Trial Court Funding (0450)

Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle), enacted the Lockyer-Isenberg Trial Court Funding Act of 1997. This measure made major changes in the state's financial responsibility for support of the trial courts (superior and municipal courts). The measure, which takes full effect in the budget year, supercedes a previous measure that had established a different funding responsibility--the Trial Court Realignment and Efficiency Act of 1991 (Chapter 90, Statutes of 1991 [AB 1297, Isenberg]).

The budget proposes total expenditures in 1998-99 of $1.8 billion for support of the Trial Court Funding Program. This is $147 million, or 9.2 percent, greater than estimated current-year expenditures.

The program is primarily supported by appropriations from the Trial Court Trust Fund, which include:

- $606 million transferred from the General Fund to the Trust Fund.
- $605 million transferred by the counties.
- $225 million in fine and penalty revenues.
- $244 million in court fees.

In addition to these amounts, the budget proposes $50 million from the General Fund for the new Judicial Administration Efficiency and Modernization Fund, $24 million from the Trial Court Improvement Fund, and $1.4 million for the Family Court Trust Fund. The revenues to the Improvement Fund and Family Court Trust Fund come from court fines.

There are two components of funding for the trial courts: (1) Trial Court Funding (Item 0450) and (2) Contributions to the Judges' Retirement Fund (Item 0390). Figure 25 shows proposed expenditures for the trial courts in the past, current, and budget years. We discuss the elements of Item 0450 below.

Figure 25
Trial Court Funding Program
1996-97 Through 1998-99

	Actual 1996-97	Estimated 1997-98	Proposed 1998-99
Trial Court Funding (Item 0450)			
Trial court operations	$1,554.8	$1,568.5	$1,642.3
Assigned judges program	16.3	19.4	19.4
Judicial Efficiency and Modernization	--	--	50.0
Trial Court Improvement	--	17.8	40.6
Family Court Trust	--	0.7	1.4
Subtotals	$1,571.1	$1,606.4	$1,753.7
Judges' Retirement Fund (Item 0390)	$52.8	$60.4	$85.7
Totals	**$1,623.9**	**$1,666.8**	**$1,839.4**

Trial Court Funding Restructuring

In September 1997, the Legislature adopted Chapter 850--the Lockyer-Isenberg Trial Court Funding Act of 1997--which resulted in (1) a major change in the way funding is provided to trial courts, (2) major new fiscal responsibility for the state, and (3) significant fiscal relief to local governments (especially counties).

The major elements of the consolidation plan are shown in Figure 26 (see next page) and are described in more detail below. While the provisions of Chapter 850 became effective in the current year, many of the General Fund costs take effect in 1998-99.

County Costs for Courts Capped. Under the new funding arrangement, county costs for support of the courts are $890 million in the current year (roughly equivalent to the amount they paid in 1994-95). The amount is reduced to $605 million in 1998-99 and capped at that amount in future years. As a result, in 1998-99, counties will experience savings of $285 million in the amount of their contribution to the trial courts. This amount includes savings resulting from the state increasing its share of every county's court costs to at least 58 percent ($274 million), and paying for all court costs of the 20 smallest counties ($10.7 million). Figure 27 (see page 113) lists these 20 smallest counties (based on population) for whom the state will pay 100 percent of the costs of supporting the courts.

Figure 26

Major Features of Chapter 850, Statutes of 1997

Trial Court Consolidation Plan

☑ ***County Costs Reduced and Capped.*** Establishes a cap on county contribution for support of the trial courts:
• $890 million in 1997-98 (roughly equivalent to amounts expended in 1994-95).
• Reduced to $605 million in 1998-99.
• Reduction in 1998-99 results in savings to counties of $274 million and corresponding costs to state.
☑ ***Twenty Smallest Counties.*** State pays 100 percent of court costs beginning in 1998-99 (state costs/county savings: $10.7 million).
☑ ***Future Cost Increases.*** State funds entirely (estimated annual cost: $30 million to $80 million).
☑ ***Fine and Penalty Revenues.*** Counties transfer these revenues to the Trial Court Trust Fund (rather than the General Fund) equivalent to amount transferred in 1994-95; counties retain any growth in revenues.
☑ ***Revenue to Cities.*** Cities keep all fine and penalty revenues (for citations issued within city limits) that are currently remitted to the state, beginning in 1998-99 (revenue gain to cities: $61.9 million). State General Fund makes up the loss.

☑ ***"Donor Counties."*** State provides additional funds to five counties that currently remit more in revenue to the state than they receive for support of courts (state costs/county savings of $4.3 million 1998-99).
☑ ***Court Filing Fees.*** Increased to generate additional revenues ($43.1 million 1997-98 and $86.2 million in 1998-99).
☑ ***New Funds.*** New Judicial Administration Efficiency and Modernization Fund to be expended to promote improvements and efficiencies in court operations ($50 million 1998-99).

Figure 27

Trial Court Funding

Counties That Will Make No County Contribution

Alpine	Glenn	Modoc	Siskiyou
Amador	Inyo	Mono	Tehama
Calaveras	Lake	Plumas	Trinity
Colusa	Lassen	San Benito	Tuolumne
Del Norte	Mariposa	Sierra	Yuba

State Responsible for Future Cost Increases. Because the costs to counties is capped, the state will be responsible for all future growth in trial court costs, including costs resulting from workload increases, inflation adjustments, and new programs. Based on historical experience, we estimate that the annual increases will probably be in the range of $30 million to $80 million. For 1998-99, the budget proposes $50 million for growth and new programs, in addition to $13.2 million for partial-year funding of 40 new judgeships that will be established in the budget year (the new judgeships will cost $16 million on a full-year basis).

Change in Fine and Penalty Remittances. Historically, counties and cities remitted fines and penalties to the state General Fund to offset the state's cost of operating the trial courts. Beginning in 1998-99, counties will remit to the Trial Court Trust Fund (rather than the General Fund) an amount of fines and penalties equivalent to the amount they remitted in 1994-95. Thus, counties will be able to retain any growth in fine and penalty revenues. In addition, beginning in 1998-99, cities retain all of their fine and penalty revenues and the state will make up the revenue loss (about $62 million) from the General Fund.

"Donor Counties" Adjustments. Beginning in 1998-99, the state will ensure that no county submits more in fine and penalty revenues to the state than it receives from the state for trial court support. This will result in costs to the state of $4.3 million, and savings to the affected counties (currently: Placer, Riverside, San Joaquin, San Mateo, and Ventura) of a like amount.

New Civil Court Filing Fees. The Legislature approved increases for court filing fees to generate additional revenue to support the courts through the Trial Court Trust Fund. The increase will result in additional revenues of $43 million in the current year and $86 million in 1998-99.

New Fund to Initiate Court Improvements. The measure created a new Judicial Administration

Efficiency and Modernization Fund (JAEMF). The fund, which would be administered by the Judicial Council, would be used to promote improved access, efficiency, and effectiveness in trial courts that have unified their operations to the fullest extent permitted by law. The budget proposes $50 million from JAEMF.

New Funding Arrangement Provides Significant Fiscal Relief to Counties and Cities

The shift in fiscal responsibilities and some of the other changes contained in the trial court funding restructuring measure will provide significant fiscal relief to local governments in 1998-99 and annually thereafter.

As a result of the restructuring plan the state is providing significant fiscal relief to counties and cities. For 1998-99, the state is providing fiscal relief of approximately $351 million to counties and cities including:

- $285 million in reduced trial court funding contributions for counties (and no contributions from the 20 smallest counties).
- $62 million for returning 100 percent of city traffic fine and penalty remittances to cities.
- $4 million for reduced fine remittances from certain counties.

In addition, counties and cities should receive even more relief because of the provisions that allow them to retain any growth in fine and penalty revenues.

For the future, the measure should result in substantial long-term savings to counties because of the provisions of the measure that cap their contributions for support of the trial courts in perpetuity.

Continuing Challenges of Governance and Accountability

Due to the potentially significant cost increases for the Trial Court Funding Program in the future, it will be important for the Legislature to continue to closely monitor issues of trial court governance and accountability.

Although consolidation of trial court funding was an important step in creating a statewide, unified judicial system, there are several issues related to governance and accountability that the Legislature will want to continue to monitor.

As we have previously indicated, the proposal will likely result in significant cost increases to the state in future years. Based on historical experience, we estimate that the trial court operational budget could increase by $30 million to $80 million annually. This amount could increase if the Legislature authorizes additional new judgeships or new programs. The state would be solely responsible for funding this increase. The state's General Fund share of the increase in court operations is supplemented by an increase in court filing fees--$43 million in the current year (half-year increase) and $86 million in the budget year. While increasing court-related fees to support the trial courts is an option that the Legislature could continue to use in the future, it is likely that future funding increases will need to be provided primarily from the General Fund.

For this reason, it will be important for the state to ensure that the issues of *governance*--making certain that the state has control over trial court operations and expenditures--and *accountability*--making sure that trial courts are responsible for their operational and financial decisions--make sense in the new system. This becomes especially important if the Legislature wishes to create new trial court judgeships or new court-related programs in the coming years, which could increase trial court operating costs substantially. The steps that will need to be taken include developing a new structure to govern trial court personnel that provides greater state oversight and management of personnel costs, a budgeting process based on programmatic and performance outcomes rather than court functions, and a funding allocation system that encourages courts to coordinate and become more efficient. As we discuss below, the Judicial Council is currently in the process of developing a number of these new structures and processes.

Task Forces Created to Study Personnel and Facilities Issues

Chapter 850 establishes task forces to study two important issues: governance and responsibility for court personnel and court facilities. While the final reports for these task forces will not be submitted to the Legislature for several years, the task forces will begin their work in the current year.

Previously, we have outlined several issues with regard to governance of trial court employees and responsibility for court facilities. For example, we noted that the consolidation does not link the management and the funding of court personnel. The absence of such a link allows the counties to continue to set salary and benefit levels for court employees, but makes the state responsible for funding 100 percent of any increase in personnel costs. For the budget year, locally negotiated cost-of-living adjustments (COLAs) for court employees will amount to approximately $30 million.

Task Forces to Begin Studies in the Current Year. Chapter 850 established two task forces to examine and make recommendations to the Legislature on two significant areas regarding the change in state and local responsibility for funding the courts.

First, the measure established a task force on trial court employees to recommend an appropriate personnel structure for employees, including examining whether personnel should be court employees, county employees, or state employees. The task force on court employees will submit an interim report by January 20, 1999, and its final report to the Legislature, including recommendations with regard to a system of governance for trial court employees by June 1, 1999. The task force will be meeting and establishing operating procedures in early 1998. The proposed Judicial budget includes $736,000 from the General Fund to support the activities of the task force in 1998-99.

Second, the measure also establishes a task force on court facilities in order to make recommendations on court facility maintenance, improvements, and expansion. The task force will reexamine the specific responsibilities of the state and local government for these facilities. The task force on court facilities shall submit three interim reports by July 1, 1999, July 1, 2000, and January 1, 2001, and its final report to the Legislature by July 1, 2001. The proposed Judicial budget includes $1.5 million for an evaluation of court facilities across the state and to support the work of the task force on court facilities in the budget year.

Judicial Council Is Changing Budget Development Process

The Judicial Council is proposing changes to the current budget development process in order to create a process designed to retain local management of the trial courts while increasing accountability and focusing on outcomes. We believe that the proposed changes are important steps in the right direction.

The Judicial Council has indicated that it will be substantially changing the way that it develops the budgets for Trial Court Funding. Currently, the Trial Court Budget Commission (TCBC) is responsible for reviewing the budget requests from the trial courts and making recommendations on the budgets to the Judicial Council. Under the current process, the budgets for the trial courts are reviewed on the basis of ten identified court functions which include:

- Judicial Officers.
- Jury Services.
- Verbatim Reporting.
- Interpreters.
- Dispute Resolution Programs.
- Court-Appointed Counsel.
- Court Security.
- Information Technology.
- Staff and Other Operating Expenses.
- Indirect Costs.

This process was used to develop the 1998-99 budget proposal. Specifically, the Judicial Council and the TCBC reviewed budget requests from the trial courts for expenses by function and compared the function costs among courts of similar size.

The budget is based on augmentations to certain functions (such as information technology), rather than programs (such as child mediation services). We have identified a number of problems with this approach in the past. The functional method does not tie funding to performance measures. Additionally, some functional categories are so broad that they cannot be used to meaningfully monitor expenditures. For example, more than one-third of the total expenditures falls into a single function: staff and other operation expenses.

Council Is Changing Budget Process. The Judicial Council is in the process of changing the rules by which it reviews and approves the budgets for the trial courts. The proposed changes are intended to respond to concerns raised by both the Legislature and from within the judicial branch. The Judicial Council has proposed new rules which would change the composition, selection, and duties of the TCBC. Specifically, the Judicial Council is proposing to (1) use outcome measures as performance standards; (2) budget by program, rather than historic budget based on the various court functions; and (3) develop new criteria for the distribution of trial court funds. Additionally, the Judicial Council is proposing to reduce the number of members on the TCBC and include trial court executives and administrators as voting participants.

We believe that the changes being contemplated by the Judicial Council make sense. While the Judicial Council is still addressing the issues of developing criteria for allocation of funds and deciding how the new budget development process will work, we think that it is making steps in the right direction.

Budget Issues

Budget Proposes $50 Million for Growth

We recommend that the Legislature adopt supplemental report language directing the Judicial Council to report on its criteria and allocation of $50 million in growth funds among the trial courts in 1998-99.

The proposed budget for Trial Court Funding includes $50 million for growth and judicial branch priorities, including:

- $29.6 million for courthouse security.
- $5.1 million for criminal caseload growth.
- $2.7 million for civil caseload growth.
- $6.6 million for court interpreter services.
- $6 million for court-appointed counsel in juvenile dependency cases.

According to the Judicial Council, these requests represent the highest priorities as determined by a review of all the requests from the trial courts.

Due to the current process for budgeting in the trial courts, it is not known how the requested increase will be allocated among the trial courts or exactly what the funds will provide. In previous years, the Judicial Council would have allocated all state-provided funds based on an allocation formula with each court receiving a percentage based on historical factors such as size of the county and perceived county fiscal health. This year the Judicial Council will be developing new allocation criteria.

Thus, we recommend that the Legislature adopt supplemental report language directing the Judicial Council to report on how the funding for growth is allocated to the trial courts.

Specifically, we recommend the following supplemental report language:

The Judicial Council shall report to the Joint Legislative Budget Committee and the Legislature's

fiscal committees, by November 1, 1998, on the development of criteria for allocation of the proposed $50 million in funds for growth, and identify the allocation by court.

Budget Proposes $50 Million For New Judicial Improvement Fund

We recommend the Judicial Council report, prior to budget hearings, on the development of criteria for allocating funds from the Judicial Administration Efficiency and Modernization Fund (JAEMF), including information on the types of programs that will be funded through the JAEMF.

Chapter 850 created the JAEMF and directed that the fund may be expended to promote improved access, efficiency, and effectiveness in trial courts that have unified to the fullest extent permitted by law. As indicated earlier, the budget proposes $50 million be transferred from the General Fund to the JAEMF in the budget year.

Chapter 850 specifies that moneys from this fund may be expended to promote improved access, efficiency, and effectiveness in trial courts that have unified to the fullest extent permitted by law. Examples cited in Chapter 850 as the types of projects that may be funded by the JAEMF include education and training for judicial officers and court administrators, technology improvements in the trial courts, incentives to retain experienced judges, and improved law clerk staffing in the courts.

Allocation Criteria Not Determined. The Judicial Council has not yet determined the specific criteria by which the money from the JAEMF will be allocated to local courts. The Council indicates that the likely criteria will include such factors as whether a proposal could be replicated in other jurisdictions and the cost-benefit of the proposal. In addition, recipients would likely have to complete follow-up reports on the use of the funds.

Because the criteria are not established it is not known what specific projects this money will fund. The following exemplifies the types of programs that the Judicial Council indicates it will fund:

- Expanded travel payments and expenses for assigned judges to allow increased judicial officer training.
- Scholarship funds to support training for court professional staff.
- Development and implementation of a trial court case management system for courts in the 10 or 20 smallest jurisdictions.
- Upgrading desktop computers for court employees.
- Sabbaticals for judges.
- Increased judicial benefits.
- Creation of law clerk positions in the trial courts.

Given the discretion that the Judicial Council has with allocating funds from the JAEMF, the development of criteria for allocating the JAEMF is important. We are concerned about some of the examples provided by the council because they could require *ongoing* funding commitments from the state, such as increasing judicial benefits and creating law clerk positions. We believe that the fund should be used to purchase one-time services, such as upgrades in information technology, which are likely to increase long-run efficiency and result in cost-savings, rather than require additional annual funding allocations.

Analyst's Recommendation. For these reasons, we recommend the Judicial Council report prior to budget hearings on the development of criteria for allocating funds from the JAEMF, including providing more information on the types of programs that will be funded from this source.

Three Strikes Relief Teams Were Supposed to Be Limited Term

We recommend a General Fund reduction of $3.5 million to eliminate the Three Strikes Relief Teams which will expire at the end of the current year. (Reduce Item 0450-101-0932 by $3.5 million and Item 0450-111-0001 by the same amount.)

In the *1996-97 Budget Act*, the Legislature approved an augmentation of $3.5 million from the General Fund for "Three Strikes Relief Teams" made up of assigned judges who assist trial courts with backlogs of criminal cases brought about by enactment of the "Three Strikes and You're Out" law. We have several concerns with the proposal. First, the *1996-97 Budget Act* specifies that the funding was to be limited to two years, and was supposed to be eliminated automatically at the end of 1997-98. Our review indicates that the Governor's budget proposal for 1998-99 retains the funding, but does not request that the relief teams be continued temporarily or made permanent.

Second, since the teams were approved, the number of "Three Strikes" cases has stabilized statewide, reducing the need for the relief teams. Finally, the Legislature created 61 new judgeships in the past two years (we discuss the creation of 40 of these new judgeships below), which should relieve the workload in the future.

For these reasons, we recommend that funding for the teams be deleted, for a General Fund savings of $3.5 million.

New Trial Court Judgeships

We recommend the enactment of budget bill language ensuring that any funds not used for the new judgeships be reverted to the General Fund.

Chapter 858, Statutes of 1997 (AB 420, Baca) established 40 new trial court judgeships in the budget year. The judgeships are to be allocated to specific superior and municipal courts throughout the state based on findings in a report on judgeship needs to be submitted by the Judicial Council. The report is to consider such factors as court workload and efforts to coordinate or unify court operations in order to improve efficiency and reduce the need for additional judgeships.

Chapter 858 provides that the Governor could appoint the new judges in 1998-99 following an appropriation by the Legislature to pay for the judgeships in the Budget Act. The budget proposes that appropriation--$13.2 million for partial-year funding of the proposed judgeships. We estimate that the full-year costs of 40 new judgeships and associated staff would be about $16 million.

The Judicial Council has released its analysis of the 40 new judgeships to meet the highest critical need. The council's report ranked the 40 judgeships in priority order; Figure 28 (see next page) summarizes the courts that would receive new judgeships under the priority rankings. As the figure shows, the 40 new judgeships would be distributed across 16 counties.

The needs assessment that the Judicial Council performed consisted of two primary components: (1) an evaluation of quantitative and qualitative information, including workload indicators and time standards for processing of civil and criminal cases, and (2) a review to determine whether the court had received approval of its two-year court coordination plan for 1997-98 and 1998-99.

Figure 28
Trial Court Funding
Proposed New Judgeships

Court Name	Number of Judges
Alameda Superior	3
Butte Consolidated	1
Contra Costa Coordinated	1
Fresno Consolidated	2
Los Angeles Superior	10
Orange Superior	3
South Orange	

Municipal	1
Riverside Consolidated	2
Sacramento Consolidated	4
San Bernardino Consolidated	4
San Diego Superior	3
San Francisco Superior	1
San Joaquin Superior	1
San Luis Obispo Superior	1
Sonoma Consolidated	1
Ventura Coordinated	1
Yolo Consolidated	1
Total	**40**

Not all the courts listed in Figure 28 with the highest need have an approved two-year coordination plan. Specifically, the courts in Los Angeles County (ten proposed judgeships) and Orange County (four proposed judgeships) do not have approved plans. The proposed judgeships for these two courts were included on a provisional basis, provided the courts submit clarification of issues raised regarding their proposed coordination plans by the end of March.

Analyst's Recommendation. Because it could be some time before persons are appointed to the new judgeships, we believe that the Legislature should adopt budget bill language to ensure that the funds appropriated for new judgeship are used only for those purposes and that any unused funds should revert to the General Fund.

Specifically, we recommend the adoption of the following budget bill language:

Any funds included in this item for support of new trial court judgeships that are not used for that purpose shall revert to the General Fund.

Trial Court Coordination Efforts Continue

The Judicial Council has made positive steps toward furthering the coordination of judicial and administrative resources in the trial courts. A constitutional amendment will be before the voters in June 1998 that, if approved, could result in more court consolidation and coordination. Given the state's new financial responsibility for trial courts and the potential savings resulting from coordination, we believe that it will be important for the council and the Legislature to continue to monitor implementation of the coordination requirements.

The goal of trial court coordination is to increase the efficiency of court operations, thereby improving the service to the public. Coordination efforts have focused on coordinating the judicial and administrative functions of the courts (superior and municipal) in a county thereby reducing the number of judicial and administrative structures to one per county. *Judicial coordination* employs cross-assignment of superior and municipal court judges to handle backlogs in cases. Thus, a superior court judge could be assigned to handle municipal court cases and vice versa. *Administrative coordination* consists of merging the administrative operations of the courts within counties. Examples include the provision of jury services by one office for all the courts within a county, or having one budget staff for all the courts within a county.

Although trial court coordination requirements have existed in statute since 1991, courts were given considerable independence in coordinating their operations. No standards existed by which to measure the statewide coordination efforts of trial courts until 1995.

Progress Towards Implementation of Coordination Plans. The courts are required to submit biannual coordination plans for approval by the Judicial Council. The deadlines for submitting coordination plans for 1997-98 and 1998-99 were delayed so that the council could perform a complete review of the status of implementation of coordination plans. By the end of February, the Judicial Council will release a review which will provide a county-by-county assessment of the level of coordination and the status of the implementation of coordination plans within the courts. The report will be based on reviews of court coordination plans, on-site visits to courts, and other available documentation.

Level of Coordination Has Increased. In our discussion with the Judicial Council and with administrators from around the state, we found that although the level of coordination among courts still varies substantially, in the last year many courts have made significant changes to become more coordinated. For example, in many counties administrative operations of the courts have been completely or partially merged. In other counties, there is substantial judicial coordination through cross-assignment. For several counties, all operations (judicial and administrative) have been totally consolidated. In a few counties there have been few coordination efforts implemented.

A number of factors appear to have resulted in the reported increase in coordination including: (1) the enactment of the trial court funding consolidation plan, (2) incentives provided by the Legislature, such as provisions of Chapter 858 which specified that coordination would be among the factors considered in establishment of the 40 new judgeships, and (3) the strong support for coordination by the Chief Justice on his tour of courts in every county.

Constitutional Amendment Could Result in More Court Consolidation. In 1996, the Legislature enacted SCA 4 (Lockyer), which will be before the voters on the June 1998 ballot. This measure would permit superior and municipal courts within a county to fully consolidate their operations if approved by a majority of the superior court judges and municipal court judges in the county. If the judges vote to consolidate the courts, the municipal courts of the county would be abolished and all municipal court judges and employees would become superior court judges and employees.

More Incentives Needed. Now that the state has taken over primary responsibility for funding the courts, it is important for the Legislature to continue to provide incentives for courts to coordinate and consolidate their operations. There are a number of ways that the Legislature could do this. For example, the Legislature could create judgeships in the future only in those courts that have coordinated to the greatest extent possible.

Additionally, the Legislature could ensure that the distribution of funds to courts contain incentives for courts to coordinate, and that the new programs are funded and established first in those courts that are achieving the efficiencies through coordination.

Judicial (0250)

The California Constitution vests the state's judicial power in the Supreme Court, the courts of appeal, and the superior and municipal courts. The Supreme Court and the six courts of appeal are entirely state-supported. Under the Trial Court Funding Program, the state also provides support for the superior and municipal courts. (For more information on the Trial Court Funding Program, please see our analysis of the program earlier in this chapter).

Proposed Budget. The Judicial budget includes support for the Supreme Court, the courts of appeal, and the Judicial Council. The budget proposes total appropriations of $263 million for support of these judicial functions in 1998-99. This is an increase of $32 million, or 14 percent, above estimated current-year expenditures. Total General Fund expenditures are proposed at $217 million, an increase