

# SPECIAL REPORT

# TRIAL COURT FUNDING

JUDICIAL COUNCIL OF CALIFORNIA • ADMINISTRATIVE OFFICE OF THE COURTS • SEPTEMBER 1997

## Landmark Court Funding Bill Passes

*San Francisco*—After years of seeking an effective financing system for the state courts, leaders of California’s bench and bar hailed the passage of landmark legislation that creates a stable, long-term funding solution for the trial courts.

“We have finally achieved enactment of our long-awaited plan for assumption—by the state—of the major responsibility for funding our trial courts,” Chief Justice Ronald M. George told an enthusiastic audience during his State of the Judiciary Address shortly after the bill won passage on September 13, 1997. In remarks before the State Bar’s Conference of Delegates in San Diego, the Chief Justice declared, “The bill establishes the foundation upon which our court system can build to meet

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### *Chief Justice George Applauds Passage of Court Funding Bill*

In his State of the Judiciary Address on September 13, Chief Justice Ronald M. George celebrated the passage of the landmark trial court funding restructuring legislation. Here are key points from the Chief Justice’s address, which was delivered just hours after passage of the bill:

- Obtaining a stable and adequate source of funding for our courts is without doubt one of the most important reforms in the California justice system in the 20th century.
- The bill provides stable funding to permit us to avoid the sorry spectacle of having to return once again to the Legislature for emergency funding to keep the courthouse doors open.
- This will be a transition year, during which we will plan for the full implementation of state trial court funding.
- Trial court funding has been the Judicial Council’s first and foremost priority, and with the bill’s passage, the council can focus on those critical areas where funding is most urgently needed and make funding decisions in the best interests of the entire court system.
- We are now able to move much closer to our goal of providing equal access to justice for all, regardless of the financial health of individual counties.
- Our direction is now firmly set, and the state stands ready to assume full responsibility for funding the trial courts.

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## Landmark

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the challenges of the century that is about to begin.”

“This is a great day for everyone who wishes access to trial courts and justice in this state,” said Judge Dwayne Keyes, new president of the California Judges Association. “It is a tribute to all who took part in the process. We will look back in 10 years and say that this was a great event for the trial courts of California.”

Los Angeles attorney Tony Vital, co-chair of the Statewide Bench/Bar Coalition, said, “This legislation has been five long years in the making, with the active participation of bar leaders and judges from every corner of California. With the passage of the bill, we finally have hope for adequate, stable funding for our trial courts, enabling them to reclaim their position as the preeminent trial courts in the nation and to once again focus their attention on dispensing justice.”

### KEY PROVISIONS OF THE BILL

The Lockyer-Isenberg Trial Court Funding Act of 1997 is contained in Assembly Bill 233 by Assembly Members Martha Escutia and Curt Pringle. The bill and related measures passed both houses of the California Legislature shortly before the close of the Legislature’s 1997 session.

Governor Pete Wilson is expected to sign the bill, which will take effect January 1, 1998. Until then, counties will remain responsible for funding court costs.

The funding legislation will:

- Consolidate all court funding at the state level, giving the Legislature authority to make appropriations and the Judicial Council responsibility to allocate funds to state courts.
- Cap counties’ financial respon-

sibility at the fiscal year 1994–95 level.

- Require the state to fund all future growth in court operations costs.
- Authorize the creation of 40 new judgeships, contingent on an appropriation made in future legislation.
- Require the state to provide 100 percent funding for court operations in the 20 smallest counties beginning July 1, 1998.
- Raise a number of civil court fees to generate about \$87 million annually for trial court funding.

### LEGISLATURE, OTHERS ACKNOWLEDGED

In his State of the Judiciary Address, the Chief Justice expressed his appreciation to both houses of the Legislature for coming to an agreement on this measure. He thanked the California State Association of Counties, the Judicial Council, the Trial Court Budget Commission, and countless trial court judges, court administrators, court employee organizations, and local and state bar associations for their tireless efforts on behalf of making state trial court funding a reality. Chief Justice George also thanked the Administrative Office of the Courts for its dedication and support on behalf of state trial court funding. He particularly noted the efforts of William C. Vickrey, Administrative Director of the California Courts, and Ray LeBov, Director of the Office of Governmental Affairs.

### IMPACT OF INADEQUATE FUNDING

The lack of adequate court funding has had a dramatic impact on the courts’ ability to provide effective services to the public, the Chief Justice said. Of his recent visits to the courts in each of California’s 58 counties, Chief Justice George remarked,

“At courthouse after courthouse, I heard stories of woefully inadequate facilities, insufficient staff, unavailable interpreter services, and antiquated information-processing systems incapable of meeting current court needs.”

For two years in a row, the Legislature has appropriated supplemental funds to avoid a partial or complete shutdown of trial court operations. “Courts cannot be left to rely upon the disparate and fluctuating health of local government as the source of the funding required to perform their basic tasks—and the people of our state deserve a court system that is truly there for them with open doors during the entire workweek,” the Chief Justice declared. “They also deserve safe facilities and sufficient judges and staff to ensure that the public’s needs and concerns are adequately met.”

The Lockyer-Isenberg Trial Court Funding Act will go a long way toward meeting the critical needs of the courts and will enable them to dramatically improve services to the public, he said.

The courts’ financing problems result from a funding scheme in which courts have had to rely on often financially strapped county governments as well as the state to pay for court-related costs.

The Administrative Office of the Courts will follow up with periodic communication to California courts on state trial court funding. If you have concerns or questions, please call George Nichols, AOC Budget Manager, at 415-356-6673.

# GOVERNOR, LEGISLATORS PRAISE TRIAL COURT FUNDING REFORM

## Governor Pete Wilson

When I proposed my budget in January, I called upon the Legislature to approve our trial court restructuring plan that would achieve two important goals: give long-term fiscal relief to counties and provide a stable and reliable source of funding for trial courts.



Governor Pete Wilson

Not only does this agreement with the Legislature fulfill my proposal from January, it provides several hundred million dollars in additional fiscal relief to local governments, and provides for 40 new and needed judgeship positions. I'm extremely pleased that the Legislature has adopted our proposal, and that we have been able to provide further assistance to both the counties and the courts.



Assembly Member Martha Escutia

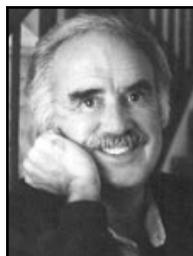
## Assembly Member Martha Escutia

I am very proud to be the author of this vital bill that ensures the fiscal health of our state trial courts and provides much-needed relief to the counties. AB 233 is an important accomplishment for the people of California, who will now have better access to justice throughout the state. The Judicial Council can be especially proud

of this years-long effort and its effective governmental affairs operation in Sacramento that helped to make the trial court funding bill a reality.

## Senator John Burton

With all that we expect the courts to do, a secure and stable funding source is a fundamental requirement. Now that AB 233 has passed, the courts can better focus on other statewide needs, such as technology and modernization.



Senator John Burton

## Senate President Pro Tempore Bill Lockyer

This represents the most meaningful reform of the California judicial system in this century. The state has recognized its essential responsibility to ensure that there is equal access to a quality judicial system statewide.



Senate President Pro Tempore Bill Lockyer

## Assembly Speaker Cruz M. Bustamante

Our courts should focus on dispensing justice and not have to worry from year to year about closing down due to lack of funding. By putting a long-term trial court funding plan in place, the Legislature has braced up the backbone of our justice system and provided badly needed relief to cash-strapped counties.



Assembly Speaker Cruz M. Bustamante

## Assembly Member Curt Pringle

Assembly Bill 233 (Escutia & Pringle)

represents one of the Legislature's most significant accomplishments of the session. In passing this historic legislation, we have taken the necessary step toward ensuring that our justice system serves the people of California responsibly and fairly. A financially healthy system of justice will improve the overall well-being of the state.



Assembly Member Curt Pringle

## Assembly Member Bill Morrow

It's a long time in coming and thank God it's here. For the last two years we came far too close to closing down the courts in many counties in the state. By enacting this legislation we've provided crucial stability to the funding that enables our courts to continue to deliver both civil and criminal justice to the people of California.



Assembly Member Bill Morrow

# Trial Court Funding Implementation Issues

## Key issues for the 1997–98 fiscal year

The budget for each court is the budget allocated by the Judicial Council based on the appropriation approved in the fiscal year 1997–98 State Budget Act.

- In total, counties will pay the total amount of funding they paid in the 1994–95 fiscal year to support courts (\$890 million statewide) and remit to the state the amount in criminal fine revenues plus half of the growth in these revenues over the 1994–95 level (\$292 million statewide plus growth).
- For the first half of the 1997–98 fiscal year, counties remain responsible for paying for court costs above the available state funding allocation. Beginning January 1, 1998, counties will be allowed to seek a credit against their base funding requirement for the amount they spent on court operations costs through December 31, 1997, up to the county's total obligation.
- For the first half of the 1997–98 fiscal year, counties continue to remit to the state criminal fine revenues. Beginning January 1, 1998, counties will be allowed a credit against their base requirement for the amount remitted through December 31, 1997.
- After January 1, 1998, the Judicial Council will allocate the remainder of the trial court funding budget. The funds are to be deposited into the local trial court operations fund of each county.
- Beginning January 1, 1998, courts will charge new civil fee amounts to ensure proper collection of revenues to support the court operations budget.

## Key issues for the 1998–99 fiscal year

- The budget for the courts will be the budget adopted by the Legislature for trial court funding and allocated by the Judicial Council.
- Trial court funding will be allocated by the Judicial Council in four installments: on July 15, or within 10 days of state budget enactment; on October 15; on January 15; and on April 15.
- The counties' base obligation to the state will be reduced from \$890 million to \$605 million, including a "buyout" of the 20 smallest counties with populations less than 70,000.
- The counties' criminal revenue obligation to the state will be reduced from \$292 million to \$226 million, including a transfer of certain traffic fine revenues to cities and relief for five "donor counties."

# Summary of the Lockyer-Isenberg Trial Court Funding Act of 1997

## Assembly Bill 233—Escutia and Pringle

The trial court funding restructuring legislation becomes operative on January 1, 1998, and includes the following:

- States the legislative declaration that the judiciary of California is a separate and independent branch of government, recognized by the Constitution and statutes of California as such.
- Provides that the state assume full responsibility for funding trial court operations,\* beginning with the 1997–98 fiscal year, in a single trial court funding budget. Beginning in fiscal year 1998–99, requires the Judicial Council to allocate the full trial court funding budget to the courts in four installments on July 15, October 15, January 15, and April 15.
- Requires the Judicial Council to submit an annual trial court budget to the Governor for inclusion in the state budget that meets the needs of all trial courts in a manner that promotes equal access to the courts statewide.
- Provides that counties annually pay to the state the level of funding they contributed to courts in fiscal year 1994–95. Beginning in fiscal year 1998–99, the state will provide counties additional relief of \$350 million.
- Establishes a mechanism for the counties and the courts to seek an adjustment to the base county contribution to correct errors and inequities that may result from the use of fiscal year 1994–95 as the base year. Also allows counties to adjust these amounts based on the amount of funding counties contribute to court funding between July 1 and December 31, 1997.
- Requires counties to continue funding court facilities and those court-related costs that are outside the definition of court operations as defined in statute and the California Rules of Court, including indigent defense, pretrial release, and probation costs.
- Adjusts various civil fees to raise an estimated \$87 million annually to support trial court operations.
- Provides that growth in fine revenues over the amount collected in fiscal year 1994–95 will be split between counties and the Trial Court Improvement Fund.
- Directs the Judicial Council to adopt rules of court that ensure a decentralized system of trial court management.

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\* Gov. Code, § 77003, and Cal. Rules of Court, rule 810, define “trial court operations” to include judicial officers’ salaries and benefits, jury services, court reporting services, interpreter services, alternative dispute resolution, noncriminal court-appointed counsel, court security, information technology, staffing and operating expenses, and other indirect costs. Excluded are facilities-related costs, criminal indigent defense, probation, pretrial release, and other court-related costs.

## Summary of the Lockyer-Isenberg Trial Court Funding Act of 1997

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- Establishes task forces on the status of trial court employees and on trial court facilities to make recommendations to the Judicial Council and the Legislature on appropriate systems for addressing these issues.
- Establishes the Civil Delay Reduction Team, a team of retired judges assigned by the Chief Justice to assist courts in reducing or eliminating delay in civil cases.
- Creates the Judicial Administration Efficiency and Modernization Fund, subject to legislative appropriation, that the Judicial Council may use to promote improved access, efficiency, and effectiveness in trial courts that have improved to the fullest extent permitted by law, including providing support for education programs, improved technology, enhanced judicial benefits and educational sabbaticals, and improved legal research assistance.
- Makes effective California Rules of Court, rules 2201–2210, adopted by the Judicial Council, on trial court labor relations policies and procedures. A related measure, Assembly Bill 1438 (Escutia), ensures that these rules have full force and effect.
- Provides that the Judicial Council may authorize a trial court that has fully implemented court coordination under California Rules of Court, rule 991, to carry unexpended funds over from one fiscal year to the next.
- Authorizes municipal court judges to receive pay equivalent to that of superior court judges when cross-assigned by the Chief Justice pursuant to a Judicial Council–approved coordination plan and assigned pursuant to a Judicial Council–certified uniform county- or region-wide system for case assignment that maximizes existing judicial resources.

## Policies Promoted by Trial Court Funding Restructuring

- Provides a stable, consistent funding source for the trial courts.
- Promotes fiscal responsibility and accountability by the trial courts in managing scarce resources in the most efficient and effective manner.
- Recognizes that the state is primarily responsible for trial court funding, thereby enabling the courts, the state, and the counties to engage in long-term planning.
- Enhances equal access to justice by removing disparities resulting from the varying ability of individual counties to address the operating needs of the courts and to provide basic and constitutionally mandated services.
- Provides significant financial relief in all 58 counties, which is desperately needed to allow the counties to redirect scarce local resources to critical programs that serve their local constituents.

# SUMMARY OF OTHER KEY LEGISLATION

Following are court-related bills that were introduced in the California Legislature during the 1997 session.

## Chaptered

### CIVIL PROCEDURE

AB 380 (Pacheco) requires the Judicial Council, on or before January 1, 1999, to adopt a rule of court providing that, whenever a state statute or regulation has been declared unconstitutional by the court, notice of entry of judgment is mailed to the Attorney General and a certificate of that mailing is placed in the court's file. Status: Chapter 259, Statutes of 1997.

### COURT INTERPRETERS

AB 1445 (Shelley) allows registered interpreters who are regularly employed by the courts to file an oath with the clerk of the court. The filed oath serves for all subsequent court proceedings until the appointment is revoked. Status: Chapter 376, Statutes of 1997. (Judicial Council-sponsored.)

### DOMESTIC VIOLENCE

SB 564 (Solis) clarifies that the court may issue visitation orders under the Domestic Violence Prevention Act only to parties who have demonstrated a parent-child relationship. Status: Chapter 396, Statutes of 1997.

## On the Governor's Desk

### CIVIL AND SMALL CLAIMS

AB 246 (Lempert) increases from \$5,000 to \$7,500 the general jurisdiction of the small claims court. In the

case of a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, increases the court's jurisdiction from \$2,500 to \$4,000, on or after January 1, 1999. Status: On the Governor's desk.

SB 119 (Kopp) allows any party in a civil action in a court with 10 or more judges to exercise one peremp-

ceedings, and will provide support for private counsel handling habeas corpus petitions; and increases the rate of compensation for private counsel appointed in either the direct appeal or the habeas corpus proceedings from \$98 to \$125 per hour. Status: On the Governor's desk.

SB 721 (Lockyer) simplifies felony sentencing laws by eliminating cer-

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***"The trial court funding legislation translates to access to our California courts. The leadership displayed by Chief Justice Ronald George and State Court Administrator Bill Vickrey is an example to all of us to keep up the struggle for what is right."***

—Sheila Gonzalez

Executive Officer and Clerk

Ventura County Superior and Municipal Coordinated Courts

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tory challenge to excuse a judicial officer without filing an affidavit stating that the judicial officer is prejudiced. Status: On the Governor's desk.

SB 653 (Calderon) repeals statutory changes made last year governing judicial review of adjudicatory decisions of the Public Utilities Commission (PUC). Provides for a discretionary writ of review in the Court of Appeal for all PUC decisions. Clarifies standards of review for PUC decisions. Status: On the Governor's desk.

### CRIMINAL PROCEDURE

SB 513 (Lockyer and Pacheco) enhances the resources of the existing Office of the State Public Defender, which will represent inmates primarily in direct appeals; creates the California Habeas Resource Center, which will represent inmates in the state and federal habeas corpus pro-

ceedings. Status: On the Governor's desk.

### FAMILY LAW

AB 200 (Kuehl) modifies the legislative findings and declarations regarding the state's policy on custody decision making, stating that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of children. Requires the court to state its reasons in writing or on the record when the court awards custody to a parent who is alleged to have perpetrated domestic violence or to have alcohol or substance abuse problems. Status: On the Governor's desk.

AB 1526 (Escutia) clarifies the role of counsel appointed to represent a child in a family law proceeding. It permits the court to request counsel

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## Other Legislation

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to prepare a written statement of issues and contentions, and does not allow the attorney to be called as a witness. (Judicial Council-sponsored.) Status: On the Governor's desk.

### FINES AND FORFEITURES

SB 162 (Haynes) extends the Comprehensive Court Collections program to January 1, 2000, and extends until December 31, 1998, the \$24 fee charged to traffic violators who elect or are ordered to attend traffic violators school, among other provisions. Status: On the Governor's desk.

### GRAND JURY

AB 829 (Thomson) revises grand jury procedures in the following areas: meeting with the subject of the investigation, clarifying recommendations, training, and meeting rooms. Status: On the Governor's desk.

### JUVENILE DELINQUENCY

AB 1105 (Hertzberg) creates the Expedited Youth Accountability Program, operative in Los Angeles and in other volunteer counties, which allows for expedited law enforcement and judicial response to low-level juvenile offenders. Status: On the Governor's desk.

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Following are court-related bills that are still pending in the California Legislature.

## Two-Year Bills

### CIVIL PROCEDURE

AB 1374 (Hertzberg) creates a five-year mediation pilot project in Los

Angeles County. Authorizes the court to submit civil actions with more than \$50,000 in controversy to early mediation. Status: Senate Judiciary Committee.

SB 19 (Lockyer) provides an arbitrator with the immunity of a judicial officer. Specifies an additional ground upon which a court may vacate an arbitrator's award in a consumer contract. Limits court-ordered discovery references to exceptional cir-

SB 1037 (Vasconcellos) permits the court to award visitation to a parent who meets the definition of a de facto parent when the court finds visitation to be in the best interest of the child. Status: Assembly Floor.

### JURY REFORM

SB 14 (Calderon) increases juror fees from \$5 to \$16 per day to offset the cost of meals, travel, and other incidental expenses; reimburses jurors for parking; reimburses jurors travel-

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***"The passage of the trial court funding redesign legislation represents a tremendous achievement by a broad coalition. Trial courts now have the possibility of obtaining stable, adequate funding to provide the public mandated and necessary services. The successful passage of this legislative program represents a remarkable accomplishment and a successful collaboration model reflecting creativity, dedication, and determination."***

—Ronald G. Overholt

*Executive Officer, Administratively Consolidated Trial Courts of Alameda County*

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cumstances and requires that certain information be included in the reference order. Allows the recovery of opposing-party witness fees. Repeals the sunset on the mediation pilot project for civil cases with less than \$50,000 in controversy. Creates an early mediation pilot project for civil cases with more than \$50,000 in controversy. Status: Assembly Appropriations Committee.

### FAMILY LAW

SB 779 (Calderon) establishes a Friend of the Court pilot project in up to five counties. The Friend of the Court is responsible for the enforcement of custody and visitation orders. Status: Assembly Judiciary Committee.

ing more than 50 miles to the court at the rate of 28 cents per mile for each mile actually traveled one way; and reimburses the actual, reasonable expenses of licensed child care to jurors who are unemployed and demonstrate financial hardship. (Judicial Council-sponsored.) Status: In Assembly.

## Vetoed

### FAMILY LAW

AB 400 (Kuehl) regarding spousal support was vetoed. This bill would have deleted the requirement that the court make an admonition to the supported spouse regarding the expectation of making reasonable efforts to assist in his or her support.

# Trial Court Budget Commission: Prepared to Meet New Challenge

**W**ith the passage of the landmark Lockyer-Isenberg Trial Court Funding Act of 1997, the Trial Court Budget Commission (TCBC) is looking forward to its responsibilities.

"Now, for the first time, we will be able to allocate in a meaningful way trial court funding dollars," says Shasta County Superior Court Judge Steven Jahr, the current TCBC chair who has been on the commission since its creation.

In the split-funding environment, he explains, courts submitted separate budgets to the counties and

proven innovative projects, the efficiencies of coordination, and techniques that most effectively utilize resources."

## **TCBC'S ROLE**

For courts around the state, the process involving the TCBC is now a familiar one: the courts annually complete their budget requests in the form of budget development packages and submit them to the Budget Evaluation and Appeals Committee (BEAC) of the Trial Court Budget Commission (TCBC). BEAC also considers appeals by courts not satisfied with its assess-

mechanism that each court system used in preparing budget requests was different from the others." For the young TCBC, this presented a major problem. "There was no means of comparing courts; we had no common methodology for budget request submissions. This was a critical barrier to developing an immediately smooth-running system," says Judge Jahr.

## **BUDGET SYSTEMS DEVELOPED**

Rising to the challenge, the TCBC, composed of representatives from 10 geographic regions configured by the Judicial Council, developed a uniform format for courts to formulate and submit budget requests and a system of comparative statistics and performance measures to assist the TCBC in evaluating the requests.

The performance measures developed so far are expressed in terms of minimum service levels, explains Judge Jahr, or "floors for adequate funding for specific purposes" for several of the 11 functions ranging from jury services and court interpreters to court-appointed counsel and court security. Those requests are first reviewed by BEAC, which methodically reviews data and information provided by courts. BEAC is further assisted by court volunteers and Administrative Office of the Courts (AOC) staff who follow up with phone calls or site visits in BEAC's quest to obtain the most accurate information about each court.

"If a budget request seeks support that is less than minimum level, then we know the court is in dire need,"

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*"Now, for the first time, we will be able to allocate in a meaningful way trial court funding dollars," says Shasta County Superior Court Judge Steven Jahr, the current TCBC chair who has been on the commission since its creation.*

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to the state through the TCBC process and hoped that one or both sources provided adequate funding to support them.

Given those difficult circumstances, the TCBC has not had the opportunity to meaningfully engage in one of its designated functions—allocation. "Because we have had so little state money to allocate, the historical allocation schedule has had a bias built into it, favoring courts in counties that are financially weaker," says Judge Jahr.

"With single-source state funding, we want to be able to allocate much more in line with the budgets that are approved, taking into account minimum service levels,

ment before it makes its final recommendations to the TCBC, which, in turn, presents them to the Judicial Council.

The process now seems straightforward, but that was not the case when Assembly Bill 1344 (Stats. 1992, ch. 696) was enacted, authorizing the establishment of a statewide funding commission to oversee both functions of the trial court budgeting process: budget building and fund allocation.

## **NEW FRONTIER**

"Since there was no statewide system for budgeting and accounting for courts, we were essentially entering into uncharted territory," recalls Judge Jahr. "We discovered that the

## TCBC

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says Judge Jahr, adding, "If a budget request is for funds to obtain resources greater than minimum levels, that doesn't mean it's not warranted."

### FROM UNEASE TO TRUST

"In the beginning, things were as new for the courts as they were for commission members," Judge Jahr confides, "and there was some unease, even though the commission was composed of judges and court administrators."

Over the years, that relationship has improved. "Trust comes from an ongoing relationship, an understanding of how a system works," observes Judge Jahr. "Particularly through AOC staff visits to the courts and regional representatives to answer questions, trial courts have gained a

greater comfort level as we ask them to provide what we need and explain what we do in assessing their budget requests."

Still, the TCBC has been determined from its inception not to be a "pass-through for wish lists but instead [to] be responsible for the in-house policing of budget requests," says Judge Jahr, acknowledging, "The aggregate total of budget requests has been materially greater than the aggregate approved budget requests recommended to the Judicial Council." He explains, "The theory is that if we scrutinize the budget requests carefully, the product we forward to the Judicial Council will be more credible when it goes to the Governor and the Legislature. If it is more credible, then it will be given more weight."

### SPLIT-FUNDING DILEMMA

While the TCBC has succeeded in overcoming the hodgepodge of county budgeting and accounting systems across the state, a greater barrier has existed: "That was the absence of adequate operations funding," states Judge Jahr. "Some county governments had more money to support courts than others [at the time the TCBC was created]. A number of counties were in dire financial circumstances; some courts were struggling to keep their doors open."

With the passage of the trial court funding measure, however, the TCBC is prepared to meet its new challenge. Says Judge Jahr, "We have been able to develop a high-quality budgeting process so we are ready to take on the responsibility of allocating funds now that the law has been enacted that will allow us to do that."



Members of the Trial Court Budget Commission are, left to right, front row: Judge Victor E. Chavez; Judge Marjorie Laird Carter; Ms. Nancy Piano; Judge Steven E. Jahr, Chair; Judge Patricia K. Sepulveda; Judge Paul C. Cole; Mr. John A. Clarke; Judge Ronald Evans Quidachay; back row: Judge John W. Runde; Judge Arthur E. Wallace; Judge Richard O. Keller; Judge Ray L. Hart; Judge Candace D. Cooper; Judge Robert H. O'Brien; Judge Dennis G. Cole; Judge Bruce A. Clark; Judge John Stephen Graham; Judge Theodore E. Millard; Mr. James Hlawek; Judge Jon M. Mayeda; Mr. Donald H. Lundy; Mr. Kenneth Martone; Judge Eugene "Mac" Amos, Jr.; Judge Dennis A. Cornell; and Judge Edward Forstenzer. Not pictured are Judge Lloyd G. Connelly; Judge Francis A. Gately, Jr.; Judge Jack P. Hunt; Mr. Michael Johnson; Judge William C. Pate; Judge Coleman A. Swart; and Judge Ronald L. Taylor. *Photo: Carl Gibbs.*

# State Funding for California Trial Courts: A Brief History

## 1985

The Trial Court Funding Act of 1985 (Assem. Bill 19 (Robinson)) is enacted, providing for state funding of trial courts with retention of local administrative control. It marks the first major reform in trial court funding since the abolition of the proliferating city and police courts. The bill provides block grants to counties based on a formula of reimbursement for statutorily authorized judicial positions. However, no funds are appropriated to implement the law.

## 1988

The Brown-Presley Trial Court Funding Act becomes law (Sen. Bill 612 (Presley); Assem. Bill 1197 (W. Brown)), implementing and financing some state funding of the trial courts. With this act, California joins more than 30 other states that accept some significant state responsibility for funding their trial courts. The act provides partial state funding of the trial courts, with block-grant appropriations to each county based on total judicial positions. The initial funding period begins on January 1, 1989, and continues to the end of fiscal year 1988–89. The Governor also includes funding for trial courts in his 1989–90 budget.

## 1989–90

This fiscal year marks the first full year of state court funding under the Brown-Presley Trial Court Funding Act. California's growing fiscal problems are reflected in a drop of the state's share to 38 percent of total trial court costs during this year.

## 1990

The Judicial Council adopts a position that California must move toward adequate state funding of the courts and creates an Advisory Committee on State Court Funding. This committee is charged with (1) analyzing the current funding method, under which the state provides

one-third of funding for the state courts and financially strapped counties provide the other two-thirds, and (2) exploring ways to achieve adequate state funding.

## 1991

Enactment in June of the Trial Court Realignment and Efficiency Act of 1991 (Assem. Bill 1297 (Isenberg)) provides increased state funding for trial courts and streamlines court administration through trial court coordina-

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*“In order to ensure that our justice system runs smoothly, we must have sufficient trial court funding. I am deeply gratified by the passage of the new funding bill. This good news has been long awaited.”*

*—Marc Adelman  
President, State Bar of California*

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tion and financial information reporting. Under the law, the Legislature states its intent to raise its funding share to 50 percent and increase that level by 5 percent each year until 1995–96, when a 70 percent funding level would be attained.

The act increases fines in criminal cases and appropriates to the state significant shares of the fine monies formerly distributed to cities and counties. The increased revenue to the state offsets the increase in the state's appropriation to trial courts. The act also requires the Judicial Council to report and recommend to the Legislature by March 1992 the most efficient and cost-effective methods available to include trial courts in the state's budget process and an equitable approach to allocating state funds for trial courts.

## 1992

In May, the Judicial Council adopts a long-term approach to including trial courts in the state's budget process, involving the creation of a single statewide trial court budget board—the Trial Court Budget Commission (TCBC)—

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## State Funding

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which would review and approve trial court budgets for submission to the Legislature and allocate state funds appropriated for trial courts.

In September, the Governor signs into law Assembly Bill 1344 (Isenberg), which, among other things, reiterates the Legislature's intent to incrementally increase the state's share of trial court costs and to include trial court

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***"This legislation marks the beginning of a process that will provide courts with an adequate and stable funding source. In the end, I believe that the beneficiaries of this momentous change will be the public that we serve."***

*—Fritz Ohlrich, Court Administrator, Los Angeles Municipal Court*

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budgets in the state's Budget Act starting in the 1993–94 fiscal year. However, the state's share of support for the trial courts has continued to decline from the level provided in 1991: the total amount of funding has decreased, and the net amount of the state General Fund contribution has dramatically declined even after taking into account the transfer of local trial court revenue to the state.

Assembly Bill 1344 also provides statutory authority for the establishment and powers of the TCBC, whose purpose is to direct and oversee the trial court budget submission and allocation processes for the state's share of costs. The bill makes uniform and increases filing fees and redistributes them from the county to the state to help address the state's fiscal responsibility.

## 1993

In February, the membership of the TCBC, consisting of 26 trial court judges from the TCBC's 10 geographic regions, is announced. Four court administrators and two county administrators are named as advisory members. The commission holds its first meeting in March.

In June, the Governor signs the 1993 Budget Act into law. According to the budget, the state will pay only about 43.5 percent of statewide trial court expenses in 1993–94—substantially below the 60 percent level intended by the Legislature when it passed the Trial Court Realignment and Efficiency Act of 1991. The state will now pay the full cost of the Assigned Judges Program, instead of sharing the expense with counties.

## 1994

The TCBC reviews funding requests from the trial courts for 10 functional categories of operations. These categories, established by the TCBC, are: (1) judicial officers, (2) jury services, (3) verbatim reporting, (4) court interpreters, (5) collection enhancement, (6) dispute resolution programs, (7) court-appointed counsel, (8) court security, (9) information technology, and (10) all other court operations, plus a category for county general services ("indirect costs"). The TCBC prepares and approves a consolidated trial court budget proposal, which it presents to the Governor and the Legislature.

In July, the Governor signs into law Assembly Bill 2544 (Isenberg), which declares the intent of the Legislature to create a Judicial Branch Budgeting System that protects the independence of the judiciary and optimizes local trial court control and responsibility, while preserving financial accountability to the overall state budget. The law also implements the transition from block-grant funding to function funding consistent with California Rules of Court, rule 810.

## 1995

In January, the Judicial Council adopts California Standards of Judicial Administration, section 30—Trial Court Performance. The section lists standards for trial court performance that are intended to be used by the trial courts, in cooperation with the Judicial Council, "for purposes of internal evaluation, self-assessment, and self improvement." They specifically address (1) access to justice; (2) expedition and timeliness; (3) equality, fairness, and integrity; (4) independence and accountability; and (5) public trust and confidence.

In July, the council adopts the TCBC's recommendations regarding its *Final Report on the Initial Statewide Minimum Standards for Trial Court Operations and Staffing*, prepared by the TCBC's Oversight Task Force—the chairs of each of the 10 functional budget-category subcommittees and the corresponding liaison members from the TCBC.

For the second year, the TCBC presents a consolidated trial court budget to the Governor and the Legislature. On the TCBC's recommendation, the Judicial Council amends California Rules of Court, rule 810, effective July 1, 1995, which identifies the costs eligible for state funding under the Trial Court Funding Program, to clarify al-

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## State Funding

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lowable costs and to ensure greater consistency among counties in cost reporting.

# 1996

In January, the Judicial Council adopts the TCBC's *Report to the Legislature Regarding Performance Criteria for the Trial Courts*. The TCBC reports to the council that while the tools of output-based performance criteria are limited, they are a useful starting point in analysis of trial court performance. The TCBC concludes that it has succeeded in developing performance criteria and successfully applied the criteria in developing the 1996–97 TCBC Approved Budget. It notes that the criteria continue to evolve as the trial court budget process is refined.

***“The enactment of AB 233 (Escutia) will hopefully begin a new era of stability in the funding and budgeting for California’s trial courts. For the Orange County Superior Court, which has been locked in budget battles and litigation with the County of Orange over adequate funding for years, this legislation has been critically needed and is most welcome.”***

*—Alan Slater, Executive Officer, Orange County Superior Court*

At its March meeting, the council votes to support the six initial recommendations proposed by the Task Force on Trial Court Funding, appointed by the Chief Justice, regarding the Governor's proposed State Budget for Trial Court Funding. They are as follows: (1) request funding that meets the TCBC request of \$1.727 billion for fiscal year 1996–97, which is \$120 million above the Governor's proposal; (2) maintain the status quo with regard to employee status (that is, that employees be employed by the counties); (3) use the current TCBC processes to ensure local input and to preserve the flexibility and control of operations at the local court level; (4) allow courts and counties to continue to collaborate so that the ultimate goal of efficient fine collection is realized; (5) utilize the TCBC allocation process to provide mechanisms for emergency and mid-year changes in funding; and (6) authorize courts to negotiate nondirect administrative support heretofore provided by counties, including the individual contractor opinion.

At its May meeting, the Judicial Council accepts the final report and recommendations of the Task Force on Trial Court Funding.

On May 13, the Governor signs unprecedented emergency legislation, Senate Bill 99 (Kopp), which provides \$25 million in state supplemental funding, to be matched by the counties, to trial courts with critical funding needs so they may perform their basic judicial functions for the remainder of the fiscal year. Without additional funding, some courts faced possible closure before June 30.

In the final days of the 1995–96 legislative session, Assembly Bill 2553 (Isenberg)—the landmark measure that would have consolidated funding of California's trial courts at the state level—fails passage. The measure would have remedied the current funding scheme under which the state provides one-third of funding for the state courts and the counties provide the other two-thirds. It receives wide support from the bench, bar, law enforcement, and the executive and legislative branches, but disagreement over the issue of court employee-employer relations prevents enactment. The bill's failure to pass creates a \$300 million shortfall in the trial court funding budget.

# 1997

On March 4, the Governor signs Senate Bill 21 (Lockyer), which provides \$290.5 million to fund court operations through the 1996–97 fiscal year ending June 30. The signing of the measure averts the immediate closure of numerous trial courts; however, the legislation makes no changes in the current bifurcated trial court funding structure. Chief Justice Ronald M. George acknowledges that he is “pleased that the immediate crisis facing California's trial courts has passed,” but emphasizes, “This should not in any way lessen the impetus for a long-term state-funding solution to the fiscal needs of the judicial branch.”

On April 23, the Judicial Council adopts California Rules of Court that address labor relations policies and procedures in the trial courts. The new rules would become operative if Assembly Bill 233 (Escutia, Pringle) or like legislation providing for state court funding is enacted into law and takes effect. Later that month, Assembly Bill 233 passes the Assembly with strong bipartisan support.

On September 13, the Legislature approves the landmark Lockyer-Isenberg Trial Court Funding Act of 1997 that restructures the beleaguered trial court funding system, taking giant strides toward solving a major problem that has plagued the judiciary.