



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

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 26, 2011

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Title	Agenda Item Type
Budget: Fiscal Year 2012–2013 Requests for the Supreme Court, Courts of Appeal, Judicial Council/Administrative Office of the Courts, and the Trial Courts	Action Required
	Effective Date
	August 26, 2011
Rules, Forms, Standards, or Statutes Affected	Date of Report
None	August 18, 2011
Recommended by	Contact
Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	Zlatko Theodorovic, 415-865-7584 <a href="mailto:zlatko.theodorovic@jud.ca.gov">zlatko.theodorovic@jud.ca.gov</a>
Administrative Office of the Courts Zlatko Theodorovic, Director, Finance Division	

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### Executive Summary

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch recommends that the Judicial Council (1) approve the proposed fiscal year (FY) 2012–2013 budget requests for the Administrative Office of the Courts (AOC). It is further recommended that the Judicial Council (2) approve the proposed fiscal year (FY) 2012–2013 budget requests for the Supreme Court, Courts of Appeal, and trial courts and (3) delegate authority to the Administrative Director of the Courts to develop budget requests for judicial branch entities focused on the restoration of baseline funding as well as the authority to make technical changes to any budget proposals, as necessary. Submittal of budget change proposals (BCPs) is the

standard process for proposing funding adjustments in the State Budget. This year, BCPs are to be submitted to the state Department of Finance (DOF) by September 12, 2011.

## **Recommendation**

1. The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch recommends that the Judicial Council:
  - a. Approve the proposed fiscal year 2012–2013 budget requests for the Administrative Office of the Courts for submission to the state Department of Finance; and
  - b. Delegate authority to the Administrative Director of the Courts to make technical changes to budget proposals, as necessary.
2. The Administrative Office of the Courts recommends that the Judicial Council:
  - a. Approve the submission of budget change proposals (BCPs) to the state Department of Finance for FY 2012–2013, which would communicate funding needs for the Supreme Court, Courts of Appeal, and trial courts, as identified in this report;
  - b. Delegate authority to the Administrative Director of the Courts to develop budget requests for judicial branch entities focused on the restoration of baseline funding for submission to the state Department of Finance; and
  - c. Delegate authority to the Administrative Director of the Courts to make technical changes to budget proposals, as necessary.

## **Previous Council Action**

The Judicial Council has statutory authority to approve budget requests on behalf of the Supreme Court, Courts of Appeal, trial courts, and the Judicial Council/AOC. The recommendations in this report are consistent with the council’s past practice under this authority.

## **Rationale for Recommendation**

Each year, the AOC presents budget concepts for review by the council. Budget concepts approved by the council will be developed into full BCPs. The current estimated need is indicated in parentheses after the program title.

### **Judicial branch policy proposals**

Legislatively approved ongoing reductions to the judicial branch from FY 2008–2009 through 2011–2012 are in excess of \$600 million. While 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 on the trial courts, absorbing reductions of this magnitude will impose a difficult challenge and will severely impact the public’s access to justice. Judicial Council approval is requested to proceed with the development of the following FY 2012–2013 policy BCPs to address baseline resources for the trial courts and state judiciary:

***Judicial branch baseline funding restoration.*** Pursue restoration of some level of the FY 2011–2012 General Fund budget reduction of \$350 million imposed on the branch.

**Judicial branch inflationary cost increase adjustment (TBD).** Additional resources are proposed to address inflationary cost increases to judicial branch operating budgets (operating expense and equipment). The DOF Budget Letter #11-10 provides preparation guidelines for the 2012–2013 budget process. Pursuant to this budget letter, departments seeking price increase funding for 2012–2013 must request this through a BCP.

**Judicial branch General Fund reduction distribution—budget bill language.** Propose budget bill language similar to that in the 2011 Budget Act allowing distribution of the FY 2011–2012 General Fund reduction as determined by the Judicial Council. The Judicial Council approved one-time General Fund reduction offsets of \$302.4 million in FY 2011–2012 as part of a strategy to give judicial branch entities time to operationalize the impact of the ongoing \$350 million General Fund reduction beginning in FY 2012–2013. The budget bill language will be needed in FY 2012–2013 to provide the Judicial Council the requisite authority required to allow for distribution to all judicial branch entities the General Fund reduction on an ongoing basis.

**Legislative/statutory changes to reduce operational costs.** Propose changes in current law to allow for better management of authorized judicial branch resources and propose reductions or elimination of the least critical functions. This proposal is consistent with the DOF FY 2012–2013 Budget Letter #11-18, issued July 27, 2011, which states: “Departments may submit BCPs to propose changes in current law to reduce or reorganize their statutory responsibilities so they can better manage within their authorized spending level, propose reductions or elimination of the least critical functions.” AOC staff will be soliciting input through the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee for development of legislative proposals to implement statutory changes to reduce operational costs.

In addition to the branchwide proposals summarized above, staff will review and evaluate the potential for additional FY 2012-2013 resource needs as specified below:

**Proposition 11 redistricting.** Additional resources may be needed to address workload pursuant to Proposition 11, now codified as article XXII of the California Constitution.

**Parole revocation.** Additional resources may be needed to address workload increases associated with the Criminal Justice Realignment Act.

### **Appellate courts**

The Judicial Council’s approval is requested to proceed with the development of BCPs for FY 2012–2013 to address baseline resource needs of appellate courts associated with unanticipated cost increases. The specific requests are discussed below.

**Third Appellate District—temporary space funding adjustment (\$1,454,000).** Additional General Fund resources will be needed to address temporary space lease costs. The Third Appellate District, located in Sacramento, relocated to temporary space during the renovation of

the Stanley Mosk Library and Courts Building. The Governor and Legislature approved funding to address the temporary space lease costs through September 2012. The capital outlay renovation project, managed by the California Department of General Services, has experienced delays and is now scheduled for completion in November 2012. It is anticipated that the Third Appellate District will return to the Stanley Mosk Library and Courts Building in January 2013.

In addition, submittal of the following baseline adjustment is proposed for the Supreme Court and Courts of Appeal: Additional General Fund resources (\$2,064,000) are proposed to address inflationary operating expense and equipment cost increases. This request would be submitted as a branchwide request.

### **Trial courts**

From FY 2005–2006 through FY 2007–2008, the trial courts received new funding from the General Fund based on the percentage change in the State Appropriations Limit (SAL). As a result, few trial court BCPs were submitted to the DOF during that time. With the worsening of the fiscal situation in FY 2008–2009, 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. With the continuance of the fiscal issues facing the state, suspension of these indexed increases is expected to continue in FY 2012–2013.

Historically, we would propose the submission of BCPs to address cost growth in certain nondiscretionary areas. However, the DOF FY 2012–2013 Budget Policy Letter #11-18, issued July 27, 2011, states: “Departments must continue to control costs, increase efficiency, and refrain from creating new or expanding existing program. In furtherance of the Administration’s goal to establish a structurally balanced budget, department’s ability to submit BCPs or Enrollment/Caseload/Population policy changes for the 2012–2013 Budget will be limited. These limits will apply regardless of funding source.” As they did in the prior fiscal year, staff will work with the DOF to pursue baseline adjustments to address increased costs in the areas of court employee retirement, retiree health, and health benefits. Once again, this process will eliminate the need for BCPs in these areas. There are, however, other trial court cost areas in which the preparation and submission of BCPs are recommended. These include an inflationary cost increase adjustment, Public Contract Code, and court security. These items are discussed in more detail below.

***Court inflationary cost increase adjustment (TBD).*** Additional resources are proposed to address inflationary cost increases to court operating budgets (operating expense and equipment). In the absence of SAL, submittal of the proposed request is appropriate and consistent with the practice of other state government entities. This request would be submitted as a branchwide request.

***Public Contract Code Implementation.*** Additional resources will be needed to address cost increases associated with the implementation of Senate Bill 78 (Stats. 2011, ch. 10) which added

part 2.5 (California Judicial Branch Contract Law (JBCL), to the California Public Contract Code. The JBCL requires that all judicial branch entities comply with certain provisions of the Public Contract Code.

*Court security (TBD).* Additional resources will be needed to address errors made in the allocation of security funding between the courts and the counties.

### **Judicial Council/Administrative Office of the Courts**

The AOC has reviewed workload and cost information related to the provision of services to the courts and the public, as well as for internal infrastructure needed to support judicial branch operations. The review process included determining whether the costs associated with workload growth and cost increases are justifiable, whether or not the judiciary has sufficient resources that may be redirected to address these workload growth and cost increases, and, finally, submittal of AOC proposed BCPs to the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch.

The advisory committee was appointed by the Chief Justice to, among other responsibilities, review and make recommendations to the Chief Justice, Judicial Council, and Administrative Director of the Courts on annual budget change proposals for the AOC. The committee recommended approval of the following proposed AOC BCPs at their August 11, 2011, meeting (committee recommendation is not an indication of AOC or branch priorities):

### ***Proposed adjustments to special funds and federal funds, and other baseline adjustment proposals.***

- Additional General Fund (\$617,000) and special fund (\$985,000) resources are proposed to address inflationary operating expense and equipment cost increases. This request will be submitted as a branchwide request.
- Increased appropriation authority from the General Fund (for transfer to the Court Facilities Trust Fund) for inflationary cost adjustments to county facility payments (\$2,196,000) and property and liability insurance premiums (\$2,740,000).
- Increased appropriation authority from the General Fund (for transfer to the Court Facilities Trust Fund) to address increased operation costs for new and renovated courthouses for Contra Costa, Fresno, Lassen, Mono, and Plumas Counties (\$1,332,000).
- Increased appropriation authority from the Federal Trust Fund to accommodate additional and/or extended grants applied for and/or awarded to the judicial branch.

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

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 authority delegated to the Administrative Director to do so in advance will facilitate 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. 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**

An alternative to recommendations 2(b) and (c) is for the AOC to return to the Judicial Council prior to submission of the BCPs at any time technical adjustments need to be made or if unanticipated issues arise. This approach could cause delays in getting proposals updated and submitted in a timely manner, and, for this reason, this alternative is not recommended. AOC staff will report to the Judicial Council on changes made to the proposals in this report.

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

Not applicable.

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

The funding proposals requested for the appellate courts, trial courts, and Judicial Council/Administrative Office of the Courts will address the strategic plan goals of Access, Fairness, and Diversity (Goal I); Modernization of Management and Administration (Goal III); Quality of Justice and Service to the Public (Goal V).