



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: May 17, 2019

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**Title**

Allocations and Reimbursements to Trial Courts: Allocation Methodology for Court Interpreters Program Shortfall

**Agenda Item Type**

Action Required

**Effective Date**

July 1, 2019

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

May 3, 2019

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair

**Contact**

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### Executive Summary

Current projections for the Court Interpreters Program (CIP) indicate that the fund balance has been depleted, and with expenditures exceeding allocations, the fund is insolvent. The Trial Court Budget Advisory Committee (TCBAC) recommends approving a one-time allocation of fund balance from the Trial Court Trust Fund (TCTF) to address an anticipated shortfall in the CIP for fiscal year 2019–20, not to exceed the current \$13.5 million estimated amount required to cover cost increases and maintain service levels, while TCBAC continues its development of a methodology that addresses anticipated, ongoing funding shortfalls and reviews existing methodologies.

### Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 1, 2019, authorize a one-time allocation of unrestricted fund balance from the TCTF in an amount not to exceed \$13.5 million to address the projected 2019-20 shortfall. The current TCTF fund condition statement prior to the use of fund balance to cover projected CIP expenditures is provided in Attachment A.

## **Relevant Previous Council Action**

In 1998, the Judicial Council approved the establishment of the CIP, which oversees program development and is responsible for the recruitment, orientation, testing, and certification of individuals seeking to become court interpreters. The CIP also oversees mandatory ethics training for newly certified or registered interpreters and monitors annual renewal requirements, including compliance with the continuing education and professional assignment requirements of certified and registered interpreters in California's courts.

At its business meeting on July 29, 2009, the council authorized the allocation of savings from the statewide special funds, on a one-time basis, to address the anticipated 2008–09 shortfall of \$912,000 in the CIP (Link A).

During its business meeting on October 29, 2010, the council approved a policy that \$4.839 million in savings associated with the court interpreters' reimbursement program in 2009–10, and any future program savings, be set aside and made available to address future reimbursable court interpreter costs, including base funding (Link B).

At its business meeting on September 21, 2018, the council approved an allocation of fund balance from the TCTF on a one-time basis to address an anticipated shortfall in the CIP for 2018–19, not to exceed the estimated \$3.4 million amount required to cover cost increases and maintain service levels. The council directed staff to continue to monitor the CIP fund and to provide regular updates to TCBAC to report any changes and to incorporate any additional funding after the Governor's proposed budget was released in January 2019 (Link C).

The Judicial Council is still pursuing additional funding through the budget change proposal process to address the projected shortfall in 2019-20 and has had multiple discussions with the Department of Finance about the estimated need.

## **Analysis/Rationale**

A fundamental goal of the California judicial branch is equal access to justice and to the courts, regardless of an individual's ability to communicate in English. With over 200 languages spoken in California, court interpreters play a critical role in achieving this goal by accurately interpreting for persons who are limited English proficient.

Article I, section 14 of the California Constitution was amended in 1974 to provide that "[a] person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings." This provision established a mandate for courts to provide interpreters in criminal matters to all defendants who have a limited ability to understand or speak English. The constitutional mandate and subsequent case law has been interpreted to include proceedings related to criminal, misdemeanor, and delinquency matters as well as certain civil matters such as divorce or separation involving a protective order and child custody and visitation proceedings.

Effective January 1, 2015, the enactment of Assembly Bill 1657 (Stats. 2014, ch.721) expanded California's constitutional mandate and authorized courts to provide interpreters to all parties in civil matters, regardless of income, and presented a priority and preference order when courts have insufficient resources to provide interpreters for all persons.

### **Allowable expenditures**

The following expenditures<sup>1</sup> qualify for reimbursement under TCTF CIP 150037:

- Contract court interpreters, including per diems and travel;
- Certified and registered court interpreters employed by the courts, including salaries, benefits, and travel;
- Court interpreter coordinators, including salaries and benefits;<sup>2</sup> and
- Four court interpreter supervisor positions: two in Los Angeles County, one in Orange County, and one in San Diego County.<sup>3</sup>

A listing of each priority for providing court interpreter services to parties is provided on Attachment C.

### **CIP projections**

The projected expenditures below reflect the following:

- An estimated 7.5 percent wage growth over a three-year term starting in 2018–19 for regions one, three, and four; and an estimated 5 percent wage growth over a two-year term starting in 2019-20 for region two;
- Civil expansion under AB 1657 (Stats. 2014, ch. 721);
- Increased interpreter coordinator expenses; and
- Merit salary adjustments.

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<sup>1</sup> Per Budget Act provisional language for item 0250-101-0932.

<sup>2</sup> Interpreter coordinators no longer need to be certified and or registered starting in 2017-18.

<sup>3</sup> Eligible supervisor costs are those for which funding was provided in a 2003-04 Budget Change Proposal.

PROJECTED EXPENDITURES AS OF JANUARY 28, 2019					
Expenditure Categories		2017-18	2018-19	2019-20	2020-21
		Actuals	Estimated	Estimated	Estimated
		A	B	C	D
1	Mandated	102,870,427	108,840,563	114,199,516	117,625,502
2	Domestic Violence	1,426,150	1,253,446	940,084	940,084
3	Civil <i>(expansion at 93% of rollout)</i>	4,174,854	4,240,345	4,494,766	4,809,400
4	Additional Interpreter Coordinator Expenses*	---	---	---	---
5	Estimated Wage & Benefit Increases**	---	2,359,229	3,978,656	4,029,985
6	Court Interpreter Data Collection System	65,568	87,000	87,000	87,000
<b>Total Projected Expenditures</b>		<b>108,536,999</b>	<b>116,780,583</b>	<b>123,700,022</b>	<b>127,491,971</b>

\* Additional interpreter coordinator expenses included in Mandated, Domestic Violence, and Civil.

\*\* 2017-18 estimated wage and benefit increases included in Mandated, Domestic Violence, and Civil.

The projected fund balance is as follows:

PROJECTED FUND BALANCE AS OF JANUARY 31, 2019 *				
Description	2017-18	2018-19	2019-20	2020-21
Beginning Fund Balance <i>(prior year carry over)</i>	9,281,980	4,376,981	-	-
Allocation*	103,632,000	108,960,000	110,158,000	110,158,000
Allocation Adjustment	-	3,443,602	-	-
Projected Expenditures	(108,536,999)	(116,780,583)	(123,700,022)	(127,491,971)
Surplus / (Deficit)	(4,904,999)	(7,820,583)	(13,542,022)	(17,333,971)
<b>Ending Fund Balance</b>	<b>4,376,981</b>	<b>0</b>	<b>(13,542,022)</b>	<b>(17,333,971)</b>

\* 2019-20 and 2020-21 assumes enactment of ongoing \$4 million in 2019-20 Governor's Budget.

With current projections for the CIP indicating that the fund balance has been depleted, and with expenditures exceeding allocations, the fund is insolvent. If no action is taken to address the projected insolvency, California courts will experience difficulties meeting the state's mandate to provide court interpreting services.

### Policy implications

There may be implications for the trial courts in meeting the expectations of the Language Access Plan and expanded interpreter services in civil per AB 1657.

There was one no vote on this item, as the TCBAC member asserted that their concern over ensuring fairness in a potential reduction was not addressed.

### Comments

Public comment was received and distributed to TCBAC members on May 2, 2019.

### **Alternatives considered**

An alternative considered by the committee was to allocate a reduction to courts up to \$13.5 million via a pro rata reduction based on prior year actuals (Attachment B). This alternative was not put forward as an option because it could have significant fiscal and operational impacts to the trial courts, either to interpreter services directly or to other service areas, in ongoing efforts to continue providing or to maintain current levels of interpreter services.

### **Fiscal and Operational Impacts**

The fiscal impact would be an approximate 43 percent reduction in the TCTF unrestricted fund balance. There are no operational impacts anticipated at this time.

### **Attachments and Links**

1. Attachment A: TCTF Fund Condition Statement
2. Attachment B: CIP Shortfall Projected Reductions by Court
3. Attachment C: Priority in Providing Court Interpreter Services to Parties
4. Link A: Judicial Council meeting minutes (July 29, 2009),  
[www.courts.ca.gov/documents/min072909.pdf](http://www.courts.ca.gov/documents/min072909.pdf)
5. Link B: Judicial Council meeting minutes (Oct. 29, 2010),  
<https://www.courts.ca.gov/documents/min20101029.pdf>
6. Link C: Judicial Council meeting minutes (Sept. 21, 2018),  
<https://jcc.legistar.com/View.ashx?M=M&ID=559788&GUID=1AF2481A-79EE-44AD-A8E6-1D5F9E02CC7A>

**Trial Court Trust Fund - Fund Condition Statement**

#	Description	YEAR END FINANCIAL STATEMENTS		ESTIMATED		
		2016-17	2017-18	2018-19 <sup>1</sup>	2019-20	2020-21
A	B	C	D	E	F	
1	<b>Beginning Fund Balance</b>	<b>34,829,875</b>	<b>66,569,099</b>	<b>60,477,544</b>	<b>58,504,175</b>	<b>57,878,477</b>
2	Prior-Year Adjustments	5,759,000	8,556,629		-	-
3	<b>TOTAL REVENUES AND TRANSFERS</b>	<b>1,288,395,327</b>	<b>1,303,737,015</b>	<b>1,311,356,000</b>	<b>1,316,445,000</b>	<b>1,328,324,000</b>
4	<i>Total Revenues</i>	<i>1,270,421,327</i>	<i>1,283,589,015</i>	<i>1,291,388,000</i>	<i>1,296,968,000</i>	<i>1,310,009,000</i>
5	<b>Transfers/Charges/Reimbursements</b>					
6	General Fund Loan - Statewide E-Filing		671,000	491,000		(1,162,000)
7	Reduction Offset Transfers	6,080,000	6,080,000	6,080,000	6,080,000	6,080,000
8	Net Other Transfers/Charges/Reimbursements	11,894,000	13,397,000	13,397,000	13,397,000	13,397,000
9	<b>Total Resources</b>	<b>1,328,984,203</b>	<b>1,378,862,742</b>	<b>1,371,833,544</b>	<b>1,374,949,175</b>	<b>1,386,202,477</b>
10	<b>EXPENDITURES/ENCUMBRANCES/ALLOCATIONS</b>					
11	Program 0140010 - Judicial Council (Staff)	2,306,934	2,657,198	3,957,000	3,915,900	3,856,500
12	Program 0150010 - Support for Operation of the Trial Courts	1,860,003,547	1,857,899,805	1,983,950,000	2,014,918,932	2,014,918,932
13	Program 0150011 - Court-Appointed Dependency Counsel	114,699,919	130,146,303	136,700,000	156,700,000	156,700,000
14	Program 0150019 - Compensation of Superior Court Judges	335,384,000	348,583,021	375,054,369	378,119,381	378,119,381
15	Program 0150028 - Assigned Judges	25,923,351	28,063,247	29,090,000	29,090,000	29,090,000
16	Program 0150037 - Court Interpreters	102,282,915	108,537,000	108,960,000	109,833,486	109,833,486
17	Program 0150046 - Grants	8,147,000	9,554,900	10,329,000	10,329,000	10,329,000
18	Program 0150095 - Expenses on Behalf of the Trial Courts	11,391,069	9,543,398	11,207,000	10,014,999	11,092,773
19	<b>Total Local Assistance</b>	<b>2,446,549,101</b>	<b>2,493,406,000</b>	<b>2,655,290,369</b>	<b>2,709,005,798</b>	<b>2,710,083,571</b>
20	<i>FISCAL Assessment</i>		<i>174,000</i>	<i>174,000</i>	<i>174,000</i>	<i>174,000</i>
21	<i>Pro Rata</i>		<i>129,000</i>	<i>2,000</i>	<i>66,000</i>	<i>66,000</i>
22	<i>Supplemental Pension Payments</i>			<i>98,000</i>	<i>76,000</i>	<i>169,000</i>
23	<i>Less Funding Provided by General Fund:</i>	<i>1,197,832,000</i>	<i>1,177,981,000</i>	<i>1,346,192,000</i>	<i>1,396,167,000</i>	<i>1,384,667,000</i>
24	<b>Total, Expenditures/Encumbrances/Allocations</b>	<b>1,262,415,104</b>	<b>1,318,385,198</b>	<b>1,313,329,369</b>	<b>1,317,070,698</b>	<b>1,329,682,071</b>
25	<b>Ending Fund Balance</b>	<b>66,569,099</b>	<b>60,477,544</b>	<b>58,504,175</b>	<b>57,878,477</b>	<b>56,520,406</b>
26	<b>Total Restricted Funds</b>	<b>28,450,583</b>	<b>31,355,448</b>	<b>27,157,424</b>	<b>26,506,585</b>	<b>25,648,733</b>
27	<b>Ending Unrestricted Fund Balance</b>	<b>38,118,516</b>	<b>29,122,096</b>	<b>31,346,751</b>	<b>31,371,892</b>	<b>30,871,672</b>

<sup>1</sup> 2018-19 revenues reflect the most current revenue projections (actuals through January 2019)

Court	2017-18 Expenditures	2017-18 Percent of Total Expenditures	2019-20 Projected Reduction (-13,542,022)
Alameda	\$ 4,747,779	4.4%	\$ (592,374)
Alpine	\$ 1,355	0.0%	\$ (169)
Amador	\$ 23,549	0.0%	\$ (2,938)
Butte	\$ 216,028	0.2%	\$ (26,954)
Calaveras	\$ 25,051	0.0%	\$ (3,126)
Colusa	\$ 93,049	0.1%	\$ (11,610)
Contra Costa	\$ 2,507,418	2.3%	\$ (312,847)
Del Norte	\$ 46,860	0.0%	\$ (5,847)
El Dorado	\$ 234,418	0.2%	\$ (29,248)
Fresno	\$ 1,917,960	1.8%	\$ (239,301)
Glenn	\$ 90,346	0.1%	\$ (11,272)
Humboldt	\$ 166,391	0.2%	\$ (20,760)
Imperial	\$ 483,278	0.4%	\$ (60,298)
Inyo	\$ 42,868	0.0%	\$ (5,349)
Kern	\$ 3,064,925	2.8%	\$ (382,407)
Kings	\$ 444,714	0.4%	\$ (55,486)
Lake	\$ 87,346	0.1%	\$ (10,898)
Lassen	\$ 41,360	0.0%	\$ (5,160)
Los Angeles	\$ 33,924,329	31.3%	\$ (4,232,695)
Madera	\$ 529,677	0.5%	\$ (66,087)
Marin	\$ 530,732	0.5%	\$ (66,219)
Mariposa	\$ 30,743	0.0%	\$ (3,836)
Mendocino	\$ 341,517	0.3%	\$ (42,611)
Merced	\$ 919,078	0.8%	\$ (114,672)
Modoc	\$ 5,043	0.0%	\$ (629)
Mono	\$ 41,496	0.0%	\$ (5,177)
Monterey	\$ 1,089,563	1.0%	\$ (135,943)
Napa	\$ 628,876	0.6%	\$ (78,464)
Nevada	\$ 69,743	0.1%	\$ (8,702)
Orange	\$ 10,348,718	9.5%	\$ (1,291,196)
Placer	\$ 462,261	0.4%	\$ (57,676)
Plumas	\$ 6,141	0.0%	\$ (766)
Riverside	\$ 5,051,918	4.7%	\$ (630,321)
Sacramento	\$ 3,881,970	3.6%	\$ (484,348)
San Benito	\$ 100,765	0.1%	\$ (12,572)
San Bernardino	\$ 5,374,206	5.0%	\$ (670,533)
San Diego	\$ 5,631,264	5.2%	\$ (702,606)
San Francisco	\$ 3,206,048	3.0%	\$ (400,014)
San Joaquin	\$ 1,659,817	1.5%	\$ (207,093)
San Luis Obispo	\$ 654,364	0.6%	\$ (81,644)
San Mateo	\$ 2,203,913	2.0%	\$ (274,979)
Santa Barbara	\$ 1,819,864	1.7%	\$ (227,062)
Santa Clara	\$ 6,708,060	6.2%	\$ (836,956)

<b>Court</b>	<b>2017-18 Expenditures</b>	<b>2017-18 Percent of Total Expenditures</b>	<b>2019-20 Projected Reduction (-13,542,022)</b>
Santa Cruz	\$ 779,525	0.7%	\$ (97,260)
Shasta	\$ 302,435	0.3%	\$ (37,734)
Sierra	\$ 4,750	0.0%	\$ (593)
Siskiyou	\$ 55,307	0.1%	\$ (6,901)
Solano	\$ 575,033	0.5%	\$ (71,746)
Sonoma	\$ 1,114,598	1.0%	\$ (139,067)
Stanislaus	\$ 1,275,377	1.2%	\$ (159,127)
Sutter	\$ 260,498	0.2%	\$ (32,502)
Tehama	\$ 161,215	0.1%	\$ (20,115)
Trinity	\$ 49,916	0.0%	\$ (6,228)
Tulare	\$ 1,692,091	1.6%	\$ (211,120)
Tuolumne	\$ 48,395	0.0%	\$ (6,038)
Ventura	\$ 1,902,869	1.8%	\$ (237,419)
Yolo	\$ 794,855	0.7%	\$ (99,173)
Yuba	\$ 65,338	0.1%	\$ (8,152)
<b>Total</b>	<b>\$ 108,536,999</b>	<b>100%</b>	<b>\$ (13,542,022)</b>



## PRIORITY IN PROVIDING COURT INTERPRETER SERVICES TO PARTIES

### MANDATORY PROVISION OF INTERPRETER SERVICES

- CRIMINAL
- TRAFFIC
- JUVENILE DELINQUENCY OR DEPENDENCY
- MENTAL COMPETENCY HEARINGS WITH APPOINTED COUNSEL
- OTHER MANDATED CIVIL

Until sufficient funds are appropriated, provide interpreters in all other case types in the following priority order:

#### PRIORITY 1

Protective order in family law case with domestic violence claim, elder or dependent adult case involving physical abuse or neglect, or civil harassment case under CCP § 527.6(w)

*Fee waiver does not have preference.*

#### PRIORITY 2

Unlawful detainer

*Fee waiver does not have preference.*

#### PRIORITY 3

Action to terminate parental rights

*Fee waiver has preference.*

#### PRIORITY 4

Conservatorship or guardianship

*Fee waiver has preference.*

#### PRIORITY 5

Actions by a parent to obtain sole legal or physical custody of child or visitation

*Fee waiver has preference.*

#### PRIORITY 6

Elder/dependent adult abuse not involving physical abuse or neglect or other civil harassment under CCP § 527.6

*Fee waiver has preference.*

#### PRIORITY 7

All other family law (not involving domestic violence/custody/visitation)

*Fee waiver has preference.*

#### PRIORITY 8

All other civil cases

*Fee waiver has preference.*

CCP = Code of Civil Procedure