

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts
Christine M. Hansen, Director, Finance Division
Michael A. Fischer, Senior Attorney, Office of the General Counsel

DATE: November 15, 2004

SUBJECT: Judicial Branch Budget Delegation Authority
(amend rule 6.101) (Action Required)

Issue Statement

Each year, when the Judicial Council adopts a proposed budget for the judicial branch, the council delegates to the Chief Justice and the Administrative Director of the Courts the authority to make technical changes as appropriate to the proposed budget and also to enter into negotiations with members of the executive and legislative branches and make changes in the budget proposal in response to those negotiations. The Chief Justice and the Administrative Director of the Courts are also authorized by the council, each year, to allocate the non-trial court budget on behalf of the council.

At its August 29, 2003 meeting, the council adopted guidelines that delegated authority to the Chief Justice and the Administrative Director of the Courts to (1) make technical adjustments to the council's recommended budgets for judicial entities, (2) make changes to the council's recommended budgets for judicial entities during negotiations with the legislative and executive branches, and (3) allocate the budgets to judicial entities and adjust allocations as necessary. The council also directed staff to draft or amend, as necessary, a rule of court setting forth this ongoing delegation of authority.

Recommendation

Staff recommends that the Judicial Council, effective January 1, 2005, amend rule 6.101 of the California Rules of Court to authorize the Chief Justice and the Administrative Director of the Courts to make technical changes and negotiate changes to the judicial branch budgets consistent with council goals and priorities,

to authorize them to allocate funding appropriated in the annual State Budget to the non-trial court entities, and to require the Administrative Director of the Courts to report to the council after the end of each fiscal year the actual expenditures from the budgets of the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council and the Habeas Corpus Resource Center.

The text of proposed rule 6.101 is attached at pages 4-5.

Rationale for Recommendation

The budgetary process that results in the final judicial branch budgets, as passed by the Legislature and signed by the Governor, often requires quick agreement and the ability to negotiate changes with authority. The experience of recent budget years, when the council has delegated this authority on an annual basis, has shown this procedure provides appropriate flexibility and effectiveness consistent with council goals and priorities. In order to ensure that this authority exists on an ongoing basis without the need for yearly action, the Judicial Council has passed an ongoing delegation of authority to the Chief Justice and the Administrative Director of the Courts and has directed staff to prepare a draft rule or rule amendment setting forth this authority.¹ Excerpts from the August 29, 2003 Judicial Council minutes showing this action are attached at page 5. The proposed amendments carry out this delegation.

The proposed rule amendment also would require the Administrative Director of the Courts to report back to the council on actual expenditures from the budgets for each entity within the judicial branch.

¹ The Administrative Director previously was granted this allocation authority, subject to approval by the Chief Justice, by rule in 1970. (See former Cal. Rules of Court, rule 992, adopted effective November 23, 1970.) This allocation authority was inadvertently repealed in a 1999 reorganization of the Rules of Court applicable to the council.

Former rule 992 was renumbered rule 1072 and amended effective July 1, 1993. Prior to its repeal, this rule provided as follows: "The power of allocation of state appropriations conferred upon the Judicial Council by the Budget Act of 1970 or by any other legislation appropriating state funds for the support of the state's judicial agencies may be exercised on its behalf by the Administrative Director of the Courts in the form of an order signed by the director and approved by the Chair of the Judicial Council." Rule 1072 was repealed effective January 1, 1999 as part of a revision and reorganization of the rules applicable to the council, its advisory committees, and the AOC. Rule 2301 (now rule 6.101), which sets out the role of the council and AOC in judicial branch budget fiscal management inadvertently did not carry over the substance of rule 1072, which provided that the "power of allocation" of state appropriations to the Judicial Council was with the Administrative Director of the Courts, subject to the approval of the Chair of the Judicial Council.

Alternative Actions Considered

The council has delegated the authority on an annual basis. The annual delegation could continue but is a cumbersome process that the council has determined should be made on an ongoing basis and set forth in a rule of court.

Comments From Interested Parties

The proposed rule was circulated for comment using a special schedule approved by the Rules and Projects Committee. Four people responded. Three people supported the proposal without modification.² One person opposed the proposal.³ Both the people supporting and the people opposing the proposal did so without further comment. Because of the few responses and the lack of comments a comment chart is not included with this report.

Implementation Requirements and Costs

The proposal has no implementation costs other than those associated with the adoption of any rule of court. In addition to the annual report required by the rule amendment, the Administrative Director of the Courts would provide status reports, midway through and after the end of the fiscal year, to the council's Executive and Planning Committee concerning budget allocations to judicial branch entities and any unexpected budget developments. The Administrative Office of the Courts' internal policies and procedures will be updated to reflect this reporting requirement.



Attachments

²Hon. Raymond Cota, Presiding Judge, Superior Court of California, County of Imperial; Kim Hubbard, President, Orange County Bar Association; and Kiri Torre, Court Executive Officer, Superior Court of California, County of Santa Clara.

³ Tina M. Burkhart, Court Executive Office, Superior Court of California, County of Glenn.

1 **Rule 6.101 of the California Rules of Court is amended, effective January 1, 2005, to read**
2 **as follows:**

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4 (a) **[Purpose]** The purpose of this rule is to set forth the responsibilities of the Judicial
5 Council, the Chief Justice, the Administrative Director of the Courts, and the
6 Administrative Office of the Courts with respect to the judiciary's budget.

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8 (b) * * *

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10 (c) **[Authority of the Chief Justice and Administrative Director of the Courts]**

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12 (1) The Chief Justice and the Administrative Director of the Courts may take the
13 following actions, on behalf of the Judicial Council, with regard to any of the
14 Judicial Council's recommended budgets for the Supreme Court, the Courts of
15 Appeal, the trial courts, the Judicial Council, and the Habeas Corpus Resource
16 Center:

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18 (i) Make technical changes; and

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20 (ii) Make changes during negotiations with the Legislative and Executive
21 Branches consistent with the goals and priorities adopted by the Judicial
22 Council. The Chief Justice and the Administrative Director of the Courts
23 must advise the council of the results of the negotiations.

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25 (2) The Chief Justice and the Administrative Director of the Courts, on behalf of
26 the Judicial Council, may allocate funding appropriated in the annual State
27 Budget to the Supreme Court, the Courts of Appeal, the Judicial Council, and
28 the Habeas Corpus Resource Center.

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30 (3) After the end of each fiscal year, the Administrative Director of the Courts must
31 report to the Judicial Council on the actual expenditures from the budgets for
32 the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council,
33 and the Habeas Corpus Resource Center.

34 (d) **[Duties of Administrative Director]** The Administrative Director of the Courts shall
35 implement the directives of the Judicial Council and shall:

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37 (1) Develop policies and procedures for the creation and implementation of a yearly
38 budget for the judiciary;

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40 (2) Present the judiciary's budget in negotiations with the Governor and the
41 Legislature; and
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(3) Allocate to the trial courts, on behalf of the Judicial Council, a portion of the prior fiscal year baseline allocation budget for the trial courts following approval of the State Budget and before the allocation of state trial court funding by the Judicial Council. The portion of the prior fiscal year baseline allocation budget that may be so allocated is limited to the amount estimated to be necessary for the operation of the courts pending action by the Judicial Council, and may not exceed 25 percent of the prior fiscal year baseline allocation budget for each trial court. ~~The term “baseline budget” as used in this rule has the same meaning as in rule 6.45(b)(1).~~

~~(d)~~(e) * * *

Excerpts from Judicial Council Meeting Minutes

Meeting of August 29, 2003

5. Delegated authority to the Chief Justice and the Administrative Director of the Courts to make changes to the council's recommended trial court budgets during negotiations with the legislative and executive branches.

6. Directed staff to draft, or amend as necessary, a rule of court for Judicial Council consideration that delegates authority to the Chief Justice and the Administrative Director of the Courts to:

- Make technical adjustments to the council's recommended trial court budgets; and
- Make changes to the council's recommended trial court budgets during negotiations with the legislative and executive branches.

10. Delegated authority to the Chief Justice and the Administrative Director of the Courts to allocate the budget to judiciary entities (0250, which includes the Supreme Court, Courts of Appeal, and Administrative Office of the Courts), and adjust allocations as necessary.

11. Delegated authority to the Chief Justice and the Administrative Director of the Courts to make changes to the council's recommended judiciary entity (0250) budgets during negotiations with the legislative and executive branches.

12. Directed staff to draft, or amend as necessary, a rule of court for Judicial Council consideration that delegates authority to the Chief Justice and the Administrative Director of the Court to:

- Make technical adjustments to the council's recommended judiciary entity (0250) budgets;
- Make changes to the council's recommended judiciary entity (0250) budgets during negotiations with the legislative and executive branches; and
- Allocate the budget to judiciary (0250) entities, and adjust allocations as necessary.