



JUDICIAL COUNCIL  
OF CALIFORNIA

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JUDICIAL BRANCH BUDGET  
COMMITTEE

**JUDICIAL BRANCH BUDGET COMMITTEE**

**Materials for September 28, 2016**

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**(Action Item)**

**Title:** Process and Criteria for Allocating \$10 Million State-Level Reserve  
**Date:** 9/23/2016  
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**Issue**

Government Code section (GC) 68502.5(c)(2)(B) requires the Judicial Council to establish a process for trial courts to apply for emergency funding from the newly established \$10 million state-level reserve.

GC 68502.5(c)(2)(B) reads as follows:

The Judicial Council shall hold a reserve of ten million dollars (\$10,000,000) in the Trial Court Trust Fund to be available to trial courts for emergencies. The funding shall be administered by the Judicial Council, and any funding allocated shall be replenished on an annual basis from the trial court base allocations. The Judicial Council shall establish a process for trial courts to apply for emergency funding.

In addition, GC 68502.5(c)(2)(C) states:

The Judicial Council shall, no later than October 1 of each year, report to the Legislature, pursuant to Section 9795, and to the Department of Finance all requests and allocations made pursuant to subparagraph (B) for the preceding year.

**Background**

On June 27, 2012, the Governor signed into law Senate Bill 1021, which repealed the provisions in GC 77209 related to urgent needs funding from the Trial Court Improvement Fund (TCIF) and added GC 68502.5 (Attachment A), which required that the Judicial Council set aside as a reserve an amount equal to 2 percent of the Trial Court Trust Fund (TCTF) appropriation in Program 45.10. In response to this new statute, the Judicial Council, at its August 31, 2012 meeting, approved a policy with regard to the process, criteria, and required information for requesting supplemental funding from the reserve (Attachment B). This process modified what was approved by the council at its October 28, 2011 meeting as it related to requests for supplemental funding for urgent needs from the TCIF (Attachment C).

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On October 28, 2014, the Judicial Council approved changes to the Judicial-Council approved process for the allocation of the 2 percent state-level reserve in the TCTF in an effort to assist trial courts with cash management (Attachment D). In 2014-2015, approval was made to expedite the distribution of 75 percent of unexpended reserve funds to trial courts earlier in the fiscal year with the remainder distributed after March 15, to allow courts to apply for a cash advance loan for funding emergencies after the reserve funds have been distributed. The Judicial Council also approved the Trial Court Budget Advisory Committee recommendation to propose amendments to the statute that establishes the 2 percent state-level reserve for 2015-2016.

On June 27, 2016, GC 68502.5 was amended to require the Judicial Council hold a reserve of \$10 million in the TCTF to be available to trial courts for emergencies (Attachment A). The funding shall be administered by the Judicial Council, and any funding allocated shall be replenished on an annual basis from the trial court base allocations. In addition, the Judicial Council is required to report annually to the Legislature and the Department of Finance, no later than October 1, all requests and allocations made for the preceding year.

**\$10 Million State-Level Reserve Policy Recommendation**

The process, criteria, and required information for requesting supplemental funding from the former 2 percent reserve is below. This language was looked upon in the development of a recommendation for the \$10 million state-level reserve in an effort to maintain as much consistency as possible while incorporating updates as related to the new statute:

Item #	2 Percent Reserve Current Language	\$10 Million State-Level Reserve Recommended Changes
1.	Only trial courts that are projecting a current-year negative fund balance can apply for supplemental funding related to urgent needs.	Only trial courts that are projecting a current-year negative fund balance can apply for supplemental funding related to emergencies.
2.	Supplemental funding for urgent needs is defined as funding “for unavoidable shortfalls, unforeseen emergencies, or unanticipated expenses for existing programs”.	Supplemental funding for emergencies is defined as funding “for unavoidable shortfalls, unforeseen emergencies, or unanticipated expenses for existing programs”.
3.	A request can be for either a loan or one-time funding that is not repaid, but not for ongoing funding.	A request can be for either a loan or one-time funding, but not for ongoing funding.
4.	Generally courts may not receive funding for urgent needs in successive fiscal years “absent a clear and convincing showing.”	<i>Remove language.</i>

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5.	The submission, review, and approval process is:	
a.	All requests will be submitted to the council for consideration;	<i>Adopt.</i>
b.	Requests will be submitted to the Administrative Director of the Courts by either the court's presiding judge or court executive officer;	<i>Adopt.</i>
c.	The Administrative Director of the Courts will forward the request to the AOC Director of Finance and the court's AOC regional administrative director;	The Administrative Director, Judicial Council will forward the request to the Director of Budget Services, Judicial Council;
d.	AOC Finance Division staff, including the court's regional budget analyst, will review the request, draft a preliminary report, share the preliminary report with the court for its comments, revise as necessary, and issue a final report for the council;	Judicial Council Budget Services staff will review the request, follow up with courts for missing or incomplete information as needed, draft a preliminary report, share the preliminary report with the court for its comments, revise as necessary, and issue a report to the Judicial Branch Budget Committee;
e.		The Judicial Branch Budget Committee will review the request and make a recommendation for Judicial Council consideration;
f.	The final report will be provided to the requesting court prior to the report being made publicly available on the California Courts website; and	<i>Adopt.</i>
g.	The court may send a representative to the council meeting to present its request and respond to questions from the council.	<i>Adopt.</i>
6.	Courts are encouraged to submit requests for unavoidable funding shortfalls before the October 1 deadline but no earlier than 60 days after the Budget Act is enacted into law.	Courts are authorized to submit requests for emergencies after a proposed baseline budget (Schedule 1) has been submitted by the court.
7.	Requests to be considered at a scheduled council business meeting must be submitted to the Administrative Director of the Courts at least 25 business days prior to that meeting.	Submitted requests to the Administrative Director, Judicial Council will be considered at the next regularly scheduled council meeting following the time necessary to review the application.

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8.	The amount that can be allocated to courts submitting requests by the October 1 deadline is limited to the amount of that court's contribution to the 2 percent state-level reserve, however, the Judicial Council may allocate more funding to a court after October 31 and prior to March 15 of the fiscal year.	<i>Remove language.</i>
9.	After March 15, all courts will be allocated a proportionate share of any unexpended funds from the 2 percent state-level reserve, regardless of whether the Judicial Council has allocated to a court supplemental funding for an urgent need in the current fiscal year, using courts' current year Trial Court Trust Fund and General Fund base allocation.	<i>Remove language.</i>
10.	The council will allocate no more than 75 percent of the urgent needs monies available for the current fiscal year prior to March 16.	<i>Remove language.</i>
11.	Unexpended reserve funds will be distributed to trial courts in January, after the Judicial Council's December business meeting, totaling 75 percent of the remaining Trial Court Trust Fund (TCTF) 2 percent reserve funds.	<i>Remove language.</i>
12.	From January 1 through March 15, the remaining 25 percent of the 2 percent reserve are available for court requests due to unforeseen emergencies or unanticipated expenses. These court requests are to be reviewed and recommended by a Judicial Council TCBAC working group.	<i>Remove language.</i>
13.	Any remaining funds are to be distributed back to the trial courts after March 15.	Replenishment of the reserve will occur on an annual basis as a pro rata reduction to the trial courts' beginning base allocation the following fiscal year.
14.	Requests due to unforeseen emergencies or unanticipated expenses approved after March 15 and until June 30 will be distributed to the court as a cash advance loan until the following fiscal year when the court, if necessary, could apply for supplemental funding from the TCTF 2 percent reserve at the Judicial Council's	Requests due to emergencies approved by the council after April 1 of any given fiscal year will be distributed to the court as a cash advance loan until the following fiscal year when the court, if necessary, could apply for emergency funding in the new fiscal year in order to repay the cash advance loan.

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	October business meeting in order to repay the cash advance loan. These court requests are to be reviewed and recommended to the Judicial Council.	
15.	Courts are required to submit the following information when requesting supplemental funding for urgent needs:	
a.	A description of what factors caused or are causing the need for funding;	<i>Adopt.</i>
b.	If supplemental funding was received in the prior year, identify the amount and explain why funding is needed in the current year;	<i>Adopt.</i>
c.	If requesting a one-time distribution, an explanation of why a loan would not be appropriate;	<i>Adopt.</i>
d.	Current status of court fund balance;	<i>Adopt.</i>
e.	Three-year history of year-end fund balances, revenues, and expenditures;	<i>Adopt.</i>
f.	Current detailed budget projections for the current fiscal year (e.g., FY 2011-2012), budget year (e.g., FY 2012-2013), and budget year plus 1 (e.g., FY 2013-2014);	Current detailed budget projections for the current fiscal year (e.g., 2016-2017), budget year (e.g., 2017-2018), and budget year plus 1 (e.g., 2018-2019);
g.	Measures the court has taken in the last three years regarding revenue enhancement and/or expenditure reduction, including layoffs, furloughs, reduced hours, and court closures;	<i>Adopt.</i>
h.	Employee compensation practices (e.g., cost-of-living adjustments) and staffing levels for the past five years;	<i>Adopt.</i>
i.	Description of the consequences to the court's operations if the court does not receive funding;	<i>Adopt.</i>
j.	Description of the consequences to the public and access to justice if the court does not receive funding;	<i>Adopt.</i>
k.	What measures the court will take to mitigate the consequences to court operations, the public, and access to justice if funding is not approved;	<i>Adopt.</i>
l.	Five years of filing and termination numbers; and	Five years of filing and disposition numbers; and

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m.	Most recent audit history and remediation measures; and	<i>Adopt.</i>
n.	An expenditure/revenue enhancement plan that identifies how the court will resolve its ongoing funding issue if the request for supplemental funding is not for a one-time concern.	<i>Adopt.</i>
16.	The council will consider appropriate terms and conditions that courts must accept in order to receive supplemental funding for urgent needs.	<i>Adopt.</i>
17.	Courts that are allocated supplemental funding for urgent needs are required to return the amount that is not needed, if a court determines during the fiscal year that some or all of the allocation is no longer needed due to changes in revenues and/or expenditures.	<i>Adopt.</i>

It is also recommended that the *Application for Supplemental Funding* form allowing trial courts to apply for cash advances and urgent needs funding in addition to supplemental funding (Attachment E), and the corresponding *Instructions for Apply for Supplemental Funding* (Attachment F), be updated to omit inapt information as a result of the new fund reserve, incorporate recommended changes as necessary, include templates for each application requirement, and extend the application to include a requirement for courts to elaborate on why 57 courts should assist in funding the request through a pro rata base allocation deduction the following fiscal year.

**Attachments**

Attachment A            Government Code section 68502.5(c)(2)(B)

The remaining attachments are provided as hyperlinks:

Attachment B            [Judicial Council Meeting Minutes, August 30-31, 2012, including Item M: Trial Court Trust Fund Allocations: Process and Criteria for Allocating 2 Percent State-Level Reserve Funding](#)

Attachment C            [Judicial Council Meeting Minutes, October 27-28, 2011, including Item M: Trial Court Allocations: Process and Criteria for Supplemental Funding](#)

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- Attachment D [Judicial Council Meeting Minutes, October 27-28, 2014, including Item M: Trial Court Budget: 2 Percent State-Level Reserve Process and Minimum Operating and Emergency Fund Balance Policy](#)
- Attachment E [Application for Supplemental Funding Form](#)
- Attachment F [Instructions for Applying for Supplemental Funding](#)



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**Attachment A**

**Government Code Section 68502.5(c)(2)(B) effective June 27, 2012**

(B) Upon preliminary determination of the allocations to trial courts pursuant to subparagraph (A), the Judicial Council shall set aside 2 percent of the total funds appropriated in Program 45.10 of Item 0250-101-0932 of the annual Budget Act and these funds shall remain in the Trial Court Trust Fund. These funds shall be administered by the Judicial Council and be allocated to trial courts for unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable funding shortfalls. Unavoidable funding shortfall requests for up to 1.5 percent of these funds shall be submitted by the trial courts to the Judicial Council no later than October 1 of each year. The Judicial Council shall, by October 31 of each year, review and evaluate all requests submitted, selected trial courts to receive funds, and notify those selected trial courts. By March 15 of each year, the Judicial Council shall distribute the remaining funds if there has been a request from a trial court for unforeseen emergencies or unanticipated expenses that has been reviewed, evaluated, and approved. Any unexpended funds shall be distributed to the trial courts on a prorated basis.

**Government Code Section 68502.5(c)(2)(B) effective June 27, 2016**

(B) The Judicial Council shall hold a reserve of ten million dollars (\$10,000,000) in the Trial Court Trust Fund to be available to trial courts for emergencies. The funding shall be administered by the Judicial Council, and any funding allocated shall be replenished on an annual basis from the trial court base allocations. The Judicial Council shall establish a process for trial courts to apply for emergency funding.