



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 26, 2015

Title	Agenda Item Type
Trial Court Allocations: Restoration of Benefits Funding in 2015–2016	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	June 26, 2015
Recommended by	Date of Report
Trial Court Budget Advisory Committee Hon. Laurie M. Earl, Chair	June 15, 2015
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Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve the allocation of \$13.4 million included in the 2015 Governor's May Revise for trial courts that made progress towards meeting the Public Employees' Pension Reform Act of 2013 standard. The 2014 Budget Act included an augmentation of \$42.8 million specifically for the benefit cost changes in 2012–2013 and 2013–2014, which took into account a reduction in the amount of \$22 million, based on the Department of Finance estimate of what the trial courts were spending to cover the employee share of cost for retirement. The Governor's May Revise proposes restoring \$13.4 million of this \$22 million reduction in 2015–2016.

Recommendation

The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective June 26, 2015, approve the allocation of \$13.3million¹ for the restoration of benefits funding to all the trial courts based on the following allocation methodology.

- Allocate by prorating 50 percent in restored benefits funding to all the trial courts (\$6.637 million).
- The additional 50 percent (\$6.637 million) would be prorated (1) to courts that do not pay towards the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases, and (3) to courts in which the employer-paid portion of the employee share of costs for retirement has been reduced in fiscal year (FY) 2014–2015, by at least 30 percent.
- Courts will be included in the additional 50 percent proration if they meet the defined criteria as of May 14, 2015.
- Courts that do not pay towards the employee share of costs for retirement or courts with employer-paid share (EPS) amounts of 10 percent or less than cost increases, and courts that have reduced the employee share of costs for retirement by 30 percent would receive 90 percent of their 2012–2013 and 2013–2014 benefits cost increases. Courts that do pay towards the employee share of costs for retirement and do not fall into the other categories would receive 78 percent of their 2012–2013 and 2013–2014 benefits cost increases. (See Attachment A.)
- This 50/50 allocation methodology would be done on a one-time basis for 2015–2016.
- Beginning in 2016–2017, courts that continue to provide EPS of the employee retirement contribution would be reduced by the actual outstanding funding not restored by the Department of Finance (DOF) that is attributed to their court. This funding will then be distributed to those courts that do not make EPS of employee retirement payments in order to make their benefit cost funding whole.

Previous Council Action

The Judicial Council, at its July 29, 2014, meeting, approved allocating the new benefits funding by prorating \$41.0 million (noninterpreters) to the trial courts based on each court's percentage of the total 2012–2013 and 2013–2014 benefits cost change of \$61.3 million (noninterpreters). Staff was directed to coordinate with the DOF to augment the Trial Court Trust Fund (TCTF) Program 45.45 (Court Interpreters) appropriation with the remaining \$1.8 million in new benefits funding for court interpreter benefits.

Rationale for Recommendation

Background

In the fall of 2013, a budget change proposal (BCP) in the amount of \$64.8 million was submitted to the DOF to address the ongoing cost to the trial courts in 2014–2015 of the retirement,

¹ The remaining \$100,000 in restored benefits funding is for court interpreter benefits, and would be appropriated to TCTF Program 45.45 (Court Interpreters).

employee health, and retiree health cost changes that occurred in 2012–2013 and were anticipated to occur in 2013–2014. After the release of the 2014 Governor’s January budget proposal, the DOF performed an analysis of court retirement costs and determined that \$22 million was the amount trial courts could save by not covering the current employee share of costs for retirement. The 2014 Budget Act included an augmentation of \$42.8 million specifically for the benefit cost changes in 2012–2013 and 2013–2014, which took into account a reduction in the amount of \$22 million, based on the DOF estimate of what the trial courts were currently spending to cover the employee share of costs for retirement.

The TCBAC recommended prorating the \$42.8 million in new funding to the courts based on each court’s percentage of the total funding need of \$63.9 million. At its July 29, 2014, meeting, the council approved allocating the new benefits funding by prorating \$41.0 million (noninterpreters) to the trial courts based on each court’s percentage of the total 2012–2013 and 2013–2014 benefits cost change of \$61.3 million (noninterpreters).

At the September 9, 2014, TCBAC meeting, Judge Earl, chair of TCBAC, announced that she had appointed a working group to look at addressing retirement cost issues and whether the employer-paid portion of employee retirement costs should be addressed in the Workload Allocation Funding Model (WAFM). The Benefits Working Group met twice to consider options to address whether the employer-paid portion of employee retirement costs should be addressed in WAFM. At the working group’s first meeting, it was decided that no options would be considered until the 2015 Governor’s Budget was released in January 2015 to see if there was to be any return of the \$22 million for courts that had negotiated a change in the portion paid of the employee retirement share.

At the group’s January meeting, the members considered options for the allocation of the \$10.4 million for noninterpreters augmentation to the TCTF Program 45.10 (Court Operations) appropriation included in the 2015 Governor’s Budget. The remaining \$400,000 would augment the TCTF Court Interpreter Program 45.45 appropriation, which is allocated by region and not by individual trial court. The working group decided that since there appeared to be a significant number of courts negotiating reductions to the employer-paid retirement subsidy, there was no reason at this time for employee retirement cost issues to be addressed in WAFM. In addition, since an updated benefits request was to be submitted in mid-February 2015 that would reflect final confirmed benefits costs, it was decided by the working group that if there were changes to the subsidy amounts the approved option could be updated after the release of the May Revise.

Allocation options considered at the March 23, 2015, TCBAC meeting

At the March 23, 2015, TCBAC meeting, the Benefits Working Group members presented six options for allocating the restored benefits augmentation among the courts for consideration by the TCBAC. Two options—3a and 4a— were added during the meeting to address concerns expressed by some members that their original recommended Option 3 would unfairly penalize courts that had only a minute portion of the employee share of costs for retirement remaining and leave out courts that had made progress on reducing the EPS. The TCBAC reviewed the options

presented by the Benefits Working Group and voted unanimously to recommend the approval of Option 3a to the Judicial Council at their next business meeting on April 17, 2015. The following six options for allocating the restored benefits augmentation among the courts were considered by the TCBAC. The total amount to be allocated for noninterpreters at the time was \$10.4 million, which reflected the 2015 Governor's Budget.

1. Allocate 100 percent pro rata to all courts.
2. Allocate 100 percent pro rata to courts that provide no employee retirement EPS.
3. Allocate 50 percent to all courts and an additional 50 percent to courts that provide no EPS of the employee retirement contribution in 2015–2016. This 50/50 methodology would be done on a one-time basis for 2015–2016. Beginning in 2016–2017, courts that continue to provide EPS of the employee retirement contribution would not share in an allocation for any funding provided from trial courts that made progress towards meeting the standard of the California Public Employees' Pension Reform Act of 2013 (PEPRA).
- 3a. Allocate by prorating 50 percent of the \$10.4 million in restored benefits funding to all the trial courts. The additional 50 percent would be prorated (1) to courts that do not pay toward the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases, and (3) for courts in which the EPS portion of the employee share of costs for retirement has been reduced in FY 2014–2015 by at least 30 percent, they would receive half of the additional 50 percent allocation. Any court that does not fall into one of the above categories would not share in the additional 50 percent allocation. This 50/50 methodology would be done on a one-time basis for 2015–2016. Beginning in 2016–2017, courts that continue to provide employee retirement EPS would not share in an allocation for any funding provided from trial courts that made progress towards meeting the PEPRA standard.
4. In 2015–2016, allocate 75 percent to all courts and an additional 25 percent to courts that provide no employee retirement EPS. In 2016–2017, any funding for trial courts that made progress toward meeting the PEPRA standard would be allocated 50 percent to all courts and 50 percent to those courts that do not provide an EPS. Beginning in 2017–2018, courts that continue to provide employee retirement EPS would not share in an allocation for any funding for trial courts that made progress toward meeting the PEPRA standard.
- 4a. Allocate by prorating 75 percent of the \$10.4 million in restored benefits funding to all the trial courts. The additional 25 percent would be prorated (1) to courts that do not pay toward the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases, and (3) for courts in which the EPS portion of the employee share of costs for retirement has been reduced in FY 2014–2015 by at least 30 percent, they would receive half of the additional 50 percent allocation. Any court that does not fall into one of the above categories would not

share in the additional 25 percent allocation. In 2016–2017, any funding for trial courts that made progress towards meeting the PEPRA standard would be allocated 50 percent to all courts and 50 percent—using the same methodology as in prior years—to those courts that do not provide an EPS; or to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases; or to courts in which the EPS portion of the employee share of costs for retirement has been reduced by at least 30 percent.

Prior to the April 17, 2015, Judicial Council meeting

The cochairs of the Benefits Working Group did not believe that the presentation made on Option 3a at the March 23 TCBAC meeting accurately described the allocation methodology, and more clarification would be needed from the members to confirm whether they had voted for Option 3a based on the discussion or on the materials passed out during the meeting. Judge Earl sent out an e-mail on April 10, 2015, to confirm all members' votes. There were 14 responses received, and the results were split on what members believed they had voted for. Based on the responses, Judge Earl decided that it was best to pull the item off the Judicial Council's April 17 meeting agenda and have it go back to the TCBAC for reconsideration.

Reconsideration of allocation options at the May 18, 2015, TCBAC meeting

At the May 18, 2015, TCBAC meeting, the Benefits Working Group members presented three options for allocating the restored benefits augmentation among the courts for consideration by the TCBAC. The TCBAC reviewed the options presented by the Benefits Working Group and voted to recommend the approval of Option 3c to the Judicial Council at their next business meeting on June 26, 2015. This methodology would be applied to the restored funding provided in the final 2015 Budget Act. The members reviewed Option 3a below which was based on the materials passed out during the March 23, 2015, TCBAC meeting and Option 3b which was based on the discussion at that meeting. Option 3c was added by the Benefits Working Group (1) to clarify language regarding 2016–2017 to ensure courts are fully aware of out-year funding considerations, and (2) to include courts that negotiated a 30 percent or more employee retirement EPS reduction in the months after the DOF cutoff date (February 18, 2015) that were not included in the \$13.3 million funding restoration. Option 3c was added to reflect these nuanced differences with Option 3b.

The following options for allocating the restored benefits augmentation among the courts were considered by the TCBAC.

- **3a.** Allocate 50 percent to all courts; allocate an additional 50 percent to courts with no retirement EPS and courts with 10 percent EPS of cost increases; and half of the additional 50 percent for courts with EPS reduction of 30 percent or more.
 - Allocate by prorating 50 percent in restored benefits funding to all the trial courts (\$6.637 million).
 - The additional 50 percent (\$6.637 million) would be prorated (1) to courts that do not pay towards the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases,

- and (3) for courts in which the EPS portion of the employee share of costs for retirement has been reduced in FY 2014–2015 by at least 30 percent, they would *receive half* of the additional 50 percent allocation. (See Attachment 1.)
- Any court that does not fall into one of the above categories would not share in the additional 50 percent allocation.
 - This 50/50 methodology would be done on a one-time basis for 2015–2016.
 - Beginning in 2016–2017, courts that continue to provide employee retirement EPS would not share in an allocation for any funding provided from trial courts that made progress towards meeting the PEPRA standard.
 - Courts that do not pay towards the employee share of costs for retirement or courts with EPS amounts of 10 percent or less than cost increases would receive 91 percent of their 2012–2013 and 2013–2014 benefits cost increases. Courts that have reduced the employee share of costs for retirement by 30 percent would receive 84 percent of their 2012–2013 and 2013–2014 benefits cost increases. Courts that do pay towards the employee share of costs for retirement and do not fall into the other categories would receive 78 percent of their 2012–2013 and 2013–2014 benefits cost increases.
- **3b.** Allocate 50 percent to all courts; allocate an additional 50 percent to courts with no retirement EPS and courts with 10 percent EPS of cost increases; and to courts with EPS reduction of 30 percent or more.
 - Allocate by prorating 50 percent in restored benefits funding to all the trial courts (\$6.637 million).
 - The additional 50 percent (\$6.637 million) would be prorated (1) to courts that do not subsidize the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases, and (3) to courts in which the EPS portion of the employee share of costs for retirement has been reduced in FY 2014–2015 by at least 30 percent. (See Attachment 2.)
 - Courts that do not subsidize the employee share of costs for retirement, or courts with EPS amounts of 10 percent or less than cost increases, and courts that have reduced the employee share of costs for retirement by 30 percent would receive 90 percent of their 2012–2013 and 2013–2014 benefits cost increases. Courts that do pay towards the employee share of costs for retirement and do not fall into the other categories would receive 78 percent of their 2012–2013 and 2013–2014 benefits cost increases.
 - This 50/50 methodology would be done on a one-time basis for 2015–2016.
 - Beginning in 2016–2017, courts that continue to provide EPS of the employee retirement contribution would not share in an allocation for any funding provided from trial courts that made progress towards meeting the PEPRA standard.
 - **3c.** Allocate 50 percent to all courts; allocate an additional 50 percent to courts with no retirement EPS and courts with 10 percent EPS of cost increases; and to courts with EPS reduction of 30 percent or more.
 - Allocate by prorating 50 percent in restored benefits funding to all the trial courts (\$6.637 million).

- The additional 50 percent (\$6.637 million) would be prorated (1) to courts that do not pay towards the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases, and (3) to courts in which the employer-paid portion of the employee share of costs for retirement has been reduced in FY 2014–2015 by at least 30 percent.
- Courts will be included in the additional 50 percent proration if they meet the defined criteria as of May 14, 2015.
- Courts that do not pay towards the employee share of costs for retirement or courts with employer-paid share (EPS) amounts of 10 percent or less than cost increases, and courts that have reduced the employee share of costs for retirement by 30 percent would receive 90 percent of their 2012–2013 and 2013–2014 benefits cost increases. Courts that do pay towards the employee share of costs for retirement and do not fall into the other categories would receive 78 percent of their 2012–2013 and 2013–2014 benefits cost increases.
- This 50/50 allocation methodology would be done on a one-time basis for 2015–2016.
- Beginning in 2016–2017, courts that continue to provide EPS of the employee retirement contribution would be reduced by the actual outstanding funding not restored by the DOF that is attributed to their court. This funding will then be distributed to those courts that do not make EPS of employee retirement payments in order to make their benefit cost funding whole.

Discussion

There was a brief discussion by the Benefits Working Group members to make sure that committee members understood the 2016–2017 implications in Option 3c for courts still contributing towards the employee contribution. Additionally, working group members indicated that only one court met the Option 3 criteria by having negotiated a 30 percent reduction by May 14. Therefore, the change to allocations for the courts receiving the additional 50 percent impact would be minute and not change the percentage funded of their 2012–2013 and 2013–2014 benefits cost increases.

Court Interpreter Funding

The allocation of the \$100,000 in restored benefits augmentation for 2012–2013 and 2013–2014 benefits cost increases would be appropriated to TCTF Program 45.45 (Court Interpreters) in the 2015 Budget Act. The interpreter benefits funding will augment the \$94.5 million Program 45.45 appropriation, which will increase to \$94.9 million. However, per Judicial Council policy as approved at the council’s February 26, 2013, meeting, this additional benefits funding would be allocated to courts only if the \$94.5 million annual appropriation, which reimburses courts for eligible interpreter costs including staff interpreter retirement and health costs, is insufficient to reimburse courts for all their eligible court interpreter costs. For the past six years (from 2009–2010 to 2013–2014), after all eligible court interpreter costs were reimbursed, there have been savings from the Program 45.45 appropriation. However, with the passage of Assembly Bill 1657 in 2014–2015 that expanded the case types for which interpretive services can now be reimbursed, savings from the Program 45.45 appropriation may no longer occur. As of the date of this council report, the final, eligible, reimbursable costs for 2014–2015 are not known.

Implementation Requirements, Costs, and Operational Impacts

The restored benefits funding provided in the final 2015 Budget Act will be included in the 2015–2016 allocations to trial courts.

Attachments

1. Attachment A: Option 3c–50/50 Allocation of \$13.3 Million in Restored Benefits Funding Included in 2015 May Revise

Option 3c-50/50 Allocation of \$13.3 Million in Restored Benefits Funding Included in 2015 May Revise

	2012-2013 and 2013-2014 Benefit Cost Increases	DOF 2013- 2014 Estimate of EPS of Employee Retirement Contribution	May Revise Request Million - Return Employee EPS	\$8.15 DOF Remaining Estimate of EPS of Employee Retirement Contribution	Allocate 50% All Courts Pro- Rata	Allocate Additional 50% Pro-Rata to Courts (10% EPS of Increases or 30% EPS Reduction or No EPS)	Allocation Approved by Judicial Council July 29, 2014	Total Allocation with \$13.3 Million	Percentage Funded of 2012-13 and 2013-14 Benefit Cost Increases
Court	A	B	C	D	E	F	G	H	I
Alameda	2,404,882			-	260,283	297,886	1,609,137	2,167,305	90%
Alpine	9,334			-	1,010	1,156	6,245	8,412	90%
Amador	35,611	112,195	112,195	-	3,854	4,411	23,828	32,093	90%
Butte	236,868	159,578	708	158,870	25,636	-	158,491	184,128	78%
Calaveras	68,405	115,529	61,698	53,831	7,404	8,473	45,771	61,647	90%
Colusa	23,919	51,247	46,009	5,238	2,589	2,963	16,004	21,556	90%
Contra Costa	1,524,425	605,358	415,479	189,880	164,990	188,826	1,020,012	1,373,828	90%
Del Norte	68,299	114,094	114,094	-	7,392	8,460	45,700	61,552	90%
El Dorado	28,321			-	3,065	3,508	18,950	25,523	90%
Fresno	1,379,806			-	149,338	170,913	923,246	1,243,496	90%
Glenn	35,960	74,491	43,198	31,293	3,892	4,454	24,061	32,408	90%
Humboldt	205,112			-	22,199	25,407	137,243	184,849	90%
Imperial	305,765			-	33,093	37,874	204,591	275,559	90%
Inyo	48,932	69,346	29,720	39,626	5,296	6,061	32,741	44,098	90%
Kern	824,430	579,495	463,449	116,046	89,229	102,120	551,636	742,985	90%
Kings	33,089	-	-	-	3,581	4,099	22,140	29,820	90%
Lake	4,780	102,976	102,976	-	517	592	3,199	4,308	90%
Lassen	8,339	51,826	51,826	-	903	1,033	5,580	7,515	90%
Los Angeles	18,086,349			-	1,957,503	2,240,305	12,101,803	16,299,610	90%
Madera	67,969			-	7,356	8,419	45,479	61,254	90%
Marin	535,883	314,528	113,299	201,229	57,999	66,378	358,566	482,944	90%
Mariposa ¹	5,321	39,738	(398)	40,136	576	659	3,560	4,795	90%
Mendocino	351,518	-	-	-	38,045	43,542	235,205	316,792	90%
Merced	463,597			-	50,176	57,424	310,199	417,799	90%
Modoc	5,296	38,111	38,111	-	573	656	3,544	4,773	90%
Mono	16,922			-	1,831	2,096	11,323	15,250	90%
Monterey	395,286	-	-	-	42,782	48,963	264,491	356,236	90%
Napa	271,633	8,425	-	8,425	29,399	33,646	181,753	244,798	90%
Nevada	179,790	210,404	194,617	15,787	19,459	22,270	120,300	162,029	90%
Orange	8,646,423	-	(37,077)	37,077	935,811	1,071,008	5,785,430	7,792,248	90%
Placer	425,144			-	46,014	52,661	284,469	383,144	90%
Plumas	8,989	-	(8,664)	8,664	973	-	6,015	6,988	78%
Riverside	2,455,806	3,598,767	3,431,222	167,545	265,794	304,194	1,643,210	2,213,198	90%
Sacramento	3,433,576			-	371,619	425,307	2,297,449	3,094,376	90%
San Benito	25,173	44,351	44,351	-	2,725	3,118	16,844	22,687	90%
San Bernardino	1,993,070	3,412,861	3,243,661	169,200	215,712	246,876	1,333,588	1,796,176	90%
San Diego ²	6,159,623	6,898,465	2,317,736	4,580,729	666,662	-	4,121,481	4,788,143	78%
San Francisco	2,235,743			-	241,977	276,935	1,495,964	2,014,875	90%
San Joaquin	800,849			-	86,677	99,199	535,858	721,734	90%
San Luis Obispo	182,698	776,915	(93,422)	870,337	19,774	-	122,246	142,019	78%
San Mateo	901,455	409,182	-	409,182	97,565	-	603,175	700,740	78%
Santa Barbara	182,310			-	19,732	22,582	121,986	164,300	90%
Santa Clara	1,233,654	2,746,214	1,962,799	783,415	133,520	152,809	825,453	1,111,782	90%
Santa Cruz	230,629	10,638	-	10,638	24,961	28,567	154,317	207,845	90%
Shasta	274,996	32,504	6,174	26,330	29,763	34,063	184,003	247,829	90%
Sierra	13,363	17,744	8,872	8,872	1,446	1,655	8,941	12,043	90%
Siskiyou	88,816	2,660	2,660	-	9,613	11,001	59,428	80,042	90%
Solano	743,044	508,096	508,096	-	80,420	92,039	497,180	669,639	90%
Sonoma	921,983			-	99,787	114,203	616,911	830,901	90%
Stanislaus	1,223,925			-	132,467	151,604	818,944	1,103,015	90%
Sutter	107,922	135,520	80,739	54,781	11,681	13,368	72,212	97,261	90%
Tehama	37,162			-	4,022	4,603	24,866	33,491	90%
Trinity	29,858			-	3,232	3,698	19,978	26,908	90%
Tulare	154,445			-	16,716	19,131	103,341	139,187	90%
Tuolumne	28,768			-	3,114	3,563	19,249	25,926	90%
Ventura	810,216			-	87,690	100,359	542,126	730,175	90%
Yolo	251,806	184,712	20,671	164,041	27,253	-	168,486	195,739	78%
Yuba	98,968			-	10,711	12,259	66,221	89,191	90%
Total	61,326,254	21,425,970	13,274,798	8,151,173	6,637,399	6,637,399	41,034,166	54,308,964	89%

1) Superior Court of Mariposa County completed negotiations on May 14, 2015.