



JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

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TRIAL COURT BUDGET ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

May 18, 2015

10:00 a.m. to 4:00 p.m.

Judicial Council of California, 455 Golden Gate Avenue, San Francisco

Advisory Body Members Present: Judges: Laurie M. Earl (Chair), Thomas J. Borris, Jonathan B. Conklin, Mark A. Cope, Thomas DeSantos, Barry P. Goode, Dodie A. Harman, Elizabeth W. Johnson, Carolyn B. Kuhl, Cynthia Ming-mei Lee, Paul M. Marigonda, Marsha Slough, and Winifred Young Smith; Executive Officers: Alan Carlson, Sherri R. Carter, Jake Chatters, Richard D. Feldstein, Rebecca Fleming, Kimberly Flener, Jose Octavio Guillen, Shawn C. Landry, Stephen H. Nash, Deborah Norrie, Michael M. Roddy, Mary Beth Todd, Kim Turner, Christina M. Volkers, and David Yamasaki; Judicial Council staff advisory members: Curt Soderlund and Zlatko Theodorovic.

Advisory Body Members Absent: Judges: Gregory S. Gaul and Lesley D. Holland; CEOs: None; Judicial Council staff advisory members: Jody Patel.

Others Present: Hon. Manuel J. Covarrubias, Martin Hoshino, Patrick Ballard, Steven Chang, Mark Dusman, Deana Farole, Bob Fleshman, Lucy Fogarty, Leah Rose Goodwin, Donna Hershkowitz, Vicki Muzny, and Colin Simpson.

OPEN MEETING

Call to Order and Roll Call

The meeting was called to order at 10:07 a.m. and roll was taken.

Approval of Minutes

The advisory body reviewed and approved the minutes of the March 23, 2015, Trial Court Budget Advisory Committee (TCBAC) meeting.

Public Comment

Judge Earl announced that written comments were received for item 5 on this meeting's agenda from the Association of Business Trial Lawyers – Northern California Chapter's Board Committee re Complex Court Funding. During the meeting, written comments were received addressing item 6 by Justice Mariano-Florentino Cuéllar and forwarded to TCBAC members.

DISCUSSION AND ACTION ITEMS (ITEMS 1 – 12)

Item 1

Governor's May Revision

Zlatko Theodorovic presented this discussion item on the Governor's May Revision. No action was taken.

Item 2

Children's Waiting Room (CWR) Distributions

Action: TCBAC unanimously approved changes proposed by the Children's Waiting Room Working Group to the Children's Waiting Room Distribution and Fund Balance Policy, to be presented to the Judicial Council at its June 26, 2015 meeting. See Attachment 1 to these minutes. The changes impact section C "Temporarily or Permanently Ceasing CWR Operations" and section E "Courts that have Received a Distribution but Never Operated a CWR".

Item 3

Amendments to the Statute Requiring a 2 Percent Reserve Held in the TCTF

Action: TCBAC unanimously approved, ~~for presentation to the Judicial Council at its June 26, 2015 meeting,~~ the following amendments to Government Code section 68502.5(c)(2)(B) as presented by the 2 Percent Methodology Working Group and further amended by the TCBAC:

~~"Prior to ~~Upon~~ preliminary determination of the allocations to trial courts pursuant to subparagraph (A), the Judicial Council shall set aside no more than 2 percent ~~\$9.5 million~~ of the total funds appropriated in Program 45.10 of Item 0250-101-0932 of the annual Budget Act and these funds shall remain in the Trial Court Trust Fund.... ~~Unavoidable funding shortfall requests for up to 1.5 percent of these funds shall be submitted by the trial courts to the Judicial Council no later than October 1 of each year. The Judicial Council shall, by October 31 of each year, review and evaluate all requests submitted, select trial courts to receive funds, and notify those selected trial courts. By March 15 of each year, the Judicial Council shall distribute the remaining funds if there has been a request from a trial court for unforeseen emergencies or unanticipated expenses that has been reviewed, evaluated, and approved. Any unexpended funds shall be distributed to the trial courts on a prorated basis."~~~~

TCBAC agreed that these proposed amendments would be referred to the Trial Court Presiding Judge Advisory Committee and the Court Executive Officer Advisory Committee for their consideration. We will request that the Chairs of these two committees provide feedback to TCBAC at our July 6, 2015 meeting.

Item 4

Allocation of Proposed Restored Funding for Retirement Cost Changes

Note: A vote was taken on this item at the March 23, 2015 TCBAC meeting; however, it subsequently appeared that there might be confusion over whether the committee members realized which option they had voted on and what each option would do. For this reason, the

TCBAC chair had the item withdrawn from the Judicial Council's April 17, 2015 agenda and brought back to TCBAC at this meeting for further discussion.

Action: TCBAC approved, with one no vote, for presentation to the Judicial Council at its June 26, 2015 meeting, a recommendation (Option 3C) presented by the Benefits Working Group that would allocate the non-interpreter related benefits funding provided in the Budget Act of 2014 as stated below.

Allocate 50% to all courts; allocate an additional 50% to courts with no retirement EPS and courts with 10% EPS of cost increases; and to courts with EPS reduction of 30% or more.

- **Allocate by prorating 50 percent in restored benefits funding to all the trial courts (\$6.637 million).**
- **The additional 50 percent (\$6.637 million) would be prorated (1) to courts that do not subsidize the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases, and (3) to courts in which the EPS portion of the employee share of costs for retirement has been reduced in FY 2014–2015, by at least 30 percent. (See Attachment 2)**
- **Courts will be included in the “additional 50%” proration if they meet the defined criteria as of May 14, 2015.**
- **Courts that do not pay towards the employee share of costs for retirement or courts with EPS amounts of 10 percent or less than cost increases and courts that have reduced the employee share of costs for retirement by 30 percent would receive 90 percent of their 2012–2013 and 2013–2014 benefits cost increases. Courts that do pay towards the employee share of costs for retirement and do not fall into the other categories would receive 78 percent of their 2012–2013 and 2013–2014 benefits cost increases.**
 - **This 50/50 methodology would be done on a one-time basis for 2015–2016.**
 - **Beginning in 2016–2017, courts that continue to provide EPS of the employee retirement contribution would ~~not share in an allocation for any funding provided from trial courts that made progress towards meeting the PEPPRA standard~~ be reduced by the actual outstanding funding not restored by the DOF that is attributed to their court. This funding will then be distributed to those courts that do not make EPS of employee retirement payments in order to make their benefit cost funding whole.**

Item 7

2015–2016 Allocations for the V3 Case Management System and Intermediate Case Management Programs (ICMS) from the State Trial Court Improvement and Modernization Fund (IMF)

Action: TCBAC approved, as amended, for presentation to the Judicial Council at its June 26, 2015 meeting, a recommendation of the Revenue and Expenditures Subcommittee that the 2015–2016 IMF allocations for the V3 and ICMS programs be held at their 2014–2015 levels: \$5,658,100 for V3 and \$1,246,800 for ICMS. However, if the 2015–2016 IMF ending fund balance is projected to be below \$300,000, the allocations for both programs are to be reduced by 10 percent, a total of \$690,500, and the costs associated with the reduction are to be backfilled from the Judicial Council Information Technology office's budget, or such other non Trial Court Trust Fund (TCTF) funding source as the Judicial Council deems appropriate.

Item 9

Workload-Based Allocation and Funding Methodology (WAFM)

Action: This was a discussion item presented by Jake Chatters, updating the membership on WAFM for 2015–2016. No action was taken on this item.

Item 5

Complex Civil Caseweight

Action: This was a discussion item presented by Judge Alksne, Chair of the Workload Assessment Advisory Committee (WAAC) and Judicial Council staff. No action was taken. Judge Alksne confirmed that the WAAC plans on presenting a report to the Judicial Council at its June 26, 2015 meeting. Judge Earl indicated that a review of the letter received from the Association of Business Trial Lawyers regarding this item would be made and a response sent.

Item 12

Proposed Amendments to California Rules of Court 10.63

Action: Martin Hoshino presented this item for discussion. A motion was made and approved with one no vote to have the TCBAC chair submit, on behalf of TCBAC, opposition to the proposed changes to California Rule of Court 10.63 as provided in the Invitation to Comment from the Judicial Council’s Executive and Planning Committee.

Item 6

Budget Change Proposals (BCPs) for 2016–2017

Action: TCBAC approved unanimously submitting 2016–2017 BCPs in the following areas with the order of priority to be determined at a later date:

- Request for funding that would fund courts at 80% of their Workload-Based Allocation and Methodology Funding need;
- Request a cost-of-living adjustment for court employees consistent with potential increases to be provided to executive branch employees.
- Technology placeholder;
- Dependency Counsel;
- New Judgeships (AB 159);
- Increased Costs for New Facilities; and
- Implementation of Language Access Plan.

Item 8

Allocation of Reductions Due to Revenue Shortfalls in the Trial Court Trust Fund

Action: The TCBAC unanimously approved Option B as presented by the Funding Methodology Subcommittee, for presentation to the Judicial Council at its June 26, 2015 meeting. This option would on an ongoing basis in 2015–2016, subtract \$22.7 million from any new funding that is received in the 2015 Budget Act for general court operations (currently estimated to be \$90.6 million), and allocate the net funding to the courts using the WAFM.

Item 10

Judicial Branch Workers' Compensation Program (JBWCP)

Action: This was a discussion item on the JBWCP and proposed cost allocations for 2015–2016 presented by David Yamasaki and no action was taken.

Item 11

Open Discussion

Judge Earl opened the floor to discussion by the committee on any topic. There were no items presented by the membership.

Judge Earl announced that there would be a conference call before the July TCBAC meeting to make a final determination concerning IMF and TCTF Expenditure Guidelines (State Operations vs. Local Assistance). JC staff stated that the teleconference previously scheduled for May 19 was cancelled as the advisory committee had completed the agenda at this meeting.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 3:30 p.m.

Approved by the advisory body on June 2, 2015.

Attachment 1

Proposed Children’s Waiting Room (CWR) Distribution and Fund Balance Policy -- Changes to Proposed January 15, 2015 Language

A. Applying for a New CWR Distribution

- A court’s presiding judge or executive officer must submit a request to the director of the Judicial Council Finance Office 45 days prior to the date of the council meeting at which the court is requesting consideration.
- The request must include the following information:
 - Date of the council meeting at which the court is requesting consideration.
 - Requested effective date of the distribution (July 1 or January 1). If a court wants to begin receiving distributions more than one year in advance of the planned opening date of a CWR, the request should include an explanation of the extenuating circumstance(s).
 - The scheduled opening date of the CWR(s).
 - Description of the CWR(s).
 - The date when the court intends to make expenditures related to operating its CWR(s).
 - The requested distribution amount between \$2 and \$5. Courts can request the Judicial Council Finance Office to provide an estimate of annual distributions.
- The Trial Court Budget Advisory Committee (TCBAC) will make a recommendation to the council on each court’s request.
- If the council approves that distributions begin prior to the operating of a CWR but the court does not operate a CWR six months after their planned opening date, the court must apply for a continued distribution.

B. Requesting a Decreased CWR Distribution Amount

- Any court’s request to decrease its existing CWR distribution is approved by the Judicial Council and the request can be implemented by Judicial Council staff, effective either January 1 or July 1.

C. Temporarily or Permanently Ceasing CWR Operations

- Courts that cease operating all CWRs must notify the director of the JC Finance Office within 60 days of the cessation date. Unless a court provides notification and submits an application to continue receiving distributions while not operating a CWR within 60 days of the cessation date, the court’s CWR distributions will be stopped either January 1 or July 1, whichever is earlier, and the court will be required to return any CWR fund balance to the TCTF.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return of the CWR fund balance will occur on the February trial court distribution for those courts that the CWR distribution stopped on January 1, and on the August distribution for those courts that the CWR distributions stopped on July 1.

- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
- An application for a continued distribution must include all the information required of courts applying for a new distribution (see section A above) as well as the amount of any CWR fund balance.
- The TCBAC will make a recommendation to the Judicial Council on each court's application.
- For courts that apply and whose application is denied by the Judicial Council, any CWR fund balance shall be returned to the TCTF.

D. Cap on CWR Fund Balance

- Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to meet the CWR needs of the court without accumulating an amount in excess of the cap described below.
- Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next. The cap shall be the amount of the highest annual distribution within the three most recent fiscal years.
- Courts that have a CWR fund balance greater than the cap (as described above) at the end of the fiscal year will be required to return to the TCTF the amount above the cap in the subsequent fiscal year.
- For courts that are required to return the portion of their CWR fund balance above the cap to the TCTF, the return of the CWR fund balance will occur on the August trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- If a court wants a cap adjustment, it must submit a request explaining the extenuating circumstance and including its CWR expenditure plan to the director of the JC Finance Office for consideration by the TCBAC and the Judicial Council. The request must be received by the Finance Director within 60 days of the end of the fiscal year for which the adjustment is being requested.
- JC staff will report any return of CWR fund balance through the trial court distribution process to the TCBAC and the Judicial Council.

E. Courts that have Received a Distribution but Never Operated a CWR

- Courts that received distributions between January 1, 2006 and June 30, 2014 but did not operate a CWR during that time period must either apply for a continued distribution by September 26, 2015 or have their distributions stopped ~~on January 1, 2016~~ and return to the TCTF any CWR fund balance.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return will occur on the ~~August~~ October 2015 trial court distribution.

- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.