



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-043

For business meeting on July 15, 2022

Title

Judicial Branch Budget: 2023–24 Budget Change Proposals for Supreme Court, Courts of Appeal, Superior Courts, Judicial Branch Facilities Program, Habeas Corpus Resource Center, and Judicial Council

Rules, Forms, Standards, or Statutes Affected

None

Recommended by

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

Agenda Item Type

Action Required

Effective Date

July 15, 2022

Date of Report

June 23, 2022

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Executive Summary

To continue responsible reinvestment in the judicial branch, allowing for greater access to justice for California's citizens, the Judicial Branch Budget Committee recommends submitting these 2023–24 budget change proposals to the California Department of Finance.

Recommendation

The Judicial Branch Budget Committee recommends that the Judicial Council, effective July 15, 2022, approve the following 2023–24 budget change proposals (not in priority order) for submission to the California Department of Finance on September 3, 2022:

1. Collaborative Justice Court Programs—\$15 million General Fund (GF);
2. Maintaining a Sufficient Pool of Competency to Stand Trial Court Evaluators—\$10.2 million GF;
3. Judicial Branch Facilities Modification, Deferred Maintenance, Operation and Maintenance, and Water Conservation—\$145.7 million GF and \$27 million reimbursement authority;

4. Trial Court Capital-Outlay Funding 2023–24 Through 2026–27—\$393 million GF;
5. Annual Automatic Inflationary Adjustment for Trial Courts—\$83 million GF;
6. Proposition 66 Costs in Courts of Appeal—\$8.9 million GF;
7. Appellate Court Security—\$1.3 million Appellate Court Trust Fund;
8. Habeas Corpus Resource Center Case Team Staffing and Establishment of Los Angeles Office—\$15 million GF;
9. Self-Help Centers – Expanding In-Person, Remote, and On-Line Services—\$28.4 million GF;
10. Legal Support for Court Rules and User-Friendly Forms—\$2.9 million GF; and
11. Language Access Efforts in the California Courts—\$585,000 GF and \$200,000 Court Interpreters’ Fund.

Complete descriptions of these budget change proposals are provided in the Analysis/Rationale section.

Relevant Previous Council Action

Under California Rules of Court, rule 10.101(b)(3), the Judicial Council must “[d]evelop the budget of the judicial branch based on the priorities established and the needs of the courts.” To that end, the council submits budget change proposals (BCPs) on behalf of the Supreme Court, Courts of Appeal, superior courts, Habeas Corpus Resource Center, Judicial Branch Facilities Program, and Judicial Council to the Department of Finance. The recommendations in this report are consistent with the council’s past practice under this authority.

In July 2016, the Judicial Council established the Judicial Branch Budget Committee (Budget Committee) to assist the council in exercising its duties under rule 10.101 with respect to the judicial branch budget. The council assigned the committee the responsibility of reviewing budget change proposals for the judicial branch, coordinating these BCPs, and ensuring that they are submitted to the council in a timely manner.

Analysis/Rationale

This recommendation is consistent with the purpose of the Budget Committee to assist the Judicial Council in exercising its duties under rule 10.101 with respect to the judicial branch budget. The review and recommendation of BCPs for the judicial branch is one of the primary responsibilities of the Budget Committee.

Following are descriptions of each request listed above:

- Collaborative Justice Court Programs:*** Proposes \$15 million GF and 5.0 positions in 2023–24, and ongoing funding of \$30 million beginning in 2024–25 to support trial court administrative and program costs associated with collaborative justice courts, including drug, mental health, homeless, and veterans’ treatment courts. The increased prevalence of individuals struggling with homelessness and behavioral health issues in recent years has affected the criminal justice system throughout the state, and collaborative courts have been proven to be effective in improving case outcomes and reducing recidivism for this population. California’s commitment to collaborative courts is demonstrated by the fact that over 400 collaborative courts are operating in 55 of California’s 58 counties; however, the lack of stable funding leads the majority of these courts to maintain small caseload sizes. With stable funding and statewide training, data collection, and technical assistance, the number of participants and the impact of collaborative courts will grow significantly.
- Maintaining a Sufficient Pool of Competency to Stand Trial Court Evaluators:*** Proposes \$10.2 million GF and 1.0 position ongoing beginning in 2023–24 to support trial courts in addressing the significant increase in volume and costs associated with Penal Code section 1368 competency to stand trial evaluations required throughout the state, the development of a statewide inventory of qualified evaluators, and a training and technical assistance program to ensure courts receive high-quality reports. Penal Code section 1368 requires the court to suspend proceedings and order a competency evaluation when doubt is raised about a defendant’s mental competency to understand the legal proceedings against them and to be tried or adjudicated of pending criminal charges. The state’s growing mental health crisis, and recent legislation creating more opportunities to divert people away from the criminal justice system, are reflected in the exponential growth in competency evaluations ordered by courts. For courts to keep pace with current and future demand, trial courts require funding to maintain a pool of properly trained evaluators who meet statutory guidelines and state standards.
- Judicial Branch Facility Modifications, Deferred Maintenance, Operation and Maintenance, and Water Conservation:*** Proposes \$4 million one-time and \$141.7 million ongoing GF and 3.0 positions, and \$27 million ongoing reimbursement authority in 2023–24, to address statewide facility modifications (FMs) and deferred maintenance projects, support operations and maintenance (O&M) for nine facilities that have recently been completed or will soon open to the public, and implement water-leak detection equipment and software for water conservation measures.

The cost of repairs and replacements under the Facility Modification Program has increased consistent with inflation; however, no adjustments have been made to the FM budget since 2014. The reduced purchasing power forces the Judicial Council to operate many building systems in a run-to-failure mode, resulting in emergency events, creating higher building maintenance and repair costs, and posing the risk of court closures. In addition, the lack of FM funding over time has resulted in a significant backlog of

deferred maintenance projects that, if completed, would otherwise maintain facilities in acceptable and operable condition. Moreover, the Judicial Council has completed or planned to open nine new courthouses and has no mechanism to increase the O&M funding for these new facilities. The Court Facilities Trust Fund has been overrun by the growth of the Judicial Council portfolio and cannot support the increased O&M costs. Additional ongoing funding provides longevity of state assets, extending the useful life of building systems and replacing aged systems in a timely manner to reduce system failure rates. This BCP also helps address the Judicial Council's need for \$3.7 billion in necessary deferred maintenance and ultimately reduces the number of deferred maintenance projects.

In recent years, the Facilities Services program budget has been affected by a growing number of undetected water leaks and floods. The failure of a water system component can result in massive flooding of a facility and damage to walls, floors, court furniture, and equipment. One-time funding provides for the installation of water meter data logging equipment and software in approximately 160 courthouses owned and managed by the Judicial Council, which will prevent a growing number of undetected water leaks and floods. The installation of commercial weather-based irrigation controllers that optimize irrigation based on local weather and soil conditions will also conserve water resources.

Without an adequate budget to perform preventative maintenance and repair, these critical systems will continue to fail, interrupt court operations, and limit the public's access to justice.

- ***Trial Court Capital-Outlay Funding 2023–24 Through 2026–27:*** Proposes \$393 million one-time GF in 2023–24 for seven trial court capital-outlay projects and \$5 million annually thereafter, to provide the necessary resources for project assessments and program support. This request is based on projects in the Governor's Infrastructure Capital Funding Plan presented in the 2022–23 California Five-Year Infrastructure Plan. A total request of \$3.3 billion is proposed over four years of initial and/or continuing phases for 20 projects plus assessments and program support. Delay in capital-outlay funding postpones the advancement of the Judicial Council's five-year infrastructure plan for trial court facilities, which in turn causes trial courts to continue to operate from facilities with deficiencies that hinder service to the public.
- ***Annual Automatic Inflationary Adjustment for Trial Courts:*** Proposes \$83 million GF in 2023–24 to address general inflationary cost increases for trial courts based on the Consumer Price Index (CPI). Beginning in 2024–25 and annually thereafter, an automatic CPI adjustment would be calculated and added to trial court budgets.
- ***Proposition 66 Costs in Courts of Appeal:*** Proposes \$8.9 million GF and 14.5 positions in 2023–24 and \$8.8 million GF in 2024–25 and ongoing to support new workload and costs associated with implementation of Proposition 66, the Death Penalty Reform and

Savings Act of 2016, in the Courts of Appeal, including for appointed counsel, investigation, records storage, and technology upgrades.

- ***Appellate Court Security:*** Proposes \$1.3 million Appellate Court Trust Fund in 2023–24 and ongoing to provide four necessary California Highway Patrol Judicial Protection Section Officers for four single-officer courthouses of the state appellate courts.
- ***Habeas Corpus Resource Center (HCRC) Case Team Staffing and Establishment of Los Angeles Office:*** To address delays and backlogs of habeas cases, proposes \$15 million GF and 70.0 positions for the HCRC to be implemented over three years. This phase-in approach begins with 30.0 positions and \$7.6 million GF in 2023–24; 50.0 positions and \$11 million GF in 2024–25; and 70.0 positions and \$15 million GF ongoing effective in 2025–26. This proposal would increase the number of attorneys and support staff employed by HCRC and requires an amendment to Government Code section 68661, which authorizes HCRC to employ up to 34 attorneys.
- ***Self-Help Centers – Expanding In-Person, Remote, and On-Line Services:*** Proposes \$28.0 million GF and 8.0 positions in 2023–24 and ongoing annually as the next step in implementing recommendations of the Chief Justice’s Commission on the Future of California’s Court System regarding the 4.3 million Californians who come to court each year without an attorney. This proposal would support two key initiatives: (1) expanding self-help centers in courts to address unmet needs through in-person and remote services; and (2) providing resources for information and collaboration to enable courts to expand into unmet areas of civil law and increase efficiency and effectiveness by expanding online, interactive resources for self-represented litigants. The proposal also includes \$396,000 and 2.0 positions for web and media producers.
- ***Legal Support for Court Rules and User-Friendly Forms:*** Proposes \$2.9 million GF and 12.0 positions in 2023–24 and \$2.8 million GF in 2024–25 and ongoing to fund the legal mandate to implement new laws through court rules and forms and provide user-friendly forms and tools that advance the judicial branch commitment to remove barriers to court access and case completion. Court forms are created or revised by the Judicial Council when mandated by the Legislature, in response to changes in the law, or when the council identifies a pressing public need to create or modify a form. The number of newly mandated forms and forms requiring revision increased by 128 percent, from 2013 to 2020. User-friendly court forms, optimized into fillable “smart” forms, are a key element of public access to justice, but the Judicial Council lacks the legal workforce to provide legally accurate and plain-language content that is aligned with rapidly changing legislation in a timely manner. This proposal is the result of a collaboration of three offices: Legal Services, Criminal Justice Services, and the Center for Families, Children & the Courts.
- ***Language Access Efforts in the California Courts:*** Proposes \$800,000 GF and 3.0 positions in 2023–24 and \$721,000 ongoing to support the efforts of the *Strategic Plan*

for Language Access in the California Courts by adding staff dedicated to expanding the court interpreter pool and supporting innovative approaches to court interpreter testing, training, recruitment, and outcome metrics. The proposal also seeks increased expenditure authority for the Court Interpreters' Fund from \$156,000 a year to \$356,000 a year beginning in 2023–24 for five fiscal years to address the shortage of qualified interpreters by providing trainings for near-passers of the bilingual interpreting examination. Finally, the proposal requests budget bill language that would authorize current-year adjustments to expenditure authority to better support efforts to increase the number of available court interpreters.

The Budget Committee opted not to prioritize the BCPs because the committee pared down the list to the highest-priority requests. This strategy allows greater flexibility to the Chief Justice and the Administrative Director in their budget advocacy efforts.

Policy implications

An essential part of the BCP process involves identification of funding needs within the judicial branch. Consistent with that process, the following advisory bodies and other entities made proposals to the Budget Committee: Collaborative Justice Courts Advisory Committee, Trial Court Facility Modification Advisory Committee, Court Facilities Advisory Committee, Information Technology Advisory Committee, Trial Court Budget Advisory Committee, Administrative Presiding Justices Advisory Committee, Advisory Committee on Providing Access and Fairness, and Habeas Corpus Resource Center.

During the 2023–24 BCP review process, other needs within the judicial branch were identified but not recommended for submission. Although these proposals are worthy, the Budget Committee pared down the recommended submissions to only those proposals that represent the branch's most critical needs. The committee looks forward to reviewing the omitted BCPs for possible future submission.

Comments

This proposal was not circulated for public comment; however, meetings considering BCP concepts were open to the public and written public comments were accepted. No written public comment was received for the Budget Committee meeting on March 8, 2022. One item of public comment was received for the meeting on May 18, 2022, and was distributed to members before the meeting. At both meetings, BCP concepts were considered, and final recommendations were made at the latter meeting.

Alternatives considered

The Budget Committee was presented with a list of 22 BCP concepts, which represented funding needs requested by various judicial branch advisory committees and other requesting entities. The Budget Committee had the option to recommend any number of these requests—in any priority order—to develop into BCPs for submission. Two 2023-24 identified funding needs that were not recommended by the Budget Committee were the Trial Court Civil Assessment Maintenance of Effort and Trial Court Workload Formula Gap Funding to 100 Percent concepts.

The recommended list of 11 BCPs represents the result of several rounds of deliberation by the Budget Committee and reflects decisions made based on information from Judicial Council staff, including updated 2022–23 budget information, the current estimated General Fund budget surplus, and additional funding for the branch. This list provides for a budget package that acknowledges multiple competing priorities for state resources while balancing advocacy for judicial branch needs that will increase access to justice in an efficient and forward-thinking manner.

Fiscal and Operational Impacts

The operational and fiscal impacts to approve the BCPs for submission to the California Department of Finance are minimal.

Attachments and Links

None.