



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 22-114*

For Circulating Order CO-22-02 on: May 10, 2022

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**Title**

Judicial Branch Administration: Judicial  
Branch Workers' Compensation Program

**Agenda Item Type**

Action Required

**Effective Date**

May 12, 2022

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

N/A

**Date of Report**

May 10, 2022

**Recommended by**

Judicial Branch Workers' Compensation  
Program Advisory Committee  
Shelby Wineinger, Chair  
Judicial Council staff  
Patrick Farrales, Supervising Analyst  
Human Resources

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### Executive Summary

The Judicial Branch Workers' Compensation Program Advisory Committee recommends approval of the workers' compensation cost allocation for fiscal year 2022–23 in the amount of \$17.80 million for the trial courts and \$1.34 million for the state judiciary, based on a 70 percent funding confidence level.

### Recommendation

The Judicial Branch Workers' Compensation Program Advisory Committee recommends that the Judicial Council, effective May 12, 2022:

1. Approve the proposal to increase trial court and state judiciary program funding confidence levels from 60 percent to 70 percent; and

2. At the 70 percent confidence level, approve the fiscal year 2022–23 workers’ compensation cost allocation of \$17.80 million for participating trial courts and \$1.34 million for the state judiciary.

A list of the program premiums is available at [Link A](#).

### **Relevant Previous Council Action**

At its meeting on May 21, 2021, the Judicial Council approved the Judicial Branch Workers’ Compensation Program (JBWCP) workers’ compensation premium for fiscal year (FY) 2021–22 for participating members. In addition, the Judicial Council approved the proposal to increase trial court and state judiciary program funding confidence levels from 56 percent to 60 percent.

### **Analysis/Rationale**

The program’s current third-party administrator (TPA), Acclamation Insurance Management Services, has provided claims-adjusting services to the JBWCP for the past eight years. The Judicial Council reached the limit of available option terms for extension and was required to conduct a request for proposals to seek a new vendor.

On October 7, 2021, the JBWCP conducted a competitive solicitation for a new TPA and on February 7, 2022, awarded the contract to Sedgwick Claims Management Services. Under the new agreement with Sedgwick, the JBWCP will benefit from an approximate 20 percent reduction to TPA administrative fees beginning on July 1, 2022.

Coupled with decreasing claims costs for FY 2022–23, the 20 percent fee reduction created an opportunity for the JBWCP Advisory Committee to reinvest the savings back into the program and increase confidence levels. At its meeting on February 23, 2022, the JBWCP Advisory Committee reviewed the following options:

1. Pass the savings to all JBWCP members by applying an average 4.8 percent premium reduction to the trial courts and an average 4.2 percent premium reduction to the state judiciary; or
2. Utilize the savings to increase the program’s funding confidence level from 60 percent to 70 percent and apply an average 0.099 percent premium increase to the trial courts and an average 7.4 percent increase to the state judiciary.

At its meeting on March 28, 2022, the JBWCP Advisory Committee voted to utilize the savings and increase the confidence level to 70 percent based on the workers’ compensation climate in FY 2022–23 and the minimal impact to members’ premiums.

### **Policy implications**

The proposal has no policy implications.

## **Comments**

The JBWCP Advisory Committee and staff presented this proposal to clerk/executive officers of the state judiciary and members of the Court Executives Advisory Committee. Staff received no negative comments or concerns regarding the change in confidence levels. Rather, staff received feedback from a few courts that expressed support for the proposal.

The JBWCP Advisory Committee has always considered feedback from all stakeholders before voting on any new cost proposals. The decision to increase confidence levels was adopted after comments were solicited from all court executive officers.

## **Alternatives considered**

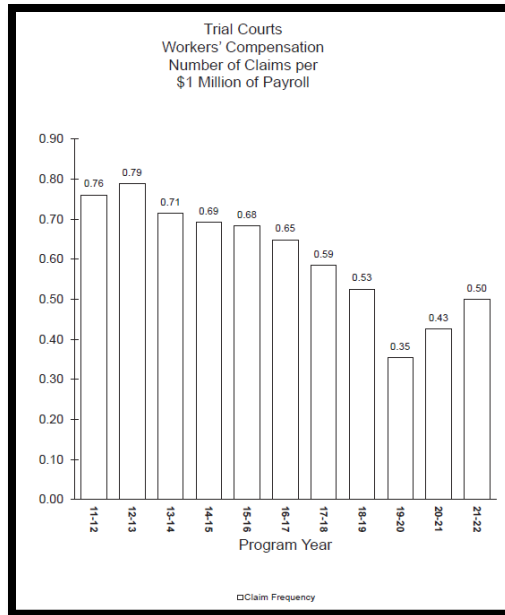
As stated above, two options were considered by the JBWCP Advisory committee.

### ***Option 1: Maintain the confidence level at 60 percent***

The current methodology does not alter the funding confidence level. The total cost for this option is valued at \$17.98 million, which is a 4.7 percent reduction from the prior fiscal year's cost. At the current confidence level, 57.9 percent of all trial court members and 58.3 percent of all judiciary members will receive a premium discount based on loss experience.

The program has adopted the 60 percent funding confidence level for the past year. In 2021, the program benefited from a slowdown in workers' compensation claims filings, which continued the trend from 2020. The reduction in claims filings was driven primarily by members that restricted onsite work to ensure the safety of their employees and members of the public. As members open their courts in 2022, the program expects that claims filings will revert back to their original prepandemic levels.

The claims frequency chart, below, outlines the total number of claims per \$1 million of trial court payroll. Frequency levels dropped in FY 2019–20, but have begun to increase as courts resume normal operations:



### ***Option 2: Increase the confidence level to 70 percent***

In February 2020, the JBWCP Advisory Committee approved a confidence-level increase to 70 percent. Unfortunately, because of COVID-19 and the resulting fiscal uncertainty of the state, the recommendation was placed on hold until further review in 2021. In March 2022, the advisory committee resurrected its 70 percent proposal with the caveat that the contract savings be used to minimize members' financial impact of increasing the confidence level.

This recommendation was based on the program's independent actuary's recommendation that the JBWCP strive to fund its incurred benefits and claims at the 70 percent confidence level or higher. The program's fiscal position has improved substantially over the past year since its adoption of the 60 percent confidence level. Much of the improvement is the result of the JBWCP Advisory Committee's decision to establish and follow a more formal fiscal policy.

A key factor in determining fiscal policy is the degree to which stability is required in the level of contributions to the program from year to year. If assets are maintained at a lower confidence level, the chances are much greater that future events will prove that additional contributions should have been made for old claims. The additional contributions for old claims may be required while costs are increasing dramatically on new claims. A lower confidence level increases the burden of funding on past years as well as on current years, which may well be prohibitive for members in the years following the pandemic.

### **Fiscal and Operational Impacts**

The JBWCP has been operating at a debt fiscal position since its inception. With recent changes to confidence levels and improved loss experience, the program has successfully retained a positive net year-end balance of \$4.6 million. Increasing confidence levels from 60 percent to 70 percent creates opportunities for additional funding stability. If the current workers'

compensation liability is adequately funded, the program will be able to reduce the amount of funds annually earmarked for the purpose of strengthening the reserve. Annual funding can now be established based on maintaining the targeted funding level rather than increasing it.

### **Attachments and Links**

1. Attachment A: *Workers' Compensation Fiscal Year 2022-23 Premium*,  
[www.courts.ca.gov/documents/jbwcp-20220328-materials-2.pdf](http://www.courts.ca.gov/documents/jbwcp-20220328-materials-2.pdf)