



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 24, 2011

Title	Agenda Item Type
Budget: Allocation of \$17.862 Million in 2010 Budget Act Funding for Trial Court Employee Benefits	Action Required
Rules, Forms, Standards, or Statutes Affected N/A	Effective Date June 24, 2011
Recommended by Trial Court Budget Working Group Administrative Office of the Courts Stephen Nash, Director, Finance Division, and Chair, Trial Court Budget Working Group	Date of Report June 15, 2011
	Contact Stephen Nash, 415-865-7584 stephen.nash@jud.ca.gov

Executive Summary

The Administrative Office of the Courts (AOC) and the Trial Court Budget Working Group (TCBWG) recommend an allocation of \$17.862 million in funding provided by the Budget Act of 2010 (Stats. 2010, ch. 712) to address fiscal year (FY) 2010–2011 cost changes in court employee retirement, retiree health, and health benefits.

Recommendation

The Administrative Office of the Courts and the Trial Court Budget Working Group recommend that the Judicial Council allocate \$17.862 million appropriated in the Budget Act of 2010 for FY 2010–2011 trial court employee retirement, health, and retiree health benefits cost increases, based on a straight pro rata methodology to courts, as indicated in Option 2 of Attachment 2.

Previous Council Action

There has been no previous Judicial Council action on this item.

Rationale for Recommendation

Background

From FY 2005–2006 through FY 2008–2009, the Trial Court Trust Fund (TCTF) received new General Fund monies using an adjustment based on either the State Appropriations Limit (SAL) or the Consumer Price Index (CPI). These funds were allocated to trial courts to address court operational costs, including changes in the cost of employee salaries and benefits. Retirement costs were addressed on a statewide basis, and funding needed to address cost changes in this area was allocated to courts separately from the rest of the funding. As part of the Legislature’s response to the state’s current difficult fiscal challenges, SAL funding adjustments were suspended beginning in FY 2009–2010. Subsequent to this change, AOC staff met with staff from the Department of Finance (DOF) to identify a process that would fund, on an ongoing basis, baseline cost changes for areas such as retirement and health benefits. These are costs that are generally funded for executive branch agencies. As a result of these discussions, an ongoing process was proposed to fund these cost areas. In addition, the 2010–2011 Governor’s Budget proposed baseline increases for FY 2010–2011 cost changes based upon preliminary court estimates. The Legislature appropriated the requested funding in the 2010 Budget Act.

The estimated cost changes presented to the DOF in fall 2009, which were ultimately appropriated in the Budget Act of 2010, were determined based on the results of preliminary court cost surveys and historical cost growth. Based upon this information, the following funding need in these areas was submitted to the DOF and ultimately incorporated into the Budget Act of 2010:

Retirement	\$ 6,663,905
Retiree Health	327,465
Health Benefits*	<u>10,870,854</u>
Total:	<u>\$17,862,223</u>

* The health benefits category includes cost changes only in the areas of medical, dental, vision, and cafeteria plan/flexible benefits.

In the Budget Act of 2010, Provision 2 of budget item 0250-102-001 states:

This item may be increased by order of the Director of Finance to address unanticipated cost increases that exceed the amount appropriated in this item. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairpersons of the committees and appropriate subcommittees that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

Because the amounts included in the 2010 Budget Act reflected very preliminary and incomplete information available to courts and the AOC, AOC staff again surveyed courts in late spring

2010 and also in fall 2010 to obtain updated cost estimates for FY 2010–2011. Based on these surveys, AOC staff recomputed the statewide change in costs and provided the information below to the DOF in early November 2010.

Trial Court Unfunded Cost	Cost Change From FY 2009–2010 to FY 2010–2011	Full-Year Cost Change From FY 2009–2010 to FY 2011–2012
Retirement Contributions	\$26,738,268	\$28,737,925
Retiree Health Benefits	2,277,397	2,277,397
Health Benefits	13,780,235	21,517,479
Total Cost	42,795,900	52,532,801
Funding Provided in Budget Act of 2010	17,862,223	17,862,223
Net Funding Need	\$24,933,677	\$34,670,578

Augmentation Request

On December 10, 2010, AOC staff notified the DOF that, pursuant to the language in Provision 2, a current-year augmentation to this item in the amount of \$24,933,677 was being requested. Subsequently, on January 10, 2011, the DOF sent a letter to the Joint Legislative Budget Committee (JLBC) and the budget and appropriations committees of both houses of the Legislature supporting the AOC’s funding request augmentation. The JLBC responded on February 9, 2011, denying the augmentation. (See Attachment 1 to this report.) The letter identified that a reason for the denial was that the courts have reported approximately \$312 million in unobligated reserves that could be used to offset the cost changes. The letter also stated that it was unclear “whether the courts have attempted to renegotiate their labor agreements for court employees to try to offset these increases in costs, and made efforts, similar to those already being implemented for state employees, to control compensation costs for court employees.”

AOC and DOF staff discussed the possibility of appealing the funding denial. AOC staff performed an analysis of FY 2009–2010 ending trial court fund balances to determine which courts had insufficient reserves to absorb their benefit cost increases. This analysis looked at each court’s fund balance with regard to how many days of expenditures that balance would cover. The analysis indicated that 11 courts had insufficient reserves to absorb these costs and that their unfunded benefit cost increases totaled \$11.074 million. The number of working days of fund balance these courts had varied from a low of 0.8 to 33.4. On March 25, 2011, AOC staff sent a letter to the DOF requesting their assistance in asking the JLBC to reconsider their decision and approve additional funding (beyond the \$17.862 million) of \$11.074 million for the 11 courts for FY 2010–2011. Upon review of this request, the DOF indicated that, given the

state’s financial shortfall, they were no longer supportive of the additional current-year funding request.

Final Funding Needs and Preliminary Allocation

Reflective of continued updates from courts, the final level of cost increases for FY 2010–2011 and full-year costs as a result of those increases in FY 2011–2012 for retirement, retiree health, and health benefits is as identified in the table below. The 2011 budget that was passed by the Legislature but not yet signed into law includes \$52.533 million to almost fully fund the FY 2010–2011 cost changes starting in FY 2011–2012. If this funding is ultimately included in the Budget Act of 2011, the courts will absorb the deficit in funding (\$17.862 million vs. \$43.241 million) for one year, only.

Trial Court Unfunded Cost	Cost Change From FY 2009–2010 to FY 2010–2011	Full-Year Cost Change From FY 2009–2010 to FY 2011–2012
Retirement Contributions	\$26,800,284	\$28,799,940
Retiree Health Benefits	3,152,725	3,152,725
Health Benefits	13,288,266	20,956,145
Total Cost	43,241,275	52,908,810
Funding Provided in Budget Act of 2010	17,862,000	17,862,000
Net Funding Need	\$25,379,275	\$35,046,810

After the DOF’s decision to no longer support full funding in the current fiscal year, it became necessary to determine how to allocate the \$17.862 million among courts with cost increases. There are various possible ways to do so, three of which are identified below. Because at least one court was facing a significant cash shortfall in the current year and could not wait for council action on this item, staff proceeded with a preliminary distribution of these funds, based on a proration of the funds based on each court’s relative funding need and the final cost change information provided by the courts. To the extent that the council subsequently determines that an alternative allocation approach is preferred, then adjustments to each court’s distribution will be implemented. In three courts the net change over the three benefit areas was negative. The allocation request was made to the DOF on May 19. Staff was subsequently informed that the State Controller would transfer the new funds to the Trial Court Trust Fund. The increased funding was distributed to the courts on June 15 as part of their overall monthly adjustment.

The pro rata alternative seems the most fair in addressing employee benefits cost changes for the courts as it uses the final cost survey information provided by the courts and treats all courts equally. AOC staff and the TCBWG recommend approval of the pro rata allocation of the \$17.862 million in funding as provided in Option 2 of Attachment 2.

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for public comment; however, it was discussed with the Trial Court Budget Working Group, and three alternatives, including the alternative recommended for approval, were considered. The decision to recommend Option 2 for the Judicial Council's consideration was unanimous.

Alternatives Considered

Option 1: Allocate \$17.862 million based on original information provided to the DOF in fall 2009

This option would allocate the funding in the same manner by which the original \$17.862 million request determined in 2009 was allocated. (See Option 1 on Attachment 2.) While this methodology may benefit some courts as compared to the other alternatives, it is not recommended because most of the originally estimated funding need in courts has changed, as can be seen by comparing the estimates to the final funding need shown in Attachment 2. Many of these estimates, which were first made in spring 2009, ended up varying significantly from the final amounts. As a result, under this methodology, some courts that have either no or minimal cost increases would receive significant new funding, while others that actually have increases would experience funding reductions.

Option 2: Prorate \$17.862 million based on need identified in final surveys

This option, which is the methodology on which the preliminary distribution was based and is the recommended option, would use the final survey costs and allocate the funding based on each court's percentage share of the total increased cost. Those courts with overall decreases would have their funding adjusted accordingly. (See Option 2 on Attachment 2.) This methodology would have the result that each court with an overall increase in costs would receive approximately 41.5 percent of its FY 2010–2011 cost change.

Option 3: Allocate additional funding to the court with the most insufficient reserves and prorate remaining funding as in Option 2

This option would provide one court that faces a significant cash shortfall with 75 percent of its cost change need (as compared with 41.5 percent in Option 2) and then would prorate the remainder of the funds to the courts based on relative need as identified in Option 2. (See Option 3 on Attachment 2.) This option would provide a larger amount of the funding to a court that has significantly lower reserves (0.8 working day) than any other court, based on its ending FY 2009–2010 fund balance. All other courts with increases would receive approximately 38.1 percent of their current need.

Implementation Requirements, Costs, and Operational Impacts

There are no implementation requirements, costs, or operational impacts related to this item. This report involves new funding to be allocated to the trial courts to address actual changes in costs occurring in FY 2010–2011 in the areas of court employee retirement, health, and retiree health benefits.

Relevant Strategic Plan Goals and Operational Plan Objectives

The process established for obtaining the funds to address benefit increases for court employees addresses the strategic plan goal and operational plan objective of judicial branch independence. Benefit needs of nonjudiciary judicial branch employees are determined and funded similarly to those of other state employees, without the need for submitting a budget change proposal to the Governor and Legislature.

Attachments

1. Letter of February 9, 2011, from the Joint Legislative Budget Committee
2. Options to Allocate \$17.862 Million From Budget Act of 2010 for Court Employee Benefits

Joint Legislative Budget Committee

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February 9, 2011

Ms. Ana J. Matosantos, Director
Department of Finance
Room 1145, State Capitol
Sacramento, California 95814

Dear Ms. Matosantos:

In a letter dated January 10, 2011, you notified the Joint Legislative Budget Committee of your intent to provide the judicial branch with increased expenditure authority of \$24.9 million in 2010-11 from the General Fund for retirement and health benefit costs for court employees. Your letter was issued pursuant to Provision 2 of Item 0250-102-0001 of the *2010-11 Budget Act*.

The Legislative Analyst's Office (LAO) informs me that sources of funds other than state General Fund are available to the trial courts to pay the additional costs identified in this request. Specifically, individual trial courts had about \$312 million in unobligated reserves that could be used in lieu of the increased appropriation requested by the judicial branch. Given the state's difficult fiscal problems, I believe these costs should be offset using the ample reserves already available to the court system rather than from the state General Fund.

While I recognize that some employee retirement and health benefit costs could be difficult for the courts to effectively control in the short term, it appears that some courts may have the ability to adjust various aspects of their labor agreements that could reduce or eliminate the need for the requested \$24.9 million augmentation, particularly in the long run. It is unclear to me whether the courts have attempted to renegotiate their labor agreements for court employees to try to offset these increases in costs, and made efforts, similar to those already being implemented for state employees, to control compensation costs for court employees. Because trial court employees are not considered state employees, they have been unaffected by actions taken by the state to achieve substantial savings in state employee costs (such as increasing the amounts that state employees must contribute toward their retirement plans and decreasing

retirement benefits that will be provided to newly hired employees). According to the LAO, the Administrative Office of the Courts (AOC) reports that 15 courts currently have some form of a furlough program. However, the AOC has not provided details on the furlough programs and has not been able to demonstrate at this time whether the trial courts have made all reasonable efforts to control employee compensation costs.

Conclusion. In view of those concerns, I do not concur at this time with the request to increase the judicial branch's expenditure authority by \$24.9 million.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark Leno".

Mark Leno
Chair

cc: Members of the Joint Legislative Budget Committee

Options to Allocate \$17.862 Million From Budget Act of 2010 for Court Employee Benefits

Court	Cost Change Based on Final FY 2010–2011 Surveys	OPTION 1 Original Data Provided to DOF in 2009	OPTION 2 Pro Rata Based on Final Surveys	OPTION 3 Pro Rata With Extra Funding to One Court With Minimal Reserves
Alameda	1,726,103	723,812	716,423	657,808
Alpine	1,678	1,553	696	639
Amador	16,300	22,174	6,765	6,212
Butte	20,143	25,191	8,361	7,676
Calaveras	22,978	6,136	9,537	8,757
Colusa	1,721	11,469	714	656
Contra Costa	547,446	568,638	227,219	208,629
Del Norte	31,213	5,453	12,955	11,895
El Dorado	82,799	82,949	34,366	31,554
Fresno	1,653,651	304,128	686,352	630,196
Glenn	19,492	7,042	8,090	7,428
Humboldt	34,633	54,624	14,374	13,198
Imperial	65,668	162,356	27,256	25,026
Inyo	51,162	5,423	21,235	19,497
Kern	3,055,288	703,136	1,268,105	1,164,352
Kings	15,202	52,705	6,310	5,794
Lake	(1,352)	7,685	(1,352)	(1,352)
Lassen	(1,040)	6,208	(1,040)	(1,040)
Los Angeles	13,137,947	4,556,211	5,452,937	5,006,793
Madera	230,500	53,216	95,670	87,842
Marin	583,605	339,163	242,227	222,408
Mariposa	14,267	3,290	5,922	5,437
Mendocino	76,765	103,858	31,862	29,255
Merced	490,774	218,599	203,697	187,031
Modoc	15,856	(25,313)	6,581	6,043
Mono	41,817	5,660	17,356	15,936
Monterey	108,268	13,276	44,937	41,260
Napa	108,995	101,255	45,239	41,537
Nevada	126,604	45,170	52,548	48,248
Orange	3,886,420	1,087,902	1,613,069	1,481,092
Placer	237,377	218,092	98,524	90,463
Plumas	11,896	3,377	4,937	4,533
Riverside	432,802	912,202	179,635	164,938
Sacramento	2,743,274	641,280	1,138,603	1,045,445
San Benito	9,417	29,025	3,908	3,589
San Bernardino	967,566	316,743	401,591	368,734
San Diego	422,666	1,459,519	175,429	161,076
San Francisco	3,993,883	845,015	1,657,671	2,995,412
San Joaquin	813,169	568,248	337,508	309,894
San Luis Obispo	206,552	122,164	85,730	78,716
San Mateo	2,224,518	418,142	923,292	847,750
Santa Barbara	911,400	417,945	378,279	347,329
Santa Clara	1,810,574	995,463	751,483	689,999
Santa Cruz	68,158	86,930	28,289	25,975
Shasta	117,245	10,302	48,663	44,681
Sierra	383	1,798	159	146
Siskiyou	48,618	45,522	20,179	18,528
Solano	9,867	74,550	4,095	3,760
Sonoma	699,314	14,470	290,252	266,505
Stanislaus	790,771	961,774	328,211	301,358
Sutter	88,090	14,262	36,562	33,571
Tehama	33,791	28,908	14,025	12,877
Trinity	44,197	4,687	18,344	16,843
Tulare	(143,604)	5,082	(143,604)	(143,604)
Tuolumne	31,820	63,783	13,207	12,127
Ventura	366,491	418,804	152,113	139,668
Yolo	93,750	52,174	38,911	35,728
Yuba	42,387	(121,227)	17,593	16,153
Total:	43,241,275	17,862,000	17,862,000	17,862,000