



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 27, 2014

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Title	Agenda Item Type
Budget: Fiscal Year 2015–2016 Budget Requests for Trial Courts	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	June 27, 2014
Recommended by	Date of Report
Trial Court Budget Advisory Committee Hon. Laurie M. Earl, Cochair Mr. Zlatko Theodorovic, Cochair	June 17, 2014
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### Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve the proposed fiscal year 2015–2016 budget requests for the trial courts. Submittal of budget change proposals (BCPs) is the standard process for proposing funding adjustments in the State Budget. This year, the BCPs are to be submitted to the state Department of Finance by September 15, 2014.

### Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective June 27, 2014, approve the preparation and submission of fiscal year (FY) 2015–2016 budget change proposals to the state Department of Finance for the trial courts for the following programs:

1. Trial court reinvestment—closing the funding gap;
2. Trial court employee benefit and salary increases;
3. Technology;

4. Judgeships;
5. Court facilities;
6. Court-appointed dependency counsel;
7. Changes to statutory language regarding the 2 percent Trial Court Trust Fund (TCTF) reserve if the reevaluation of process results in a need for changes;
8. Trial Court Trust Fund backfill, if not addressed in the 2014 budget; and
9. State Trial Court Improvement and Modernization Fund negative fund balance, if not addressed in the 2014 budget.

### **Previous Council Action**

The Judicial Council has statutory authority to approve budget requests on behalf of the trial courts. The recommendation in this report is consistent with the council's past practice under this authority.

### **Rationale for Recommendation**

From FY 2005–2006 through FY 2007–2008, the trial courts received new funding from the state General Fund based on the percentage change in the state appropriations limit (SAL). As a result, few trial court BCPs were submitted to the Department of Finance (DOF) during that time. With the worsening of the fiscal situation in FY 2008–2009, the SAL was suspended for the trial courts and, instead, new court funding was approved based on the lower Consumer Price Index. Beginning in FY 2009–2010, the Legislature suspended formula-based funding increases for all state-funded entities. While SAL has not been reinstated, the May Revision to the 2014 Governor's Budget includes a 5 percent increase in the trial court support appropriation (Program 45.10) in 2014–2015 and a statement that the administration intends to propose an additional 5 percent increase in the 2015–2016 Governor's Budget. As of the date of this report, the members of the Budget Conference Committee are in agreement with this proposed two-year funding approach.

### **Statewide BCP priority development**

In order to generate a discussion of potential FY 2015–2016 statewide BCP priorities, the cochairs of the Trial Court Budget Advisory Committee (TCBAC) sent a survey to all 58 courts containing a list of the trial court priorities from the Chief Justice's *Three-Year Blueprint for a Fully Functioning Judicial Branch*. Courts were asked to rank those priorities in order of importance and to provide any additional statewide priorities that they believe should be requested for FY 2015–2016. Administrative Office of the Courts (AOC) staff reviewed the responses and sent the results to the TCBAC. The TCBAC met on June 3, 2014, and discussed the results of the survey and other priorities suggested by the courts. The results of these discussions are described below.

### **BCPs recommended for Judicial Council approval**

The six programs listed below in order of priority, from first to last, are recommended for consideration by the Judicial Council for submission of BCPs. Each of the programs was

approved unanimously by the TCBAC. These are all items included on the Chief Justice's *Three-Year Blueprint for a Fully Functioning Judicial Branch*.

1. ***Trial court reinvestment—closing the funding gap (\$TBD)***. The proposal would request one-third of the amount needed to provide the necessary baseline for adequate trial court operations. This funding gap is based on the Workload Allocation Funding Methodology which provides a budget development and allocation process for annual state trial court operations funds. It's based on a three-year rolling average of filings, and takes into consideration variations in case types and court resources needed for those various case types. The annual estimates produced by the Resource Assessment Study model identify different funding needs across courts based on workload composition (e.g., workload-intensive felony cases are weighted more heavily than infractions cases) and filing patterns over time. It provides an equitable basis for determining funding levels to support trial court functions and help the state's most under-resourced courts.

Similar reinvestment will be sought for the remainder of the judicial branch consistent with the Chief Justice's *Three-Year Blueprint for a Fully Functioning Judicial Branch*.

2. ***Trial court employee benefit and salary increases (\$TBD)***. In FY 2010–2011 and FY 2011–2012, the DOF accepted the submission of trial court benefit cost change computations related to the employer share of employee retirement (including pension obligation bonds (POBs)); employee health benefits; and retiree health benefit contributions under the policy adjustment process, as opposed to a BCP; and provided ongoing funding. In FY 2012–2013, the DOF provided one-time funding for these costs. No additional funds at all were provided in FY 2013–2014 to address the ongoing costs of the FY 2012–2013 cost changes and the impact in FY 2013–2014 of the cost changes that went into effect in that year.

The May Revision of the Budget Act of 2014 includes \$42.8 million for the ongoing impact of the cost changes that went into effect in these two years. The amount requested was actually \$22 million more (\$64.8 million), but was reduced based on not including for retirement any funding provided by a court towards the employee's share of the costs. There was, however, an error in how the employer contribution toward the employee share was calculated for some courts. This miscalculation resulted in approximately \$4 million in funding being reduced. A proposal would be submitted to adjust for that error and for the cost changes for the employer share of FY 2014–2015 benefit cost changes. In addition, a cost-of-living adjustment of 2 percent for trial court employees, consistent with potential increases to be provided to executive branch employees, would also be requested.

Similar employee cost increases will be sought for the remainder of the judicial branch consistent with the Chief Justice's *Three-Year Blueprint for a Fully Functioning Judicial Branch*.

3. **Technology (\$TBD).** This proposal will be coordinated in consultation with the Judicial Council Technology Committee to address the technology needs of the judicial branch for 2015–2016.
4. **Judgeships (\$TBD).** While the second of three sets of 50 judgeships were authorized by the Legislature in Assembly Bill 159 (Stats. 2007, ch. 722), the funding, other than a small amount of ongoing and some one-time facilities funding, was not appropriated and the judges were never appointed. This request would include funding for much needed court support staff, both inside and outside the courtroom. The most current judicial needs assessment, which was presented to the Judicial Council in October 2012, showed a need for 314 new judges. That assessment was based on filings data for the period 2008–2009 through 2010–2011. While statewide filings have been declining, the decline has tended to be in the types of cases that take less judicial time to adjudicate. Having sufficient judgeships is an important part in ensuring access to justice for the citizens of the state.
5. **Court facilities (\$TBD).** BCPs are proposed to be submitted for the following with final estimated amounts available by July 2014:
  - Increased appropriation authority from the General Fund to fund trial court facility modification projects based on the industry standard for capital infrastructure reinvestment. This funding will address major repairs, system life-cycle replacements, and renovation projects in existing courthouses to provide safe and secure facilities. In addition, the committee recommends increased appropriation authority to fund 4.0 positions. The Trial Court Facility Modification Advisory Committee supports this request.
  - Increased appropriation authority from the General Fund (for transfer to the Court Facilities Trust Fund) to address increased operating costs for new and renovated courthouses for Plumas-Sierra, Contra Costa, Fresno-Sisk, Mono, Lassen, San Benito, Tulare, Calaveras, Riverside Mid-County, San Bernardino, Solano, San Joaquin Juvenile Justice Center, Madera, Butte, Sutter, Yolo, Kings, Santa Clara, and Merced. The Trial Court Facility Modification Advisory Committee supports this request.
  - Increased appropriation authority from the General Fund (for transfer to the Court Facilities Trust Fund) for facilities-related insurance premiums for effective risk management of trial court facilities.
  - Increased appropriation authority from the General Fund (for transfer to the Court Facilities Trust Fund) to maintain trial court facilities at industry standard levels using the Building Owners and Managers Association (BOMA) average. In addition, the committee recommends increased appropriation authority to fund 4.0 positions. The Trial Court Facility Modification Advisory Committee supports this request.

The AOC Judicial Branch Facility Program positions that accompany these requests will be reviewed by the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch prior to submission of the BCPs to the DOF.

6. ***Court-appointed dependency counsel (\$TBD)***. The Chief Justice's *Three-Year Blueprint for a Fully Functioning Judicial Branch* identifies an ongoing need of \$33.1 million in new funding to address the costs for court-appointed dependency counsel for parents and children. This increased funding would serve to reduce caseloads from the current rate of 250 clients per attorney to 188. The American Bar Association recommends 100 clients per attorney. Parents and children involved in court dependency proceedings rely on court-appointed dependency counsel. Training and performance standards for dependency attorneys are laid down in rule 5.660 of the California Rules of Court.

Adequately funding effective counsel for parents and children has resulted in numerous benefits both for the courts and for children in foster care. Effective counsel can ensure that the complex requirements in juvenile law for case planning, notice, and timeliness are adhered to, thereby reducing case delays and improving court case processing and the quality of information provided to the judge. Unnecessary delays also result in children spending long periods of time in foster care, a situation that has improved greatly in the past few years through the courts' focus on effective representation and adherence to statutory timelines.

While discussing other items during the meeting, additional potential BCPs were identified. These include the following, continuing from the previous numbered list.

7. ***Changes to statutory language regarding 2 percent Trial Court Trust Fund (TCTF) reserve (\$0)***. The TCBAC will be reevaluating the entire 2 percent TCTF reserve and allocation process. If there is a decision to recommend to the Judicial Council that the process should be changed, for example, a change in the date for allocating the remaining funding to the courts, a BCP to change the language of the statute would need to be submitted to the DOF.
8. ***TCTF backfill (\$TBD)***. A \$70 million shortfall in the TCTF for base allocations has been identified. The amount requested could be adjusted based on the final budget act. This is a structural issue that is partially caused by a decline in the fees generated through first paper filings and what used to be the security fee. If this shortfall is not addressed in the 2014 budget, it is proposed to submit a proposal to request the funds ongoing in 2015–2016.
9. ***State Trial Court Improvement and Modernization Fund (STCIMF) negative fund balance (\$TBD)***. A deficit of \$18 million is currently projected for the STCIMF in 2015–2016. If the DOF does not approve funding to address this deficit before 2015–2016, a proposal would be submitted to request this funding.

**Discussion regarding other priorities not recommended by the TCBAC.** A total of 29 courts completed and submitted the FY 2015–2016 Budget Change Proposal Survey. A number of additional priorities were identified by these courts. Other than indicating that a few of them were somewhat duplicative of the priorities included in the Three-Year Blueprint, none of them were discussed by the TCBAC and were not proposed to be recommended to the Judicial Council as subjects of 2015–2016 BCPs.

### **Delegation of authority to make technical changes**

To the extent that the AOC receives additional information that requires technical changes to the funding requests identified in this report, there may be a need to modify the BCPs being submitted to the DOF. For some of the proposals included in this report, the actual amounts may change as updated information is received. Rather than requesting that the AOC return to the council to seek authority to make minor adjustments to these proposals, having the authority to do so delegated to the Administrative Director in advance will facilitate reaction to the dynamic budget process. In addition, each year during the course of developing the State Budget, issues arise that may need to be addressed on short notice. This possibility makes it advisable for the Administrative Director to have the ability to update and add funding proposals in an efficient and flexible manner. Prior to final submission to the DOF, all BCPs will be submitted to the Judicial Council’s Executive and Planning Committee for review. If the BCPs that are submitted to the DOF contain changes from the proposals contained in this report, AOC staff will report to the Judicial Council on these revisions.

### **Comments, Alternatives Considered, and Policy Implications**

As mentioned in the Rationale for Recommendation section above, while this item was not circulated to the public for comment, prior to submitting this report to the Judicial Council, the AOC, at the direction of the TCBAC, surveyed all of the trial courts as to what they believed the statewide trial court budget priorities were for FY 2015–2016.

### **Implementation Requirements, Costs, and Operational Impacts**

Not applicable.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The funding proposals requested for the trial courts will address the strategic plan goals of Access, Fairness, and Diversity (Goal I); Independence and Accountability (Goal II); Modernization of Management and Administration (Goal III); Quality of Justice and Service to the Public (Goal IV); and Branchwide Infrastructure for Service Excellence (Goal VI). The proposals will also address items included in the Chief Justice’s *Three-Year Blueprint for a Fully Functioning Judicial Branch*.

### **Attachments**

None.