



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 21-120

For business meeting on July 8–9, 2021

Title

Trial Court Budget: Allocation Methodology of \$72.2 Million Trial Court Funding in Governor's Proposed 2021–22 Budget

Agenda Item Type

Action Required

Effective Date

July 9, 2021

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

June 17, 2021

Presented by

Judicial Branch Budget Committee
Hon. David M. Rubin, Chair
Trial Court Budget Advisory Committee
Hon. Jonathan B. Conklin, Chair

Contact

Brandy Olivera, 415-865-7195
brandy.olivera@jud.ca.gov

Executive Summary

The Judicial Branch Budget Committee recommends a Consumer Price Index allocation methodology for the \$72.2 million ongoing General Fund included in the Governor's proposed 2021–22 budget for trial courts to address inflationary cost increases that are effective July 1, 2021, and contingent on inclusion of the proposed funding in the final enacted 2021 Budget Act. An alternative recommendation of note is described later in this report.

Recommendation

The Judicial Branch Budget Committee recommends that the Judicial Council, effective July 9, 2021, allocate to all courts \$72.2 million using the 3.7 percent Consumer Price Index–based increase over each court's fiscal year 2020–21 Workload Formula allocation.

The recommended allocation of discretionary funding to each court is provided in Attachment A.

Relevant Previous Council Action

The Judicial Council first submitted to the Department of Finance (DOF) a budget change proposal (BCP) that included the Consumer Price Index (CPI) as part of a trial court funding stabilization package for the 2020–21¹ budget cycle (Link A). This BCP was submitted in fall 2019, with support for funding as part of the Governor’s proposed 2020–21 budget in the form of \$61.7 million ongoing funding in recognition of the annual increases in costs to maintain existing service levels in the courts due to general inflationary pressures facing all government operations. This amount was equivalent to an overall 3 percent increase in funding, calculated using trial court 2019–20 Workload Formula allocations for general trial court operational costs statewide.

The Governor’s proposed 2020–21 budget also included \$45.9 million in ongoing funding to be allocated by the Judicial Council to promote fiscal equity among the trial courts. These proposals were withdrawn in the 2020–21 May Revision because of the COVID-19 pandemic. As revenues began to decline due to the pandemic, the 2020–21 May Revision included a \$200 million reduction to the judicial branch (Link B).

A 2021–22 BCP was submitted to the Judicial Branch Budget Committee (Budget Committee) by the Trial Court Budget Advisory Committee (TCBAC) requesting a CPI adjustment that would address general inflationary cost increases. This proposal was approved by the Budget Committee and by the Judicial Council itself. This adjustment resulted in the \$72.2 million included in the Governor’s proposed 2021–22 budget for trial court inflationary cost increases (Link C).

Analysis/Rationale

The Governor’s 2021–22 proposed budget, as released in January, included \$4.2 billion in operating and facility funds for the judicial branch. This figure included \$381.1 million in new General Fund monies, despite the economic downturn caused by the global pandemic. No additional operational reductions were proposed for the judicial branch in 2021–22. The proposed budget reflected critical funding needs to support the essential services provided by all areas of judicial branch operations.

In February 2021, Governor Gavin Newsom and legislative leaders announced an agreement that would restore the previously enacted 2020 Budget Act reductions of \$200 million for the judicial branch, effective July 1, 2021. Of this amount, the proposal would restore the \$167.8 million reduction included in the 2020–21 trial court allocations.

To maintain timely access to justice in the trial courts and to help courts address impacts of the disruptions caused by the pandemic, the proposed budget also included \$72.2 million ongoing General Fund support, which was described as new, discretionary funding and represents an overall increase of 3.7 percent over the funding in the 2020 Budget Act. This funding is for

¹ This and all subsequent year spans represent fiscal years, unless otherwise indicated.

general trial court operations and is intended to assist courts in continuing to provide fair and timely access to justice, including taking actions to continue making modifications to improve court processes. This funding will also support the courts' efforts to implement recently enacted legislation.²

Based on this understanding of the \$72.2 million in new funding in the Governor's proposed 2021–22 budget, the TCBAC developed an allocation recommendation based on the current, Judicial Council–approved Workload Formula policy for new, discretionary funding (Link D). The TCBAC noted the enduring funding gap for trial courts with Workload Formula allocations below the trial court statewide average. The CPI adjustments do not address this difference and, as the charts attached to this report reflect, continue the proportional funding gap. Further, as stated above, the TCBAC looked to the budget summary language describing the \$72.2 million funding increase in the Governor's January judicial branch budget proposal. Although the CPI calculation in the BCP was the basis of the \$72.2 million included in the Governor's proposed budget, the budget summary language describing this proposal did not specifically mention CPI. Given the branch's desire to bring all trial courts to the same average funding level and the perception that the budget summary language gave discretion on how to use the funding, the TCBAC recommended an equity approach to allocating the \$72.2 million. The TCBAC presented its conclusions and recommendations to the Judicial Branch Budget Committee at its meeting on May 18, 2021.

On May 14, 2021, the Governor released the May Revision to his proposed 2021–22 budget. On May 18, 2021, the Budget Committee held its meeting and considered various items, including the TCBAC's recommended allocation methodology for the \$72.2 million. The Budget Committee referenced the May Revision budget summary language for this proposal, clarifying the purpose of this augmentation.³ The resulting recommendation from the Budget Committee is to allocate the \$72.2 million to trial courts, following this CPI approach and providing a 3.7 percent pro rata increase to all courts.

The Budget Committee cites the original BCP presented to the committee last year by the trial courts, which sought a Consumer Price Index–based budget augmentation. The Budget Committee approved that proposal, presenting it to the council on that basis. The council

² The January 2021–22 judicial branch budget proposal states: “[T]he Budget includes \$72.2 million ongoing General Fund, which represents an overall increase of 3.7 percent compared to the 2020 Budget Act. This funding will assist courts in continuing to provide fair and timely access to justice, including taking actions to continue making modifications to improve court processes. This funding will also support the courts' efforts to implement recently enacted legislation.” (Office of Governor, *Governor's Budget Summary*, Judicial Branch (2021–22), p. 168, www.ebudget.ca.gov/2021-22/pdf/BudgetSummary/JudicialBranch.pdf; italics added.)

³ The 2021–22 May Revision to the Governor's proposed budget states: “In addition, the Governor's Budget included significant adjustments to address other cost pressures, freeing up resources for trial courts to focus on addressing the case backlog. Specifically, the Governor's Budget included \$72.2 million ongoing General Fund for trial courts to address inflationary cost increases.” (Office of Governor, *May Revision*, Judicial Branch (2021–22), p. 148, www.ebudget.ca.gov/2021-22/pdf/Revised/BudgetSummary/FullBudgetSummary.pdf.)

approved the BCP as a CPI request, which is consistent with the intent of the 2021–22 May Revision budget summary language.

Policy implications

Although CPI was calculated including all 58 courts, 2 base-funding-floor courts, Alpine and Sierra, have received a set allocation amount of \$800,000 beginning in 2019–20 (Link E). This allocation amount is reviewed annually, as requested by the applicable courts, for presentation to the TCBAC each December to determine whether an inflationary adjustment is needed (Link F).

As a result, these two courts would be excluded from receiving any portion of restoration funding and the \$72.2 million in new operational funding, and their 2021–22 allocation amounts would remain unchanged from 2020–21 amounts. The funds that these courts would have received will be allocated to all other courts via the Workload Formula funding floor calculation process.

Although the CPI allocation recommendation is not a Workload Formula policy recommendation, the \$72.2 million will be included in the Workload Formula allocation amount to properly reflect this new funding rather than the Workload Formula funding need.

Alternatives considered

The Budget Committee considered three recommendations:

1. Allocate the funding as new, discretionary funding following the current Workload Formula policy, as recommended by the TCBAC;
2. Allocate the funding using the 3.7 percent CPI calculation used to determine the \$72.2 million amount, and distribute 3.7 percent to all courts based on their 2020–21 Workload Formula allocations (the Budget Committee recommendation is consistent with the funding intent as clarified in the May Revision); and
3. Allocate the funding as new, discretionary funding with a modification to the current Workload Formula policy that uses most of the funding to bring courts that are below the statewide average funding level up to the statewide average funding level. This approach would first fund the 13 cluster 1 courts (identified in Attachment A) below 100 percent of funding need and then further fund 28 percent of courts that currently receive the least amount of funding via the Workload Formula methodology. This approach would leave no funding for the remaining courts that are below 100 percent of funding.

The Budget Committee met after the May Revision was released. Given the May Revision budget summary language, statements made by DOF representatives during budget hearings, and the original BCP language, the Budget Committee recommends an alternative allocation method from the TCBAC. That proposal recommends the \$72.2 million be allocated as new funding through the Workload Formula.

The TCBAC anchors its approach in the equity goal of lifting the lowest funded trial courts closer to the statewide funding average. Although recognizing this critical need, the Budget Committee rejected it. The original fiscal year 2021–22 BCP brought to the Budget Committee last year was for a CPI budget augmentation. The Judicial Council adopted the BCP as a CPI increase request, and as the Governor’s May Revision budget summary language states, the funding is intended to cover inflationary cost increases.

The Budget Committee intends to address the equity concerns raised by the TCBAC in a new BCP to be brought to the Judicial Council for consideration for the 2022–23 budget cycle.

Comments

Two public comment letters were received in response to public posting requirements when the “Allocation Methodology of Trial Court Funding in 2021–22 Governor’s Budget” agenda item was considered by the TCBAC on April 22, 2021 (Link G).

One letter opposed the TCBAC’s Funding Methodology Subcommittee’s recommendation to modify the Workload Formula methodology to provide most of the new funding to courts below the statewide average funding level. According to the author, the intent of the funding was tied to a 3.7 percent CPI increase for all courts, which could be achieved through the Workload Formula adopted by the Judicial Council, and was not to fund just those courts under the statewide minimum funding threshold.

The second letter provided information comparing the two scenarios: allocating funds via the Workload Formula and allocating most of the funds to courts below the statewide average to help inform the TCBAC discussion and recommendation on the new funding.

Fiscal and Operational Impacts

This funding will address inflationary cost increases that courts would otherwise have to absorb within their existing budgets, which could affect court operations and access to justice.

Attachments and Links

1. Attachment A: Consumer Price Index (Pro Rata) 3.7 Percent
2. Link A: Report to the Judicial Council (July 1, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7512332&GUID=B4504462-A6BA-46C1-9A31-8F8A3214C682>
3. Link B: Judicial Branch Budget Committee meeting materials (May 28, 2020), www.courts.ca.gov/documents/jbbc-20200528-materials.pdf; Judicial Branch Budget Committee meeting minutes (May 28, 2020), www.courts.ca.gov/documents/jbbc-20200528-minutes.pdf
4. Link C: Report to the Judicial Council (July 2, 2020), <https://jcc.legistar.com/View.ashx?M=F&ID=8655378&GUID=C814545D-0383-4E0E-A690-C7DC8C6860D3>

5. Link D: Judicial Branch Budget Committee meeting materials (May 18, 2021), www.courts.ca.gov/documents/jbbc-20210518-materials.pdf
6. Link E: Report to the Judicial Council (Feb. 13, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7058011&GUID=805D0070-0C38-40C7-A8CE-F08E82D8DDD5>
7. Link F: Report to the TCBAC, pp. 10–25 (July 25, 2019), www.courts.ca.gov/documents/tcbac20190725-materials.pdf; TCBAC meeting minutes (July 25, 2019), www.courts.ca.gov/documents/tcbac-20190725-minutes.pdf
8. Link G: TCBAC meeting materials (Apr. 22, 2021), www.courts.ca.gov/documents/tcbac-20210422-materials.pdf; TCBAC meeting minutes (Apr. 22, 2021), www.courts.ca.gov/documents/tcbac-20210422-minutes.pdf

CONSUMER PRICE INDEX (PRO RATA) 3.7 PERCENT

ATTACHMENT A

Court	New 2021-22 \$72.2m Discretionary Funding
Alameda	2,740,781
Alpine	29,600
Amador	125,601
Butte	407,515
Calaveras	104,177
Colusa	76,762
Contra Costa	1,617,204
Del Norte	114,231
El Dorado	276,749
Fresno	1,912,141
Glenn	91,982
Humboldt	253,201
Imperial	339,258
Inyo	77,016
Kern	2,051,783
Kings	310,068
Lake	141,055
Lassen	85,747
Los Angeles	19,865,278
Madera	310,485
Marin	468,848
Mariposa	56,283
Mendocino	226,975
Merced	486,354
Modoc	40,562
Mono	77,564
Monterey	746,974
Napa	286,500
Nevada	175,646

Court	New 2021-22 \$72.2m Discretionary Funding
Orange	5,284,984
Placer	664,719
Plumas	57,782
Riverside	4,031,449
Sacramento	3,039,614
San Benito	140,426
San Bernardino	3,817,215
San Diego	5,388,217
San Francisco	2,066,636
San Joaquin	1,370,361
San Luis Obispo	548,477
San Mateo	1,377,392
Santa Barbara	852,937
Santa Clara	2,826,584
Santa Cruz	491,666
Shasta	448,069
Sierra	29,600
Siskiyou	111,369
Solano	882,304
Sonoma	897,244
Stanislaus	927,763
Sutter	224,765
Tehama	169,890
Trinity	62,608
Tulare	855,410
Tuolumne	140,455
Ventura	1,354,286
Yolo	424,265
Yuba	190,174

Total **72,173,000**

Floor courts

Cluster 1 courts