

JUDICIAL COUNCIL of CALIFORNIA
Minutes of the Business Meeting—May 17, 2012
Administrative Office of the Courts, Northern Central Regional Office
Fourth Floor, Veranda Rooms A, B, & C
Sacramento, California

OPEN MEETING (RULE 10.6(A))—BUSINESS MEETING

Chief Justice Tani G. Cantil-Sakauye, Chair, called the meeting to order at 11:00 a.m. on Thursday, May 17, 2012, in the Veranda Rooms A, B, and C of the Northern Central Regional Office of the Administrative Office of the Courts.

Judicial Council members present: Chief Justice Tani G. Cantil-Sakauye; Justices Judith Ashmann-Gerst, Marvin R. Baxter, Harry E. Hull, Jr., and Douglas P. Miller; Judges Stephen H. Baker, Emilie H. Elias, James E. Herman, Mary Ann O'Malley, Kenneth K. So, and David S. Wesley; and Ms. Angela J. Davis and Ms. Edith R. Matthai; **members attending by phone:** Judge Erica R. Yew; and Ms. Miriam Aroni Krinsky, Ms. Jody Patel, and Mr. Mark P. Robinson, Jr.; **advisory members present:** Judges David De Alba, Terry B. Friedman (Ret.), Robert James Moss, and David M. Rubin; Commissioner Sue Alexander; Mr. Alan Carlson, Ms. Kim Turner, Mr. Frederick K. Ohlrich, and Mr. David H. Yamasaki; and; **advisory member attending by phone:** Judge David Rosenberg.

Members absent: Judges Teri L. Jackson and Ira R. Kaufman; Senator Noreen Evans; and Assembly Member Mike Feuer.

Others present included: Judges Stacy Boulware Eurie, René Auguste Chouteau, Ricardo Cordova, Sherrill A. Ellsworth, Robert C. Hight, Robert J. Trentacosta, F. Dana Walton, and Steve White; Court Executive Officers Tamara Lynn Beard, Alex Calvo, Sherri R. Carter, Jake Chatters, Barbara Cockerham, Kimberly Flener, José Octavio Guillén, James B. Perry, Ed Pollard, Michael M. Roddy, Mary Beth Todd, Kiri S. Torre, Michael A. Tozzi, and Tania Ugrin-Capobianco; **Public:** Mr. Adam Acosta, Mr. Jon Bacon, Ms. Cynthia Busse, Mr. Mike Belote, Ms. Cheryl Brown, Ms. Colette Bruggman, Ms. Anita C., Ms. Michelle Castro, Mr. Jeff Dodd, Mr. David Farrar, Ms. Rebecca Fleming, Ms. Lucy Fogarty, Mr. James Fox, Ms. Leora Gershenzon, Mr. Chris Ghiu, Mr. Richard Holst, Ms. Amy Jarvis, Ms. Kim Kampling, Mr. Alan Kidder, Ms. Anita Lee, Mr. Harry Ma, Ms. Cindia Martinez, Ms. Ana Matosantos, Mr. Niall McCarthy, Mr. Curtis Namra, Mr. Jim Niehaus, Ms. Karen Norwood, Mr. Merrell Schexnydre, R. Silva, Mr. Donald Sturman; **AOC staff:** Mr. Peter Allen, Mr. Nick Barsetti, Ms. Deborah C. Brown, Ms. Patricia Calef, Ms. Nancy Carlisle, Mr. Steven Chang, Ms. Roma Cheadle, Ms. Giselle Corrie, Dr. Diane E. Cowdrey, Mr. Dexter Craig, Ms. Benita Downs, Mr. Edward Ellestad, Ms. Angela Guzman, Ms. Donna Hershkowitz, Mr. Burt Hirschfeld, Ms. Leanne Kozak, Ms. Maria Kwan, Ms. Andi Liebenbaum, Ms. Wendy McGraw, Ms. Diane Nunn, Mr. Patrick O'Donnell, Ms. Christine Patton, Mr. Christopher Rey, Ms. Mary M. Roberts, Mr. Curt Soderlund, Mr. Zlatko Theodorovic, and Mr. Lee Willoughby; **Media representatives:** Ms. Kelsey Bye, *Capitol Television News Service (CTNS)*; Mr. Randy Davis, *KGO-TV*; Mr. Philippe

Djegal, *KCRA-TV*; Ms. Maria Dinzeo, *Courthouse News Service*; Mr. Scott Duncan, *Capitol Weekly*; Mr. Andy Furillo, *Sacramento Bee*; Mr. Mike Garza, *KXTV-TV*; Ms. Emily Green, *Daily Journal*; Mr. John Myers, *KXTV-TV*; Ms. Nanette Miranda, *KABC-TV*; Ms. Cheryl Miller, *The Recorder*; Mr. Rich Pedroncelli, *Associated Press Photography*; Ms. Amy Quinton, *Capital Public Radio*; Mr. John Seymore, *CTNS*; and Mr. Paul Westbrook, *KCRA-TV*.

Chief Justice's Report

Chief Justice Tani G. Cantil-Sakauye opened this special meeting of the Judicial Council, called to assess the impact of the Governor's May Revision of the proposed budget. She referred to the success of the council and court leaders in protecting essential court services and the trial courts from budget reductions over the past three years, only possible through a combination of one-time fixes and reallocation of resources, which the council used to minimize the impact on the court system. She emphasized that those solutions are not available to the branch this year. The courts are in crisis. She acknowledged very difficult decisions lie ahead with respect to the branch budget and emphasized that now more than ever is the time for unity across the judicial branch.

Public Comment

Written statements submitted to the Judicial Council for the meeting are attached. Five individuals made requests to speak on the agenda and spoke in the following order:

1. Hon. Steve White, Director, Alliance of California Judges
2. Mr. Michael A. Tozzi, Court Executive Officer, Superior Court of California, County of Stanislaus
3. Mr. David Farrar, attorney, Los Angeles
4. Ms. Karen Norwood, President, American Federation of State, County and Municipal Employees (AFSCME) Local 3302 and Secretary to Council 36, representing employees of the Superior Court of California, County of Los Angeles
5. Mr. Adam Acosta, Political Director, AFSCME, District Council 36

CONSENT AGENDA (ITEM A)

Item A1 Judicial Council: Nonvoting Judicial Council Positions

The chair of the Executive and Planning Committee recommended that the Judicial Council approve three advisory nonvoting Judicial Council positions. The Judicial Council has the authority to add nonvoting positions under article VI, section 6 of the California Constitution and rule 10.2 of the California Rules of Court. These positions would provide the council with additional perspective, experience, diversity, and wisdom.

Council action

The Judicial Council approved the addition of three nonvoting advisory council positions, each for a three-year term from September 15, 2012, through September 14, 2015.

DISCUSSION AGENDA (ITEMS B–G)

Item B Budget: The Governor’s May Revision of the Proposed Fiscal Year (FY) 2012–2013 Budget

Ms. Ana J. Matosantos, Director, California Department of Finance, explained the Governor’s proposed restructuring of trial court funding, which includes offsetting court allocations with a substantial portion of the local court fund reserve balances, modifying the local reserve system, and replacing it with a statewide reserve of three percent (approximately \$80 million) for the Judicial Council to allocate to courts for financial emergencies and necessary adjustments. The Governor’s proposal also projects \$125 million of ongoing reductions beginning in FY 2013–2014, including a \$50 million disinvestment from court construction and \$75 million from court operations. To further alleviate the state’s fiscal crisis, the Governor’s proposal calls for reductions and delays in the court construction program to help fund court operations and would require state employees working for the judicial branch to increase their retirement contribution to an 8 percent share of their salary, similar to other state employees. The outline of Ms. Matosantos’ presentation is attached, Attachment 5.

No action

Item C Judicial Branch Budget: Current California Fiscal Environment and Judicial Branch Budget Status Update

Mr. Zlatko Theodorovic, Chief Financial Officer, AOC Finance Division, reviewed the budget cuts sustained by the branch since the onset of the state fiscal crisis in 2008 and an analysis of the anticipated effects of the Governor’s May Revision on allocations to the trial courts for fiscal years 2012–2013 and 2013–2014. Of the \$653 million in branch budget reductions since 2008, the branch has offset approximately \$358 million of that amount with a combination of fees, one-time funding solutions, and other internal adjustments as of fiscal year 2011–2012, leaving a balance of \$300 million in cuts that have yet to be restored. The \$300 million remainder taken into account with additional ongoing cuts assumed in the Governor’s May Revision translates effectively into a \$400 million reduction in trial court allocations at a minimum in FY 2012–2013, notwithstanding the additional impact of the 3 percent statewide reserve proposed for fiscal emergencies, depending on how that reserve is to be funded.

No action

Item D Judicial Branch Budget: Report from the Interim Administrative Director of the Courts and the AOC Office of Governmental Affairs and Finance Division

Ms. Jody Patel, Interim Administrative Director of the Courts, Mr. Curtis L. Child, Director, Office of Governmental Affairs, and Mr. Zlatko Theodorovic, Chief Financial Officer and

Director, Finance Division, provided information on California's fiscal environment and the status of the fiscal year 2012–2013 state and judicial branch budgets, including information on the legislative discussions in progress and upcoming budget hearings. Ms. Patel reported that over the past four years, the AOC budget has been reduced by 18.2 percent. With a 12 percent reduction anticipated for fiscal year 2012–2013 and recognition that a realignment of staffing and operations is necessary, the AOC has initiated a comprehensive internal review of core AOC activities and is identifying programs to be realigned or eliminated to ensure that the organization is positioned functionally and fiscally to meet its core responsibilities. This fiscal year, the AOC implemented two separate voluntary separation incentive programs resulting in a total of 49 regular employees separating from the AOC. The number of AOC workforce reductions is expected to total approximately 180 fewer positions, including elimination of 59 percent of the AOC's executive level staff (a reduction from 17 to 10 directors) by June 30, 2012. Both Mr. Child and Mr. Theodorovic emphasized the brief duration for negotiating budget provisions before the June 15th legislative deadline for passing the FY 2012–2013 Budget Act. They spoke in favor of having a core group of council members to assist in outreach and advise the Chief Justice and Ms. Patel in their responsibilities for the negotiations with the Legislature and the executive branch, as prescribed in California rule of court 10.101.

No action

Item E Judicial Branch Budget: Impact of Budget Reductions and the Governor's Proposed May Revision From the Perspective of the Trial Courts

Presiding Judge Robert J. Trentacosta, vice-chair, Trial Court Presiding Judges Advisory Committee, Presiding Judge Laurie M. Earl, member, Trial Court Presiding Judges Executive Committee, and Chief Executive Officer Alan Carlson, chair, Court Executives Advisory Committee, each presented their concerns over the implications of the May Revision of the proposed fiscal year 2012–2013 budget, as presented in agenda item B. They provided details on the concessions and operational efficiencies their respective courts have made to adjust over time to the diminution of trial court funding, including workforce reductions, reduced hours of operation, courtroom closures, automated services to replace employee-performed services, and elimination of some court programs.

No action

Item F Judicial Branch Budget: Impact of Budget Reductions and the Governor's Proposed May Revision From the Perspective of the Bench-Bar Coalition and the Bar

Judge Mary Ann O'Malley, council member and cochair, Bench-Bar Coalition, Mr. Jonathan C. Bacon, President, California Defense Counsel, and Mr. Niall McCarthy, President, Consumer Attorneys of California, presented the concerns of the legal community with reference to the budget cuts already implemented and those proposed for 2012–2013. Judge O'Malley described the outreach activities of the Bench-Bar Coalition to educate legislators and justice partners on

the real impacts of cuts in court funding. Mr. McCarthy described problems faced by plaintiffs and plaintiffs' attorneys as the result of delays in court schedules and trial settings and underfunding the courts. Mr. Bacon concurred that these impacts have harmed the defense bar and their clients, as well. Both Mr. McCarthy and Mr. Bacon expressed concern that the Legislature and executive branch may opt to sweep into the state General Fund revenue resulting from court fees for which the bar groups had advocated, with the intent that these court fees would have been used to benefit the court system.

Item G Judicial Branch Budget: Next Steps for the Judicial Council

Chief Justice Cantil-Sakauye indicated that the discussion planned for this agenda item, the chairs of three of the council internal committees to address the next steps for the Judicial Council, had been accomplished in the earlier presentation of agenda item D. She stated that she would soon announce the naming of a small representative group of council members to assist the Chief Justice and the Interim Administrative Director of the Courts in developing the issues in response to the State Budget proposal and communicating the impacts on the branch to the Department of Finance and the Legislature. She encouraged those with concerns to contact Justice Miller, chair of the council's Executive and Planning Committee, Judge Mary Ann O'Malley, cochair of the Bench-Bar Coalition, and members of the Judicial Council for input. Justice Douglas P. Miller and Judge David M. Rubin also made closing comments.

No action

There being no further public business, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,

Jody Patel
Interim Administrative Director of the Courts and
Secretary to the Judicial Council

Attachments

1. May 16, 2012, Statement of Mr. Michael A. Tozzi on Behalf of the Superior Court of Stanislaus County to Chief Justice Cantil-Sakauye and Members of the Judicial Council
2. May 16, 2012, correspondence, Re: Judicial Branch Budget, from Mr. Lloyd W. Pellman
3. May 16, 2012, correspondence, Re: Agenda Items B–G, from Ms. Elizabeth Woods
4. May 16, 2012, Written Comments relating to Item G: Next Steps for the Judicial Council, from Mr. David Farrar
5. 2012–13 May Revision, May 2012, Governor Edmond G. Brown, Jr.

courts. Mr. Bacon concurred that these impacts have harmed the defense bar and their clients, as well. Both Mr. McCarthy and Mr. Bacon expressed concern that the Legislature and executive branch may opt to sweep into the state General Fund revenue resulting from court fees for which the bar groups had advocated, with the intent that these court fees would have been used to benefit the court system.

Item G Judicial Branch Budget: Next Steps for the Judicial Council

Chief Justice Cantil-Sakauye indicated that the discussion planned for this agenda item, the chairs of three of the council internal committees to address the next steps for the Judicial Council, had been accomplished in the earlier presentation of agenda item D. She stated that she would soon announce the naming of a small representative group of council members to assist the Chief Justice and the Interim Administrative Director of the Courts in developing the issues in response to the State Budget proposal and communicating the impacts on the branch to the Department of Finance and the Legislature. She encouraged those with concerns to contact Justice Miller, chair of the council's Executive and Planning Committee, Judge Mary Ann O'Malley, cochair of the Bench-Bar Coalition, and members of the Judicial Council for input. Justice Douglas P. Miller and Judge David M. Rubin also made closing comments.

No action

There being no further public business, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,



Jody Patel

Interim Administrative Director of the Courts and
Secretary to the Judicial Council

Attachments

1. May 16, 2012, Statement of Mr. Michael A. Tozzi on Behalf of the Superior Court of Stanislaus County to Chief Justice Cantil-Sakauye and Members of the Judicial Council
2. May 16, 2012, correspondence, Re: Judicial Branch Budget, from Mr. Lloyd W. Pellman
3. May 16, 2012, correspondence, Re: Agenda Items B–G, from Ms. Elizabeth Woods
4. May 16, 2012, Written Comments relating to Item G: Next Steps for the Judicial Council, from Mr. David Farrar
5. 2012–13 May Revision, May 2012, Governor Edmond G. Brown, Jr.



SUPERIOR COURT OF CALIFORNIA COUNTY OF STANISLAUS

Michael A. Tozzi
Executive Officer
Jury Commissioner

Rebecca J. Fleming
Asst. Executive Officer

800 - 11th Street
Modesto, California 95354
Telephone (209) 530-3111
Fax (209) 576-6350
www.stanct.org

May 16, 2012

STATEMENT OF MICHAEL A. TOZZI ON BEHALF OF THE SUPERIOR COURT OF STANISLAUS COUNTY TO CHIEF JUSTICE CANTIL-SAKAUYE AND MEMBERS OF THE JUDICIAL COUNCIL:

Good morning Chief Justice Cantil-Sakauye and Members of the Judicial Council. My name is Mike Tozzi. I am the Executive Officer for the Superior Court of Stanislaus County. With me today is our Presiding Judge Ricardo Cordova and Assistant Executive Officer Rebecca Fleming.

I have been with the Judicial Branch since 1974. I was hired by Dr. Ralph Kleps right out of Dorothy Nelson's Judicial Administration program at USC. I strongly believe in the separation of powers, and the inherent power of the courts to conduct and control their business. My comments today regarding court reserves or fund balances assume no legislative intervention in the disposition of court reserves.

The Superior Court of Stanislaus was one of the original 17 courts designated as "historically underfunded." The original Resource Allocation Study ("RAS") was beneficial to our court for a time. Even with RAS, we have always been lean in allocating court resources. For example, we have four judicial secretaries, and three research attorneys, pooled for 24 judicial positions. The RAS, with some modifications, could very well be part of the solution for the trial courts in this difficult time.

In FY 2010-2011, our court heard a warning from AOC staff made at a Northern Regional meeting that budget offsets from the AOC would dry up by FY 2012-2013. Following that meeting, we made a paradigm shift in our approach to the budget, going from a "let's survive year to year" mentality to a "we'd better plan now for later" mentality. Thus, we began planning several years ago for the budget crisis that is now upon us.

We took the following steps. We (1) consolidated functions, (2) increased our employee vacancy rate, (3) reduced vendor contracts, (4) re-engineered processes, (5) reduced public access hours, including phone access, (6) automated more clerical processes, (7) implemented a Volunteer Retirement Incentive Program, (8) implemented an enhanced collections program, (9) reduced expenditures, including but not limited to, reduced employee benefits, (10) negotiated no COLA's since 2008, (11) closed branch court operations in Turlock and Ceres, and (12) gave layoff notices to 12 valuable employees, effective in March 2012.

All of that and more allowed us to build a reserve, or a fund balance, which we had plan to use to meet the known and on-going budget reductions scheduled for FY 2012-2013.

In July 2012, our fund balance or budget reserve will be depleted by 50%. The depletion will be the result of using the above-mentioned fund balance to meet the known budget reductions, in our case approximately \$3.5 million. The remaining 50% is a designated reserve to meet contractual and/or statutory obligations. We also have the emergency reserve fund which will be used if the budget trigger is pulled.

We believe that our planning, and our current reserves, would allow us to meet the proposed budget reductions without significant further reductions to our operations, our employees, or the services we provide our public. However, if our fund balance and our emergency reserves are swept, then all of our good planning and our proper administrative work will be for naught. What is worse is that all we have left to cut is people. It tears us up emotionally to consider the horrendous and devastating impact that further staff reductions would have on employees' lives, and on the level of services we provide to the public on a daily basis.

If the Legislature allows this constitutional body to determine how the budget reductions will be implemented, please consider the efforts we made as a court to manage our resources properly. To that end, our suggestion is to utilize the AOC reserves to assist all of the trial courts to meet the newly announced \$300 million budget reduction scheduled for FY 2012-2013, and, to allow those courts with fund balances to utilize them in order to meet the on-going budget reductions also scheduled for FY 2012-2013. Please don't penalize the courts that managed and planned for FY 2012-2013.

Thank you.



ATTORNEYS AT LAW

777 S. Figueroa Street
34th Floor
Los Angeles, CA 90017
T 213.612.7800
F 213.612.7801

Lloyd W. Pellman
D 213.612.7802
lpellman@nossaman.com

Refer To File #: 111111-2222

May 16, 2012

Honorable Tani G. Cantil-Sakauye
Chief Justice
California Supreme Court
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

ATTENTION: Nancy Carlisle

Re: Judicial Branch Budget

Dear Honorable Chief Justice and Honorable Members of the Judicial Council:

As the former Los Angeles County Counsel (1998-2004) and still a practicing attorney, I maintain contacts with the County Counsels throughout the State as well as various judges and bar groups. Collectively, I see a continuing and growing concern regarding the ability of the court system in general and the trial courts in particular to provide access to justice throughout our State.

If the current trend continues, this State is headed for a two tier system of justice. Only those whose attorneys can afford to underwrite the costs of court reporters and increased filing fees or who can afford to pay such expenses themselves will be able to proceed with litigation with a record for appeal. I don't want to see that happen in my personal or professional lifetime.

I believe that current statutes provide at least a partial solution on at least a temporary basis if you, the Judicial Council, are willing to exercise your discretion in a manner that will implement it.

I urge you to consider taking such action as may be necessary to implement Government Code section 77205 to allocate to the trial court which collects currently uncollected debt owed to the courts the full statutorily permitted 40% of the fund in excess of the maintenance of effort allocation.

I urge you to establish a pilot project to forego for a period of time (such as five years) the redistribution of the funds to other trial courts or for retention in the Trial Court Improvement Fund. In the last annual report on uncollected debt owed to the various Superior Courts, the sum exceeds \$7.5 billion and has continued to grow every year since the annual reports were first required by statute. The report can be found at this link:

<http://www.courts.ca.gov/documents/Collections-Report-to-Legislature-FY2010-2011.pdf>

I am working with another attorney, David Farrar, in his quest to turn around this annually escalating unpaid debt. Unfortunately, I have a conflict in my schedule which prevents me from attending your meeting, but I have asked Mr. Farrar to provide copies of this letter for your consideration.

I have found that there is generally a fairly low level of interest in utilizing enhanced means to pursue these debts despite the availability of resources which are available on strictly a contingent basis. The apparent reason for this widely encountered view is that the funds are being allocated to the Trial Court Improvement Fund, thereby not providing a return to the local court in recognition of its efforts. It appears that this may be addressed by the Judicial Council exercising its discretion in directing the funds to the local trial court

Accordingly, I urge you to take such steps as necessary to commit to permit the courts of each County to receive the allocation as currently permitted by statute.

Very truly yours,



Lloyd W. Pellman
of Nossaman LLP

LWP/

77205. (a) Notwithstanding any other provision of law, in any year in which a county collects fee, fine, and forfeiture revenue for deposit into the county general fund pursuant to Sections 1463.001 and 1464 of the Penal Code, Sections 42007, 42007.1, and 42008 of the Vehicle Code, and Sections 27361 and 76000 of, and subdivision (f) of Section 29550 of, the Government Code that would have been deposited into the General Fund pursuant to these sections as they read on December 31, 1997, and pursuant to Section 1463.07 of the Penal Code, and that exceeds the amount specified in paragraph (2) of subdivision (b) of Section 77201 for the 1997-98 fiscal year, and paragraph (2) of subdivision (b) of Section 77201.1 for the 1998-99 fiscal year, and thereafter, the excess amount shall be divided between the county or city and county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess deposited into the county general fund. The Judicial Council shall allocate 80 percent of the amount deposited in the Trial Court Improvement Fund pursuant to this subdivision each fiscal year that exceeds the amount deposited in the 2002-03 fiscal year among:

(1) The trial court in the county from which the revenue was deposited.

(2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.

(3) For retention in the Trial Court Improvement Fund.

For the purpose of this subdivision, fee, fine, and forfeiture revenue shall only include revenue that would otherwise have been deposited in the General Fund prior to January 1, 1998.

(b) Any amounts required to be distributed to the state pursuant to subdivision (a) shall be remitted to the Controller no later than 45 days after the end of the fiscal year in which those fees, fines, and forfeitures were collected. This remittance shall be accompanied by a remittance advice identifying the quarter of collection and stating that the amount should be deposited in the Trial Court Improvement Fund.

(c) Notwithstanding subdivision (a), the following counties whose base-year remittance requirement was reduced pursuant to subdivision (c) of Section 77201.1 shall not be required to split their annual fee, fine, and forfeiture revenues as provided in this section until such revenues exceed the following amounts:

County	Amount
Placer	\$ 1,554,677
Riverside	11,028,078
San Joaquin	3,694,810
San Mateo	5,304,995
Ventura	4,637,294

Re Agenda Items B-G

Greetings,

Respectfully, I would like to see the Judicial Council bring to the attention of the public the following (the “last three budgets,” as used here, indicate 2010-2011, 2011-2012, and the proposed 2012-2013 budgets):

- 1) The Judicial branch of government has suffered budget cuts in the last three budgets;
- 2) The Legislative branch of government has suffered NO budget cuts in the last three budgets; in fact, the salaries and per diem of the legislators has *increased*;
- 3) The Executive branch of government not only has suffered NO budget cuts in the last three budgets, but has seen an increase in funding;
<http://www.ebudget.ca.gov/pdf/GovernorsBudget/0010.pdf>
- 4) At least 14 Superior Courts have instituted furloughs as a result of the last two budget cuts;
- 5) Further funding reductions will result in shorter public court hours, more difficulty contacting court employees, longer lines for filings, and slower progress of cases;
- 6) The litigation of some types of cases may have to be suspended altogether;
- 7) The Governor’s proposed budget continues to fund programs that are NOT constitutionally required, while cutting funding to an “equal” branch of government.

I know you are aware of the following, but the *public* needs to be aware that the Judicial branch is the part of government that they are mostly likely to encounter in their daily lives, yet it is the only branch of government having its budget cut. The ability of the courts to serve the public has already been diminished by the last two budget cuts and we are looking at further impediments to service with the proposed 2012-2013 budget.

The U.S. and California Constitutions require that the criminal divisions of the courts accomplish “speedy trials,” otherwise the public will see suspects released without trial due to the inability of the courts to timely try the matters. In 2005 Riverside County, one of the most heavily populated counties in the state, suspended most of its civil cases due to a backlog in criminal cases. While that backlog was due primarily to a shortage of judicial officers, the result of further budget cuts could be the same in some counties. As staff dwindles and court hours are cut, the backlogs will grow bigger. The first priority will have to be the criminal matters, leaving civil litigants without access to justice.

The Governor’s proposed budget continues to fund programs that are NOT constitutionally required, while cutting funding to an “equal” branch of government. (The Governor’s focus on schools and safety as the target of budget cuts also can and should be replaced by reduction, merging or elimination of non-constitutional agencies, but I won’t discuss that here). Examples (in order of their appearance in the proposed budget and state of their funding):

- CA Technology Agency (increase in each of last three budgets)
- Governor's Office of Business and Economic Development (newly created agency)
- Secretary for State and Consumer Services (reduction in each of last three budgets)
- Secretary for Business, Transportation and Housing (dramatic reduction in each of last three budgets)
- Secretary for CA Health and Human Services Agency (increase in each of last three budgets. As an aside, although many consider HHS services to be imperative, they are not *constitutional* requirements.)
- Secretary of the Natural Resources Agency (overall increase but with dramatic fluctuation)
- Office of the Inspector General (reduction in each of last three budgets)
- Secretary for Environmental Protection (reduction in each of last three budgets)
- Secretary for Labor and Workforce Development Agency (reduction in each of last three budgets)
- Office of Planning and Research (dramatic reduction in each of last three budgets)
- CA Emergency Management Agency (reduction in each of last three budgets)
- Department of Insurance (increase in each of last three budgets)
- CA Gambling Control Commission (fluctuations in the last three budgets)
- Scholarship Investment Board (fluctuations in the last three budgets)
- CA Debt and Investment Advisory Commission (increase in each of last three budgets)
- CA Debt Limit Allocation Committee (increase in each of last three budgets)
- CA Industrial Development Financing Advisory Commission (dramatic overall increase in the last three budgets)
- CA Alternative Energy and Advanced Transportation Financing Authority (dramatic increase in each of last three budgets)
- CA Pollution Control Financing Authority (fluctuations in the last three budgets)
- CA Health Facilities Financing Authority (dramatic fluctuations in the last three budgets with overall increase)
- CA School Finance Authority (increase in each of last three budgets)
- CA Educational Facilities Authority (fluctuations in the last three budgets)

Other Constitutionally required agencies:

- Office of the Lieutenant Governor (increase in each of last three budgets)
- Department of Justice (increase in each of last three budgets)
- State Controller (increase in each of last three budgets)
- State Board of Equalization (increase in each of last three budgets)
- Secretary of State (fluctuations in the last three budgets)
- State Treasurer (increase in each of last three budgets)

Elizabeth Woods, Vallejo

ATTENTION: Ms Nancy Carlisle
Please distribute the following to Judicial Council members at or before the meeting.
Thank you. David Farrar

Written Comments relating to:
Item G: Next Steps for the Judicial Council
THURSDAY, MAY 17, 2012

***A Modest Proposal for Immediate Action by the
Judicial Council to Help with Local Trial Court Funding.***

My name is David Farrar. I am an attorney from Los Angeles and I have been a member of the California State Bar since 1973. Thank you for allowing me to share recommendations about action the Judicial Council could take immediately which might help with local trial court funding.

The Govenors' budget proposes cutting several million dollars from the Courts and the legislature will have to decide whether to accept or reject the Governor's proposal. Arguing against the legislature giving more money to the Courts is the fact, as reported in the Judicial Council's December 2011 report to the legislature that court-ordered debt which remains uncollected by local trial courts currently exceeds \$ 7.7 Billion. Allow me to repeat that:
Uncollected court-ordered debt currently exceeds \$ 7.7 Billion.

One of my clients is in the business of collecting receivables exclusively for governmental entities. The client provides this service on strictly a contingency basis, providing all necessary personnel, equipment and software so there is no additional cost to the governmental agency. That client currently collects court-ordered debt on behalf of local trial courts throughout the United States. Government clients in California currently include the County of Los Angeles, and the City and County of San Francisco.

However, my client does not currently collect court ordered debt for any local trail courts in California because, whenever they try to market their services to local trail courts, they always encounter the same response:

"Why should we care? Whatever additional revenue we collect just goes to the Judicial Council's Trial Court Improvement Fund."

The local trial courts are correct. Government Code Section 77205.(a) provides:

"Notwithstanding any other provision of law, in any year in which a county collects fee, fine, and forfeiture revenue that exceeds the [the statutory maintenance of efforts requirements]... the excess amount shall be divided between the ... county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess deposited into the county general fund."

However, the same section goes on to provide:

"The Judicial Council shall allocate 80 percent of the amount deposited in the Trial Court Improvement Fund pursuant to this subdivision each fiscal year that exceeds the amount deposited in the 2002-03 fiscal year among:

(1) The trial court in the county from which the revenue was deposited.

(2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.

(3) For retention in the Trial Court Improvement Fund.

What this means is that the Judicial Council could issue a simple directive to the AOC and the local trial courts, which would result in 40% of additional revenue collected by the local trial courts (80% of 50%) being retained by the local trial courts which make extra efforts to collect this additional revenue.

Accordingly, my recommendation is that the Judicial Council immediately take whatever action is necessary to mandate this change.



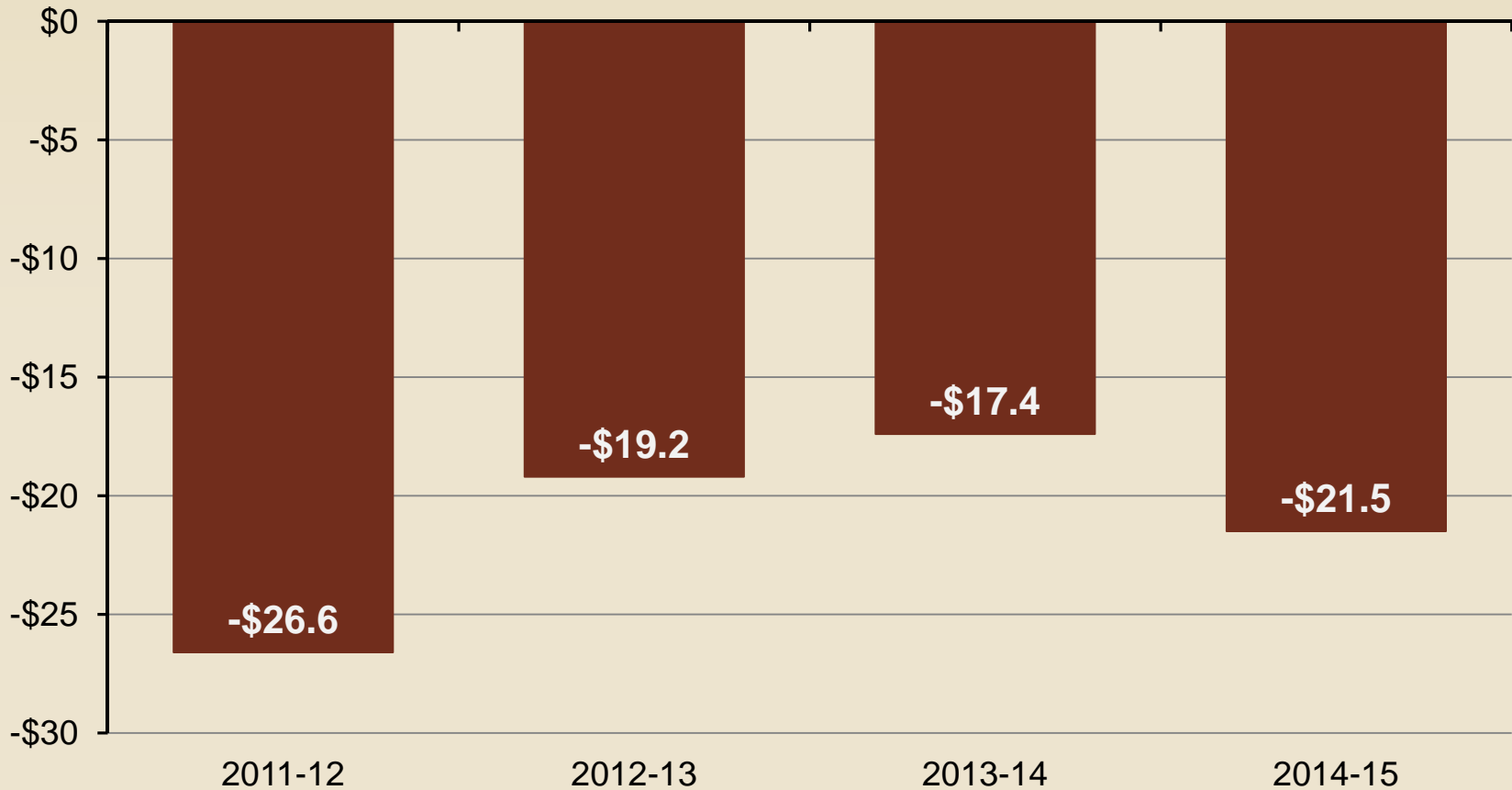
2012-13 May Revision

May 2012

Governor Edmund G. Brown Jr.

A Year Ago, The State Faced An Enormous Budget Problem

(Dollars in Billions)



Makings of the Budget Deficit

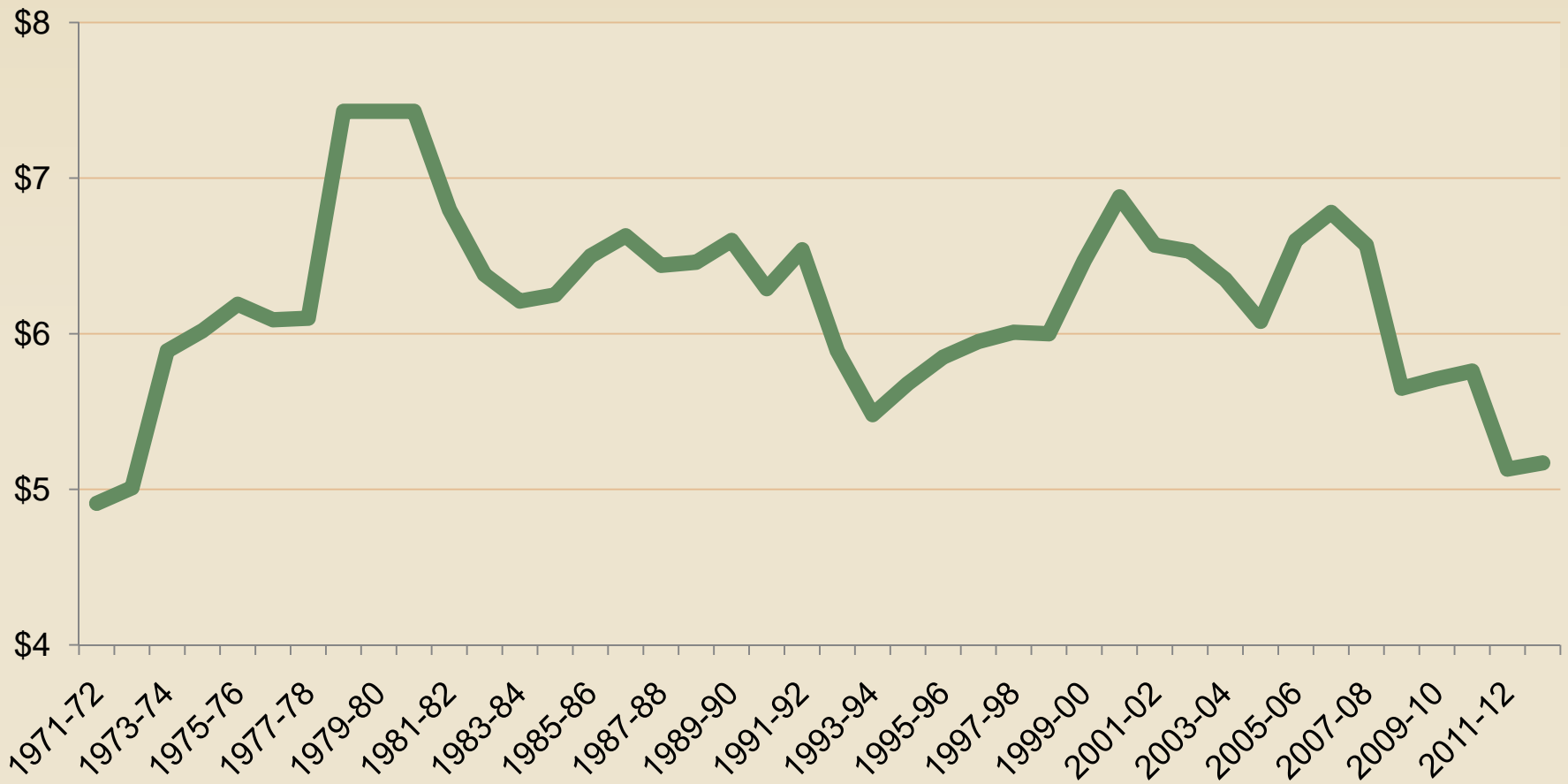
- State had an underlying Budget problem coming into the Recession
- Recession dropped tax revenues by 24 percent
- Budgets in the last decade relied mostly on short-term solutions and gimmicks – 75 to 85 percent of budget solutions

2011-12 Budget Made Substantial Progress

- On-time budget that avoided the gimmicks of prior budgets
- Made deep spending cuts – \$16 billion
 - Billions in additional cuts were made – including \$150 million to the Judiciary – when the taxes were not extended
- Reduced ongoing budget problem from about \$20 billion to \$8 billion annually

General Fund Spending Near 1972-73 Level

(Per \$100 of Personal Income)

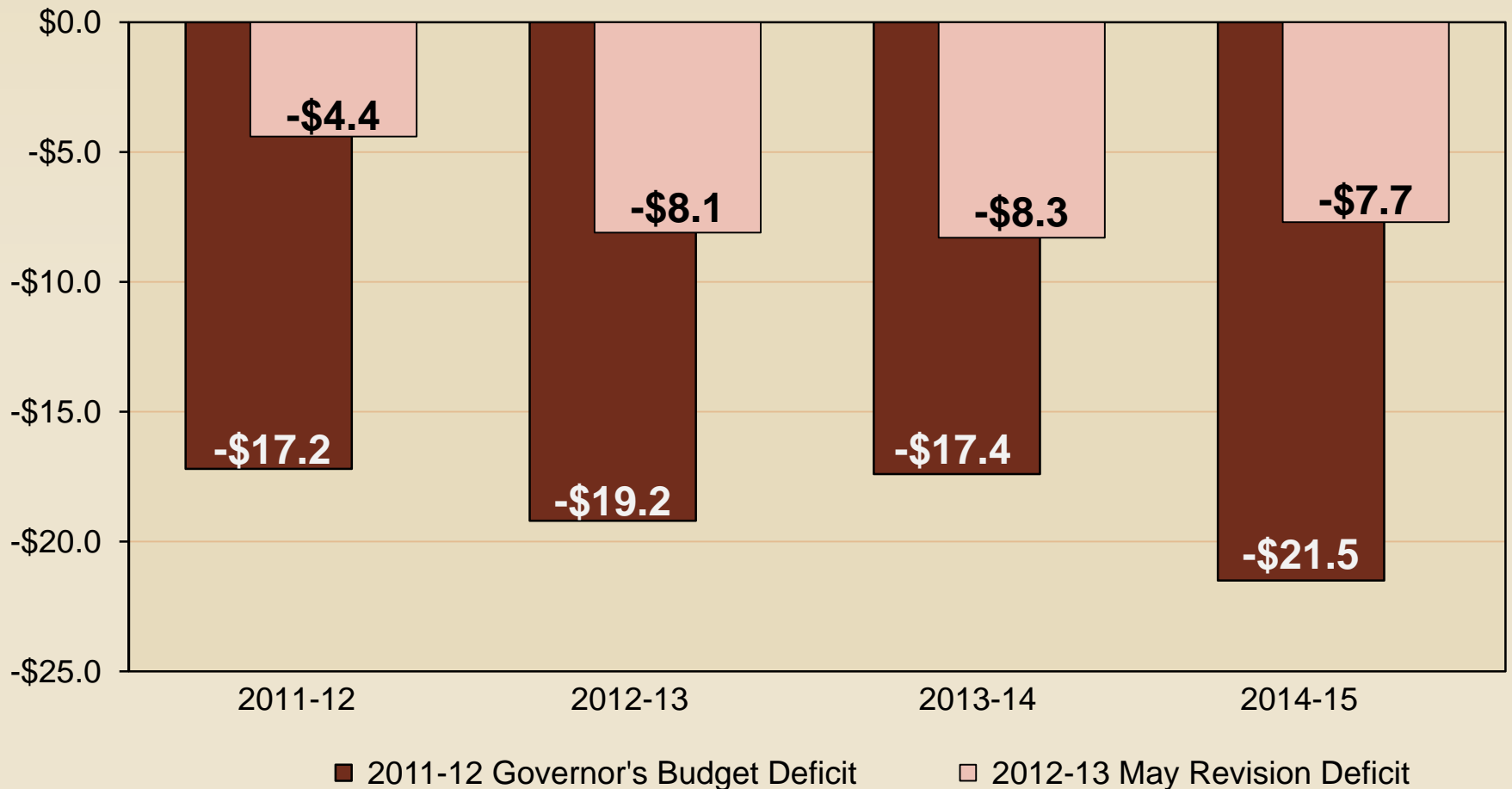


Massive Spending Cuts Have Been Made

- Entire programs, including the refundable child care and dependent credits, Williamson Act subventions, and redevelopment agencies, were all eliminated.
- Reduced state government by more than 15,000 positions and eliminated 20 boards, commissions, and other entities
- The Department of Corrections and Rehabilitation's expenditures will be reduced by \$1.5 billion.
- State grants for low income seniors and persons with disabilities reduced to below the level in effect in 1983 and CalWORKs grants reduced to below the 1987 level.
- General Fund support for the University of California, California State University cut by approximately 25 percent.
- K-14 education funding remains \$9 billion below the funding level in 2007-08.

Annual Budget Shortfall Reduced by More than Half from \$20 Billion to \$8 Billion

(Dollars in Billions)



May Revision Projects 2012-13 Problem Has Grown to \$15.7 Billion

May Revision Budget Problem

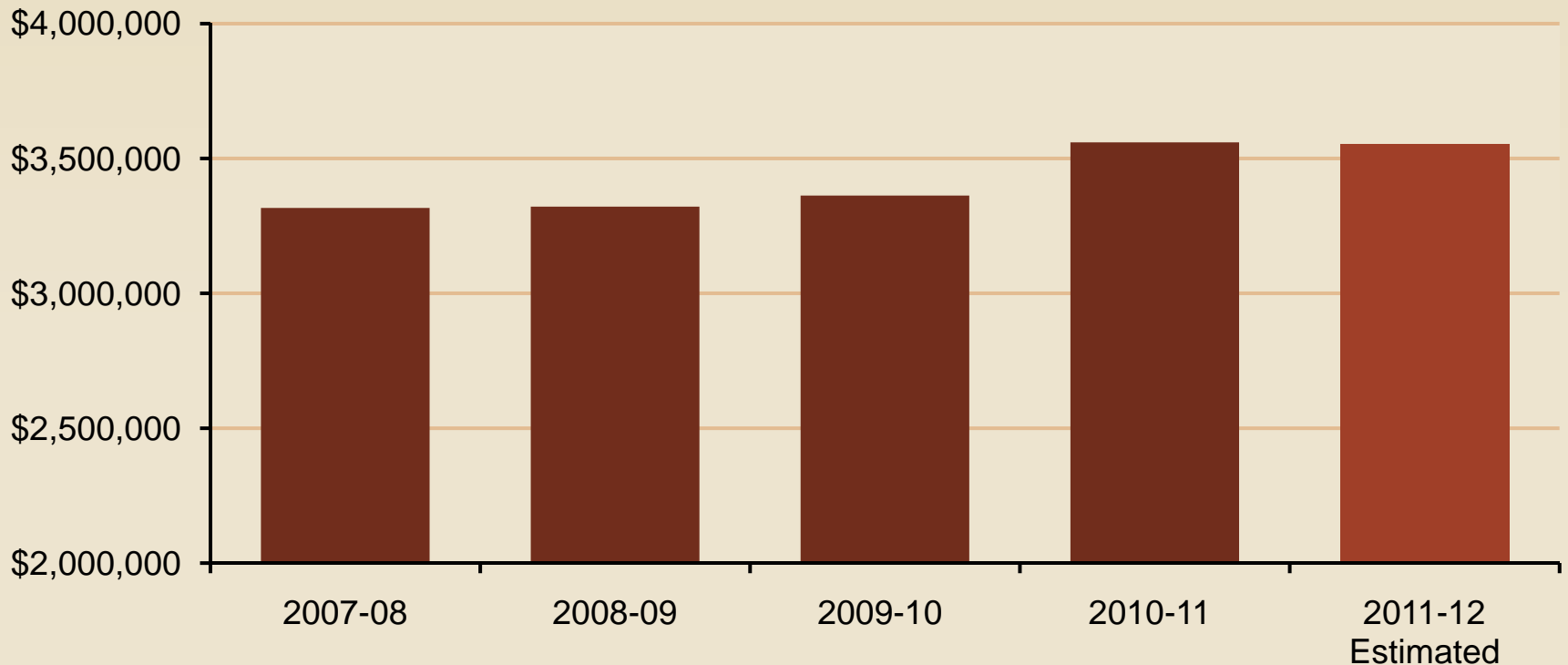
Governor's Budget	\$9.2 Billion
Prior Revenue Forecast Was Too High	+\$4.3 Billion
Proposition 98 Spending Increases	+\$2.4 Billion
Federal Government Blocked Budget Cuts	+\$1.7 Billion
Lower Caseload and Other Spending Decreases	-\$1.9 Billion
May Revision	\$15.7 Billion

2012-13 May Revision

- Balanced approach – \$8.3 billion in additional cuts, \$5.9 billion in revenues, \$2.5 billion in other proposals
- Assumes revenues from the Governor's Tax Initiative to balance the budget and avoid deeper cuts
- Budget is balanced next year and into the future
- Pays down budgetary debt from \$33 billion to \$6.6 billion by 2015-16

Trial Court Funding Has Increased by 7% Despite General Fund Reductions

(Dollars in Thousands)



- Under May Revision, trial court funding in 2012-13 would be 1.5% above 2007-08 level

May Revision Approach for Judiciary Budget

- Maintaining local court reserves is a lower priority in light of the state's fiscal challenge
- Court construction program should be reduced and delayed to help fund court operations
- State employees working for the judicial branch should be treated similarly to other state employees

Restructure Trial Court Reserves— \$300 Million, one time

- Establishes statewide reserve equal to 3 percent of total allocation (about \$80 million)
- Allocation of reserve by Judicial Council to courts as necessary to address emergencies and unavoidable shortfalls
- Uses available local reserves to maintain court operations
 - End of 2010-11, total trial court reserves equaled \$562 million
- Reduces state's allocations to individual courts on dollar-for-dollar basis to reflect available reserves

Delay Court Construction— \$240 Million, one time

- Review of construction program, court construction standards, and facility standards
- Pause of construction and use the funds for operations. Up to 38 projects affected.
- Projects ready for construction could proceed after a review of costs and scope of the project

Increase Retirement Contributions for State Court Employees— \$4 Million

- State employees contribute 8 to 11 percent of their salary to retirement
- State court employees currently pay 5 percent
- Increase state court employee contributions to 8 percent of salary and discontinue the practice of the state paying the employee share

Ongoing Reductions— Beginning 2013-14

- \$125 Million
 - \$50 Million from court construction
 - \$75 Million from operations

