The following meeting perspective was prepared by Workgroup member Judge David Rosenberg, Superior Court of Yolo County. Official minutes from the meeting will soon be posted to the Workgroup's website when they are available.

March 28, 2013

The Lockyer-Isenberg Trial Court Funding Act of 1997 (Ch.850, Stats. Of 1997) (AB 223) transformed the funding structure for California's trial courts. Under the Act, the State of California assumed primary responsibility for the funding of trial courts, a role previously performed by the state's 58 counties. The Act was based on goals, principles and expectations, including the necessity to provide uniform standards and procedures, economies of scale, and structural efficiency and simplification. Although the phrase was never defined in the Act, a stated intent of the Legislature was to increase "equal access to justice" for the citizens of California.

Certainly, over the years since 1997, the altered funding system and subsequent actions by the Legislature and the Judicial Branch have brought dramatic changes to trial courts and the system of justice in California. These changes include, but are not limited to, unification of courts into a single superior court in each county, assumption of responsibility for court buildings by the state, movement of court employees from county government to employment by each trial court, and development of uniform rules and forms. Clearly, the move of a large branch of government from 58 county government systems to one state system was never going to be rapid or easy. But with all the changes that have evolved in the California trial court system, one important element of trial court funding has remained virtually unchanged since 1997. That one element is the methodology of allocating available state funds for the operation of trial courts among the 58 trial courts.

At the time of the 1997 Act, members of the Legislature found that changing the allocation method was complex and politically not feasible – so that was left for another day. That day has arrived. With the exception of minor tweaks, the allocation method has remained virtually the same. In other words, trial court funds are allocated to the 58 trial courts in pretty much the same proportion as existed in 1997, when the 58 counties were funding the system. So, for the past 16 years, those trial courts that were relatively well-funded by their respective counties in 1997, and those trial courts that were relatively under-funded by their respective counties in 1997, continue the same proportionate funding in 2013. Recognizing that now is the time to make the allocation more equitable, Governor Jerry Brown and Chief Justice Tani Cantil-Sakauye, on September 19, 2012, established a "Trial Court Funding Workgroup" composed of 10 members (four designated by the Governor and six designated by the Chief Justice) to address a review of progress under the 1997 Act, to review this long-time funding allocation inequity, and to make recommendations. The 10 members of the Workgroup are: Hon. Harry E. Hull, Jr. Co-Chair and Hon. Philip Isenberg, Co-Chair; and Members Ms. Angela J. Davis, Hon. Emilie H. Elias, Hon. Mary Ann O'Malley, Hon. David Rosenberg, Mr. David H. Yamasaki, Ms. Diane Cummins, Mr. Martin Hoshino, and Ms. Eraina L. Ortega.

This group of 10 has been meeting over the past few months, and its final meeting occurred in Sacramento on March 26 and 27. The five previous meetings have all been open to the public, as was the morning session on March 26. The afternoon session on March 26 and the session on March 27 were closed to the public, so that the Workgroup could get about the task of deliberating and writing a final report. It is expected that the Workgroup's final report will be presented to the Judicial Council at its April meeting in San Francisco, and will be published for the public prior to the meeting.

To be clear, the Workgroup is not charged with determining how much funding is adequate for the Judicial Branch in general or the trial courts in specific. The decision on adequate funding is ultimately left to the political branches (the Governor and the Legislature) with input from the Judicial Branch. Rather, the Workgroup's major focus was to review the 1997 Act to see how we have done over the last 16 years and to make recommendations regarding principles that should be applied in developing a new, fair and equitable method of allocating available funds to the 58 trial courts.

From my perspective, I think it's fair to say that the Judicial Branch has made substantial and significant progress over the past 16 years in implementing both the spirit and the letter of the 1997 Act. I believe the report of the Workgroup will highlight the branch's progress. I also believe it's fair to say that all members of the Workgroup recognize that the current allocation methodology (essentially, based on the historical funding by the 58 counties) is neither fair nor equitable, and that the branch needs a new system of allocation, that more accurately reflects the reality on the ground and which furthers the goal of equal access to justice.

The final report of the Workgroup will be made available to the public next month, leading to presentation and discussion at the Judicial Council meeting later in April.