



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 24-027

For business meeting on May 17, 2024

Title

Trial Court Budget: Minimum Operating and
Emergency Fund Balance Policy

Agenda Item Type

Action Required

Effective Date

July 1, 2024

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

May 6, 2024

Recommended by

Trial Court Budget Advisory Committee
Hon. Jonathan B. Conklin, Chair
Ms. Rebecca Fleming, Vice-Chair

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Executive Summary

The Judicial Council's suspension of the minimum operating and emergency fund balance policy expires on June 30, 2024. The policy, which requires trial courts to set aside a percentage of funds for use in emergency situations or due to budgetary shortfalls, has been suspended by the council since fiscal year (FY) 2012–13 due to changes in statute and to consider further statutory amendments. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve a two-year extension of the suspension of the policy until June 30, 2026, and requests consideration to repeal the policy at a future time.

Recommendation

The Trial Court Budget Advisory Committee recommends that, effective July 1, 2024, the Judicial Council:

1. Extend the suspension of the minimum operating and emergency fund balance policy for two fiscal years until June 30, 2026. This will provide additional time to determine the impact of the proposals included in the 2024–25 Governor's Budget on trial court operations and emergency funding levels;

2. Request the committee's Funding Methodology Subcommittee to consider whether the minimum operating and emergency fund balance policy, which has been suspended since FY 2012–13, should be repealed at a future time based on enactment of the proposed changes to the state-level emergency reserve and fund balance cap included in the 2024–25 Governor's Budget.

These recommendations were presented to the Judicial Branch Budget Committee on March 13, 2024, and approved for consideration by the Judicial Council.

Relevant Previous Council Action

The Judicial Council's minimum operating and emergency fund balance policy requires the trial courts to maintain a fund balance or reserve of approximately 3 to 5 percent of their prior year General Fund expenditures. This policy was first established in FY 2006–07 to ensure that reserve funding was set aside for use in emergency situations or when revenue shortfalls or budgetary imbalances might occur. Due to subsequent legislative changes, a suspension of the policy has been in place since FY 2012–13.

Government Code section 68502.5 required that a 2 percent reserve be established in the Trial Court Trust Fund (TCTF) beginning in FY 2012–13. Each court contributed to the reserve from its base allocation for operations. In addition, Government Code section 77203 imposed a 1 percent cap on the fund balance that courts could carry forward from one fiscal year to the next effective June 30, 2014. Prior to that date, a trial court could carry over all unexpended funds from the court's operating budget from the previous fiscal year.

On August 31, 2012, the council suspended the minimum operating and emergency fund balance policy as a result of these statutory changes and in recognition of advocacy efforts to eliminate or increase the 1 percent cap.¹ On October 28, 2014, the council again extended the suspension of the policy for two additional years until June 30, 2016.²

At its business meeting on April 15, 2016, the Judicial Council approved the *Recommended Process, Criteria, and Required Information for Trial Court Trust Fund Fund Balance Held on Behalf of the Courts*. This new program authorized reduced trial court allocations related to the fund balance cap to be retained in the TCTF as restricted fund balance for the benefit of those courts for projects or expenditures approved by the Judicial Council. The program is intended for expenditures that cannot be funded by a court's annual budget or three-year encumbrance term, and that require multiyear savings to implement. Court requests to hold funds in the TCTF for

¹ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Trust Fund Allocations: Statewide Programs* (Aug. 31, 2012), www.courts.ca.gov/documents/jc-20120831-itemN.pdf; mins. (Aug. 31, 2012), www.courts.ca.gov/documents/jc-20120831-minutes.pdf.

² Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: 2 Percent State-Level Reserve Process and Minimum Operating and Emergency Fund Balance Policy* (Oct. 28, 2014), www.courts.ca.gov/documents/jc-20141028-itemM.pdf; mins. (Oct. 28, 2014), www.courts.ca.gov/documents/jc-20141028-minutes.pdf.

specific projects or activities are reviewed by the Fiscal Planning Subcommittee and recommendations are made directly to the Judicial Council.³

In FY 2016–17, Government Code section 68502.5(c)(2)(B) established a \$10 million one-time General Fund reserve in the TCTF, which replaced the 2 percent reserve requirement. The Judicial Council established a process for trial courts to apply for this emergency funding.⁴ If funding was accessed from the reserve, it would be replenished on an annual basis from trial court base allocations.

On January 19, 2017,⁵ and May 24, 2018,⁶ the council approved additional two-year suspensions of the policy until June 30, 2020, while advocacy efforts to eliminate or increase the fund balance cap continued. In FY 2019–20, Government Code section 77203 was amended and the fund balance cap was increased from 1 percent to 3 percent. This allowed the trial courts to carry over unexpended funds in an amount not to exceed 3 percent of the court’s operating budget from the prior fiscal year beginning June 30, 2020.

On July 24, 2020,⁷ and May 11, 2022,⁸ the council again approved additional two-year suspensions of the policy until June 30, 2024. The current Fund Balance Policy is included as Attachment A and Government Code section 77203 is included as Attachment B.

³ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Allocations: Trial Court Reserves Held in the Trial Court Trust Fund* (April 15, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4378277&GUID=57D6B686-EA95-497E-9A07-226CA724ADCB>; mins. (Apr. 15, 2016), <https://jcc.legistar.com/View.ashx?M=M&ID=463457&GUID=194A3350-D97F-452B-ACF4-1EBE6C105CCA>.

⁴ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: \$10 Million State-Level Reserve Process* (Oct. 28, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4730556&GUID=B27BB5A7-B14B-44E8-A809-9F6FA97F6536>; mins. (Oct. 28, 2016), <https://jcc.legistar.com/View.ashx?M=M&ID=463482&GUID=71780E2D-3758-4213-B3A5-7100073AB7CF>.

⁵ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: Minimum Operating and Emergency Fund Balance Policy* (Jan. 19, 2017), <https://jcc.legistar.com/View.ashx?M=F&ID=4885769&GUID=7E02378F-E7AC-407D-BDD2-DA81B5FEB9E8>; mins. (Jan. 19, 2017), <https://jcc.legistar.com/View.ashx?M=M&ID=523723&GUID=AAC05972-68BD-4B48-B46C-240B851E3CEF>.

⁶ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: Minimum Operating and Emergency Fund Balance Policy* (May 24, 2018), <https://jcc.legistar.com/View.ashx?M=F&ID=6246424&GUID=FD9DAD84-DD7D-448D-8C94-085FFC2FFBBF>; mins. (May 24, 2018), <https://jcc.legistar.com/View.ashx?M=M&ID=559783&GUID=1C4B0F75-3F17-4F8A-9712-034640BB460C>.

⁷ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: Minimum Operating and Emergency Fund Balance Policy* (July 24, 2020), <https://jcc.legistar.com/View.ashx?M=F&ID=8648714&GUID=DAA755CB-AD69-4C95-AB23-49AF3B15A37F>; mins. (July 24, 2020), <https://jcc.legistar.com/View.ashx?M=M&ID=711582&GUID=90001AF2-7CEE-4F0F-906B-29A03ED9CB43>.

⁸ Judicial Council of Cal., Advisory Com. Rep., *Trial Court Budget: Minimum Operating and Emergency Fund Balance Policy* (May 10, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=10831522&GUID=E3E6A833-3D51-41D8-B68D-225383632DEF>; mins. (May 11, 2022), <https://jcc.legistar.com/View.ashx?M=M&ID=869099&GUID=990E26C2-797D-4F24-BAE0-4945FB131549>.

Analysis/Rationale

Advocacy efforts by the Judicial Council and the trial courts to amend Government Code section 77203 and increase the percentage amount of the fund balance cap have been supported by the Department of Finance and the Legislature.

The 2024–25 Governor’s Budget includes trailer bill language to increase the fund balance cap from 3 percent to 5 percent, or \$100,000, whichever is greater, effective June 30, 2024, to ensure that trial courts have adequate reserve funding to support operational needs and address emergency expenditures.

The proposed budget also reduces the trial court state-level emergency reserve in the TCTF from \$10 million to \$5 million. This reserve funding has only been used one time by the Superior Court of Humboldt County in FY 2018–19. Therefore, the reduction in the reserve amount is not anticipated to compromise the level of emergency resources available to the trial courts.

Policy implications

None.

Comments

This proposal was not circulated for public comment. However, these recommendations were considered at meetings that were open to the public and no public comments were received.

Alternatives considered

An extension of the suspension for a period greater than two years was considered. However, the recommendation of a two-year extension aligns with prior council action. It also provides sufficient time to determine the impact of the proposed changes to the state-level emergency reserve and fund balance cap included in the 2024–25 Governor’s Budget should they be included in the final budget and should the policy be repealed at a future time.

Fiscal and Operational Impacts

None.

Attachments and Links

1. Attachment A: Fund Balance Policy
2. Attachment B: Government Code section 77203

Trial Court Financial Policies & Procedures Fund Balance Policy

June 2020

Fund Balance

1. As publicly funded entities, and in accordance with good public policy, trial courts must ensure that the funds allocated and received from the state and other sources are used efficiently and accounted for properly and consistently. The trial courts shall account for and report fund balance in accordance with established standards, utilizing approved classifications. Additionally, a fund balance can never be negative.
2. Beginning with the most binding constraints, fund balance amounts must be reported in the following classifications:
 - a. Nonspendable Fund Balance
 - b. Restricted Fund Balance
 - c. Committed Fund Balance
 - d. Assigned Fund Balance
 - e. Unassigned Fund Balance (General Fund only)
3. When allocating fund balance to the classifications and categories, allocations must follow the following prioritization:
 - a. Nonspendable Fund Balance
 - b. Restricted Fund Balance
 - c. Contractual commitments to be paid in the next fiscal year
 - d. The minimum calculated operating and emergency fund balance
 - e. Other Judicial Council mandates to be paid in the next fiscal year
 - f. Contractual commitments to be paid in subsequent fiscal years
 - g. Assigned Fund Balance designations
 - h. Unassigned Fund Balance
4. Nonspendable Fund Balance includes amounts that cannot be spent because they are either (a) not in spendable form (not expected to be converted to cash), or (b) legally or contractually required to be maintained intact. Examples include: Inventories, prepaid amounts, Long-Term Loans and Notes Receivable, and Principal of a Permanent (e.g., endowment) Fund.
5. Restricted Fund Balance includes amounts constrained for a specific purpose by external parties, constitutional provision, or enabling legislation.

- a. Externally imposed—imposed externally by grantors, creditors, contributors, or laws or regulations of other governments (i.e., monies received by a grantor that can only be used for that purpose defined by the grant).
 - b. Imposed by Law (Statutory)—restricted fund balance that consists of unspent, receipted revenues whose use is statutorily restricted (e.g., children’s waiting room and dispute resolution program funding).
6. Committed Fund Balance includes amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the Judicial Council. These committed amounts cannot be used for any other purpose unless the Judicial Council removes or changes the specified use by taking the same type of action it employed to previously commit those amounts. Committed Fund Balance must also include contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements. While the requirement to include contractual commitments is a policy decision of the Judicial Council, the type, number, and execution of contracts is within the express authority of presiding judges or their designee.
7. **[NOTE: The minimum operating and emergency fund requirement discussed here is temporarily suspended until the Judicial Council lifts the suspension.]** The Judicial Council has authorized a stabilization arrangement (Operating and Emergency fund category) to be set aside for use in emergency situations or when revenue shortages or budgetary imbalances might exist. The amount is subject to controls that dictate the circumstances under which the court would spend any of the minimum operating and emergency fund balance. Each court must maintain a minimum operating and emergency fund balance at all times during a fiscal year as determined by the following calculation based upon the prior fiscal year’s ending total unrestricted general fund expenditures (excluding special revenue, debt service, permanent proprietary, and fiduciary funds), less any material one-time expenditures (e.g., large one-time contracts).

Annual General Fund Expenditures

5 percent of the first \$10,000,000

4 percent of the next \$40,000,000

3 percent of expenditures over \$50,000,000

If a court determines that it is unable to maintain the minimum operating and emergency fund balance level as identified above, the court must immediately notify the Administrative Director, or designee, in writing and provide a plan with a specific time frame to correct the situation.

8. Assigned Fund Balance is constrained by the presiding judge, or designee, with the intent that it be used for specific purposes or designations that are neither unspendable,

restricted, nor committed. Constraints imposed on the use of assigned amounts are more easily removed or modified than those imposed on amounts that are classified as committed. Assigned amounts are based on estimates, and explanations of the methodology used to compute or determine the designated amount must be provided.

Assigned Fund Balances include:

- a. All remaining amounts that are reported in governmental funds, other than general funds, that are not classified as nonspendable and are neither restricted nor committed; and
- b. Amounts in the general fund that are intended to be used for a specific purpose in accordance with the provision identified by the presiding judge or designee.

Assigned Fund Balances will be identified according to the following categories:

- a. One-time Facility–Tenant Improvements. Examples include carpet and fixture replacements.
- b. One-time Facility–Other Examples include amounts paid by the Judicial Council on behalf of the courts.
- c. Statewide Administrative Infrastructure Initiatives. Statewide assessment in support of technology initiatives (e.g., Phoenix) will be identified in this designation.
- d. Local Infrastructure (technology and nontechnology needs). Examples include interim case management systems and nonsecurity equipment.
- e. One-time Employee Compensation (leave obligation, retirement, etc.). Amounts included in this category are exclusive of employee compensation amounts already included in the court’s operating budget and not in a designated fund balance category.
 - i. One-time leave payments at separation from employment. If amounts are not already accounted for in a court’s operating budget, estimated one-time payouts for vacation or annual leave to employees planning to separate from employment within the next fiscal year should be in this designated fund balance subcategory. This amount could be computed as the average amount paid out with separations or other leave payments during the last three years. Any anticipated non-normal or unusually high payout for an individual or individuals should be added to at the average amount calculated.

- ii. Unfunded pension obligation. If documented by an actuarial report, the amount of unfunded pension obligation should be included as a designated fund balance. Employer retirement plan contributions for the current fiscal year must be accounted for in the court's operating budget.
- iii. Unfunded retiree health care obligation. If documented by an actuarial report, the amount of unfunded retiree health care obligation should be included as a designated fund balance.

The current year's unfunded retiree health care obligation contains: (i) the current year Annual Required Contribution (ARC) based on a 30-year amortization of retiree health costs as of last fiscal year-end, and (ii) the prior year retiree health care obligation less (iii), the retiree health care employer contributions and any transfers made to an irrevocable trust set up for this purpose. The current year's unfunded retiree health care obligation is to be added to the prior year's obligation.

- iv. Workers' compensation (if managed locally). The amount estimated to be paid out in the next fiscal year.
 - v. Use of reserve funds for liquidation of outstanding leave balances for employees in a layoff situation, consistent with the requirements of GASB 45; other examples would include reserving funds for the implementation of "enhanced retirement" or "golden handshake" programs in the interest of eliminating salaries at the "high end" or "top step," and thereby generating salary savings or rehires at the low end of a pay scale for position(s), but realizing one-time costs in the interest of longer-term savings for the court.
- f. Professional and Consultant Services. Examples include human resources, information technology, and other consultants.
 - g. Security. Examples include security equipment and pending increases for security service contracts.
 - h. Bridge Funding. A court may choose to identify specific short or intermediate term funding amounts needed to address future needs that are otherwise not reportable, nor fit the criteria, in either restricted nor committed classifications, that it believes are necessary to identify through specific designations. These designations must be listed with a description in sufficient detail to determine their purpose and requirements.
 - i. Miscellaneous (required to provide detail). Any other planned commitments that are not appropriately included in one of the above designated fund balance subcategories

should be listed here with a description in sufficient detail to determine its purpose and requirements.

9. Unassigned Fund Balance is the residual classification for the general fund. This classification represents fund balance that has not been assigned to any other fund balance classification. The general fund is the only fund that shall report a positive unassigned fund balance amount.

State of California

GOVERNMENT CODE

Section 77203

77203. (a) Prior to June 30, 2014, a trial court may carry over all unexpended funds from the courts operating budget from the prior fiscal year.

(b) Commencing June 30, 2014, and concluding June 30, 2019, a trial court may carry over unexpended funds in an amount not to exceed 1 percent of the court's operating budget from the prior fiscal year. Commencing June 30, 2020, a trial court may carry over unexpended funds in an amount not to exceed 3 percent of the court's operating budget from the prior fiscal year. The calculation of the percentage authorized to be carried over from the previous fiscal year shall not include funds received by the court pursuant to the following:

(1) Section 470.5 of the Business and Professions Code.

(2) Section 116.230 of the Code of Civil Procedure, except for those funds transmitted to the Controller for deposit in the Trial Court Trust Fund pursuant to subdivision (h) of that section.

(3) Subdivision (f) of Section 13963, Sections 26731, 66006, 68090.8, 70640, 70678, and 76223, subdivision (b) of Section 77207.5, and subdivision (h) of Section 77209.

(4) The portion of filing fees collected for conversion to micrographics pursuant to former Section 26863, as that section read immediately before its repeal, and Section 27361.4.

(5) Sections 1027 and 1463.007, subdivision (a) of Section 1463.22, and Sections 4750 and 6005, of the Penal Code.

(6) Sections 11205.2 and 40508.6 of the Vehicle Code.

(Amended by Stats. 2019, Ch. 36, Sec. 2. (SB 95) Effective June 27, 2019. Section conditionally inoperative as provided in Section 77400.)