



JUDICIAL COUNCIL
OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

TRIAL COURT BUDGET ADVISORY COMMITTEE

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JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET
ADVISORY COMMITTEE

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TRIAL COURT BUDGET ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

May 18, 2015

10:00 a.m. to 4:00 p.m.

Judicial Council of California, 455 Golden Gate Avenue, San Francisco

Advisory Body Members Present: Judges: Laurie M. Earl (Chair), Thomas J. Borris, Jonathan B. Conklin, Mark A. Cope, Thomas DeSantos, Barry P. Goode, Dodie A. Harman, Elizabeth W. Johnson, Carolyn B. Kuhl, Cynthia Ming-mei Lee, Paul M. Marigonda, Marsha Slough, and Winifred Young Smith; Executive Officers: Alan Carlson, Sherri R. Carter, Jake Chatters, Richard D. Feldstein, Rebecca Fleming, Kimberly Flener, Jose Octavio Guillen, Shawn C. Landry, Stephen H. Nash, Deborah Norrie, Michael M. Roddy, Mary Beth Todd, Kim Turner, Christina M. Volkers, and David Yamasaki; Judicial Council staff advisory members: Curt Soderlund and Zlatko Theodorovic.

Advisory Body Members Absent: Judges: Gregory S. Gaul and Lesley D. Holland; CEOs: None; Judicial Council staff advisory members: Jody Patel.

Others Present: Hon. Manuel J. Covarrubias, Martin Hoshino, Patrick Ballard, Steven Chang, Mark Dusman, Deana Farole, Bob Fleshman, Lucy Fogarty, Leah Rose Goodwin, Donna Hershkowitz, Vicki Muzny, and Colin Simpson.

OPEN MEETING

Call to Order and Roll Call

The meeting was called to order at 10:07 a.m. and roll was taken.

Approval of Minutes

The advisory body reviewed and approved the minutes of the March 23, 2015, Trial Court Budget Advisory Committee (TCBAC) meeting.

Public Comment

Judge Earl announced that written comments were received for item 5 on this meeting's agenda from the Association of Business Trial Lawyers – Northern California Chapter's Board Committee re Complex Court Funding. During the meeting, written comments were received addressing item 6 by Justice Mariano-Florentino Cuéllar and forwarded to TCBAC members.

DISCUSSION AND ACTION ITEMS (ITEMS 1 – 12)

Item 1

Governor's May Revision

Zlatko Theodorovic presented this discussion item on the Governor's May Revision. No action was taken.

Item 2

Children's Waiting Room (CWR) Distributions

Action: TCBAC unanimously approved changes proposed by the Children's Waiting Room Working Group to the Children's Waiting Room Distribution and Fund Balance Policy, to be presented to the Judicial Council at its June 26, 2015 meeting. See Attachment 1 to these minutes. The changes impact section C "Temporarily or Permanently Ceasing CWR Operations" and section E "Courts that have Received a Distribution but Never Operated a CWR".

Item 3

Amendments to the Statute Requiring a 2 Percent Reserve Held in the TCTF

Action: TCBAC unanimously approved, for presentation to the Judicial Council at its June 26, 2015 meeting, the following amendments to Government Code section 68502.5(c)(2)(B) as presented by the 2 Percent Methodology Working Group and further amended by the TCBAC:

~~"Prior to upon preliminary determination of the allocations to trial courts pursuant to subparagraph (A), the Judicial Council shall set aside no more than 2 percent \$9.5 million 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.... 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, select 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."~~

TCBAC agreed that these proposed amendments would be referred to the Trial Court Presiding Judge Advisory Committee and the Court Executive Officer Advisory Committee for their consideration. We will request that the Chairs of these two committees provide feedback to TCBAC at our July 6, 2015 meeting.

Item 4

Allocation of Proposed Restored Funding for Retirement Cost Changes

Note: A vote was taken on this item at the March 23, 2015 TCBAC meeting; however, it subsequently appeared that there might be confusion over whether the committee members realized which option they had voted on and what each option would do. For this reason, the

TCBAC chair had the item withdrawn from the Judicial Council's April 17, 2015 agenda and brought back to TCBAC at this meeting for further discussion.

Action: TCBAC approved, with one no vote, for presentation to the Judicial Council at its June 26, 2015 meeting, a recommendation (Option 3C) presented by the Benefits Working Group that would allocate the non-interpreter related benefits funding provided in the Budget Act of 2014 as stated below.

Allocate 50% to all courts; allocate an additional 50% to courts with no retirement EPS and courts with 10% EPS of cost increases; and to courts with EPS reduction of 30% or more.

- **Allocate by prorating 50 percent in restored benefits funding to all the trial courts (\$6.637 million).**
- **The additional 50 percent (\$6.637 million) would be prorated (1) to courts that do not subsidize the employee share of costs for retirement in 2015–2016, (2) to courts where only 10 percent or less is paid towards the employee share of retirement of total costs increases, and (3) to courts in which the EPS portion of the employee share of costs for retirement has been reduced in FY 2014–2015, by at least 30 percent. (See Attachment 2)**
- **Courts will be included in the “additional 50%” proration if they meet the defined criteria as of May 14, 2015.**
- **Courts that do not pay towards the employee share of costs for retirement or courts with EPS amounts of 10 percent or less than cost increases and courts that have reduced the employee share of costs for retirement by 30 percent would receive 90 percent of their 2012–2013 and 2013–2014 benefits cost increases. Courts that do pay towards the employee share of costs for retirement and do not fall into the other categories would receive 78 percent of their 2012–2013 and 2013–2014 benefits cost increases.**
 - **This 50/50 methodology would be done on a one-time basis for 2015–2016.**
 - **Beginning in 2016–2017, courts that continue to provide EPS of the employee retirement contribution would ~~not share in an allocation for any funding provided from trial courts that made progress towards meeting the PEPPRA standard~~ be reduced by the actual outstanding funding not restored by the DOF that is attributed to their court. This funding will then be distributed to those courts that do not make EPS of employee retirement payments in order to make their benefit cost funding whole.**

Item 7

2015–2016 Allocations for the V3 Case Management System and Intermediate Case Management Programs (ICMS) from the State Trial Court Improvement and Modernization Fund (IMF)

Action: TCBAC approved, as amended, for presentation to the Judicial Council at its June 26, 2015 meeting, a recommendation of the Revenue and Expenditures Subcommittee that the 2015–2016 IMF allocations for the V3 and ICMS programs be held at their 2014–2015 levels: \$5,658,100 for V3 and \$1,246,800 for ICMS. However, if the 2015–2016 IMF ending fund balance is projected to be below \$300,000, the allocations for both programs are to be reduced by 10 percent, a total of \$690,500, and the costs associated with the reduction are to be backfilled from the Judicial Council Information Technology office's budget, or such other non Trial Court Trust Fund (TCTF) funding source as the Judicial Council deems appropriate.

Item 9

Workload-Based Allocation and Funding Methodology (WAFM)

Action: This was a discussion item presented by Jake Chatters, updating the membership on WAFM for 2015–2016. No action was taken on this item.

Item 5

Complex Civil Caseweight

Action: This was a discussion item presented by Judge Alksne, Chair of the Workload Assessment Advisory Committee (WAAC) and Judicial Council staff. No action was taken. Judge Alksne confirmed that the WAAC plans on presenting a report to the Judicial Council at its June 26, 2015 meeting. Judge Earl indicated that a review of the letter received from the Association of Business Trial Lawyers regarding this item would be made and a response sent.

Item 12

Proposed Amendments to California Rules of Court 10.63

Action: Martin Hoshino presented this item for discussion. A motion was made and approved with one no vote to have the TCBAC chair submit, on behalf of TCBAC, opposition to the proposed changes to California Rule of Court 10.63 as provided in the Invitation to Comment from the Judicial Council’s Executive and Planning Committee.

Item 6

Budget Change Proposals (BCPs) for 2016–2017

Action: TCBAC approved unanimously submitting 2016–2017 BCPs in the following areas with the order of priority to be determined at a later date:

- **Request for funding that would fund courts at 80% of their Workload-Based Allocation and Methodology Funding need;**
- **Request a cost-of-living adjustment for court employees consistent with potential increases to be provided to executive branch employees.**
- **Technology placeholder;**
- **Dependency Counsel;**
- **New Judgeships (AB 159);**
- **Increased Costs for New Facilities; and**
- **Implementation of Language Access Plan.**

Item 8

Allocation of Reductions Due to Revenue Shortfalls in the Trial Court Trust Fund

Action: The TCBAC unanimously approved Option B as presented by the Funding Methodology Subcommittee, for presentation to the Judicial Council at its June 26, 2015 meeting. This option would on an ongoing basis in 2015–2016, subtract \$22.7 million from any new funding that is received in the 2015 Budget Act for general court operations (currently estimated to be \$90.6 million), and allocate the net funding to the courts using the WAFM.

Item 10

Judicial Branch Workers' Compensation Program (JBWCP)

Action: This was a discussion item on the JBWCP and proposed cost allocations for 2015–2016 presented by David Yamasaki and no action was taken.

Item 11

Open Discussion

Judge Earl opened the floor to discussion by the committee on any topic. There were no items presented by the membership.

Judge Earl announced that there would be a conference call before the July TCBAC meeting to make a final determination concerning IMF and TCTF Expenditure Guidelines (State Operations vs. Local Assistance). JC staff stated that the teleconference previously scheduled for May 19 was cancelled as the advisory committee had completed the agenda at this meeting.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 3:30 p.m.

Approved by the advisory body on _____, 2015.

Attachment 1**Proposed Children's Waiting Room (CWR) Distribution and Fund Balance Policy -- Changes to Proposed January 15, 2015 Language****A. Applying for a New CWR Distribution**

- A court's presiding judge or executive officer must submit a request to the director of the Judicial Council Finance Office 45 days prior to the date of the council meeting at which the court is requesting consideration.
- The request must include the following information:
 - Date of the council meeting at which the court is requesting consideration.
 - Requested effective date of the distribution (July 1 or January 1). If a court wants to begin receiving distributions more than one year in advance of the planned opening date of a CWR, the request should include an explanation of the extenuating circumstance(s).
 - The scheduled opening date of the CWR(s).
 - Description of the CWR(s).
 - The date when the court intends to make expenditures related to operating its CWR(s).
 - The requested distribution amount between \$2 and \$5. Courts can request the Judicial Council Finance Office to provide an estimate of annual distributions.
- The Trial Court Budget Advisory Committee (TCBAC) will make a recommendation to the council on each court's request.
- If the council approves that distributions begin prior to the operating of a CWR but the court does not operate a CWR six months after their planned opening date, the court must apply for a continued distribution.

B. Requesting a Decreased CWR Distribution Amount

- Any court's request to decrease its existing CWR distribution is approved by the Judicial Council and the request can be implemented by Judicial Council staff, effective either January 1 or July 1.

C. Temporarily or Permanently Ceasing CWR Operations

- Courts that cease operating all CWRs must notify the director of the JC Finance Office within 60 days of the cessation date. Unless a court provides notification and submits an application to continue receiving distributions while not operating a CWR within 60 days of the cessation date, the court's CWR distributions will be stopped either January 1 or July 1, whichever is earlier, and the court will be required to return any CWR fund balance to the TCTF.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return of the CWR fund balance will occur on the February trial court distribution for those courts that the CWR distribution stopped on January 1, and on the August distribution for those courts that the CWR distributions stopped on July 1.

- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
- An application for a continued distribution must include all the information required of courts applying for a new distribution (see section A above) as well as the amount of any CWR fund balance.
- The TCBAC will make a recommendation to the Judicial Council on each court's application.
- For courts that apply and whose application is denied by the Judicial Council, any CWR fund balance shall be returned to the TCTF.

D. Cap on CWR Fund Balance

- Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to meet the CWR needs of the court without accumulating an amount in excess of the cap described below.
- Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next. The cap shall be the amount of the highest annual distribution within the three most recent fiscal years.
- Courts that have a CWR fund balance greater than the cap (as described above) at the end of the fiscal year will be required to return to the TCTF the amount above the cap in the subsequent fiscal year.
- For courts that are required to return the portion of their CWR fund balance above the cap to the TCTF, the return of the CWR fund balance will occur on the August trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- If a court wants a cap adjustment, it must submit a request explaining the extenuating circumstance and including its CWR expenditure plan to the director of the JC Finance Office for consideration by the TCBAC and the Judicial Council. The request must be received by the Finance Director within 60 days of the end of the fiscal year for which the adjustment is being requested.
- JC staff will report any return of CWR fund balance through the trial court distribution process to the TCBAC and the Judicial Council.

E. Courts that have Received a Distribution but Never Operated a CWR

- Courts that received distributions between January 1, 2006 and June 30, 2014 but did not operate a CWR during that time period must either apply for a continued distribution by September 26, 2015 or have their distributions stopped ~~on January 1, 2016~~ and return to the TCTF any CWR fund balance.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return will occur on the ~~August~~ October 2015 trial court distribution.

- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

Item 1
Guidelines for the State Trial Court Improvement and Modernization Fund and
Trial Court Trust Fund
(Action Item)

Issue

Consideration of draft interim expenditure guidelines for the State Trial Court Improvement and Modernization Fund (IMF) and Trial Court Trust Fund (TCTF) that will be only for fiscal year 2015–2016.

Background

The TCBAC Revenue and Expenditure Subcommittee met on May 27, 2015 to review draft guidelines provided by Judicial Council staff. The subcommittee asked JC staff to make changes to the draft based on their discussion and present a working draft for the TCBAC's consideration at the June 2, 2015 meeting (see Attachment 1). The working draft is attached to this report.

The main purpose of the guidelines is to ensure the appropriate expenditure of the allocations approved by the Judicial Council from the IMF and TCTF. The guidelines, which largely reflect current accounting practices and processes not formally approved by the Judicial Council, are proposed as interim for the period 2015–2016 at least in part because some of the changes that the TCBAC might propose for 2015–2016 could require changes to long-standing Budget Act language and it is not feasible to propose any changes to the budget bill at this juncture in the state budget process. As discussed in the recent audit by the California State Auditor, the TCBAC and Judicial Council might want to propose changes to how expenditures are charged in terms of state operations vs. local assistance appropriations and in terms of program schedule appropriations (e.g., Program 45.10 – Support for Operation of the Trial Courts vs. Program 30 – Judicial Council). The later would require changes to Budget Act language. The TCBAC will deliberate on permanent expenditure guidelines that would become effective 2016–2017 during the upcoming fiscal year.

Under section 7.2, the draft guidelines assign the responsibility of a biennial compliance review to the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E). One amendment to California Rules of Court 10.63 being proposed by the Executive and Planning Committee (see Attachment 2) would:

add that every odd year, A&E will review and report to the council on council expenditures for local assistance (benefitting one or more trial courts) and state operations. It would specify that for such expenditures for trial courts, the committee would determine whether the expenditures comply with allocations approved by the council and spending guidelines developed by the Trial Court Budget Advisory Committee (TCBAC), and approved by the council, on the appropriate uses of Trial Court Trust Fund and State Trial Court Improvement and Modernization Funds.

At its May 18, 2015 meeting, the TCBAC adopted a recommendation to oppose the proposed amendment regarding having A&E perform the compliance review.

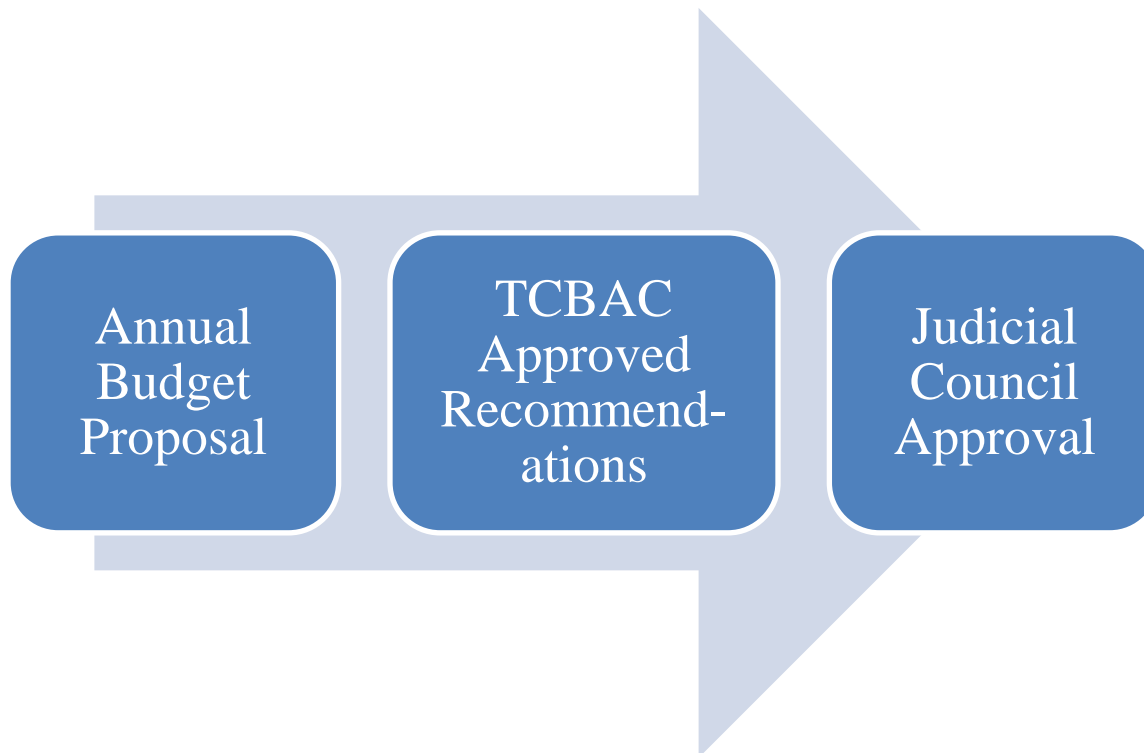
**FY 2015–2016 State Trial Court Improvement and Modernization
Fund and Trial Court Trust Fund Expenditure Guidelines**

1.0 Purpose

This document provides guidelines for appropriate expenditure of the allocations approved by the Judicial Council from the State Trial Court Improvement and Modernization Fund (IMF) and the Trial Court Trust Fund (TCTF). These guidelines will be effective from July 1, 2015 through June 30, 2016. Revised guidelines that will become effective in fiscal year 2016–2017 will be developed by the Trial Court Budget Advisory Committee (TCBAC) for approval by the Judicial Council. The guidelines shall be subject to ongoing review by the TCBAC.

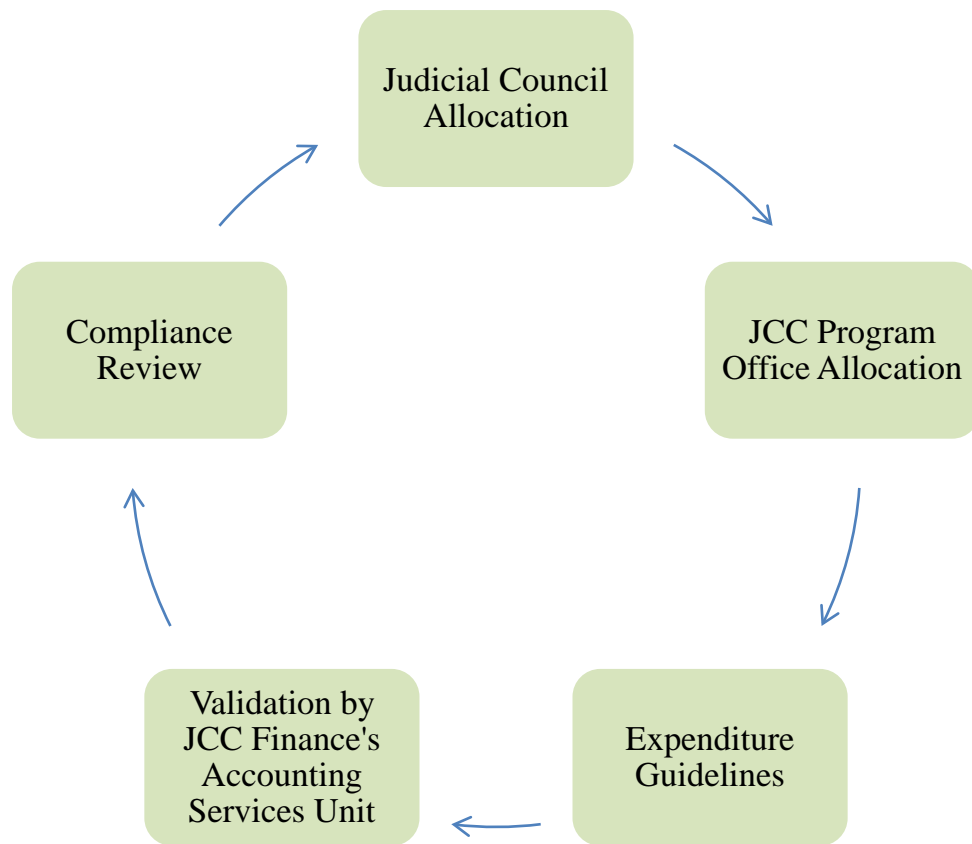
2.0 Summary

On an annual and as needed basis, the TCBAC shall recommend to the Judicial Council how spending to support the trial courts will be allocated from the IMF and TCTF. In developing annual allocation proposals to be considered by the TCBAC, Judicial Council offices managing a project or program shall identify the General Fund (GF), IMF, and/or TCTF monies that will be used for each project or program. The Judicial Council will approve how the monies in these state funds are allocated.



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26 Each JCC office managing a project or program will ensure that all expenditures are consistent
27 with the guidelines herein provided. The JCC Finance's Accounting Services Unit will validate all
28 expenditure requests before approving for payment. JCC Finance budget staff will prepare and
29 submit to the TCBAC's Revenue and Expenditure Subcommittee an annual report regarding prior
30 year expenditure and encumbrance of IMF and TCTF monies that includes by project or program:
31 a) the allocation amount recommended by the TCBAC; b) the Judicial Council approved allocation
32 amount; c) expenditures; and d) encumbrances. This report will be made available to the Advisory
33 Committee on Financial Accountability and Efficiency for the Judicial Branch for use in their
34 compliance reviews of these two funds. The Advisory Committee on Financial Accountability and
35 Efficiency for the Judicial Branch will perform compliance reviews every odd year to ensure all
36 expenditures were consistent with the Judicial Council's guidelines.
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42 **3.0 Fund Descriptions**

43 **3.1 State Trial Court Improvement and Modernization Fund**

44 Government Code section (GC) 77209 was amended by Senate Bill 1021 (Stats. 2012, ch. 41)
45 reflecting the creation of a successor fund – the State Trial Court Improvement and Modernization
46 Fund – to the Trial Court Improvement Fund and the Judicial Administration Efficiency and
47 Modernization Fund. GC 68502.5 provides for the allocation of funds in the IMF to ensure open
48 and equal public access to the trial courts, to improve trial court operations, and to address trial
49 court emergencies. In addition, GC 77209 states moneys in the fund may be expended to
50 implement trial court projects approved by the Judicial Council and expenditures may be made to
51 vendors or individual trial courts that have the responsibility to implement approved projects. Per
52 GC 68085, the Judicial Council may authorize the direct payment or reimbursement or both of
53 actual costs from the IMF to fund the costs of operating one or more trial courts upon the
54 authorization of the participating courts. These paid or reimbursed costs may be for services
55 provided to the court or courts by the Judicial Council staff or payment for services or property of
56 any kind contracted for by the court or courts or on behalf of the courts by the Judicial Council
57 staff. GC 77209(f) allows the Judicial Council, with appropriate guidelines, to delegate the
58 administration of the IMF to the Administrative Director. Any funds unencumbered at the end of
59 that fiscal year are reappropriated to the IMF for the following fiscal year.

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61 **3.2 Trial Court Trust Fund**

62 Assembly Bill 1344 (Stats. 1992, ch. 696) created GC 68085, which established the Trial Court
63 Trust Fund. The Trial Court Funding Act of 1997 (Stats. 1997, ch. 850) provided for the state
64 responsibility for funding trial court operations from the TCTF beginning in fiscal year (FY)
65 1997–1998. Per GC 68085, the Judicial Council may authorize the direct payment or
66 reimbursement or both of actual costs from the TCTF to fund the costs of operating one or more
67 trial courts upon the authorization of the participating courts. These paid or reimbursed costs may
68 be for services provided to the court or courts by the Judicial Council staff or payment for services
69 or property of any kind contracted for by the court or courts or on behalf of the courts by the
70 Judicial Council staff. The direct payment or reimbursement of costs from the TCTF may be
71 supported by the reduction of a participating court’s allocation from the TCTF to the extent that
72 the court’s expenditures for the program are reduced and the court is supported by the expenditure.
73 Any funds unencumbered at the end of that fiscal year are reappropriated to the Trial Court Trust
74 Fund for the following fiscal year.

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76 **4.0 Allocations**

77 On an annual and as needed basis, the TCBAC shall recommend allocations from the IMF and
78 TCTF to the Judicial Council. Once the allocations have been approved by the Judicial Council,
79 each JCC office managing a program or project will be notified of their allocation by the JCC
80 Finance budget staff.

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4.1 General Allocation of the State Trial Court Improvement and Modernization Fund

The primary revenue sources of the IMF are the following: a transfer from the General Fund; fifty percent of the increase in fee, fine, and forfeiture revenue pursuant to GC 77205; 2% of all fines, penalties, and forfeitures collected in criminal cases pursuant to GC 68090.8(b) (Two-Percent Automation Fund); and royalties received from the publication of uniform jury instructions pursuant to GC 77209(h).

Except as noted below, moneys in the fund may be expended to implement trial court projects approved by the Judicial Council pursuant to GC 77209(f) and as provided in these guidelines.

- A. The Two-Percent Automation Fund will be used for the development, maintenance, and enhancement of automated administrative systems for the trial courts, pursuant to GC 68090.8(a)(2) and GC 77209(g).
- B. Royalties received will be used for the improvement of the jury system in accordance with GC 77209(h).
- C. Pursuant to GC 77209(j), a required amount of \$13,397,000 shall be transferred from the IMF to the TCTF for allocation to trial courts for court operations.

4.2 IMF Allocation Adjustments by the Administrative Director

Pursuant to GC section 77209(f), at its August 23, 2013, business meeting, the council delegated to the Administrative Director the limited authority to transfer allocations between projects and programs that are funded from the IMF, subject to the following criteria:

- A. The sum of allocation transfers cannot exceed 20 percent of the allocation to be reduced or 20 percent of the allocation to be augmented.
- B. The Administrative Director must notify the chair of the council’s Executive and Planning Committee and the co-chairs of the TCBAC in advance of any transfer.
- C. The Administrative Director must report back to the council on the rationale for and amounts of any approved adjustments after the end of the fiscal year.

The delegation of authority will remain in effect unless revoked, or otherwise specified.

4.3 General Allocation of the Trial Court Trust Fund

The primary revenue sources of the TCTF are the following: a transfer from the General Fund; all county funds remitted to the state pursuant to GC 77201.3; fees collected for first paper filing and other costs related to a civil action or proceeding in the superior court; assessments collected related to criminal convictions; and penalty assessments collected related to parking citations.

This fund has separate appropriations to fund trial court operations, salaries and benefits of superior court judges, court interpreter services, assigned judge services, grants, and Judicial

122 Council staff in support of the trial courts. Except as noted below, the funds in the TCTF may be
123 used as provided in these guidelines.

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- 125 A. Pursuant to GC 77200(c), the amount allocated to a trial court cannot be less than the
126 amount remitted to the TCTF by the county in which that court is located pursuant to GC
127 77201.3(a)(1) and (2).
- 128 B. Pursuant to GC 68502.5, two percent of the total funds appropriated in Program 45.10 of
129 Item 0250-101-0932 of the annual Budget Act are to be set aside by the Judicial Council to
130 be allocated to trial courts for unforeseen emergencies, unanticipated expenses for existing
131 programs, or unavoidable funding shortfalls. By March 15, the Judicial Council must
132 distribute any remainder of the set-aside amount to the trial courts on a pro rata basis.
- 133 C. A portion, \$4.80, of each first paper filing fee collected will be used to administer the Equal
134 Access Fund program pursuant to GC 68085.3 and GC 68085.4.
- 135 D. Until June 30, 2017, a portion, \$10.00, of each fee collected pursuant to GC 70626 will be
136 used for the civil representation pilot program authorized under GC 68651.
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138 **5.0 Expenditures**

139 **5.1 Allowable Expenditures**

140 Funds must be used for the intended purpose, as approved by the Judicial Council, and comply
141 with statutory authority. All contracts, intra-branch agreements, interagency agreements,
142 memorandums of understanding, purchase orders, and direct purchases must comply with the
143 Judicial Branch Contract Law. When Judicial Council staff-related expenditures are applied to a
144 fund, they should be applied pro rata amongst all funds that support the positions.

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146 Direct operating expenditures and equipment include expenditures such as rent, postage, copier
147 costs, and consultants. Travel-related costs can include mileage, tolls, meals, lodging, group meals,
148 group lodging, parking, and airfare and should be paid or reimbursed consistent with Judicial
149 Council travel policy. Airfare is allowed for mandated education programs, advisory committees,
150 and pro bono faculty and speakers only.

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152 5.2 State Trial Court Improvement and Modernization Fund Allowable Expenditures

IMF ALLOWABLE EXPENDITURES			
#	Program.Element ¹	Type ²	Description
1	Judicial Council Support (0140 or 30)	State Operations	Compensation and direct operating expenses and equipment for Judicial Council staff that provide services to the trial courts.
2	Support for Operation of the Trial Courts (0150010 or 45.10)	Local Assistance	Payment to vendors (and Judicial Council Mail Archive & Print Services Unit) for services and/or goods provided to trial courts and judicial officers.
3			Direct operating expenses and equipment related to special projects approved by the Judicial Council.
4			Payments to counties for workers' compensation tail claims associated with current or retired court employees.
5			Travel-related costs for trial court judicial officers and employees, pro bono faculty, and speakers for education programs, conferences, the Trial Court Budget Advisory Committee, and the Workload Assessment Advisory Committee.
6			Copying, binders, nametags, and all other meeting materials directly related to or associated with the activities identified in line 5.
7			Room rental and audio-visual costs directly related to or associated with the activities identified in line 5.
8			Outside attorney fees and costs, and settlement costs for litigation management cases and legal services to the trial courts.
9			Commission on Judicial Performance insurance coverage for trial court judges.
10			Other costs approved by the council.
11			Distributions to trial courts.

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155 **5.3 Trial Court Trust Fund Allowable Expenditures**

TCTF ALLOWABLE EXPENDITURES			
#	Program.Element ¹	Type ²	Description
1	Judicial Council Support (0140010 or 30.05)	State Operations	Compensation and direct operating expenses and equipment for Judicial Council staff that provide services to the trial courts.
2	Trial Court Operations (0140019 or 30.15)	State Operations	Reimbursed (Schedule C) and non-reimbursed payments to vendors for services provided to the trial courts.
3			Grants to court/non-governmental organization partnerships for the Shriver Civil Representation Pilot Program.
4	Support for Operation of the Trial Courts (0150010 or 45.10)	Local Assistance	Distributions to trial courts.
5			Payments to dependency counsel DRAFT vendors.
6			Payments to facility vendors under the court-funded facility request process.
7			Payments to the Judicial Branch Workers' Compensation Fund (JBWCF).
8	Compensation of Superior Court Judges (0150019 or 45.25)	Local Assistance	Compensation for trial court judges.
9			Payments to the JBWCF.
10	Assigned Judges (0150028 or 45.35)	Local Assistance	Expenditures related to judges sitting on assignment in trial courts and the Courts of Appeal as authorized by the Budget Act.
11	Court Interpreters (0150037 or 45.45)	Local Assistance	Trial court interpreter-related expenditures as authorized by the Budget Act.
12	Grants (0150046 or 45.55)	Local Assistance	Grant-related expenditures where funds are distributed to the trial courts or justice partners.

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1. The categories under "Program.Element" are those used in the Budget Act and are not necessarily those the TCBCAC recommends. The TCBCAC intends to deliberate over whether any of these categories should be changed to something more accurate.
2. For the revised guidelines that will be effective starting 2016–2017, the TCBCAC will develop recommendations on which expenditures should be charged to local assistance vs. state operation appropriations.

5.4 Unallowable Expenditures

163 Expenditures must remain within the approved fund and program or project. Any expenditure that
164 is not consistent with the program or project objective, as approved by the Judicial Council, is
165 unallowable. In addition, the following expenditures are considered unallowable from any fund or
166 program covered by these guidelines:

167
168
169

- A. Compensation and direct operating expenses and equipment for Judicial Council staff that do not provide services to the trial courts.

- 170 B. Compensation and direct operating expenses and equipment for the Supreme Court, Courts of
171 Appeal, and Habeas Corpus Resource Center staff, excluding expenditures for judges sitting on
172 assignment in a Court of Appeal.
- 173 C. Travel-related costs for Judicial Council staff to attend meetings, conferences, etc.
- 174 D. Tokens, favors, or giveaways (e.g., cups, tote bags, pens, pins, etc.).

175

176 **6.0 Responsibilities of JCC Staff**

177 **6.1 Responsibility of Program or Project Offices**

178 Before approving any expenditure from the IMF or TCTF, the JCC office managing the program
179 or project shall ensure that the proposed expenditure is consistent with the allowable costs
180 identified in these guidelines. Upon allocation of funding for a program or project by the Judicial
181 Council, JCC Finance budget staff will assign a Project Cost Center that must be used by the office
182 for coding expenditures related to the program or project. Any expenditure that exceeds the
183 amount of the approved allocation will be charged to the JCC office that incurred the cost.

184

185 **6.2 Responsibility of Finance’s Accounting Services Unit**

186 Before approving payment of any expenditure from the IMF or TCTF, the JCC Finance’s
187 Accounting Services Unit shall ensure that the requested expenditure is consistent with the
188 allowable costs identified in these guidelines.

189

190 **6.3 Responsibility of Finance Budget Staff**

191 JCC Finance budget staff will provide training annually to offices regarding compliance with these
192 guidelines. In addition, budget staff will prepare and submit to the TCBAC’s Revenue and
193 Expenditure Subcommittee an annual report regarding prior year expenditure and encumbrance of
194 IMF and TCTF monies that includes by project or program: a) the allocation amount
195 recommended by the TCBAC; b) the Judicial Council approved allocation amount; c)
196 expenditures; and d) encumbrances. Budget staff will make this report available to the Advisory
197 Committee on Financial Accountability and Efficiency for the Judicial Branch for use in the
198 advisory committee’s compliance review. Because expenditures from the following TCTF
199 appropriations are not discretionary, the report will exclude expenditures related to Judges’
200 Compensation, Assigned Judges, Court Interpreters, and Grants.

201 **7.0 Review**

202 **7.1 TCBAC Review**

203 The TCBAC’s Revenue and Expenditure Subcommittee shall review the annual report regarding
204 prior year IMF and TCTF activity.

205

206 **7.2 Compliance Review**

Attachment 1

207 A comprehensive compliance review shall be performed every odd year by the Advisory
208 Committee on Financial Accountability and Efficiency for the Judicial Branch. This review shall
209 validate whether expenditures from the IMF and TCTF for the prior two fiscal years were
210 consistent with these guidelines. Because expenditures from the following TCTF appropriations
211 are not discretionary, these appropriations shall be excluded from the review:
212

- 213 A. Compensation of Superior Court Judges (0150019 or 45.25)
- 214 B. Assigned Judges (0150028 or 45.35)
- 215 C. Court Interpreters (0150037 or 45.45)
- 216 D. Court Appointed Special Advocate Program (0150067 or 45.55.060)
- 217 E. Model Self-Help Program (0150071 or 45.55.065)
- 218 F. Equal Access Fund Program (0150083 or 45.55.090)
- 219 G. Family Law Information Centers (0150087 or 45.55.095)
- 220 H. Civil Case Coordination (0150091 or 45.55.100)

221 The findings of this review shall be reported to the Judicial Council and provided to the TCBAC
222 for informational purposes.

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SP15-03

Title	Action Requested
Judicial Administration: Rule for Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	Review and submit comments by June 5, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 10.63	July 1, 2015
Proposed by	Contact
Executive and Planning Committee	Douglas P. Miller
Hon. Douglas P. Miller, Chair	douglasp.miller@jud.ca.gov

Executive Summary and Origin

The Executive and Planning Committee (E&P) recommends that rule 10.63 of the California Rules of Court, which concerns the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, be amended to expand the committee's charge by modifying the description of its duties, to provide more specificity to the membership criteria, to add a membership category, and to make technical changes.

Background

Rule 10.63 was adopted by the Judicial Council, effective February 21, 2014, to establish by rule the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E).

The Proposal

Subdivision (b)(1) of rule 1063 addresses A&E's role in making recommendations to the council on proposed budget change proposals. Although the Administrative Director is responsible for overseeing the expenditures of the council, this provision ensures that there is oversight by appropriate advisory bodies. Subdivision (b)(1) would be amended to add "planned" and "other budget concepts" to more accurately describe the work of A&E in recommending funding of the Judicial Council. The amendment would also delete "annually" because the recommendations are made at two different times each year. The same subdivision would also be amended to specify that the additional duty of making recommendations to the council concerning planned budget change proposals and other budget concepts concerns those that are outside the purview of any other advisory body. Other advisory bodies, such as the Trial Court Budget Advisory Committee, the Judicial Council Technology Committee (JCTC), and E&P, are responsible for

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

recommending certain budget concepts. For example, the JCTC recommends budget concepts related to technology, such as trial court telecommunications for local area network/wide area network architecture.

The rule would be amended to remove the additional duty of recommending any proposed changes to the annual compensation plan for council staff (formerly the AOC). The Judicial Council already is involved in review of Judicial Council staff compensation. In addition, salaries of council staff are subject to the approval of the Chair of the Judicial Council (Gov. Code, § 19825(b)). Maintaining this review as a responsibility of A&E would result in a duplication of efforts. Thus, E&P recommends removing it from the rule.

Subdivision (b)(2) would be amended to add that every odd year, A&E will review and report to the council on council expenditures for local assistance (benefitting one or more trial courts) and state operations. It would specify that for such expenditures for trial courts, the committee would determine whether the expenditures comply with allocations approved by the council and spending guidelines developed by the Trial Court Budget Advisory Committee (TCBAC), and approved by the council, on the appropriate uses of Trial Court Trust Fund and State Trial Court Improvement and Modernization Funds.

The review of such expenditures is consistent with the recommendation of the California State Auditor (CSA) (formerly, Bureau of State Audits) that this responsibility be given to an advisory body. Specifically, the CSA recommended, “The Judicial Council should create a separate advisory body, or amend a current committee’s responsibilities and composition, to review the AOC’s state operations and local assistance expenditures in detail to ensure that they are justified and prudent.” Though the TCBAC currently has a role in making recommendations to the council on trial court budgets and the allocation of trial court funding (Cal. Rules of Court, rule 10.64), E&P has determined that A&E should serve a different role in this process: it has the appropriate expertise to review expenditures—under guidelines developed by the TCBAC and approved by the council—after funds designated for state operations and local assistance have been used.

Subdivision (b)(3) would be amended to narrow the audit reports that A&E must review. The word “all” would be removed to reflect that A&E is not responsible for reviewing audit reports of the judicial branch conducted by outside entities such as the CSA. To expedite action relating to outside audits, the review and response will be done by either the council, council internal committees, or particular council members identified to assist with this duty. This will ensure timely action on audit reports from outside entities. A&E would retain responsibility for reviewing audits of the judicial branch performed by the council’s Audit Services.

Subdivision (b)(4) would be amended slightly to parallel new subdivision (b)(2) by adding “review and” before “report” and to provide that this duty occurs in even years. Other minor changes would be made to reflect the name change from “Administrative Office of the Courts” and “AOC” to “Judicial Council” and “Judicial Council staff,” as appropriate.

E&P also recommends that the membership provision in rule 10.63 be amended, consistent with the CSA recommendation, to specifically require that members have expertise in public and judicial branch finance. Thus, subdivision (c) would be amended to provide that members from all membership categories must have “experience in public or judicial branch finance.” In addition, it would be amended to provide for membership by the chair and two members of the TCBAAC. These members would serve only when the committee fulfills its duties to review and report to the council on council expenditures for local assistance and state operations under subdivision (b)(2). The amendment of this subdivision would also eliminate the provision that states, “The California Judges Association will recommend three nominees for a superior court judge position and submit its recommendations to the Executive and Planning Committee of the Judicial Council.” The California Judges Association may continue to submit recommendations for membership, but to so specify in the rule is unnecessary.

The comment period for this proposal is shorter than usual so that the council may consider it at the June 26, 2015 council meeting, for an effective date of July 1, 2015. This will allow E&P to solicit for nominations beginning in July for all positions on A&E under the new membership criteria that the CSA recommended. Members will be appointed effective September 15, 2015.

Alternatives Considered

The rule could remain unchanged, but E&P believes that the proposed amendments are necessary to align A&E’s additional duties and membership criteria to the needs of the council and to respond to the CSA recommendations that the council (1) charge a new or existing advisory committee with responsibility for reviewing state operations and local assistance expenditures in detail to ensure they are justified and prudent, and (2) provide that the advisory committee is composed of subject-matter experts with experience in public and judicial branch finance.

Implementation Requirements, Costs, and Operational Impacts

On amendment of the rule, E&P will solicit nominations for all positions on A&E under the new membership criteria. This effort will require a special solicitation apart from the general spring solicitation for advisory committee membership nominations. Current members of A&E will be asked to reapply for appointment to the committee.

Request for Specific Comments

In addition to comments on the proposal as a whole, E&P is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Cal. Rules of Court, rule 10.63, at pages 4–5

Rule 10.63 of the California Rules of Court would be amended, effective July 1, 2015, to read:

**1 Rule 10.63. Advisory Committee on Financial Accountability and Efficiency for the
2 Judicial Branch**

3 (a) Area of focus

4 The committee makes recommendations to the council on practices that will promote
5 financial accountability and efficiency in the judicial branch.
6

7 (b) Additional duties

8 In addition to the duties specified in rule 10.34, the committee must:
9

10 (1) Make recommendations ~~annually~~ to the council concerning any planned budget
11 change proposals and other budget concepts for funding of the ~~Administrative Office~~
12 ~~of the Courts (AOC) Judicial Council~~ that have not already been approved by a
13 Judicial Council advisory body and ~~any proposed changes to the annual~~
14 ~~compensation plan for the AOC Judicial Council staff;~~
15

16 (2) In every odd year, review and report to the council on council expenditures for local
17 assistance (benefiting one or more trial courts) and state operations. For local
18 assistance expenditures and state operations expenditures for trial courts only, the
19 committee must determine whether those expenditures comply with:
20

21 (A) Allocations approved by the council; and
22

23 (B) Spending guidelines approved by the council and developed by the Trial
24 Court Budget Advisory Committee for the Trial Court Trust Fund and State
25 Trial Court Improvement and Modernization Fund;
26

27 ~~(2)(3)~~ Review all audit reports of the judicial branch, recommend council acceptance of
28 audit reports reviewed, and, where appropriate, make recommendations to the
29 council on individual or systemic issues;
30

31 ~~(3)(4)~~ In every even year, review and report to the council on AOC Judicial Council
32 contracts that meet established criteria to ensure that the contracts are in support of
33 judicial branch policy; and
34

35 ~~(4)(5)~~ Review proposed updates and revisions to the *Judicial Branch Contracting Manual*.
36

37 (c) Membership

38 The committee must include members ~~in~~ with experience in public or judicial branch
39 finance from the following categories:
40

41 (1) Appellate court justices;
42
43
44
45
46

- 1 (2) Superior court judges; ~~and~~
- 2
- 3 (3) Court executive officers; and
- 4
- 5 (4) For purposes of the review in (b)(2), the current chair and two other current members
- 6 of the Trial Court Budget Advisory Committee.
- 7

8 ~~The California Judges Association will recommend three nominees for a superior court~~
 9 ~~judge position and submit its recommendations to the Executive and Planning Committee~~
 10 ~~of the Judicial Council.~~

11 **Advisory Committee Comment**

12

13

14 The purpose of the Advisory Committee on Financial Accountability and Efficiency for the Judicial
 15 Branch is to promote transparency, accountability, efficiency, and understanding of the ~~AOE~~ Judicial
 16 Council and the judicial branch. The advisory committee fosters the best use of the work, information,
 17 and recommendations provided by ~~the AOE~~ Judicial Council staff, and it promotes increased
 18 understanding of the ~~AOE's~~ mission, responsibilities, accomplishments, and challenges of Judicial
 19 Council staff.

20