



JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov

CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-16-07

Title

Judicial Council Report to the Legislature and the Department of Finance: 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2015–2016

Action Requested

VOTING MEMBERS ONLY: Vote and return by fax. Additionally, return original signature page.


Rules, Forms, Standards, or Statutes Affected

None

Please Respond By

May 4, 2016

Recommended by

Martin Hoshino 
Administrative Director
Judicial Council of California

Date of Report

April 27, 2016

Contact

Patrick Ballard, 818-558-3115
patrick.ballard@jud.ca.gov

Judicial Council staff
Zlatko Theodorovic, Director
Finance

Executive Summary

Judicial Council staff recommend approval of the attached *Report on the Allocation of the 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2015–2016*. Government Code section 68502.5(c)(2)(C) requires that the Judicial Council report to the Legislature and the Department of Finance each fiscal year regarding all requests and allocations made from the 2 percent set-aside in the Trial Court Trust Fund to the superior courts.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective immediately:

1. Approve the *Report on the Allocation of the 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2015–2016*; and
2. Direct the staff to submit the report to the Legislature and the Department of Finance.

The report is attached.

Previous Council Action

Options for allocations of the 2 percent set-aside in the Trial Court Trust Fund (TCTF) in fiscal year (FY) 2015–2016 were presented to the Judicial Council during the fiscal year. The attached report to the Legislature describes the actions taken during those meetings.

These reports are submitted to the Legislature on an annual basis. Previous reports can be found at www.courts.ca.gov/7466.htm.

Rationale for Recommendation

The submission of this report to the Legislature and the Department of Finance (DOF) is required under Government Code section 68502.5(c)(2)(C). The statute requires that the Judicial Council provide information regarding all requests and allocations made from the set-aside of 2 percent of the total funds appropriated in the TCTF in the annual Budget Act to trial courts for:

- Unavoidable funding shortfall requests submitted by the trial courts to the Judicial Council no later than October 1 of the current fiscal year;
- Unforeseen emergencies or unanticipated expenses for existing program requests submitted after October 31 and before March 15 of the current fiscal year; and
- Unexpended funds distributed to the trial courts on a prorated basis by March 15.

Comments, Alternatives Considered, and Policy Implications

This report was not circulated for comment. The information contained in the report to the Legislature and the DOF was obtained from the trial courts. The attached report summarizes actions previously taken by the Judicial Council.

Implementation Requirements, Costs, and Operational Impacts

Implementing the recommendations in this report results in no costs or operational impacts.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendations contained in this report pertain to statutory requirements.

Attachments and Links

1. *Report on the Allocation of the 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2015–2016*
2. Voting instructions, at page 10
3. Vote and signature pages, at pages 11–12



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue
San Francisco, CA 94102-3688
Tel 415-865-4200
TDD 415-865-4272
Fax 415-865-4205
www.courts.ca.gov

HON. TANI G. CANTIL-SAKAUYE
*Chief Justice of California
Chair of the Judicial Council*

HON. DOUGLAS P. MILLER
Chair, Executive and Planning Committee

HON. DAVID M. RUBIN
Chair, Litigation Management Committee

HON. KENNETH K. SO
*Chair, Policy Coordination and
Liaison Committee*

HON. HARRY E. HULL, JR.
Chair, Rules and Projects Committee

HON. MARSHA G. SLOUGH
Chair, Technology Committee

*Hon. Marla O. Anderson
Hon. Brian John Back
Hon. Richard Bloom
Mr. Mark G. Bonino
Hon. Daniel J. Buckley
Hon. Ming W. Chin
Hon. Emilie H. Elias
Hon. Samuel K. Feng
Hon. James M. Humes
Hon. Hannah-Beth Jackson
Mr. Patrick M. Kelly
Ms. Donna D. Melby
Hon. Gary Nadler
Ms. Debra Elaine Pole
Hon. Dean T. Stout
Hon. Martin J. Tangeman*

ADVISORY MEMBERS

*Mr. Jake Chatters
Mr. Richard D. Feldstein
Ms. Kimberly Flener
Hon. David E. Gunn
Hon. Dalila C. Lyons
Hon. Brian L. McCabe
Mr. Frank A. McGuire
Hon. Eric C. Taylor
Hon. Charles D. Wachob*

MR. MARTIN HOSHINO
*Administrative Director,
Judicial Council*

May 5, 2016

Ms. Diane F. Boyer-Vine
Legislative Counsel
State Capitol, Room 3021
Sacramento, California 95814

Mr. Daniel Alvarez
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

Mr. Michael Cohen
Director of Finance
California Department of Finance
State Capitol, Room 1145
Sacramento, California 95814

*Re: Report on the Allocation of the 2 Percent Set-Aside in the Trial Court
Trust Fund for FY 2015–2016 as required by Government Code section
68502.5(c)(2)(C)*

Dear Ms. Boyer-Vine, Mr. Alvarez, Mr. Wilson, and Mr. Cohen:

The Judicial Council respectfully submits this report, as required by Government Code section 68502.5(c)(2)(C), detailing all requests and allocations made by the Judicial Council from the set-aside of 2 percent of the total funds appropriated in Program 0150010 of Item 0250-101-0932 of the annual Budget Act. As required in Government Code section 68502.5(c)(2)(B), these funds are set aside in the Trial Court Trust Fund (TCTF) for trial courts to be allocated by the Judicial Council and to be

used by the trial courts for unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable funding shortfalls.

Government Code section 68502.5(c)(2)(B) requires that requests for unavoidable funding shortfalls be submitted by the trial courts to the Judicial Council no later than October 1 of each year. In response, the Judicial Council, by October 31 of each year, will review and evaluate the requests, select trial courts to receive funds, and notify those selected trial courts. No more than 75 percent of the total set-aside shall be distributed during this period. By March 15, the Judicial Council will distribute from the remaining funds if there has been a request from qualifying trial court for unforeseen emergencies or unanticipated expenses. Any unexpended funds after March 15 shall be distributed to the trial courts on a prorated basis.

Requests related to unavoidable funding shortfall

The 2 percent set-aside in the TCTF for fiscal year (FY) 2015–2016 was \$37.7 million. Government Code section 68502.5(c)(2)(B) permits only up to 1.5 percent—or \$28.3 million—to be allocated by the Judicial Council by October 31 for unavoidable funding shortfall requests. The Superior Court of Mono County requested funding related to an unavoidable funding shortfall by this date.

Requests related to unforeseen emergencies or unanticipated expenditures for existing programs

Government Code section 68502.5(c)(2)(B) requires that the Judicial Council, after October 31 and by March 15 of each fiscal year, distribute from the remaining funds for requests from any of the trial courts due to unforeseen emergencies or unanticipated expenses for existing programs. Three courts requested funding in FY 2015–2016. The Superior Courts of Humboldt and Tehama Counties requested funding related to unanticipated expenses. Under the council’s policy, the courts’ requests may be for amounts exceeding their respective contributions to the 2 percent set-aside of the TCTF.

The Superior Courts of Mono, Humboldt and Tehama Counties qualified for funding under the council-approved criterion of projecting a negative fund balance for the current fiscal year due to an unavoidable funding shortfall or for unanticipated expenses.

The total amount requested by the Superior Court of Mono County was \$49,000. Information about this request follows:

- The Superior Court of Mono County projected a negative fund balance due to an unexpected retirement lump-sum payout it had to incur. Because of the 1 percent reserve cap imposed by Government Code section 77203, the court has been unable to accrue fund balance for this type of expense. In the prior fiscal year, the court’s 1 percent cap amount was only \$18,000. The total cost incurred for the retirement payout was \$49,000.

The Judicial Council considered the court's request at its October 27, 2015, business meeting and approved an allocation of \$49,000.

The total amount requested by the Superior Court of Humboldt County was \$252,000. Information about this request follows:

- The Superior Court of Humboldt County projected a negative fund balance from unanticipated extraordinary expenditures the court would need to incur from the 24 homicide cases being filed in 2015—a more than 200 percent increase from the average number of homicide cases filed in a one-year period. Additionally, most of the cases filed did not have time waivers, and some were high profile with daily transcripts ordered. The total cost to be incurred for the additional facility space, court reporters, and security needed to be able to hold all the trials was estimated to be \$252,000. The Judicial Council considered the court's request at its December 11, 2015, business meeting and approved an allocation of \$110,000 as a loan¹ from the TCTF 2 percent state-level reserve with the following conditions: 1) the court must seek assistance from the county to share costs associated with this request, and (2) apply for the reimbursement of eligible costs from the Extraordinary Costs of Homicide Trials Reimbursement program. In fiscal year 2016–2017, the court will request a one-time distribution for the remaining balance of the loan, if it is unable to pay the amount.

The total amount requested by the Superior Court of Tehama County was \$498,000. Information about this request follows:

- The Superior Court of Tehama County projected a negative fund balance from the extraordinary expenditures that the court will incur as a result of malicious actions that rendered the court's entire information technology infrastructure nonoperational. The total costs to repair the damage to the court's case management system, telephones, exchange server, jury system, shared and individual drives, and website are estimated to be \$498,000. The Judicial Council considered the court's request at its February 26, 2016, business meeting and approved an allocation of \$272,000.

Distribution of the 2 percent funds

The total amount allocated by the Judicial Council for all FY 2015–2016 requests through March 15 was \$431,000. The balance of the remaining funds from the 2 percent set-aside in the TCTF

¹ At the time of this report, the Superior Court of Humboldt County has decided to forgo the distribution of the \$110,000 as a loan from the 2 percent set-aside in the TCTF and will instead request a cash advance, if needed.

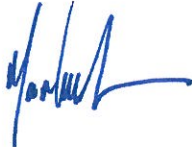
May 5, 2016

Page 4

was \$37.4 million, and a proportionate share was distributed to all 58 superior courts by March 15, 2016.

If you have any questions related to this report, please contact Zlatko Theodorovic, Director, Judicial Council Finance, at 916-263-1397.

Sincerely,



Martin Hoshino
Administrative Director
Judicial Council

MH/PB

cc: Shaun Naidu, Policy Consultant, Office of Senate President pro Tempore Kevin de León
Alf Brandt, Senior Counsel, Office of Speaker Anthony Rendon
Anita Lee, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
Tina McGee, Executive Secretary, Legislative Analyst's Office
Tiffany Garcia, Program Budget Analyst, Department of Finance
Margie Estrada, Chief Counsel, Senate Judiciary Committee
Julie Salley-Gray, Consultant, Senate Budget and Fiscal Review Committee
Jolie Onodera, Consultant, Senate Appropriations Committee
Matt Osterli, Consultant, Senate Republican Fiscal Office
Mike Petersen, Consultant, Senate Republican Policy Office
Alison Merrilees, Chief Counsel, Assembly Judiciary Committee
Marvin Deon, Consultant, Assembly Budget Committee
Chuck Nicol, Principal Consultant, Assembly Appropriations Committee
Allan Cooper, Consultant, Assembly Republican Office of Policy & Budget
Paul Dress, Consultant, Assembly Republican Office of Policy & Budget
Peggy Collins, Principal Consultant, Joint Legislative Budget Committee
Cory T. Jaspersen, Director, Governmental Affairs, Judicial Council
Peter Allen, Director, Public Affairs, Judicial Council
Lucy Fogarty, Deputy Director, Finance, Judicial Council
Laura Speed, Principal Manager, Governmental Affairs, Judicial Council
Steven Chang, Manager, Finance, Judicial Council
Patrick Ballard, Fiscal Supervisor, Finance, Judicial Council
Yvette Casillas-Sarcos, Administrative Coordinator, Governmental Affairs, Judicial Council



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue
San Francisco, CA 94102-3688
Tel 415-865-4200
TDD 415-865-4272
Fax 415-865-4205
www.courts.ca.gov

HON. TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

HON. DOUGLAS P. MILLER
Chair, Executive and Planning Committee

HON. DAVID M. RUBIN
Chair, Litigation Management Committee

HON. KENNETH K. SO
Chair, Policy Coordination and
Liaison Committee

HON. HARRY E. HULL, JR.
Chair, Rules and Projects Committee

HON. MARSHA G. SLOUGH
Chair, Technology Committee

Hon. Marla O. Anderson
Hon. Brian John Back
Hon. Richard Bloom
Mr. Mark G. Bonino
Hon. Stacy Boulware Eurie
Hon. Kyle S. Brodie
Hon. Daniel J. Buckley
Hon. Ming W. Chin
Hon. Samuel K. Feng
Hon. James M. Humes
Hon. Hannah-Beth Jackson
Mr. Patrick M. Kelly
Hon. Dalila C. Lyons
Ms. Donna D. Melby
Hon. Gary Nadler
Ms. Debra Elaine Pole
Hon. Dean T. Stout
Hon. Martin J. Tangeman

ADVISORY MEMBERS

Mr. Jake Chatters
Mr. Richard D. Feldstein
Ms. Kimberly Flener
Hon. Scott M. Gordon
Hon. David E. Gunn
Hon. Brian L. McCabe
Mr. Frank A. McGuire
Hon. Eric C. Taylor
Hon. Charles D. Wachob

MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

Report Summary

Report title: *Report on the Allocation of the 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2015–2016*

Statutory citation: Government Code section 68502.5(c)(2)(C)

Date of report: May 5, 2015

The Judicial Council has submitted a report to the Legislature in accordance with Government Code section 68502.5(c)(2)(C), which requires the Judicial Council to report to the Legislature and the Department of Finance, no later than April 15 of each year, all requests and allocations made from the 2 percent set-aside of the Trial Court Trust Fund (TCTF) to trial courts.

The following summary of the report is provided under the requirements of Government Code section 9795.

Government Code section 68502.5(c)(2)(B) requires that requests for unavoidable funding shortfalls be submitted by the trial courts to the Judicial Council no later than October 1 of each year. The Judicial Council, by October 31 of each year, will review and evaluate all such requests, select trial courts to receive funds, and notify those selected trial courts. No more than 1.5 percent of the 2 percent shall be distributed during this period. By March 15, the Judicial Council shall allocate from the remaining funds if there have been requests from trial courts, to cover unforeseen emergencies or unanticipated expenses. After such distributions, any remaining unexpended funds shall be distributed to the trial courts on a prorated basis.

For the period of October 1, 2015, through March 15, 2016, three courts—the Superior Courts of Humboldt, Mono, and Tehama Counties—met the Judicial Council criterion of projecting a current year negative fund balance, and received an allocation totaling \$431,000 in

May 5, 2016

Page 2

funding from the 2 percent set-aside of the TCTF for unavoidable funding shortfalls and unanticipated expenditures.

The full report can be accessed here: www.courts.ca.gov/7466.htm. A printed copy of the report may be obtained by calling 818-558-3115.

Instructions for Review and Action by Circulating Order

Voting members

- Please indicate your **vote, sign, and return by 5pm, (May 4, 2016)**, if possible by one of these methods:
 1. Fax the signature pages to the attention of Judicial Council Support, Leadership Services Division at 415-865-4391
 2. Reply to the e-mail message with “I approve,” “I disapprove,” or “I abstain.”
- If you are unable to reply by **(May 4, 2016)**, please do so as soon as possible thereafter.
- Additionally, **return the original** signature page to the Judicial Council Support, Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California, 94102-3688. **Please keep a copy for your records.**

Advisory members

The circulating order is being faxed to you for your information only. There is no need to sign or return any documents.

CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages

Effective immediately, the Judicial Council approves the *Report on the Allocation of the 2 Percent Set-Aside in the Trial Court Trust Fund for FY 2015–2016 as required by Government Code section 68502.5(c)(2)(C); and directs Judicial Council of California staff to submit report to the Legislature and the Department of Finance.*

My vote is as follows:

☒ Approve

☐ Disapprove

☐ Abstain

Tani G. Cantil-Sakauye, Chair

/s/
Marla O. Anderson

/s/
Brian John Back

Richard Bloom

/s/
Mark G. Bonino

/s/
Stacy Boulware Eurie

/s/
Kyle S. Brodie

/s/
Daniel J. Buckley

Ming W. Chin

/s/
Samuel K. Feng

/s/
Harry E. Hull, Jr.

/s/
James M. Humes

/s/
Patrick M. Kelly

Hannah-Beth Jackson

My vote is as follows:

☒ Approve

☐ Disapprove

☐ Abstain

Dalila Corral Lyons

Donna D'Angelo Melby

Douglas P. Miller

_____/s/
Gary Nadler

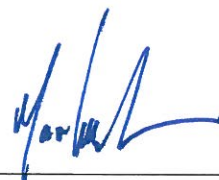
Debra Elaine Pole

_____/s/
David M. Rubin

_____/s/
Dean T. Stout

Date: 5-6-16

Attest:



Administrative Director and
Secretary of the Judicial Council