



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 17, 2020

Title

Trial Court Budget: \$10 Million State-Level Reserve Policy

Agenda Item Type

Action Required

Effective Date

January 17, 2020

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

December 16, 2019

Recommended by

Judicial Branch Budget Committee
Hon. David M. Rubin, Chair

Contact

Brandy Sanborn, 415-865-7195
brandy.sanborn@jud.ca.gov

Executive Summary

As a result of experiences implementing the \$10 million State-Level Reserve Policy, the Judicial Branch Budget Committee recommends revisions which will make the fund easier to use, easier to administer, and more efficient for those seeking emergency funds.

Recommendation

The Judicial Branch Budget Committee unanimously recommends that the Judicial Council adopt the following recommendations effective January 17, 2020 (Attachment A):

1. Replacing item h to remove the cash advance requirement and specify the distribution process for approved requests;
2. Clarifying item 1(i)(iv) to reflect that a court's expected fund balance will be negative; and
3. Removing the fiscal year references in item 1(i)(vi).

Relevant Previous Council Action

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

reserve, which replaced the 2 percent state-level reserve. On October 28, 2016, the Judicial Council approved a process for courts projecting a current-year negative fund balance. Those courts could request either a loan or one-time funding for unavoidable shortfalls, unforeseen emergencies, or unanticipated expenses for existing programs (Link A).

On May 17, 2019, the council approved its first request for emergency funding from the \$10 Million State-Level Reserve: the Superior Court of Humboldt County requested \$117,124 to digitize over 1,800 reels of film and preserve court records that would otherwise be destroyed (Link B). In addition, the council approved the recommendation to waive the requirement that approved emergency funding be distributed as a cash advance loan (see Attachment B, item h).

Analysis/Rationale

As a result of the Judicial Branch Budget Committee (JBBC) receiving a request for emergency funding, working through the current policy, and the council waiving the cash requirement, Judicial Council Budget Services staff revisited the \$10 Million State-Level Reserve Policy to determine if any changes were needed.

Recommendation 1: replacing item h to remove the cash advance requirement and specify the distribution process for approved requests

Unavoidable shortfalls, unforeseen emergencies, and unanticipated expenses can occur any time throughout the fiscal year, and this reserve is in place for courts that do not have the ability to cover the expense. Providing a cash advance and requiring a court to reapply for emergency funding the following year creates an undue burden on the court, council staff, and JBBC. The addition of the timing of approved distributions will provide courts an opportunity to time a funding award and plan accordingly.

Recommendation 2: making clarification changes to item 1(i)(iv)

This will clarify that there is an expectation a court applicant's fund balance will be negative in the current year.

Recommendation 3: removing the fiscal year references in item 1(i)(vi)

The outdated fiscal year references should be removed to avoid having to replace them every year.

Policy implications

None.

Comments

This item was not circulated for comment, and no public comments were received.

Alternatives considered

None.

Fiscal and Operational Impacts

There are no associated costs to implementing these policy recommendations. The fiscal impact includes removal of the cash advance process, which limits negative impacts on other funds due to funds being drawn for this purpose.

Operational impacts would include notifying courts and impacted Judicial Council staff of the policy changes, and updating the forms for the application and review process for emergency funding requests accordingly.

Additional operational impacts include relief to courts, council staff, and JBBC as there would be a reduction in the workload associated with providing cash advances as well as the elimination of additional application review the following fiscal year when a cash advance is provided.

Attachments and Links

1. Attachment A: Proposed \$10 Million State-Level Reserve Policy
2. Attachment B: Current \$10 Million State-Level Reserve Policy
3. Link A: Judicial Council meeting minutes, Oct. 28, 2016, including item 16-195: *Trial Court Budget: \$10 Million State-Level Reserve Process* at <https://jcc.legistar.com/View.ashx?M=M&ID=463482&GUID=71780E2D-3758-4213-B3A5-7100073AB7CF>
4. Link B: Judicial Council meeting minutes, May 17, 2019, including item 19-065: *Trial Court Budget: 2018–19 \$10 Million Emergency Reserve Funding Request, Superior Court of Humboldt County* at <https://jcc.legistar.com/View.ashx?M=M&ID=640297&GUID=9C71CADA-D8FB-4AA9-A887-0260DB284273>

\$10 Million State-Level Reserve Policy

Applying for Emergency Funding:

- a) Allow only trial courts that are projecting a current-year negative fund balance to apply for emergency funding;
- b) Define emergency funding as funding “for unavoidable shortfalls, unforeseen emergencies, or unanticipated expenses for existing programs;”
- c) Require that a request be for either a loan or one-time funding, but not for ongoing funding;
- d) Require the submission, review, and approval process to be:
 - i. All requests will be submitted to the council for consideration;
 - ii. Requests will be submitted to the Administrative Director, Judicial Council, by either the court’s presiding judge or court executive officer;
 - iii. The Administrative Director, Judicial Council, will forward the request to the Director of Budget Services, Judicial Council;
 - iv. Judicial Council Budget Services staff will review the application for completeness, submit the application to the ad hoc court executives’ work group for review and contact with the requesting court, and issue a report to the Judicial Branch Budget Committee;
 - v. The Judicial Branch Budget Committee will review the request and make a recommendation for Judicial Council consideration;
 - vi. The final report will be provided to the requesting court prior to the report being made publicly available on the California Courts website; and
 - vii. The requesting court may send a representative to the council meeting to present its request and respond to questions from the council.
- e) Authorize courts to submit requests for emergency funding only after a proposed baseline budget (Schedule 1) has been submitted by the court;
- f) Allow requests submitted to the Administrative Director, Judicial Council, to be considered at the next regularly scheduled council meeting following the time necessary to review the application;

g) Require replenishment of the reserve to occur on an annual basis as a pro rata reduction to each trial courts' beginning base allocation the following fiscal year;

~~h) Require requests for emergency funding approved by the council after April 1 of any given fiscal year to 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;~~

h) Distribution of emergency funding approved by the council will be based on when funding is needed and will be part of a regularly scheduled monthly distribution process.

i) Require the following information be submitted by courts when requesting emergency funding:

- i. A description of what factors caused or are causing the need for funding;
- ii. If emergency funding was received in the prior year, identify the amount and explain why funding is needed in the current year;
- iii. If requesting a one-time distribution, an explanation of why a loan would not be appropriate;
- iv. ~~Current status of court~~ Forecast of negative fund balance in the current year;
- v. Three-year history of year-end fund balances, revenues, and expenditures;
- vi. 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)~~;
- vii. 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;
- viii. Employee compensation practices (e.g., cost-of-living adjustments) and staffing levels for the past five years;
- ix. Description of the consequences to the court's operations if the court does not receive funding;
- x. Description of the consequences to the public and access to justice if the court does not receive funding;

- xi. What measures the court will take to mitigate the consequences to court operations, the public, and access to justice if funding is not approved;
 - xii. Five years of filing and disposition numbers;
 - xiii. Most recent audit history and remediation measures; and
 - xiv. An expenditure/revenue enhancement plan that identifies how the court will resolve its ongoing funding issue if the request for emergency funding is not for a one-time concern.
- j) Include the condition that the council will consider appropriate terms and conditions that courts must accept in order to receive emergency funding; and
- k) Require courts that are allocated emergency funding 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.

\$10 Million State-Level Reserve Policy

Applying for Emergency Funding:

- a) Allow only trial courts that are projecting a current-year negative fund balance to apply for emergency funding;
- b) Define emergency funding as funding “for unavoidable shortfalls, unforeseen emergencies, or unanticipated expenses for existing programs;”
- c) Require that a request be for either a loan or one-time funding, but not for ongoing funding;
- d) Require the submission, review, and approval process to be:
 - i. All requests will be submitted to the council for consideration;
 - ii. Requests will be submitted to the Administrative Director, Judicial Council, by either the court’s presiding judge or court executive officer;
 - iii. The Administrative Director, Judicial Council, will forward the request to the Director of Budget Services, Judicial Council;
 - iv. Judicial Council Budget Services staff will review the application for completeness, submit the application to the ad hoc court executives’ work group for review and contact with the requesting court, and issue a report to the Judicial Branch Budget Committee;
 - v. The Judicial Branch Budget Committee will review the request and make a recommendation for Judicial Council consideration;
 - vi. The final report will be provided to the requesting court prior to the report being made publicly available on the California Courts website; and
 - vii. The requesting court may send a representative to the council meeting to present its request and respond to questions from the council.
- e) Authorize courts to submit requests for emergency funding only after a proposed baseline budget (Schedule 1) has been submitted by the court;
- f) Allow requests submitted to the Administrative Director, Judicial Council, to be considered at the next regularly scheduled council meeting following the time necessary to review the application;

- g) Require replenishment of the reserve to occur on an annual basis as a pro rata reduction to each trial courts' beginning base allocation the following fiscal year;
- h) Require requests for emergency funding approved by the council after April 1 of any given fiscal year to 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;
- i) Require the following information be submitted by courts when requesting emergency funding:
 - i. a description of what factors caused or are causing the need for funding;
 - ii. if emergency funding was received in the prior year, identify the amount and explain why funding is needed in the current year;
 - iii. if requesting a one-time distribution, an explanation of why a loan would not be appropriate;
 - iv. current status of court fund balance;
 - v. three-year history of year-end fund balances, revenues, and expenditures;
 - vi. 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);
 - vii. 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;
 - viii. employee compensation practices (e.g., cost-of-living adjustments) and staffing levels for the past five years;
 - ix. description of the consequences to the court's operations if the court does not receive funding;
 - x. description of the consequences to the public and access to justice if the court does not receive funding;
 - xi. what measures the court will take to mitigate the consequences to court operations, the public, and access to justice if funding is not approved;

- xii. five years of filing and disposition numbers;
 - xiii. most recent audit history and remediation measures; and
 - xiv. an expenditure/revenue enhancement plan that identifies how the court will resolve its ongoing funding issue if the request for emergency funding is not for a one-time concern.
- j) Include the condition that the council will consider appropriate terms and conditions that courts must accept in order to receive emergency funding; and
- k) Require courts that are allocated emergency funding 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.