



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 26, 2016

Title

Trial Court Trust Fund Allocations: 2 Percent
State-Level Reserve

Agenda Item Type

Action Required

Effective Date

February 26, 2016

Rules, Forms, Standards, or Statutes Affected
None

Date of Report

February 17, 2016

Recommended by

Trial Court Budget Advisory Committee
2 Percent Funding Request Review
Subcommittee

Hon. Brian L. McCabe, Cochair
Mr. Richard Feldstein, Cochair

Contact

Patrick Ballard, Fiscal Supervisor
Judicial Council Finance
818-558-3115
patrick.ballard@jud.ca.gov

Executive Summary

The Trial Court Budget Advisory Committee's 2 Percent Funding Request Review Subcommittee presents a recommendation to the Judicial Council on the Superior Court of Tehama County's application for supplemental funding. Under the current policy adopted by the Judicial Council, from January 1 through March 15, 25 percent of the remaining Trial Court Trust Fund 2 percent state-level reserve is available for court requests due to unforeseen emergencies or unanticipated expenses. For 2015–2016, the 25 percent amount remaining in the 2 percent state-level reserve is \$9.4 million. The total amount requested by the Superior Court of Tehama County is \$498,000.

Recommendation

Based on actions taken at its February 3, 2016 meeting, the Trial Court Budget Advisory Committee's 2 Percent Funding Request Review Subcommittee (TCBAC subcommittee) recommends that the Judicial Council, effective February 26, 2015:

- Allocate a one-time distribution of \$272,000 to the Superior Court of Tehama County.

Previous Council Action

Supplemental funding process and criteria

On June 27, 2012, the Governor signed into law Senate Bill 1021, which repealed the provisions in Government Code section 77209 related to funding for urgent needs from the Trial Court Improvement Fund (TCIF). SB 1021 added Government Code section 68502.5(c)(2)(B), which requires that the Judicial Council set aside as a reserve an amount equal to 2 percent of the Trial Court Trust Fund (TCTF) appropriation in Program 45.10. In response to this new statute, the council, at its August 31, 2012 meeting, approved the policy with regard to the process, criteria, and required information for requesting supplemental funding from the reserve. This process modified what was approved by the Judicial Council at its October 28, 2011 meeting as it related to requests for supplemental funding for urgent needs from the TCIF. (See Attachment A: Judicial Council–Approved Process for Supplemental Funding.)

At the Judicial Council's October 28, 2014 business meeting, the council approved the Trial Court Budget Advisory Committee (TCBAC) recommended changes to expedite the distribution of the unexpended reserve funds to trial courts earlier in the fiscal year, and to establish a process for courts to apply for funding for emergencies after these funds have been distributed. For 2015–2016, the TCBAC recommended proposing amendments to the statute that establishes the 2 percent state-level reserve. The council approved the following recommendations at its October 28, 2014 business meeting:¹

1. Starting in 2014–2015, approved the distribution in January, after the Judicial Council's December business meeting, of 75 percent of the remaining Trial Court Trust Fund (TCTF) 2 percent reserve funds. From January 1 through March 15, the remaining 25 percent of the 2 percent reserve are available for court requests due to unforeseen emergencies or unanticipated expenses. These court requests are to be reviewed and recommended to the Judicial Council by a TCBAC working group [2 Percent Funding Request Review Subcommittee]. Any remaining funds are to be distributed back to the trial courts after March 15. The Judicial Council's current approved supplemental funding process is to be updated by staff to reflect these changes.

¹ Judicial Council of Cal., mins. (Oct. 28, 2014), p. 35; see www.courts.ca.gov/documents/jc-20141028-minutes.pdf.

2. Directed that court requests due to unforeseen emergencies or unanticipated expenses approved after March 15 and until June 30 be distributed to the court as a cash advance loan until the following fiscal year when the court, if necessary, could apply for supplemental funding from the TCTF 2 percent reserve at the Judicial Council's October business meeting in order to repay the cash advance loan. These court requests are to be reviewed and recommended to the Judicial Council.
3. Directed the TCBAC—working with the Court Executives Advisory Committee, Trial Court Presiding Judges Advisory Committee, and Policy Coordination and Liaison Committee (PCLC)—to recommend proposed amendments to Government Code section 68502.5(c)(2)(B), the statute that establishes the 2 percent reserve, to be included as trailer bill language.

Recent Developments

- The Judicial Council approved sponsoring the PCLC and the TCBAC-recommended amendments to the statute at its December 11, 2015 meeting.
- The Governor's 2016 budget proposal includes \$10 million to be administered by the Judicial Council to fund trial court emergencies in the fiscal year. This will eliminate the statutorily required contribution by each court to a two percent state reserve at the beginning of the fiscal year. Additional statutory changes will be required to implement the new process.

Prior requests

The Judicial Council has not previously considered a supplemental funding request from the Superior Court of Tehama County.

Recommendation

Allocate a one-time distribution of \$272,000 to the Superior Court of Tehama County from the TCTF 2 percent state-level reserve. The recommended amount would provide funding for the court's 2015–2016 General Fund operational deficiency and for a fund balance amount equal to half of the court's contributed share to the 2 percent state-level reserve thereby approximating the maximum 1% reserve.

Rationale for Recommendation

The Superior Court of Tehama County is projecting a \$237,000 (General Fund) negative fund balance for 2015–2016 and submitted an application requesting supplemental funding for \$498,000. The application identifies the reason for applying for supplemental funding as arising from the extraordinary expenditures that the court has had to incur to restore its information technology infrastructure after malicious actions in July 2015 rendered the court's case management system, telephones, exchange server, jury system, shared and individual drives, and

website non-operational. (See Attachment B for the application submitted by the Tehama County Court.)

The Tehama County Court's contributed share to the 2 percent state-level reserve is \$75,000 in 2015–2016. A fund balance equal to half of the court's 2 percent contributed share would be \$37,500. The court estimates that 95 percent of the state-level reserve will be returned to the court in March 2016. At the time of this report it is estimated that 99 percent² of each court's contributed share to the TCTF 2 percent state-level reserve will be returned to all trial courts in March 2016. Therefore, the court would need an amount of \$35,000 in addition to the \$237,000 for the operational deficit to achieve a fund balance equal to half of the court's 2 percent contributed share.

The court indicates that the operational deficit would be larger if it had not been fiscally prudent and delayed the recruitment plans to fill critically needed positions. In addition to the expenditures to restore its information technology infrastructure, the court will also have to incur increased costs in an approximate amount of \$227,000 this fiscal year for janitorial services and information technology related expenses for the new Tehama County Courthouse opening in 2016–2017. Although the court's 2015–2016 budget reflects additional revenue from the county of \$537,000, it is comprised of a county reimbursement restricted for the new case management costs (\$324,000) and an adjustment for funds required to be maintained in the county account for payroll processing (\$213,000).

The application identifies the consequences to the public, access to justice, and court operations of not receiving urgent needs monies. If supplemental funding is not approved, the court would have to lay off staff, further reducing its public counter and telephone hours. The scheduling of non-priority cases would be prolonged. The deployment of the court's new case management system and e-filing would be halted, preventing the expansion of online access to the public.

Discussion of options for recommendation

On February 3, 2016, the TCBAC subcommittee reviewed and discussed the supplemental funding application from the Superior Court of Tehama County. The court's executive officer and presiding judge were present to respond to questions from the members. The TCBAC subcommittee concluded that the court meets the criteria of the council-approved policy by demonstrating that the current-year budget deficit is due to the extraordinary expenditures from malicious actions that occurred in July 2015 rendering the court's information technology infrastructure non-operational. The subcommittee voted unanimously to recommend a one-time distribution and for a fund balance amount equal to half of the court's contributed share to the TCTF 2 percent state-level reserve.

² The estimated percentage reflects the remaining amount net of all approved Judicial Council distributions from the 2 percent reserve in 2015–2016 and includes the recommended amount for the Superior Court of Tehama County in this report.

The TCBAC subcommittee recommended including an amount for a fund balance reserve of half of the court’s contributed share to the 2 percent state-level reserve since the court has incurred costs in the amount of \$498,000 but through cost savings measures was able to mitigate the operational deficit to \$237,000. Some subcommittee members indicated that the county requirement of \$456,000 for three payrolls to be in a revolving fund account for the processing of the court’s payroll appeared excessive. The subcommittee members wanted to know if the court would pursue trying to change the three-payroll county requirement with their county to a lower amount since this would help the court’s financial situation. The court indicated that it had discussed this requirement with its county prior to the incident. The subcommittee suggested that the court continue to work with its county to try to lower the payroll required amount. The TCBAC subcommittee considered the following options for the supplemental funding request from the Superior Court of Tehama County and recommend option 2 below.

Option 1—Deny the Tehama County court’s request. The Tehama County court indicates that if funding is not received, the court will have to lay off staff and reduce counter and telephone hours, which would disrupt services to the public.

Option 2—Grant the Tehama County court \$272,000. Option 2 provides for the allocation of \$272,000 from the 2 percent state-level reserve in the TCTF to the Tehama County court for its 2015–2016 General Fund operational deficiency and for a fund balance amount equal to half of the court’s contributed share to the 2 percent state-level reserve.

Table 1 below demonstrates the funding impact of options 1 and 2 on the court’s estimated 2015–2016 ending fund balance.

**Table 1: Estimated 2015–2016 Ending Fund Balances for the Tehama County Court
(Options 1 and 2)**

	2015–2016 Estimated Fund Balance	Option 1 (\$0)	Option 2 (\$272,000)
Court-Estimated General Fund Balance	(237,456)	(237,456)	(237,456)
Return of TCTF 2% Adjustment*		3,085	3,085
Funding Options		0	272,000
Revised Estimated Fund Balance		(234,371)	37,629

**Adjusted to reflect an estimated 99% return of each court’s contributed share to the 2 percent state-level reserve.*

Comments, Alternatives Considered, and Policy Implications

As required by the Judicial Council–adopted process for supplemental funding for urgent needs, the Superior Court of Tehama County was provided a preliminary version of this report for review and comment.

Implementation Requirements, Costs, and Operational Impacts

The costs and operational impacts of granting or not granting the request of the Superior Court of Tehama County are discussed within each option.

Attachments

1. Attachment A: Judicial Council–Approved Process for Supplemental Funding
2. Attachment B: Superior Court of California, County of Tehama, Application for Supplemental Funding.