

AGENDA

ITEM

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December 6, 2012

Legislative Proposal

Our legislative proposal is for the State to buyout and reduce the counties' responsibilities for State Trial Court funding for the remaining eight medium size counties that include Kern, Monterey, San Joaquin, Santa Barbara, Solano, Sonoma, Stanislaus and Ventura.

The County of Santa Barbara and a number of other Mid-size counties are embarking on building and operating new County jail facilities. AB 900 State Bond Funding is the main source for funding the Capital Cost of the new facilities and the Counties are providing matching funds at 10% or 25% of the cost. The match costs are being financed locally with a hard cash match or in some cases local debt financing. The more difficult challenge for the medium size counties is to provide funding for the on-going operations of the new facilities.

In Santa Barbara County it is estimated that the additional annual on-going cost for operating the new jail would be approximately \$18 million. The County has twice tried going to the voters to get a sales tax initiative for on-going funding and has not been successful. The County's discretionary funding base is approximately \$200 million and its current plan is to carve out the required funding with future growth in taxes or reductions in services in other areas.

However, to obtain partial funding of the on-going service requirements we propose that legislation be enacted that would reduce counties' financial responsibilities for Trial Court funding at the state level and mandate the shift be used to fund mid-sized counties' expansion of correction operations.

Background

The Trial Court Funding Act of 1997 shifted funding for the State trial courts from counties' to the State. The legislation consolidated funding at the State level, capped counties' financial responsibilities at the fiscal year 94-95 level, required the state to fund all future growth in court operations, authorized new judgeships, initially required the state to provide 100% funding relief to the 20 smallest counties and raised a number of civil filing fees to generate new revenue for trial court funding. However, this court funding scheme still relies on financially strapped county governments to pay for a portion of court related costs. The counties also continue to provide funding for court facilities maintenance and those court related costs that are outside the statutory definition of court operations, such as indigent defense, pretrial release, and probation costs.

Last year the State legislature enacted the 2011 Public Safety Realignment Act that shifts public safety programs from the State to local government. The goal of the program is to shift low level prisoners from state prisons to local community correction programs with

the intention to keep lower level offenders out of jails. However, there will inevitably be parole violators that will be re-incarcerated in local jails. Santa Barbara County has experienced overcrowding in its existing jail for a long period of time and is in dire need of a new facility.

Proposed Funding Assistance for medium size counties

Under State trial court funding, 20 of the 58 Counties continue to make payments to the State for Trial Courts under government code section 77201.3 (a) (1). The other 38 medium and small counties have been relieved of this maintenance of effort requirement. The total payment is \$498 million of which eight medium size counties contribute \$53 million and twelve large counties contribute \$445 million. All counties continue to share local fines in the funding of State Trial Courts.

We propose the buyout occur in the year following the start of construction of a new local correction facility within an individual County. Currently four of the eight counties have proposed correction projects with the State Department of Corrections. Over time this would shift \$53 million of funding requirements to the State (the intention of the 1997 legislation) but would greatly assist the medium size counties in the implementation of Public Safety realignment and the on-going cost of funding new correction facilities.

In Santa Barbara County this would provide base funding of \$6,675,000 for the on-going \$18 million estimated cost of a new jail. The County would shift the \$6,675,000 within its discretionary funding from State Trial Court maintenance of effort requirement to a Local Correction facility maintenance of effort requirement. Attached is the Government Code section that details the contributions by the other counties and a background paper on Trial Court Realignment.

Concept proposed by:

Bob Geis
County Auditor-Controller

Attachments:
GC 77201.3 (a) (1)
Overview Trial Court Funding

77201.3. (a) Commencing with the 2006-07 fiscal year, and each fiscal year thereafter, except as otherwise specifically provided in this section, each county shall remit to the state the amounts described in this subdivision in four equal installments due on October 1, January 1, April 1, and May 1. The amounts listed in this subdivision are in lieu of the amounts listed in subdivision (b) of Section 77201.1. However, for purposes of the calculation required by subdivision (a) of Section 77205, the amounts in paragraph (2) of subdivision (b) of Section 77201.1 shall be used.

(1) Each county shall remit to the state the amount listed below, which is based on an amount expended by the respective county for court operations during the 1994-95 fiscal year. The amount listed for Los Angeles County includes the twenty-three million five hundred twenty-seven thousand nine hundred forty-nine dollars (\$23,527,949) increase required by subdivision (g) of Section 77201.1.

Jurisdiction	Amount
Alameda	\$ 22,509,905
Alpine	-
Amador	-
Butte	-
Calaveras	-
Colusa	-
Contra Costa	11,974,535
Del Norte	-
El Dorado	-
Fresno	11,222,780
Glenn	-
Humboldt	-
Imperial	-
Inyo	-
Kern	9,234,511
Kings	-
Lake	-
Lassen	-
Los Angeles	198,858,596
Madera	-
Marin	-
Mariposa	-
Mendocino	-
Merced	-
Modoc	-
Mono	-
Monterey	4,520,911
Napa	-
Nevada	-
Orange	38,846,003
Placer	-
Plumas	-
Riverside	17,857,241
Sacramento	20,733,264
San Benito	-
San Bernardino	20,227,102
San Diego	43,495,932
San Francisco	19,295,303
San Joaquin	6,543,068
San Luis Obispo	-

San Mateo	12,181,079
Santa Barbara	6,764,792
Santa Clara	28,689,450
Santa Cruz	-
Shasta	-
Sierra	-
Siskiyou	-
Solano	6,242,661
Sonoma	6,162,466
Stanislaus	3,506,297
Sutter	-
Tehama	-
Trinity	-
Tulare	-
Tuolumne	-
Ventura	9,734,190
Yolo	-
Yuba	-

(2) (A) This paragraph sets forth the amount of the revenue maintenance of effort payment as modified by the reductions in Sections 68085.2 and 68085.7, including, if applicable, any adjustment made pursuant to paragraph (1) of subdivision (b) of Section 68085.8.

Jurisdiction	Amount
Alameda	\$ 7,529,814
Alpine	58,459
Amador	261,618
Butte	797,512
Calaveras	298,247
Colusa	394,002
Contra Costa	3,136,407
Del Norte	120,598
El Dorado	732,606
Fresno	3,536,164
Glenn	293,014
Humboldt	933,601
Imperial	1,075,275
Inyo	610,438
Kern	5,247,051
Kings	759,717
Lake	133,003
Lassen	379,561
Los Angeles	47,023,566
Madera	1,025,684
Marin	2,010,028
Mariposa	131,611
Mendocino	441,037
Merced	1,600,227
Modoc	103,798
Mono	409,747
Monterey	2,662,998
Napa	710,832
Nevada	1,197,947
Orange	15,603,484
Placer	835,467

Plumas	154,384
Riverside	7,108,548
Sacramento	1,829,692
San Benito	270,940
San Bernardino	3,325,704
San Diego	13,501,132
San Francisco	3,123,814
San Joaquin	2,158,803
San Luis Obispo	1,754,131
San Mateo	2,527,355
Santa Barbara	3,117,677
Santa Cruz	1,495,691
Shasta	574,383
Sierra	41,810
Siskiyou	482,082
Solano	1,931,765
Sonoma	1,439,187
Stanislaus	1,079,927
Sutter	644,174
Tehama	627,958
Trinity	102,233
Tulare	1,345,686
Tuolumne	277,573
Ventura	2,283,494
Yolo	464,030
Yuba	273,437

(B) The amount remitted by the County of Santa Clara shall be ten million nine hundred sixty-one thousand two hundred ninety-three dollars (\$10,961,293) reduced as described in clauses (i) and (ii).

(i) The amount remitted by the County of Santa Clara pursuant to this paragraph for each fiscal year shall be reduced by an amount equal to one-half of the amount calculated by subtracting the budget reduction for the Superior Court of Santa Clara County for that fiscal year attributable to the reduction of the counties' payment obligation from thirty-one million dollars (\$31,000,000) pursuant to subdivision (a) of Section 68085.6 from the net civil assessments received in that county in that fiscal year. "Net civil assessments" as used in this paragraph means the amount of civil assessments collected minus the costs of collecting those civil assessments, under the guidelines of the Controller.

(ii) The reduction calculated pursuant to paragraph (i) shall not exceed two million five hundred thousand dollars (\$2,500,000) in any fiscal year. If the reduction for a fiscal year reaches two million five hundred thousand dollars (\$2,500,000), the amount that the county is required to remit to the state under this paragraph in that fiscal year and in each subsequent fiscal year shall be eight million four hundred sixty-one thousand two hundred ninety-three dollars (\$8,461,293).

(b) Except as otherwise specifically provided in this section, county remittances specified in subdivision (a) shall not be increased in subsequent years.

(c) Except for those counties with a population of 70,000, or less, on January 1, 1996, the amount a county is required to remit pursuant to paragraph (1) of subdivision (a) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivisions (c) and (d) of Section 77201 as that section read on

June 30, 1998, to the extent a county filed an appeal with the Controller with respect to the findings made by the Department of Finance. This subdivision shall not be construed to establish a new appeal process beyond what was provided by Section 77201, as that section read on June 30, 1998.

(d) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (1) the fees, fines, and forfeitures retained by that county, and (2) the county's portion of fines and forfeitures transmitted to the state in the 1994-95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of subdivision (a) by an equal amount. Nothing in this subdivision is intended to limit judicial sentencing discretion.

(e) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(f) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of juvenile justice charges.

OVERVIEW

TRIAL COURT FUNDING

JUDICIAL COUNCIL OF CALIFORNIA • ADMINISTRATIVE OFFICE OF THE COURTS

Landmark Court Funding Bill Passes

San Francisco—After years of seeking an effective financing system for the state courts, leaders of California's bench and bar hailed the passage of landmark legislation that creates a stable, long-term funding solution for the trial courts.

"We have finally achieved enactment of our long-awaited plan for assumption—by the state—of the major responsibility for funding our trial courts," Chief Justice Ronald M. George told an enthusiastic audience during his State of the Judiciary Address shortly after the bill won passage on September 13, 1997. In remarks before the State Bar's Conference of Delegates in San Diego, the Chief Justice declared, "The bill establishes the foundation upon which our court system can build to meet the challenges of the century that is about to begin."

"This is a great day for everyone who wishes access to trial courts and justice in this state," said Judge Dwayne Keyes, new president of the California Judges Association. "It is a tribute to all who took part in the process. We

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Chief Justice George Applauds Passage of Court Funding Bill

In his State of the Judiciary Address on September 13, Chief Justice Ronald M. George celebrated the passage of the landmark trial court funding restructuring legislation. Here are key points from the Chief Justice's address, which was delivered just hours after passage of the bill:

- Obtaining a stable and adequate source of funding for our courts is without doubt one of the most important reforms in the California justice system in the 20th century.
- The bill provides stable funding to permit us to avoid the sorry spectacle of having to return once again to the Legislature for emergency funding to keep the courthouse doors open.
- This will be a transition year, during which we will plan for the full implementation of state trial court funding.
- Trial court funding has been the Judicial Council's first and foremost priority, and with the bill's passage, the council can focus on those critical areas where funding is most urgently needed and make funding decisions in the best interests of the entire court system.
- We are now able to move much closer to our goal of providing equal access to justice for all, regardless of the financial health of individual counties.
- Our direction is now firmly set, and the state stands ready to assume full responsibility for funding the trial courts.

Landmark

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will look back in 10 years and say that this was a great event for the trial courts of California."

Los Angeles attorney Tony Vittal, co-chair of the Statewide Bench/Bar Coalition, said, "This legislation has been five long years in the making, with the active participation of bar leaders and judges from every corner of California. With the passage of the bill, we finally have hope for adequate, stable funding for our trial courts, enabling them to reclaim their position as the preeminent trial courts in the nation and to once again focus their attention on dispensing justice."

KEY PROVISIONS OF THE BILL

The Lockyer-Isenberg Trial Court Funding Act of 1997 is contained in Assembly Bill 233 by Assembly Members Martha Escutia and Curt Pringle. The bill and related measures passed both houses of the California Legislature shortly before the close of the Legislature's 1997 session.

Governor Pete Wilson signed the bill on October 13, 1997. The act takes effect January 1, 1998. Until then, counties remain responsible for funding court costs.

The funding legislation will:

- Consolidate all court funding at the state level, giving the Legislature authority to make appropriations and the Judicial Council responsibility to allocate funds to state courts.

- Cap counties' financial responsibility at the fiscal year 1994-95 level.

- Require the state to fund all future growth in court operations costs.

- Authorize the creation of 40 new judgeships, contingent on an appropriation made in future legislation.

- Require the state to provide 100 percent funding for court operations in the 20 smallest counties beginning July 1, 1998.

- Raise a number of civil court fees to generate about \$8.7 million annually for trial court funding.

LEGISLATURE, OTHERS ACKNOWLEDGED

In his State of the Judiciary Address, the Chief Justice expressed his appreciation to both houses of the Legislature for coming to an agreement on this measure. He thanked the California State Association of Counties, the Judicial Council, the Trial Court Budget Commission, and countless trial court judges, court administrators, court employee organizations, and local and state bar associations for their tireless efforts on behalf of making state trial-court funding a reality. Chief Justice George also thanked the Administrative Office of the Courts for its dedication and support on behalf of state trial court funding. He particularly noted the efforts of William C. Vickrey, Administrative Director of the California Courts, and Ray LeBov, Director of the Office of Governmental Affairs.

IMPACT OF INADEQUATE FUNDING

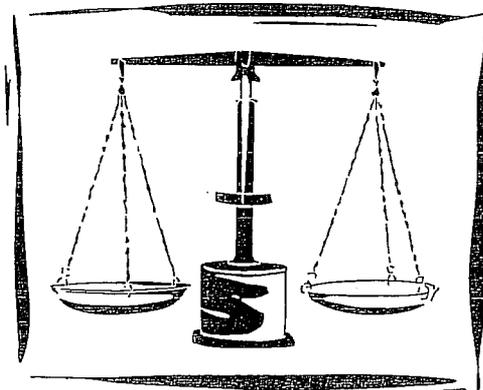
The lack of adequate court funding has had a dramatic impact on the courts' ability to provide effective services to the public, the Chief Justice said. Of his recent visits to the courts in each of California's 58 counties, Chief Justice George remarked, "At courthouse

after courthouse, I heard stories of woefully inadequate facilities, insufficient staff, unavailable interpreter services, and antiquated information-processing systems incapable of meeting current court needs."

For two years in a row, the Legislature has appropriated supplemental funds to avoid a partial or complete shutdown of trial court operations. "Courts cannot be left to rely upon the disparate and fluctuating health of local government as the source of the funding required to perform their basic tasks—and the people of our state deserve a court system that is truly there for them with open doors during the entire workweek," the Chief Justice declared. "They also deserve safe facilities and sufficient judges and staff to ensure that the public's needs and concerns are adequately met."

The Lockyer-Isenberg Trial Court Funding Act will go a long way toward meeting the critical needs of the courts and will enable them to dramatically improve services to the public, he said.

The courts' financing problems result from a funding scheme in which courts have had to rely on often financially strapped county governments as well as the state to pay for court-related costs.



GOVERNOR, LEGISLATORS PRAISE TRIAL COURT FUNDING REFORM

Governor Pete Wilson

When I proposed my budget in January, I called upon the Legislature to approve our trial court restructuring plan that would achieve two important goals: give long-term fiscal relief to counties and provide a stable and reliable source of funding for trial courts.

Not only does this agreement with the Legislature fulfill my proposal from January, it provides several hundred million dollars in additional fiscal relief to local governments, and provides for 40 new and needed judgeship positions. I'm extremely pleased that the Legislature has adopted our proposal, and that we have been able to provide further assistance to both the counties and the courts.



Governor Pete Wilson

Senate President Pro Tempore Bill Lockyer

This represents the most meaningful reform of the California judicial system in this century. The state has recognized its essential responsibility to ensure that there is equal access to a quality judicial system statewide.



Senate President Pro Tempore Bill Lockyer

Assembly Speaker Cruz M. Bustamante



Assembly Speaker Cruz M. Bustamante

Our courts should focus on dispensing justice and not have to worry from year to year about closing down due to lack of funding. By putting a long-term trial court funding plan in place, the Legislature has braced up the backbone of our justice system and provided badly needed relief to cash-strapped counties.



Assembly Member Martha Escutia

Assembly Member Martha Escutia

I am very proud to be the author of this vital bill that ensures the fiscal health of our state trial courts and provides much-needed relief to the counties. AB 233 is an important accomplishment for the people of California, who will now have better access to justice throughout the state. The Judicial Council can be especially proud of

this years-long effort and its effective governmental affairs operation in Sacramento that helped to make the trial court funding bill a reality.

Senator John Burton

With all that we expect the courts to do, a secure and stable funding source is a fundamental requirement. Now that AB 233 has passed, the courts can better focus on other statewide needs, such as technology and modernization.



Senator John Burton

Assembly Member Curt Pringle

Assembly Bill 233 (Escutia & Pringle) represents one of the Legislature's most significant accomplishments of the session. In passing this historic legislation, we have taken the necessary step toward ensuring that our justice system serves the people of California responsibly and fairly. A financially healthy system of justice will improve the overall well-being of the state.



Assembly Member Curt Pringle

Assembly Member Bill Morrow

It's a long time in coming and thank God it's here. For the last two years we came far too close to closing down the courts in many counties in the state. By enacting this legislation we've provided crucial stability to the funding that enables our courts to continue to deliver both civil and criminal justice to the people of California.



Assembly Member Bill Morrow

Implementing Trial Court Funding

Now that the Lockyer-Isenberg Trial Court Funding Act of 1997 has been signed into law, issues remain regarding the implementation of this landmark trial court funding restructuring legislation.

Key issues for 1997-98 fiscal year

The budget for each court is the budget allocated by the Judicial Council based on the appropriation approved in the fiscal year 1997-98 State Budget Act. Implementation issues include:

- In total, counties will contribute the entire amount of funding they paid in the 1994-95 fiscal year to support courts (\$890 million statewide) and remit to the state the amount in revenues from criminal fines, plus half the growth in such revenues over the 1994-95 fiscal year level (\$292 million statewide, plus half the growth).
- For the first half of the 1997-98 fiscal year, counties will remain responsible for paying court costs above the available state funding allocation. Beginning January 1, 1998, counties may seek a credit against their base funding requirement for the amount they spent on court operations costs through December 31, 1997, up to the county's total obligation.
- For the first half of the 1997-98 fiscal year, counties continue to remit revenues from criminal fines to the state. Beginning January 1, 1998, counties may take a credit against their base requirement for the amount remitted through December 31, 1997.
- After January 1, 1998, the Judicial Council will allocate the remainder of the trial court funding budget. The funds are to be deposited into the local trial court operations fund of each county.
- Beginning January 1, 1998, courts may charge increased amounts for civil fees to ensure collection of sufficient revenues to support the court operations budget.

Key issues for 1998-99 fiscal year

- The budget for the courts will be the budget adopted by the Legislature for trial court funding and allocated by the Judicial Council.
- Trial court funding will be allocated by the Judicial Council in four installments: on July 15, or within 10 days of state budget enactment; on October 15; on January 15; and on April 15.
- The counties' base obligation to the state will be reduced from \$890 million to \$605 million, with the obligation of the 20 smallest counties (populations under 70,000) reduced to zero.
- The counties' criminal revenue obligation to the state will be reduced from \$292 million to \$226 million, including a transfer of certain traffic fine revenues to cities and relief for five counties that historically sent the state more in revenues collected than they received in state funding to support the courts.

Trial Court Funding Act of 1997

AB 233

O V E R V I E W

The Lockyer-Isenberg Trial Court Funding Act of 1997 (Assem. Bill 233 [Escutia and Pringle]) is summarized below. Effective January 1, 1998, this landmark legislation:

- Provides that the state assume full responsibility for funding trial court operations,* beginning with the 1997–98 fiscal year, in a single trial court funding budget. Beginning in fiscal year 1998–99, it requires the Judicial Council to allocate the full trial court funding budget to the courts in four installments—on July 15, October 15, January 15, and April 15.
- Requires the Judicial Council to submit an annual trial court budget to the Governor for inclusion in the state budget that meets the needs of all trial courts in a manner that promotes equal access to the courts statewide.
- Provides that counties annually pay to the state the level of funding they contributed to the courts in fiscal year 1994–95. Beginning in fiscal year 1998–99, the state will provide local governments additional relief of \$350 million.
- Establishes a mechanism for the counties and the courts to seek an adjustment to the base county contribution to correct errors and inequities that may result from the use of fiscal year 1994–95 as the base year. Also allows for an adjustment of these amounts to reflect the moneys that counties contributed to court funding between July 1, 1997, and December 31, 1997.
- Requires counties to continue funding court facilities and those court-related costs that are outside the statutory definition of court operations, such as indigent defense, pretrial release, and probation costs.
- Adjusts various civil fees, which will result in an estimated additional \$87 million annually to support trial court operations.
- Provides that growth in revenues from fines over the amount collected in fiscal year 1994–95 will be split between the counties and the Trial Court Improvement Fund. This fund will address emergency needs of the courts; provide funding for statewide improvement projects, including automation and other needs; and reward court coordination efforts.
- Directs the Judicial Council to adopt rules of court that ensure a decentralized system of trial court management.

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* Gov. Code, § 77003 and Cal. Rules of Court, rule 810 define "trial court operations" to include judicial officers' salaries and benefits, jury services, court reporting services, interpreter services, alternative dispute resolution, noncriminal court-appointed counsel, court security, information technology, staffing and operating expenses, and other indirect costs. Excluded are facilities-related costs, criminal indigent defense, probation, pretrial release, and other court-related costs.

Overview of the Lockyer-Isenberg Trial Court Funding Act of 1997

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- Establishes a task force on the status of trial court employees and a task force on trial court facilities to make recommendations to the Judicial Council and the Legislature on appropriate means for addressing related issues.
- Establishes the Civil Delay Reduction Team, a team of retired judges assigned by the Chief Justice to assist courts in reducing or eliminating delay in civil cases.
- Creates the Judicial Administration Efficiency and Modernization Fund—subject to legislative appropriation—to promote court unification. The Judicial Council may use this fund to promote increased access, efficiency, and effectiveness in trial courts that have unified to the fullest extent permitted by law—including the provision of support for education programs, improved technology, enhanced judicial benefits and educational sabbaticals, and improved legal research assistance to judges.
- Provides that the Judicial Council may authorize a trial court that has fully implemented court coordination under rule 991 of the California Rules of Court to carry unexpended funds over from one fiscal year to the next.
- Authorizes municipal court judges to receive pay equivalent to that of superior court judges when the former are cross-assigned by the Chief Justice pursuant to both a Judicial Council–approved coordination plan and a Judicial Council–certified, uniform county- or regionwide system for case assignment that maximizes existing judicial resources.

Policies Promoted by Trial Court Funding Restructuring

- Provides a stable, consistent funding source for the trial courts.
- Promotes fiscal responsibility and accountability by the trial courts in managing scarce resources in the most efficient and effective manner.
- Recognizes that the state is primarily responsible for trial court funding, thereby enabling the courts, the state, and the counties to engage in long-term planning.
- Enhances equal access to justice by removing disparities resulting from the varying ability of individual counties to address the operating needs of the courts and to provide basic and constitutionally mandated services.
- Provides significant financial relief in all 58 counties—relief counties desperately need to enable them to redirect scarce local resources to critical programs that serve their local constituents.