

Recommendations of the [Trial Court Funding Workgroup](#)

Excerpt from [final report](#) to the Judicial Council and the Governor, April 2013

A. Recommendations

Recommendations Related to Access / Equal Access

AB 233 declares that state funding of trial courts is necessary to provide uniform standards and procedures, economies of scale, and structural efficiency and simplicity. The Legislature also declared that structural improvement will provide for an improved court system, a uniform and equitable court system, and will, therefore, increase access to justice for the citizens of the state of California. These statements define the goals of AB 233's move to a state-funded trial court system, uniformity, economies of scale, efficiency and simplicity, and structural improvement, all with an eye to increasing justice and ensuring equal access to the courts across California. The Trial Court Funding Workgroup found that the judicial branch as a whole and the trial courts individually and collectively have made significant strides in achieving these goals. However, many of the efficiencies, economies of scale, and other innovations have not been uniformly implemented and are available in only a select number of courts. Equal access to justice demands that successful and innovative programs and services, and economical approaches to using public dollars, be more widespread than a single court or a small group of courts.

The Trial Court Funding Workgroup therefore recommends that the Judicial Council:

- (1) Review accomplishments made toward achieving the goals of a state-funded trial court system and begin the process of considering making some of these innovations mandatory and providing incentives for courts to implement others. To accelerate the pace of ensuring equal access to justice, some of the programs and services developed should be considered for statewide implementation. The Judicial Council should examine the list of accomplishments and prioritize statewide implementation of the programs and services that can result in statewide efficiencies or provide greater access to justice.
- (2) Establish and continually update statewide priorities and continually evaluate whether the branch can provide greater access and find more ways to efficiently deliver programs and services to Californians consistently throughout the state.
- (3) Continually evaluate how the branch can promote and implement efficiencies and best practices and improve accountability and transparency.
- (4) Consider adopting funding priorities that would be taken into account when allocating resources, seeking additional resources through the state budget process, or responding to changes in the state's economy that lead to reduced available funding.
- (5) Demonstrate how future funding affects access for litigants and how the number of judges correlates to the ability of litigants to have their cases heard, and/or identify other indicia that demonstrate effective and accountable use of resources.

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Recommendations Related to Ensuring Equity in Funding

An important first step in ensuring equal access to justice is equity in funding based on courts' relative workload. Courts with significant workload cannot be expected to provide justice if the amount of funding does not take into account that work, at least to some extent. Over the years, portions of trial court funding have followed historical patterns based largely on the proportion of funding that courts had at the time of AB 233. Except at the margins, changes in workload since the advent of state funding have not been factored in to trial court allocations. As a result, funding inequity has actually increased among court with large disparities in workload growth.

The Trial Court Funding Workgroup heard in some detail a recommendation from the Funding Subcommittee of the Trial Court Budget Working Group on an alternative approach to allocating state funding to trial courts to better account for the workload handled in each court, the staff resources needed to process that workload, and other factors that impact the ability of the courts to serve the public. The workgroup also heard a detailed presentation of the Resource Assessment Study (RAS), adopted by the Judicial Council. RAS is a model used to estimate the workload of most non-judicial staff in the trial courts. The council made clear that its action in adopting the new RAS parameters for estimating work does not mean that the RAS model alone should be used to set the funding needs for any court, but is one tool to be used in the budget process.

These efforts are significant and long overdue steps in reevaluating the method for allocating state funding among the trial courts yet they are but two options for consideration. It is a necessary and important departure from historic funding methods that did not take into account changes in workload, program and service needs, and other factors that would help ensure Californians are provided equal access to justice regardless of their geographic boundaries. By linking funding to workload needs, after assessing weighted filings in each court, these models take the necessary steps to ensuring that we move further forward in fulfilling the promise of the transition to state funding—equal access to courts across California.

The workgroup urges the Judicial Council to adopt a new allocation methodology. AB 233 was intended to address, at least in part, the disparities in funding available to courts from county to county, and to ensure the courts function as a statewide system, a single branch of government, that provides equal access to justice, programs, and services to all Californians, regardless of their county of residence. AB 233 directed the Judicial Council to allocate the appropriation to the trial courts in a manner that best ensures the ability of the courts to carry out their functions, promotes implementation of statewide policies, and promotes the immediate implementation of efficiencies and cost-saving measures in court operations, in order to guarantee access to justice to citizens of the state. The workgroup believes strongly that it is not appropriate for this group to determine the methodology for the judicial branch to adopt to allocate funding to superior courts. That is wholly within the province and purview of the Judicial Council, as the policymaking body of the judicial branch.

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The Trial Court Funding Workgroup therefore strongly advocates and recommends that the Judicial Council:

- (6) Adopt a new methodology for allocating funding appropriated for support of trial court operations, to be implemented commencing with fiscal year 2013–2014.
- (7) Ensure that the new methodology allocate funding to the trial courts in a manner that, consistent with the intent of AB 233:
 - a. Improves equal access to justice;
 - b. Supports the ability of the courts to carry out their necessary functions; and
 - c. Is guided by the principles of uniformity, equity, accountability, and flexibility.
- (8) Include the following factors in the new allocation methodology to ensure that the above-stated principles are implemented:
 - a. The new formula should be phased in so courts that may receive a smaller allocation under the new formula than they would have received absent the change can effectively plan for the reduced funding.
 - b. Where applicable (e.g., funding for general court operations and not for specific costs or activities), funding should be based primarily on court workload, not on historic funding percentages.
 - c. The methodology should take into account all cost drivers in the trial courts in determining an equitable allocation, including regional variation in the costs of labor.
 - d. The methodology should promote efficiency and accountability and direct the development of performance measures and strategies to deliver those goals.
 - e. The formula resulting from the methodology should be reviewed and, if necessary, updated and/or modified at least every three years to address changes in workload and/or other cost drivers and to ensure that the methodology is fine-tuned over time to promote efficiency, access to justice, transparency, and accountability.
- (9) In addition to the factors stated above the Judicial Council will need to determine how to address the following:
 - a. Unique factors in a court that the workload model does not appropriately consider in determining funding need.
 - b. Whether local revenues should be considered as part of the allocation process.
 - c. Technology, as it relates to efficiency within the court, including technology that is needed or is already in place.
- (10) Provide that the allocation methodology be used to determine the amount of funding to be allocated to each court, while allowing for local differences and preserving sufficient

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flexibility for presiding judges and court executives to operate their courts.

- (11) For the purpose of providing increased funding transparency, adopt performance indicators or other metrics that can be used to measure trial court activity and provide decision makers with information about the use of resources and the impact those factors have on outcomes. Such measures could include filing trends, allocation per population, staffing per case, and expenditures by category, or other measures the council finds appropriate.

Specific Recommendations Related to Efficiency, Uniformity, and Cost Savings

Despite the progress that has been made in achieving greater uniformity and consistency since the advent of state funding, California's trial courts still operate in some respects very differently from one jurisdiction to another, employing different programs and processes across county boundaries. In some cases the operational differences reflect local priorities and, appropriately, decisions of local court leaders that serve the needs of their community. In other cases, the differences are outside of the direct or immediate control of the courts, growing out of constraints imposed on the courts by justice system partners, geography, or technology. Some of the variances found at each court have been the result of innovative approaches to improve access and efficiency. The workgroup believes strongly that, without usurping each court's authority to manage its day-to-day operations, there are additional opportunities for uniformity in practice and procedure and the adoption of efficiencies to better ensure equal access to justice. These efforts should continue to enable the discovery of new approaches in the delivery of justice.

It was the consensus of the workgroup that a comprehensive review and analysis of the goals of the Trial Court Funding Act was simply too large to be accomplished within the short time frame established for the group to conduct its work. Given the breadth of the task, the workgroup focused its attention to improving equal access to justice statewide, but acknowledges that more needs to be done. After adoption of the new funding approach, in order to ensure each court's ability to carry out its functions, and implement statewide priorities, efficiencies, and cost-savings measures, the **workgroup recommends that the Judicial Council:**

- (12) Review and develop indicators that demonstrate anomalies in expenditures and point to equal access and quality of justice to determine whether courts are operating efficiently and expending funds to promote equal access consistent with the Judicial Council's identified priorities.
- (13) Consider the development of policies, guidelines, or standards on physical access to courthouses, including the factors relevant to opening or closing branch courts and the hours at which court services are available to the public in clerks' offices. Such policies could encourage uniformity in practice across the state in an effort to promote the equal

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access to justice that AB 233 was intended to achieve.

- (14) Analyze opportunities for cost savings that can be implemented on a statewide basis to achieve uniformity and equal access to justice across the state.
- (15) Identify remaining vestiges of the years prior to unification that should have been, but were not, effectively resolved by unification, and which result in inefficiencies and unnecessary costs or use of resources.
- (16) Personnel costs represent 79 percent of trial court expenditures, and the current system relies on individual courts to negotiate salaries and certain employee benefits, counties to negotiate other employee benefits, and the state to fund the costs. The council may wish to examine this area given that it is a primary cost driver and may be an area where opportunities exist for containing state costs.
- (17) Determine methods to effectively measure quality of justice.
- (18) Provide greater transparency by ensuring that fiscal information posted on the judicial branch's California Courts website is understandable to the lay public and information provided by the courts, including their proposed baseline budget plan, is understandable to the lay public.