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FACT SHEET

December 2011

Assembly Bill 1208 (Calderon) - Trial Court Administration

On December 13, 2011, the Judicial Council adopted as a legislative priority for 2012 to continue its opposition to Assembly Bill 1208 (Calderon, as amended May 18, 2011), recognizing the bill as an inappropriate intrusion into the fundamental governance of the branch. The bill is now pending on the Assembly floor. The bill would remove from the Judicial Council its responsibility and authority to allocate funds to trial courts in a manner that supports implementation of statewide policies and initiatives and would remove the council's role of ensuring the stability of trial court operations and providing oversight over trial court budgets. The bill also permits as few as two to three courts to veto allocations of funding for any statewide initiative for information technology or administrative infrastructure. **We urge you to oppose AB 1208.**

What the Bill Does:

The bill:

- 1) Requires the Judicial Council to allocate 100% of the funds appropriated for trial court operations according to each court's share of statewide operational funding.
- 2) Provides that the Legislature shall specify in the annual Budget Act the amounts allocated for programs of statewide concern from the funds appropriated for trial court operations, such as equal access, court-appointed special advocates, family law information centers, model self-help, assigned judges, information technology, and administrative infrastructure.
- 3) Requires the Judicial Council, prior to allocating any funds in the Trial Court Trust Fund for statewide information technology or administrative infrastructure, to secure the written consent of 2/3 of a proportional representation of the superior courts, as determined by the number of judges of each court.
- 4) Eliminates the authority of the Judicial Council, provided in statute for the express purpose of promoting statewide efficiency, to authorize the direct payment or reimbursement of actual costs from the Trial Court Trust Fund or the Trial Court Improvement Fund for services provided to courts by the Administrative Office of the Courts or for services or property contracted for by courts or on behalf of courts, upon consent of the participating courts.
- 5) Eliminates the statutory provision declaring that the Judicial Council retains the ultimate responsibility to adopt a budget and allocate funding for the trial courts and perform other activities that best assure their ability to carry out their functions,

promote implementation of statewide policies, and promote the immediate implementation of efficiencies and cost saving measures in court operations in order to guarantee equal access to the courts.

- 6) Eliminates the ability of the Judicial Council to direct increased allocations or to mitigate the impact of budget reductions to underresourced courts or courts with fiscal emergencies by specifying the amount allocated to each trial court shall be equal to the pro rata share of the adjusted base budget of the prior fiscal year. Prohibits the Judicial Council from allocating funds other than through this formula, and provides that at the end of each fiscal year, any unspent funds from the Trial Court Trust Fund appropriated for support for operation of the trial courts shall be distributed to each court based upon its pro rata share.
- 7) Authorizes courts to transfer funds, once budgeted and allocated, between functions, line items, or programs, as directed by the management of that trial court, and provides that funds allocated to a court shall be funds of that court and shall not be reallocated or redirected without the consent of the court's management.

Judicial Council Action:

In 2011, the Judicial Council opposed AB 1208 through its Policy Coordination and Liaison Committee. On December 13, 2011, the Judicial Council reaffirmed this position, voting at the December Judicial Council meeting to make it a legislative priority to continue its opposition to AB 1208.

Reasons for Opposition:

- 1) AB 1208 is an inappropriate intrusion into the fundamental governance of the judicial branch.
 - This bill goes far beyond basic judicial branch funding issues, which are squarely within the purview of the Legislature, and dictates how the branch should govern itself.
- 2) AB 1208 is a significant retreat from the restructuring of the judicial branch into a statewide judiciary that has occurred in the last fifteen years.
 - The bill threatens the uniformity and efficiencies of a statewide system that has improved the public's access to justice.
 - The goal of a statewide administration of justice is to bring uniformity in administrative rules and processes, avoid waste, create transparency in financial accountability, and ensure equal access to justice for all Californians, while at the same time recognizing the authority of superior courts to manage their day-to-day operations. AB 1208 moves in the opposite direction.
 - By striking references to the goals that are to inform council decisions on allocating funding, the bill dismantles the goals of a statewide judicial branch, instead making the paramount consideration each court's individual

needs and interests, without regard to uniformity for court users or to ensuring equal access to justice statewide.

- 3) AB 1208 eliminates the authority of the Judicial Council to transfer funding to finance specific trial court projects or assist courts confronting unanticipated budget shortfalls or other urgent fiscal needs.
 - Already this year, two courts, the Superior Courts of San Francisco and San Joaquin, have required emergency assistance from the Judicial Council. AB 1208 would prevent the council from being able to provide such assistance.
- 4) The bill removes decision-making authority for funding key statewide projects from the Judicial Council and puts it in the hands of as few as two to three courts.
 - The bill could endanger funding for essential technology projects, even if the vast majority of courts wanted the council to direct funds to these critical projects.
 - Failure to continue to fund statewide projects such as new statewide case management technology, the Phoenix Financial or Phoenix HR systems, or the interim case management system that supports 15 smaller courts would have significant policy and fiscal implications. A move away from statewide technology systems would lead to reduced transparency and accountability and would require individual courts to implement their own systems that may not meet the needs of the courts and the public.
- 5) The bill authorizes trial courts to transfer any funds, once allocated, between functions, line items, or programs, without any oversight or reporting.
 - AB 1208 creates the very real possibility of impacting funding for statewide programs the Legislature has directed, authorized, or otherwise expressed a special interest in the judicial branch pursuing.
 - The bill would permit a court to transfer funds intended for self-help centers, complex civil litigation, or the domestic violence family law interpreter program, to name just a few, for other purposes, contrary to the efforts toward statewide uniformity and ensuring access to justice for all litigants.
 - Funds for dependency counsel could be transferred for other purposes hampering the Judicial Council's and Legislature's priorities for improving outcomes for children.
 - The bill is in direct conflict with a recent law that directs certain fee revenue to support a civil legal representation pilot project. That revenue would instead be directed to all courts, not to the pilot projects, and could be used

for any purpose, despite the Legislature's intention in raising fees expressly for this purpose.

- 6) This bill was introduced without giving the new Chief Justice an opportunity to evaluate and improve the governance of the judicial branch internally, an opportunity which she has embraced.
 - The judiciary needs to be given the respect and the opportunity to determine if its governing structure is operating in the most efficient and effective manner, if it has acted in a manner that is consistent with the needs of superior courts, or if branch resources are allocated in the best manner to carry out the mission of the judiciary and effectively ensure equal access to justice to all Californians.
 - And the Chief Justice has committed to do just that. In her first year of service, she has initiated many efforts to evaluate and improve branch governance, including the creation a Strategic Evaluation Committee to conduct a review of the Administrative Office of the Courts. She is committed to continuing these and similar efforts to ensure the effective and appropriate governance of the judicial branch.

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Additional resources:

- <http://www.leginfo.ca.gov/bilinfo.html>
- <http://www.courts.ca.gov/16310.htm>