

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
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Report

TO: Members of the Judicial Council

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SUBJECT: Fiscal Year 2010–2011 Budget Requests for the Supreme Court, Courts of Appeal, Judicial Council/Administrative Office of the Courts, and the Trial Courts (Action Required)

Issue Statement

The Judicial Council has statutory authority to approve budget requests for the Supreme Court, the Courts of Appeal, the Judicial Council/Administrative Office of the Courts (AOC), and the trial courts. The AOC has identified critical operational and programmatic funding needs of these entities that require additional state funding. Development and transmittal of budget change proposals (BCPs) is the standard process for proposing such funding adjustments, and their submission must be approved by the council.

Recommendation

AOC staff recommends that the Judicial Council, effective August 14, 2009, approve:

1. Submission of BCPs to the state Department of Finance for FY 2010–2011 that would communicate funding needs identified in this report on behalf of the Supreme Court, Courts of Appeal, Judicial Council/AOC, and the trial courts. These proposals will identify baseline resource needs associated with increased costs and workload related to the provision of services to the courts and the public, as well as internal infrastructure needs to support judicial branch operations.
2. The delegation of authority to the Administrative Director of the Courts to make technical changes to these BCPs as necessary to address updated information, including the ability to develop additional proposals to meet any

critical needs identified during the development of the 2010–2011 State Budget.

Rationale for Recommendation

The AOC is currently reviewing workload and cost information related to the provision of services to the courts and the public, as well as internal infrastructure needed to support judicial branch operations. The review process includes determining whether the costs associated with workload growth and cost increases are justifiable and whether or not the judiciary has sufficient resources to address these workload growth and cost increases and finally, developing BCPs that specify additional resource requirements.

Based on the foregoing review, the AOC has currently identified the following workload and funding issues that would result in a need for additional resources and, therefore are recommended to be included in the fall budget request for the branch.

Fiscal year 2010–2011 judicial branch budget proposals

Supreme Court and Courts of Appeal

- Additional staffing is required to provide the initial staff and resources to support the Supreme Court Committee on Judicial Ethics Opinions. This committee is tasked with providing advisory opinions and advice on ethics to judicial officers and candidates for judicial office in the state. These resources were requested through FY 2008–2009 and FY 2009–2010 BCPs, but ultimately not included in the final State Budget given insufficient state General Fund resources.
- Additional costs are being experienced for law library subscriptions, books and online resources for the Supreme Court and the Courts of Appeal. Resources were requested through FY 2008–2009 and FY 2009–2010 BCPs, but given limited state General Fund resources, an augmentation for this purpose was not provided in the State Budget.
- Costs are projected to increase for court-appointed counsel for indigents in the Courts of Appeal. These increased costs result from caseload growth, increased rates, and other factors. A FY 2009–2010 BCP in the amount of \$6.9 million, including a FY 2008–2009 current year funding request, was submitted to the state Department of Finance (DOF) to address this need. DOF concurred in the need and agreed with submission of the request to the Legislature as a Spring Finance Letter (which is a proposed adjustment to the Governor’s submitted budget). Additionally, per DOF recommendation, the Finance Letter proposed budget bill language, in lieu of a permanent

augmentation, to provide for submittal of a recognized current year deficiency request. The FY 2009–2010 Finance Letter request was not approved by the Legislature, however, though one-time funding of \$5.955 million for FY 2008–2009 was approved and funded. Legislative fiscal and budget staff have indicated that they are aware that the council will likely need to submit a funding proposal to address the issue again this year.

Judicial Council/AOC

- Finance Division: Additional auditors are needed to adequately address the internal audit needs of the judicial branch to ensure that courts are able to be audited on a four-year cycle. The need to provide for a regular audit cycle, which includes a regular follow-up process, has been demonstrated by recent audit findings in courts in the state. Resources were requested through FY 2008–2009 and FY 2009–2010 workload BCPs. These requests were not funded given limited state General Fund resources overall.
- Information Services Division: The division requires additional staffing and resources to develop and implement data center disaster recovery options for the appellate and AOC data centers housed in San Francisco. This change would include infrastructure improvements, upgrades to the electrical and cooling systems, and correction of code compliance issues, as documented by the State Fire Marshal, in order to avoid another incident like the one that occurred June 30, 2008, when a power failure interrupted service for the Supreme Court, Courts of Appeal, and the AOC over a period of several days. Resources were requested through a FY 2009–2010 BCP to address this need, but the proposal was not included in the budget given the state’s overall financial situation.

Trial Courts

Various cost issues relating to court operations and funding have been identified. The need for many of the following adjustments results from the Legislature’s action to suspend the state appropriations limit (SAL) baseline funding process for the courts.

- Increased General Fund support is proposed to address a projected funding shortfall for court-appointed dependency counsel in FY 2010–2011. The court-appointed counsel program is operating with a structural deficit, as cost growth in prior years typically has outpaced the augmentation of ongoing funding. Program costs have exceeded available statewide funding for the last five fiscal years; full funding has been achieved through one-time redirections of savings from other program areas for the last four years. In September 2008, a FY 2009–2010 BCP was submitted to DOF in an effort to acquire additional funding to address the structural deficit in the court-appointed

counsel area. Given the overall growing state deficit, DOF was not able to support the proposed adjustment, and the BCP was not approved. The FY 2010–2011 proposed funding is intended to provide a permanent solution for the ongoing program shortfall.

- Increased General Fund support is proposed to fill the ongoing shortfall in court security funding and to address projected cost increases for FY 2010–2011. This proposal would also seek a change in legislation to make the \$10 increase in the court security fee, which currently would expire at the end of FY 2010–2011, permanent. BCPs have been submitted over the last several fiscal years to request additional security funding to address ongoing and projected shortfalls between the funding provided through the SAL funding and the actual security need at the existing service level and to fund security at the Judicial Council–approved security funding standards; however, this need has not been fully and permanently addressed. In addition, the AOC anticipates that the costs for security staff retirement could increase substantially in FY 2009–2010 and for the next few years, as contribution rates adjust in response to significant pension fund valuation declines. These retirement rate changes will not be known until after the BCP is submitted to the Governor and Legislature. Staff will survey the courts in the fall of 2009 to obtain updated cost information to be provided to the state Department of Finance.
- Increased General Fund support is proposed to fill a projected shortfall in court interpreter program funding for FY 2010–2011. BCPs have not been submitted for additional funding for this program since implementation of the SAL process for the trial courts. Actual reimbursable court interpreter expenditures are anticipated to have exceeded the program appropriations in FY 2008–2009 (final expenditure amounts are under review) and may continue to do so in FY 2009–2010.
- Increased General Fund support is proposed to fill the projected ongoing shortfall in court employee retirement funding from FY 2009–2010 and for a projected increase in retirement costs for FY 2010–2011. No BCPs have been submitted in the last several years for this cost area as these funding needs have been accommodated within the annual SAL funding process. Staff will survey the courts in late fall to obtain updated information and provide this to DOF.

Facility Program Requests

- Increased appropriation authority for the State Court Facilities Construction Fund is needed to support costs related to trial court facility modifications needs, as well as for consultant services for legal counsel, capital program management, and a court facility design standards update. In FY 2009–2010 \$5.0 million increased reimbursement authority was approved to address trial

court facility modifications needs, and \$1.688 million was provided for the Fresno Area Juvenile Delinquency Courthouse lease payments in accordance with the lease purchase agreement entered into between the AOC and Fresno County.

- Increased appropriation authority from the State Court Facilities Construction Fund for staffing and resources to address increased workload in the areas of facilities management, legal services, security, information services, and accounting and business services related to the court facility program. This is a new funding request. In FY 2009–2010 an augmentation of \$7.506 million (personal services, operating expenses and equipment) was approved by the Legislature for this purpose.
- Increased appropriation authority from the Court Facilities Trust Fund is proposed is needed to address increased operating costs for new and renovated courthouses; for increased maintenance and operations costs; and for property and the cost of liability insurance premiums for transferred facilities. This proposal would include a workload adjustment and technical Court Facilities Trust Fund appropriation adjustment to accommodate County Facility Payments for trial court facilities transferred to state responsibility. The FY 2009–2010 funding request proposed an augmentation of \$723,000 for County Facility Payment Inflationary Cost Adjustment and \$1.717 million for the Risk Management Program. DOF recommended these requests be prioritized within proposed available baseline workload adjustment funding for the state judiciary. There were insufficient funds available to do so. In FY 2009–2010 the Legislature appropriated \$1.521 million to fund facility operation costs related to additional square footage acquired in facilities that transferred to state responsibility and approved an appropriation adjustment of \$67.328 million to accommodate additional County Facility Payments related to transferred facilities.

Other Technical Proposals

- Increased Federal Trust Fund and Reimbursement expenditure authority is needed to accommodate new and extended grant funding to the judiciary.

Delegation of authority to make technical changes

To the extent that additional information is received that requires technical changes to the funding requests identified in this report, there may be a need to modify or add to the BCPs being submitted to the state Department of Finance.

This part of the recommendation is a standard technical delegation to the Administrative Director of the Courts needed to respond to changing circumstances during the State Budget development process. For some of the proposals included in this report, the actual amounts may change as updated information is received. Rather than being required to return to the council during the fiscal year to seek authority to amend these proposals, having the authority delegated to the Administrative Director to do so in advance will facilitate proceeding with the dynamics of the 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. Such unanticipated issues make it advisable that the Administrative Director have the ability to update and add funding proposals in an efficient and flexible manner.

Alternative Actions Considered

In developing the funding recommendations, staff considered not proceeding with additional requests given the state's fiscal climate. However, given the demonstrated need for workload and technical funding, this alternative is not recommended at this time.

No specific alternatives to delegating the recommended authority to the Administrative Director were considered, other than coming back to the council any time technical adjustments need to be made or if unanticipated issues arise. This approach, though, would likely cause delays in getting necessary updated and additional proposals submitted in a timely manner.

Comments From Interested Parties

Not applicable.

Implementation Requirements and Costs

Not applicable.