts, not the Capitol, as legal challenges loom over critical pieces of Gov. Gray

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RIPPED FROM THE HEADLINES

(Continued from page 6)
Davis' plan to cover a record deficit.

The governor, confronting what he describes as a $34.8 billion shortage over the next 18 months, wants to tap teachers' pensions, Medi-Cal and local governments' housing funds to help balance the books.

Davis says he could capture nearly $1.2 billion from these three shifts - which are small in comparison to the size of the deficit but big in controversy.

Experts in the Capitol believe the $1.2 billion in cuts are likely to prompt challenges from groups representing the poor, local governments or teachers, and that the cuts could delay the full budget if judges issue injunctions.

"With State Facing A $35-Billion Budget Gap, Lawmakers Will Have To Shun Costly Measures" *Los Angeles Times* (January 6, 2003)
A severe shortage of the chief raw material of government - money - is likely to change the quantity and character of what California's bill factory puts out this year.

A new session of the Legislature starts today, and returning lawmakers face a projected $34.8-billion hole in the state budget over the next 18 months. The task of tightening California's spending to match dwindling revenue will leave lawmakers without the usual dollars and time to tinker with government.

"The budget, the budget, the budget" is how Senate Leader John Burton (D-San Francisco) described the theme of the upcoming session. "Bills that cost any kind of money are going to have a difficult time."

"As Both Parties Dig In, Epic Budget Battle Looms" *Sacramento Bee* (January 9, 2003)
In recent years, Republican lawmakers have been the focus of California's budget debate as they resisted political compromises that included tax increases. This year, however, the Legislature is also populated with more liberals who are just as adamantly opposed to budget cuts affecting the poor.

One measure of the Legislature's mood was the reaction to the Democratic governor's call for more authority to make midyear-spending cuts. Assembly Republican leader Dave Cox said he's "happy to help the governor do his job."

Senate President Pro Tem John Burton, D-San Francisco, took the opposite position.

"Not in my lifetime," Burton said.

Democrats simply won't support a "cut-only strategy," said Assemblyman Darrell Steinberg, D-Sacramento.

"You can't cut your way our of it. You can't tax your way out of it, completely," he said. "There has to be some combination, with a larger focus on restructuring and realignment."

"Officials Seek Safe Sites to Swap Custody" *Los Angeles Times* (January 13, 2003)
The idea is to reduce confrontations between parents who are fighting over children.

Four months after a boy watched his father fatally stab his mother, then kill himself, justice agency officials in Los Angeles County are searching for a safe place for children to begin and end visits with parents engaged in heated custody disputes.

"There are many families in Los Angeles County where the parent conflict is so high that they cannot peacefully exchange custody between them," said Los Angeles County Superior Court Judge Aviva K. Bobb, who supervises the court's family law departments. "There is a major need for a place where parents can exchange their children and there is professional supervision."

To reduce potentially violent confrontations, family court judges now order some parents to swap children for visitations in public places, like fast-food restaurants, or, in the most risky cases, at police stations. But the exchanges are unsupervised and can lead to explosive encounters between estranged parents in front of their children.

"Foster Care Fails State Kids, U.S. Report Says" *San Francisco Chronicle* (January 14, 2003)
California's system of care for abused and neglected children, under fire in two Bay Area cases and from the state itself, fails to meet national standards for protecting kids and for training case workers and foster parents, according to a federal report released Monday.

The report says children suffer abuse in foster care at high rates, and that the state system takes too long to reunify families or complete adoptions.

In several cases, abused children moved to other homes suffered further abuse within six months, the report added.

California's department of social services has 90 days to respond to the federal government and begin making improvements -- or face monetary sanctions.

Rita Saenz, head of the state agency, said it will comply. "You have my guarantee that we will not be penalized," she said.

"State Republicans Calculate a Plan for Their Own Budget" *Los Angeles Times* (January 15, 2003)
As Gov. Gray Davis and California Democrats wrestle with the gaping shortfall in next year's proposed budget, state Republicans have their own quandary: They are the state's minority party, able to block a spending plan but unwilling so far to articulate an alternative to the Democrats' approach.

Some in the state GOP say they believe that the party must soon shift strategies, adding to a playbook that until now has mostly involved simply opposing any new taxes. Pressure is mounting, they say, for Republicans to propose a plan of their own.

Without it, some Republicans worry that their party runs the risk of emerging from the legislative session appearing obstructionist rather than as having helped to solve the budget crisis.

Judicial Council of California
Administrative Office of the Courts
Office of Governmental Affairs

770 "L" Street, Suite 700
Sacramento, CA 95814
Telephone 916-323-3121
Fax 916-323-4347
TDD 800-735-2929

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Yvette Trevino
916-323-3121,
yvette.trevino@jud.ca.gov

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WHAT PEOPLE ARE SAYING: NEW STATE FINANCE DIRECTOR STEVE PEACE

Governor Davis has named former state Senator Steve Peace as his new finance director. Peace replaces outgoing director Tim Gage, who served in the post throughout the Governor's first term.

Peace, from San Diego, was first elected to the Assembly in 1982 and to the Senate in 1993. During his tenure in the Legislature, he developed a reputation as an intelligent and hardworking lawmaker eager to dive into complex issues.

Peace is no stranger to the state's budget process, having chaired the Senate Budget Committee as well as the budget conference committee that meets to resolve differences between the budget bills passed in each house.

His appointment as chief financial advisor to the governor generated a number of comments from legislators, lobbyists, and the media. Here is a sampling:

"Start with pure brains, a real understanding of the large picture of the issues in California and an ability to drive the process toward decision-making. He's a marvelously inventive and smart guy. He'll figure (the budget) out."
-Former legislator and current lobbyist Phil Isenberg

"Everybody knows him. They know he knows his stuff. He's imaginative. I think it's a great thing for the state."
-Senate President pro Tem John Burton (D-San Francisco)

"He is honest. He is straightforward."
-Senate Minority Leader Jim Brulte (R-Rancho Cucamonga)

"He's a smart guy, but he has an extremely narrow window of opportunity to create credibility (regarding the governor's budget projections) where none exists today."
-Senator Ross Johnson (R-Irvine)

"In all of the budget discussions I ever had with Steve, he always knew what the problem was and always allowed politics to get in the way of solutions.''
-Former Senator and current Assembly Member Ray Haynes (R-Riverside**)**

"He's a wound-up workaholic, incessant talker and frequent pain in the backside who never stops thinking, analyzing, visualizing."
-Los Angeles Times

News from the AOC!

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CFCC Update: Reports on developments in juvenile and family law, including innovative programs, case law summaries from the AOC's Center for Families, Children and the Courts; grants and resources, and updates on legislation and rules and forms. Published three times a year. See www.courtinfo.ca.gov/programs/cfcc/resources/publications/newsletter.htm.

Court News: Award-winning bimonthly newsmagazine for court leaders reporting on developments in court administration statewide. Indexed from 2000 at www.courtinfo.ca.gov/courtnews.