



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 26, 2013

Title	Agenda Item Type
Court Facilities: Delays to the Courthouse Capital Program Pending the Proposed Governor's Budget for FY 2013–2014	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	February 26, 2013
Recommended by	Date of Report
Court Facilities Working Group Hon. Brad R. Hill, Chair Hon. Patricia M. Lucas, Vice-Chair Hon. Jeffrey W. Johnson, Chair of the Courthouse Cost Reduction Subcommittee	February 14, 2013
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Executive Summary

The Court Facilities Working Group (the working group) recommends the delay of 11 SB 1407 projects should the proposed 2013 Governor's Budget (FY 2013–2014), which includes the deferred repayment of a \$90 million loan from Senate Bill (SB) 1407 construction funds and the redirection of \$200 million in SB 1407 funds to trial court operations, be enacted. The working group further recommends that FY 2013–2014 and FY 2014–2015 funding requests be made to the state Department of Finance for the next project phases in all SB 1407 projects moving forward in the event that additional SB 1407 funds become available in the final budget. The working group also recommends submission of FY 2013–2014 one-time and ongoing funding requests for facility modifications and for facility operational costs for new courthouses, to be funded by construction funds.

Recommendation

The Court Facilities Working Group recommends that the Judicial Council, effective February 26, 2013, take the following actions:

1. Delay 11 SB 1407 projects, as identified in the attached table, in their next project phase until FY 2014–2015 should the Governor’s proposed budget be enacted due to lack of available SB 1407 funds.
2. Submit FY 2013–2014 funding requests to the state Department of Finance (DOF) for the next phase of all projects requiring funding in FY 2013–2014, including those listed above in recommendation 1, should SB 1407 funds be restored for trial court capital-outlay projects.
3. Submit FY 2013–2014 funding requests to the DOF for the construction phases of the San Diego–New San Diego Central Courthouse and the San Joaquin–Renovation and Addition to Juvenile Justice Center.
4. Submit FY 2014–2015 funding requests to the DOF for the next phase in all SB 1407 projects pending availability of SB 1407 funds, as well as the annual update to the *Judicial Branch AB 1473 Five-Year Infrastructure Plan* for FY 2014–2015 to meet the DOF July 2013 submission deadline.
5. Delegate to the Administrative Director of the Courts the authority to make technical changes to FY 2013–2014 and FY 2014–2015 funding requests submitted to the DOF necessary to move forward all judicial branch construction projects, subject to the review and approval of the chair and vice-chair of the Court Facilities Working Group and the chair of the working group’s Courthouse Cost Reduction Subcommittee.
6. Submit a FY 2013–2014 funding request to the DOF for \$10 million ongoing from SB 1732 construction funds for facility modifications to support the documented need for ongoing investment in existing facilities.
7. Submit a FY 2013–2014 funding request to the DOF for \$2.237 million from SB 1407 construction funds for facility operating costs for new courthouses, and ongoing funding requests from construction funds to meet annual facility operational cost requirements for new courthouses when completed. Use of construction funds for facility operations requires statutory authority.
8. Submit a FY 2013–2014 funding request to the DOF for \$8 million one-time from SB 1407 construction funds for facility modifications to support the documented need for ongoing investment in existing facilities. This one-time funding request would only be authorized if SB 1407 funds are restored in the enacted 2013 Budget Act (FY 2013–2014).

Previous Council Action

On January 17, 2013, the council adopted the Court Facilities Working Group's¹ recommended actions for moving forward with the SB 1407 courthouse construction program by indefinitely delaying three SB 1407 projects and moving forward with site acquisition and the necessary funding and acquisition approvals for the Sacramento–New Sacramento Criminal Courthouse preferred site—but indefinitely delaying and suspending work on its pre-design and design. Each delay is owing to the potential redirection of funding from SB 1407 construction funds to fund the Long Beach courthouse project (Governor George Deukmejian Courthouse). Other SB 1407 projects were recommended to move forward based on previous council direction. The council also delegated to the Administrative Director of the Courts the authority to make technical changes to FY 2013–2014 funding requests submitted to the DOF. Also during the January 17, 2013 meeting, the chair of the working group indicated to the council that two recommended actions—pertaining to the submission of FY 2013–2014 one-time and ongoing funding requests for facility modifications and for facility operational costs for new courthouses—be deferred until after the working group considered the affect of the proposed Governor's Budget for FY 2013–2014 (January Issue) on the SB 1407 courthouse construction program.

Rationale for Recommendation

Recommendations 1–5

Since 2009, nearly \$1.5 billion of SB 1407 courthouse project funds have been loaned, swept to the state General Fund, or redirected to trial court operations. Owing to these one-time and ongoing redirections of construction funds, the council has adopted the working group's recommendations to manage the SB 1407 courthouse construction program by canceling 2 courthouse projects, indefinitely delaying a total of 11 projects,² and reducing budgets on all other projects.

Should the proposed Governor's Budget for FY 2013–2014 become enacted, the total of SB 1407 funds loaned, swept, or redirected would increase to approximately \$1.7 billion. Specifically proposed in the Governor's Budget for FY 2013–2014 are two items that reduce the availability of SB 1407 funds next fiscal year for active projects: deferred repayment of a

¹ In July 2011, Chief Justice Tani G. Cantil-Sakauye appointed the 25-member Court Facilities Working Group as a standing advisory committee to the council to oversee the judicial branch program that manages new construction, renovations, facilities operations, maintenance, and real estate for trial and appellate courts throughout the state. The working group oversees the AOC's management of court facilities statewide and efforts to implement the judicial branch's capital improvement program and makes recommendations to the council for action.

² The total of indefinitely delayed SB 1407 projects increased to 11 as a result of the council's most recent action on January 17, 2013, concerning the lack of state General Funds to cover the cost of the New Long Beach Courthouse (Governor George Deukmejian Courthouse) in the proposed Governor's Budget for FY 2013–2014. SB 1407 funding has instead been proposed for the courthouse project—the cost of which averages \$61.1 million as an annual service fee, ongoing for 35 years for the development, operations, and maintenance of the facility.

\$90 million loan (to the state General Fund) from SB 1407 construction funds and redirection of \$200 million in SB 1407 funds to trial court operations.³

To move SB 1407 projects forward both this and next fiscal year, the working group met on February 8, 2013, to review available funds. From this meeting, the working group developed the attached *Court Facilities Working Group Recommendations to Judicial Council on Moving SB 1407 Projects Forward*. Should the Governor's proposed FY 2013–2014 budget proposal be enacted the working group chose to defer the start of the next project phase of 11 projects, which are listed in the attached table and as follows:

1. One project's Working Drawings phase deferred until FY 2014–2015:
Lake–New Lakeport Courthouse.
2. 10 projects' Preliminary Plans phases deferred until FY 2014–2015:
El Dorado–New Placerville Courthouse, Inyo–New Inyo County Courthouse, Mendocino–New Ukiah Courthouse, Riverside–New Hemet Courthouse, Santa Barbara–New Santa Barbara Criminal Courthouse, Shasta–New Redding Courthouse, Siskiyou–New Yreka Courthouse, Sonoma–New Santa Rosa Criminal Courthouse, Stanislaus–New Modesto Courthouse, and Tuolumne–New Sonora Courthouse.

As indicated in the attached table, SB 1407 projects would move forward in FY 2012–2013 and FY 2013–2014, including and as needed the submission of their FY 2013–2014 funding requests consistent with previous council action.

In recommendation 2, the council is being asked to direct the AOC to submit FY 2013–2014 funding requests to the DOF for the next phase of the 11 projects listed above and in the attached table, should SB 1407 funds be restored during FY 2013–2014 budget negotiations for trial court capital-outlay projects.

In recommendation 3, FY 2013–2014 funding requests would be submitted to the DOF for the construction phases of two projects: San Diego–New San Diego Central Courthouse and the San Joaquin–Renovation and Addition to Juvenile Justice Center projects. These funding requests are critical for the projects to move forward with available funding to meet schedule deadlines.

In addition to endorsing the working group's attached table of recommendations—represented by recommendations 1–3—the council is being asked in recommendation 4 to move the program forward in FY 2014–2015 by directing the AOC to submit FY 2014–2015 continuation-funding requests to meet the DOF's deadline in July 2013. This recommended action also involves the

³ A \$200 million redirection of SB 1407 funds is proposed to offset trial court budget reductions as the courts adapt to the new reserve policy. The 2012 Budget Act (FY 2012–2013) limited trial court reserves to one percent beginning on July 1, 2014. The sweep of SB 1407 resources in the proposed Governor's Budget for FY 2013–2014 is in lieu of moving this date forward to July 1, 2013, and redirecting \$200 million instead from trial court reserves.

submission of the *Judicial Branch AB 1473 Five-Year Infrastructure Plan* for FY 2014–2015 to the DOF in July 2013. The five-year plan provides the executive and legislative branches with a context for annual funding requests.⁴

Technical changes to FY 2013–2014 and FY 2014–2015 funding requests may be necessary in response to funding availability or schedule adjustments that occur to the courthouse projects as they move forward. For example, such changes may require adjusting the timing of a funding request from one fiscal year to another or allow for making a new funding commitment for another courthouse project. Adoption of this recommendation eliminates the burden on the working group and the council of reviewing each technical change by deferring that responsibility—subject to the review and approval of the chair and vice-chair of the working group and the chair of the working group’s Courthouse Cost Reduction Subcommittee—to the Administrative Director of the Courts.

Recommendations 6–8

There is a documented substantial need for facility modifications in most, if not all, existing courthouses in California especially in light of the redirection of SB 1407 funds designated for the replacement of many of these courthouses. Due to limited funding, only the most urgently needed facility modifications can proceed, leaving unaddressed significant system replacements—to roofs and mechanical and electrical systems, for example—that often result in more costly repairs in future years.

Also recommended on an ongoing basis is \$10 million to be allocated to facility modifications from SB 1732 resources—specifically the State Court Facilities Construction Fund—to bring the average annual budget for facility modifications between both SB 1407 and SB 1732 funding sources to \$60 million. This recommendation does not close the gap between the need for facility modifications and proposed resources; a budget of \$60 million annually for facility modifications still falls tens of millions of dollars short of what is needed to maintain existing courthouses in California. The working group recommends that \$8 million in one-time SB 1407 construction funds be directed to facility modifications in FY 2013–2014. This one-time funding request would only be authorized pending the restoration of SB 1407 funds in an enacted 2013 Budget Act (FY 2013–2014).

⁴ Assembly Bill 1473 (Hertzberg; Stats. 1999, ch. 606), codified at Government Code sections 13100–13104, requires the Governor to submit annually to the Legislature (1) a proposed five-year plan addressing the infrastructure needs of state executive branch agencies, schools, and postsecondary institutions; and (2) a proposal for funding the needed infrastructure. Because the AOC is not an executive branch agency, its projects are not technically required to be included in the Governor’s five-year infrastructure plans under AB 1473. However, because Government Code section 13103 empowers the Governor to order *any entity* of state government to assist in preparation of the infrastructure plan, the AOC on a voluntary basis has historically submitted an annual infrastructure plan to the state Department of Finance to facilitate executive branch approval of judicial branch capital project funding requests. The council is the authority responsible for adopting updates to the five-year plan and for directing AOC staff to submit the five-year plan to the state Department of Finance.

Another facility need requiring funding is the cost of operating each new courthouse constructed using SB 1732 or SB 1407 funds. The new courthouses—while more efficient than the facilities they replace—are larger to meet current functional requirements. The estimated FY 2013–2014 need for facility operations of \$2.237 million is the sum of estimates for maintenance, utility, and insurance costs based on the size of each new courthouse scheduled to be operational next fiscal year. This amount includes the offset of the county facility payment provided for each of the existing court facilities being replaced by each new courthouse.⁵ The estimated cost of facility operation needs for all new SB 1732 and SB 1407 courthouses currently under way for each fiscal year moving forward is estimated to increase to \$19.4 million by FY 2018–2019, with subsequent years adjusted to accommodate inflation as needed.

Senate Bill 1732, the Trial Court Facilities Act of 2002 (Stats. 2002, ch. 1082), specifically Government Code section 70351, stipulated that the intent of the Legislature is for the state to fund ongoing operations and maintenance of court facilities that are in excess of the county facilities payment. Due to the current General Fund shortfall, to date the judicial branch has been unsuccessful in receiving approval of new General Fund resources to fund these increased costs. Therefore, the working group recommends that SB 1407 legislation be modified to allow for operation, repair, and maintenance of new and expanded court facilities and that resources be provided to maintain these new courthouses.

Comments, Alternatives Considered, and Policy Implications

Since fall 2011, the working group has recommended plans for SB 1407 projects in a constantly evolving fiscal environment. In the process of developing recommendations 1–5, the working group acknowledged the need for the 11 SB 1407 projects recommended for delay and that their funding could be returned pending the outcome of the 2013 Budget Act (FY 2013–2014). Also, the working group’s Courthouse Cost Reduction Subcommittee will continue to find ways to free up SB 1407 funds for these and other projects. However, until the fiscal environment stabilizes, the working group will continue to face making future recommendations on which projects can and cannot continue to move forward.

Further, at several meetings, the working group has discussed the need for increased funds for facility modifications to existing courthouses and the need for adequate facility operational cost funding for new courthouses. The working group’s recommendations 6–8 attempt to balance many competing demands in an environment of significant redirection of construction funds to trial court operations.

The working group has received extensive written materials from the trial courts on their projects, in addition to oral comments made during its three-day meeting in September 2012.

⁵ Pursuant to SB 1732, the Trial Court Facilities Act of 2002 (Stats. 2002, ch. 1082), specifically Government Code section 70351, with each transferred facility, counties are required to make quarterly remittance to the state, on a perpetual basis, in the form of a county facility payment (CFP) based on the historical costs of operating the existing facilities.

Therefore, no comments were solicited on the recommended council actions pertaining to the SB 1407 projects not recommended for funding authorization in FY 2013–2014.

Implementation Requirements, Costs, and Operational Impacts

No costs are involved in implementing the recommended council actions, as they are performed on behalf of the council by the AOC.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommended council actions supports Goal III (Modernization of Management and Administration) and Goal VI (Branchwide Infrastructure for Service Excellence).

Attachments

1. *Court Facilities Working Group Recommendations to Judicial Council on Moving SB 1407 Projects Forward*, at page 8

**Court Facilities Working Group (CFWG) Recommendations to
Judicial Council on Moving SB 1407 Projects Forward
Pending Enactment of the FY 2013–2014 Budget Act**

County	Project Name	Funded by Budget Act in Current Fiscal Year 2012–2013 and Proceeding
1 Alameda	New East County Courthouse	Selection of designer-builder under way; construction award by mid-2013, pending reauthorization of lease purchase authority
2 Butte	New North Butte County Courthouse	Bonds sold, in bid phase, construction scheduled to begin in early 2013
3 Kings	New Hanford Courthouse	In working drawings; ready to start construction in 2013 pending spring bond sale
4 Santa Clara	New Santa Clara Family Justice Center	In working drawings; ready to start construction in 2013 pending spring bond sale
5 Solano	Renovation to Fairfield Old Solano Courthouse	Bonds sold, subcontractor bidding under way, construction scheduled to begin in early 2013
6 Sutter	New Yuba City Courthouse	In working drawings; ready to start construction in 2013 pending spring bond sale
7 Yolo	New Woodland Courthouse	Bonds sold, in bid phase, construction scheduled to begin in early 2013

County	Project Name	CFWG Recommendations to Judicial Council at February 26, 2013 Meeting
8 El Dorado	New Placerville Courthouse	Proceed with site acquisition; preliminary plans delayed until FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
9 Glenn	Renovate and Addition to Willows Courthouse	Proceed with design; start working drawings in FY 2013-2014
10 Imperial	New El Centro Courthouse	Proceed with design; start working drawings in FY 2013-2014
11 Inyo	New Inyo County Courthouse	Proceed with site acquisition; preliminary plans delayed until FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
12 Lake	New Lakeport Courthouse	Delay start of working drawings to FY 2014-2015, unless SB 1407 funds are restored in FY 2013-2014, and after extensive review by Courthouse Cost Reduction Subcommittee
13 Los Angeles	New Eastlake Juvenile Courthouse	Proceed with site acquisition of a proposed site from the County of Los Angeles at a reduced cost for a collocated new construction project of the planned New Eastlake Juvenile and Los Angeles Mental Health Courthouses
14 Los Angeles	New Los Angeles Mental Health Courthouse	
15 Mendocino	New Ukiah Courthouse	Proceed with site acquisition for project with one less courtroom; preliminary plans delayed until FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
16 Merced	New Los Banos Courthouse	Proceed with design; start working drawings in FY 2013-2014
17 Riverside	New Hemet Courthouse (Mid-Cnty Reg)	Proceed with site acquisition; preliminary plans delayed until FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
18 Riverside	New Indio Juvenile and Family Courthouse	Proceed with design; start working drawings in FY 2013-2014
19 San Diego	New Central San Diego Courthouse	In working drawings; will start construction in FY 2013-2014
20 San Joaquin	Renovate Juvenile Justice Center	In working drawings; will start construction in FY 2013-2014
21 Santa Barbara	New Santa Barbara Criminal Courthouse	Design delayed to FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
22 Shasta	New Redding Courthouse	Design delayed to FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
23 Siskiyou	New Yreka Courthouse	Design delayed to FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
24 Sonoma	New Santa Rosa Criminal Courthouse	Design delayed to FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
25 Stanislaus	New Modesto Courthouse	Proceed with site acquisition; preliminary plans delayed until FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014
26 Tehama	New Red Bluff Courthouse	Proceed with design; start working drawings in FY 2013-2014
27 Tuolumne	New Sonora Courthouse	Design delayed to FY 2014-2015 unless SB 1407 funds are restored in FY 2013-2014

County	Project Name	Indefinitely Delayed
28 Fresno	Renovate Fresno County Courthouse	Indefinitely delayed as of October 26, 2012 and January 17, 2013, Judicial Council meetings
29 Kern	New Delano Courthouse	
30 Kern	New Mojave Courthouse	
31 Los Angeles	New Glendale Courthouse	
32 Los Angeles	New Santa Clarita Courthouse	
33 Los Angeles	New Southeast Los Angeles Courthouse	
34 Monterey	New South Monterey County Courthouse	
35 Nevada	New Nevada City Courthouse	
36 Placer	New Tahoe Area Courthouse	
37 Plumas	New Quincy Courthouse	
38 Sacramento	New Sacramento Criminal Courthouse	

Proceed – Projects will move forward as indicated above. Each project moving forward will complete a review of trial court operations, as required by the state Department of Finance.

Indefinitely Delayed – Projects are indefinitely delayed until funds become available sometime in the future. No work to proceed on site acquisition or design, unless specified above.

Two SB 1407 projects, for Alpine and Sierra Counties, were canceled by the Judicial Council in December 2011. In October 2012, the council referred one project, a renovation of the Lancaster (McCourtney Juvenile) Courthouse in Los Angeles, to the Trial Court Facility Modifications Working Group for consideration of funding as a facility modification.