



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 22, 2011

Title	Agenda Item Type
Budget: Allocation of \$350 Million Ongoing Reduction to the Judicial Branch	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	July 22, 2011
Recommended by	Date of Report
Trial Court Budget Working Group	July 18, 2011
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Executive Summary

For FY 2011–2012, the Budget Act of 2011 includes \$350 million in new ongoing reductions to the judicial branch. Of these reductions, the Legislature scheduled \$200 million on a pro-rata basis throughout the branch. While the additional \$150 million reduction was to the trial court operations item only (see Attachment 1), the Budget Act contains language that authorizes the council to allocate and offset the reduction to other areas in the branch, subject to 30-day notification to the Legislature. Specifically, the language authorizes the council to transfer funds from (1) other items in the Trial Court Trust Fund; (2) appropriated funding for the Supreme Court, Courts of Appeal, Judicial Council/Administrative Office of the Courts (AOC), Judicial Branch Facility Program, and/or Habeas Corpus Resource Center; and/or (3) funds from the

Immediate and Critical Needs Account (ICNA), State Court Facility Construction Fund (SCFCF), Trial Court Improvement Fund, and Judicial Administration Efficiency and Modernization Fund in order to reduce the impact of the funding reduction to trial courts in FY 2011–2012. This report contains the working group’s recommendations.

Recommendation

In consultation with representatives of appellate court leaders, the Trial Court Budget Working Group recommends that the Judicial Council:

1. Allocate \$350 million of reductions on a one-time basis in FY 2011–2012 to the Supreme Court, Courts of Appeal, trial courts, AOC, and Habeas Corpus Resource Center as displayed in column I of Attachment 2. This allocation reflects a one-time 85 percent discount adjustment to the first year share of the reduction for the Supreme Court and Courts of Appeal, and a 50 percent adjustment for the Judicial Council/AOC and Habeas Corpus Resource Center.
2. Allocate the \$350 million ongoing reduction based on the adjusted total operations budget indicated in column C of Attachment 2, which reflect (in column B) the adjustments made in the Budget Act of 2011 and four additional adjustments, to compute the spread among branch entities. The resulting ongoing reductions are displayed in column M. This approach would result in an across-the-board 15.2 percent reduction based on a consistent and balanced methodology.

Previous Council Action

Not applicable.

Rationale for Recommendation 1

The ability of trial courts to implement cuts, at least in the short and intermediate term, is partially mitigated by (1) accumulated reserve funding and (2) one-time fund transfers and other reduction offsets. These options are not, however, available to other areas of the judicial branch, such as for the Supreme Court, Courts of Appeal, Habeas Corpus Resource Center, and AOC. Since these entities do not have reserves or access to one-time reduction offsets, one-time reduction relief would allow for some transition before absorbing the full share of the \$150 million reduction. This would provide time to plan for and implement ongoing cuts in a manner that would minimize disruptions in services and access to justice. The appellate court system has less flexibility in operationalizing its ongoing share of the \$150 million, and this option will provide transition relief at a higher level than for nonadjudicatory branch entities.

Rationale for recommendation 2

Cumulative ongoing funding reductions to the judicial branch from FY 2008–2009 through FY 2011–2012 total \$652.9 million (see Attachment 1). Beginning in FY 2009–2010, the Legislature provided a series of one-time and limited-term funding offsets consisting of transfers and new

revenues to mitigate the impact of the ongoing reductions to trial courts. The additional \$350 million reduction to branch funding in FY 2011–2012 will be a difficult challenge, potentially endangering the public’s access to justice, regardless of how it is spread among branch entities.

The Budget Act scheduled the initial \$200 million reduction as an across-the-board 6.8 percent reduction to each area of the branch, based on each entity’s relative share of the total statewide adjusted operations budget. For purposes of computation, each entity’s operations funding, which included General Fund, Appellate Court Trust Fund, Trial Court Improvement Fund, and Trial Court Trust Fund sources, was adjusted to exclude various items that the working group recommends not be subject to the reduction, as follows:

- Court-appointed indigent counsel for the Supreme Court (\$15.8 million) and Courts of Appeal (\$58.8 million). This special item of expense in the State Budget is managed and funded specifically for support of this program.
- Planned transfer of \$8.1 million in the Judicial Branch Facility Program to the Court Facility Trust Fund, which supports the maintenance of trial court facilities. Even with the transfer, this fund is not fully sufficient to support the required maintenance of court facilities.
- Judges’ compensation (\$298.5 million). Superior court judges’ compensation is set by statute, and sufficient funding to cover these costs must be maintained.
- Assigned Judges Program (\$26.0 million). The need for assigned judges to support courts has continued to grow. In addition, without funding for judgeships that have been authorized by the Legislature, assigned judges are needed to assist with existing trial court judicial caseload.
- The \$35.8 million in new funding for FY 2010–2011 court employee and retiree benefit cost increases.
- Local trial court revenues and reserves. These funds support local court programs and operations but are not allocated by the council and therefore are not included in the computation.

Each branch entity’s share of the \$200 million reduction was computed based upon its pro-rata share of the branchwide adjusted operations budget. An alternative allocation approach has been suggested that would allocate the \$200 million reduction throughout the branch solely based on the operations budgets funded by the state General Fund rather than based on overall operations funding. Compared to the reduction scheduled by the Budget Act of 2011, if only state General Fund budgets were used to spread the reduction throughout the branch, the reduction to state trial court funding would decrease by \$21.5 million from 6.8 percent to 6 percent of its operations budget, while the Supreme Court reduction would increase by \$3.1 million from 6.8 percent to 16.8 percent of operations, the Courts of Appeal share would increase by \$13.0 million from 6.8 percent to 15.4 percent, the AOC share would increase by \$3.3 million from 6.8 percent to 9.7 percent, the Judicial Branch Facilities Program share would increase by about \$961,000 from 6.8 percent to 88.0 percent, and the Habeas Corpus Resource Center share would increase by about \$557,000 from 6.8 percent to 8.9 percent. It appears that the approach adopted by the Legislature

results in a more equitable spread of the reduction among branchwide operations compared to a purely General Fund approach.

Beyond the question of whether to use total operations or only the state General Fund as the base for computing the reduction, other considerations have been raised that would affect the computation of the reduction spread, including the following:

- Justices' compensation for the Supreme Court (\$1.62 million) and Courts of Appeal (\$22.93 million). Since trial court judges' compensation was excluded from the computation used to determine the reduction allocation, it would be consistent to exclude justices' compensation.
- Trial court sheriff-provided security budget of \$497.8 million. Pursuant to Assembly Bill 121 (Stats. 2011, ch. 41), which is part of the Governor's realignment proposal, funding for security, which represents about 20 percent of courts' operations funding, is being removed from the trial court operations item of appropriation and from each court's budget and transferred directly to the counties. As a result, courts have recourse to only 80 percent of their budgets to identify efficiencies and cost savings. Therefore, the working group recommends that security funding be excluded from courts' budgets in determining the allocation of the reduction.
- California Highway Patrol-provided security funding of \$4.3 million, to support the appellate courts and AOC (currently paid from the Judicial Council/AOC budget). If sheriff security is excluded from the trial court funding computation, it would be consistent to exclude CHP security as well.
- Court-appointed dependency counsel budget of \$107.8 million. Since court-appointed indigent counsel provided at the appellate level was excluded by the Legislature, it would appear consistent to exclude court-appointed dependency counsel provided at the trial court level.

The spread of the \$350 million ongoing reduction after incorporating these additional adjustments to the base operations budgets is displayed in column M of Attachment 2.

An alternative approach has been suggested by some to offset the reduction first by reducing the AOC's entire General Fund budget (approximately \$92 million), then allocating the remainder of the cut to the courts. This approach would result in the elimination of various programs that court leaders—including many in small and medium-sized courts—have identified as being critical to operations of the courts.

Comments, Alternatives Considered, and Policy Implications

Options 1–3 below are alternatives for allocating the \$350 million ongoing reduction. Option 4 is an alternative to providing one-time reduction transition relief in FY 2011–2012.

I. Options for Allocating the \$350 Million Ongoing Reduction

Option 1. Allocate the \$350 million in reductions based on General Fund appropriations only. This option would substantially increase the share of reductions allocated to the Supreme Court, Courts of Appeal, AOC, Judicial Branch Facility Program, and Habeas Corpus Resource Center, resulting in a large disparity in percentage of operations reduced between entities in the branch.

Option 2. Leave the \$350 million reduction as scheduled by the Legislature in the Budget Act without making additional adjustments. This option would result in trial courts receiving a significantly larger share of overall cuts.

Option 3. Offset reduction by eliminating the AOC's General Fund budget. This approach would be inconsistent with principles articulated by branch leadership regarding sharing the burden of reductions equitably across the branch.

II. Option for Providing One-Time Reduction Transition Relief in FY 2011–2012

Option 4. Provide no one-time reduction transition relief in FY 2011–2012 to branch entities that do not have access to accumulated funding reserves and have not been provided one-time reduction offsets. This approach would not allow for some transition prior to absorbing the full share of the \$150 million reduction to provide time to plan for and implement ongoing cuts in a manner that would minimize disruptions in providing services and access to justice, particularly in the appellate court system.

Implementation Requirements, Costs, and Operational Impacts

Already discussed above.

Comments From Interested Parties

The Trial Court Budget Working Group and representatives of appellate court leadership met on July 13, 2011, to review and discuss these alternatives in developing the recommendations included in this report.

Attachments

1. Attachment 1: Cumulative Judicial Branch Funding Reductions: FY 2008–2009 to FY 2012–2013, at page 6
2. Attachment 2: Recommended Spread of \$350 Million Reduction to Judicial Branch, at page 7
3. Attachment 3: Letter From Presiding Judge Steve White, Superior Court of California, County of Sacramento, at pages 8–11

Cumulative Judicial Branch Funding Reductions: FY 2008-2009 to FY 2012-2013

	FY 2008-2009	FY 2009-2010	FY 2010-2011	FY 2011-2012** (per Budget Act)	FY 2011-2012** (Recommended)	FY 2012-2013 and Ongoing (Recommended)
State Judiciary*						
One-time reduction	-11,217,000					
Baseline reduction		-17,098,062	-17,098,062	-17,098,062	-17,098,062	-17,098,062
Share of \$200 million reduction				-21,426,000	-24,825,393	-24,825,393
Share of \$150 million reduction				0	-5,738,174	-18,619,044
Total, State Judiciary	-11,217,000	-17,098,062	-17,098,062	-38,524,062	-47,661,629	-60,542,499
Trial Courts						
One-time reduction	-92,240,000	-100,000,000	-30,000,000	0	0	0
Baseline reduction		-260,809,000	-285,809,000	-285,809,000	-285,809,000	-285,809,000
Share of \$200 million reduction	0	0	0	-178,574,000	-175,174,607	-175,174,607
Share of \$150 million reduction	0	0	0	-150,000,000	-144,261,826	-131,380,956
Total, Trial Courts	-92,240,000	-360,809,000	-315,809,000	-614,383,000	-605,245,433	-592,364,563
Total, Judicial Branch	-103,457,000	-377,907,062	-332,907,062	-652,907,062	-652,907,062	-652,907,062

*Supreme Court, Courts of Appeal, Judicial Council/AOC, Habeas Corpus Resource Center, and Judicial Branch Facility Program.

**General Fund augmentations for trial court security (\$10.7 million), parole hearings (\$17.8 million), and court employee/retiree benefits (\$52.5 million) are not reflected as those monies will offset new or increased costs to courts and do not offset the impact of funding reductions.

Recommended Spread of \$350 Million Reduction to Judicial Branch

Appropriation Item					FY 2011-2012						FY 2012-2013 and Ongoing			
	Operations Budget ¹	Adjustment (court-appointed counsel [indigent and dependency], justices/judges compensation, and sheriff/CHP security)	Adjusted Operations Budget	% of Total Budget	Computed Ongoing Reduction of \$200 Million	Computed Reduction of \$150 Million ⁵	Amount of \$180 Million One-Time Offset Available [*]	\$124.2 Million One-Time Offset	Net FY 2011-12 Reduction	Reduction as % of Adjusted Operations Budget	Computed Ongoing Reduction of \$200 Million	Computed Ongoing Reduction of \$150 Million	Total Computed Ongoing Reduction	Reduction as % of Adjusted Operations Budget
	A	B	C (A + B)	D	E (D * -\$200 M)	F	G	H	I (E+F+G+H)	J (I / C)	K (D * -\$200 M)	L (D * -\$150 M)	M (K+L)	N (M / C)
Supreme Court ²	46,507,000	-17,443,294	29,063,706	1.3%	-2,529,140	-284,528	0	0	-2,813,668	-9.7%	-2,529,140	-1,896,855	-4,425,995	-15.2%
Courts of Appeal ²	210,717,000	-81,746,809	128,970,191	5.6%	-11,223,059	-1,262,594	0	0	-12,485,653	-9.7%	-11,223,059	-8,417,294	-19,640,354	-15.2%
Judicial Council/AOC	116,586,000	-4,310,000	112,276,000	4.9%	-9,770,321	-3,663,870	0	0	-13,434,192	-12.0%	-9,770,321	-7,327,741	-17,098,062	-15.2%
Judicial Branch Facility Program ³	9,235,000	-8,052,000	1,183,000	0.1%	-102,945	-77,209	0	0	-180,154	-15.2%	-102,945	-77,209	-180,154	-15.2%
Trial Court Operations, Grant and Local Assistance Funding ⁴	3,108,240,000	-1,095,214,666	2,013,025,334	87.6%	-175,174,607	-144,261,826	59,304,944	124,239,000	-135,892,489	-6.8%	-175,174,607	-131,380,956	-306,555,563	-15.2%
Habeas Corpus Resource Center	13,789,000	0	13,789,000	0.6%	-1,199,927	-449,972	0	0	-1,649,899	-12.0%	-1,199,927	-899,945	-2,099,872	-15.2%
Total	3,505,074,000	-1,206,766,769	2,298,307,231	100.0%	-200,000,000	-150,000,000	59,304,944	124,239,000	-166,456,056	-7.2%	-200,000,000	-150,000,000	-350,000,000	-15.2%

***Amount of the \$180 million one-time offset in FY 2011-12 that is available to offset new reductions in FY 2011-12 after offsetting prior-year reductions, but will not be available in FY 2012-13. None of the \$180 million offset is available to other branch entities.**

1. Based on general fund and special funds appropriations in Governor's FY 2011-2012 Budget. Special funds includes budget only for non-facility court-related funds: Appellate Court Trust Fund, Trial Court Improvement Fund, Judicial Administration Efficiency and Modernization Fund, and Trial Court Trust Fund. AOC's budget excludes various special purpose funding (e.g., Motor Vehicle Fund, Federal Trust Fund, etc.), as these allocations are not available for reduction.
2. The adjustments are related to the court-appointed counsel (indigent) budget and justices' compensation.
3. The adjustment is the amount that will be transferred to the Court Facilities Trust Fund.
4. The \$3.1 billion is the total state trial court funding appropriation. The \$1.1 billion adjustment is for the following:

- *\$298.5 million for judges' compensation.
- *\$26.0 million for assigned judges' compensation.
- *\$497.8 million budget for sheriff-provided court security.
- *\$107.8 million budget for court-appointed dependency counsel.
- *\$35.8 million in new funding for FY 2010-11 benefit cost changes, which since it is not part of the beginning base budget for trial court operations was not included as part of the trial court operations funding subject to the reduction in FY 11-12.
- *\$38.7 million for the Judicial Administration Efficiency and Modernization Fund, of which \$20 million will be used to offset funding reductions to trial courts.
- *\$17.5 million, the estimated transfer of trial court premiums for participating in the Judicial Branch Workers' Compensation Program to the Judicial Branch Workers' Compensation Fund.
- *\$73.6 million in expenditure authority not funded by annual base revenues.

5. Includes 85% reduction transition adjustment for SC and COA and 50% for JC/AOC and HCRC.



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

STEVE WHITE
PRESIDING JUDGE

720 NINTH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 874-5487

July 8, 2011

Mr. Stephen H. Nash
Director/Chief Financial Officer
Administrative Office of the Courts-Finance Division,
455 Golden Gate Avenue
San Francisco, CA 94102

Dear Mr. Nash:

I write on behalf of the Sacramento County Superior Court in response to Chief Justice Cantil-Sakauye's commitment that "everything is on the table" as the Working Group addresses how to implement the \$350 million reduction in funding for the judicial branch.

We urge the Working Group to follow two principles: First, the Administrative Office of the Courts (AOC) must absorb the latest reductions before any further cuts in funding for trial courts. Second, if trial courts ultimately suffer any part of this reduction, the allocation must address the adequacy of each court's funding before any new hits are imposed.

As California cuts essential government services, every dollar budgeted for the AOC's growing, highly-paid bureaucracy must be justified in a "zero based" budget review. Over the last three years of budget cuts we in Sacramento reduced court staffing from 900 to 730 positions—a cut of 18 percent. This resulted in agonizing delays throughout the system. For example, at our Family Law Court, people wait in line up to five hours to file their child support or custody matters.

In contrast, during this same period of "austerity," the AOC increased its staff and consultants by the hundreds. This is reflected in the growth of the AOC's budget, from \$122 million in FY 06/07 to \$139 million in 2009-2010.

Plainly, there is room to cut the AOC's budget without jeopardizing essential services. The AOC's 30 top executives (paid \$140,000 to \$217,000) contribute nothing to their retirement; 52 individuals are paid \$162,000 or more per year; a public information officer is paid \$125,520. More than 17 people serve in the office of communications; and 13 people are collectively paid approximately \$1,154,699 in legislative advocacy positions.

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Given the punishing cuts already suffered by trial courts, such extravagance cannot be defended. No trial court's budget should be reduced further until all AOC functions not necessary for operation of trial or appellate courts are eliminated.

Second, if the Working Group ultimately determines further reductions in trial court services are unavoidable, the allocation of support must fall equally. The State assumed responsibility for trial courts with the Lockyer-Isenberg Trial Court Funding Act of 1997 to correct the disparity resulting when courts were funded by 58 different counties. The Trial Court Funding Act was intended to provide all Californians equal and adequately funded courts. (Gov. Code §77100(c).)

Unfortunately, the Legislature's directive was never implemented. The formula the Judicial Council uses for funding trial courts retains the same inequities the State inherited in 1997. Sacramento County is particularly hard hit: The AOC's SB 56 Working Group reported Sacramento was 34 percent "underfunded" in FY 09/10—*the most underfunded court in California*. (AOC RAS Funding Shortfalls FY 09/10) By the AOC's own report, Sacramento should receive \$15.6 million more per year to provide the same services available in comparable counties.

If the Working Group determines further cuts to trial courts are unavoidable, any additional reductions must not be imposed under the current procrustean formula. As Justice Potter Stewart cautioned, sometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike. (*Jenness v. Fortson* (1971) 403 U.S. 431, 442.)

The Working Group faces an unprecedented challenge. Its best efforts will likely please no one. In grappling with the task before you, I urge you to keep in mind our Chief Justice's directive: put everything on the table. The AOC's bureaucracy cannot possibly be justified when trial courts are turning litigants away every day. Nor should those courts already suffering under an outdated and inequitable formula be punished yet further.

Thank you for stepping up to address this challenge. The fate of California's courts hangs in the balance.

Very truly yours,



Steve White
Presiding Judge
Sacramento Superior Court

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