

AMENDED IN ASSEMBLY MAY 10, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1208**

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**Introduced by Assembly Member Charles Calderon**

February 18, 2011

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An act to ~~add Section 77001.1 to~~ amend Sections 77202 and 77207 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1208, as amended, Charles Calderon. Trial courts: administration.

*Existing law requires the Legislature to make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council, which is submitted to the Governor and the Legislature. The Judicial Council is required to allocate the funding for trial court operations to the trial courts in a manner that best ensures the ability of the courts to carry out their functions, promotes implementation of statewide policies, and promotes the immediate implementation of efficiencies and cost-saving measures in court operations, in order to guarantee access to justice to citizens of the state. Existing law requires the Controller to apportion trial court funding payments to the individual trial courts pursuant to the allocation schedule adopted by the Judicial Council, as specified.*

*This bill would require the Legislature, based on the information submitted in the Governor's proposed budget, and prior to the allocation of funds to each local trial court in accordance with the allocation schedule adopted by the Judicial Council, to specify, in each annual Budget Act, the funding amounts to be allocated for programs of statewide concern from the total funds appropriated for trial court operations by the Legislature. The bill would prohibit the Judicial*

*Council, or its designee, from withholding or expending any portion of the total funds appropriated for trial court operations by the Legislature for any statewide information technology or administrative infrastructure program that was not identified in the annual Budget Act, unless the Judicial Council, or its designee, first obtains the written approval of 66 $\frac{2}{3}$ % of a proportional representation of all local trial courts.*

~~The California Constitution provides that the judicial power of this state is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record. The Constitution provides for a superior court of one or more judges in each county. The Constitution establishes the Judicial Council, and requires the council, to improve the administration of justice, to survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and the Legislature, adopt rules for court administration, practice, and procedure, and perform other functions prescribed by statute. The Constitution requires judges to report to the council as the Chief Justice directs concerning the condition of judicial business in their courts, and to cooperate with the council and hold court as assigned.~~

~~This bill would enact the Trial Court Rights Act of 2011. The bill would provide that each trial court of this state is an independent constitutional and statutory court, with the independent right and duty to manage its administrative and financial affairs in accordance with its own policies, as provided by its trial court management, if the court is in reasonable compliance with accounting, audit, and budgetary standards established by law. The bill would provide that each trial court shall be independently empowered with enumerated powers.~~

~~The bill would provide that, except as otherwise provided by law, all funds allocated for trial court operations, once appropriated, shall be fully allocated among the trial courts, and that no deductions shall take place without the consent of the affected courts. The bill would authorize each trial court to move funds, once budgeted and allocated, between functions or line items or programs as directed by that court's trial court management. The bill would require the trial court management's written consent to impose, implement, or share any case or accounting information system, or to contribute any portion of the trial court's budget to a statewide information system, or to undertake the construction of a court facility in that county. The bill would require the Judicial Council to consider, and revise or adopt, rules and policies consistent with these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 77202 of the Government Code is  
2     amended to read:

3     77202. (a) The Legislature shall make an annual appropriation  
4     to the Judicial Council for the general operations of the trial courts  
5     based on the request of the Judicial Council. The Judicial Council's  
6     trial court budget request, which shall be submitted to the Governor  
7     and the Legislature, shall meet the needs of all trial courts in a  
8     manner that ensures a predictable fiscal environment for labor  
9     negotiations in accordance with the Trial Court Employment  
10    Protection and Governance Act (Chapter 7 (commencing with  
11    Section 71600) of Title 8), that promotes equal access to the courts  
12    statewide, and that promotes court financial accountability. The  
13    annual budget request shall include the following components:

14    (1) Commencing with the 2006–07 fiscal year, annual General  
15    Fund appropriations to support the trial courts shall be comprised  
16    of both of the following:

17    (A) The current fiscal year General Fund appropriations, which  
18    include all of the following:

19    (i) General Fund moneys appropriated for transfer or direct local  
20    assistance in support of the trial courts.

21    (ii) Transfers to the Judicial Administration Efficiency and  
22    Modernization Fund.

23    (iii) Local assistance grants made by the Judicial Council,  
24    including the Equal Access Fund.

25    (iv) The full year cost of budget change proposals approved  
26    through the 2006–07 fiscal year or subsequently approved in  
27    accordance with paragraph (2), but excluding lease-revenue  
28    payments and funding for costs specifically and expressly  
29    reimbursed through other state or federal funding sources,  
30    excluding the cost of one-time or expiring programs.

31    (B) A cost-of-living and growth adjustment computed by  
32    multiplying the year-to-year percentage change in the state  
33    appropriation limit as described in Section 3 of Article XIII B of  
34    the California Constitution by the sum of all of the following:

1 (i) The current year General Fund appropriations for the trial  
2 courts, as defined in subparagraph (A).

3 (ii) The amount of county obligations established pursuant to  
4 subdivision (b) of Section 77201.1 in effect as of June 30, 2005,  
5 six hundred ninety-eight million sixty-eight thousand dollars  
6 (\$698,068,000).

7 (iii) The level of funding required to be transferred from the  
8 Trial Court Improvement Fund to the Trial Court Trust Fund  
9 pursuant to subdivision (k) of Section 77209, thirty-one million  
10 five hundred sixty-three thousand dollars (\$31,563,000).

11 (iv) Funding deposited into the Court Facilities Trust Fund  
12 associated with each facility that was transferred to the state not  
13 less than two fiscal years earlier than the fiscal year for which the  
14 cost-of-living and growth adjustment is being calculated.

15 (v) The court filing fees and surcharges projected to be deposited  
16 into the Trial Court Trust Fund in the 2005–06 fiscal year, adjusted  
17 to reflect the full-year implementation of the uniform civil fee  
18 structure implemented on January 1, 2006, three hundred sixty-nine  
19 million six hundred seventy-two thousand dollars (\$369,672,000).

20 (2) In addition to the moneys to be applied pursuant to  
21 subdivision ~~(b)~~ (c), the Judicial Council may identify and request  
22 additional funding for the trial courts for costs resulting from the  
23 implementation of statutory changes that result in either an  
24 increased level of service or a new activity that directly affects the  
25 programmatic or operational needs of the courts.

26 (b) (1) *Based on the information submitted in the Governor's*  
27 *proposed budget, and prior to the allocation of funds to each local*  
28 *trial court in accordance with the allocation schedule adopted by*  
29 *the Judicial Council pursuant to subdivision (c) of Section 77200,*  
30 *the Legislature shall specify, in each annual Budget Act, the*  
31 *funding amounts to be allocated for programs of statewide concern*  
32 *from the total funds appropriated for trial court operations by the*  
33 *Legislature. For purposes of this paragraph, programs of statewide*  
34 *concern operate in the superior courts of multiple counties and*  
35 *may include, but shall not be limited to, equal access,*  
36 *court-appointed special counsel, family law information centers,*  
37 *model self-help, assigned judges, information technology, and*  
38 *administrative infrastructure.*

39 (2) *Notwithstanding any other law, the Judicial Council, or its*  
40 *designee, shall not withhold or expend any portion of the total*

1 *funds appropriated for trial court operations by the Legislature*  
2 *for any statewide information technology or administrative*  
3 *infrastructure program that was not identified in the annual Budget*  
4 *Act, unless the Judicial Council, or its designee, first obtains the*  
5 *written approval of 66<sup>2/3</sup> percent of a proportional representation*  
6 *of all local trial courts. For purposes of this paragraph,*  
7 *proportional representation shall be calculated according to the*  
8 *number of judges in the superior court of each county as a*  
9 *percentage of the total number of judges authorized by Section 4*  
10 *of Article VI of the California Constitution in all county superior*  
11 *courts statewide.*

12 ~~(b)~~

13 (c) The Judicial Council shall allocate the funding from the Trial  
14 Court Trust Fund to the trial courts in a manner that best ensures  
15 the ability of the courts to carry out their functions, promotes  
16 implementation of statewide policies, and promotes the immediate  
17 implementation of efficiencies and cost-saving measures in court  
18 operations, in order to guarantee access to justice to citizens of the  
19 state.

20 The Judicial Council shall ensure that allocations to the trial  
21 courts recognize each trial court's implementation of efficiencies  
22 and cost-saving measures.

23 These efficiencies and cost-saving measures shall include, but  
24 not be limited to, the following:

25 (1) The sharing or merger of court support staff among trial  
26 courts across counties.

27 (2) The assignment of any type of case to a judge for all  
28 purposes commencing with the filing of the case and regardless  
29 of jurisdictional boundaries.

30 (3) The establishment of a separate calendar or division to hear  
31 a particular type of case.

32 (4) In rural counties, the use of all court facilities for hearings  
33 and trials of all types of cases and the acceptance of filing  
34 documents in any case.

35 (5) The use of alternative dispute resolution programs, such as  
36 arbitration.

37 (6) The development and use of automated accounting and  
38 case-processing systems.

39 ~~(e)~~

(d) (1) The Judicial Council shall adopt policies and procedures governing practices and procedures for budgeting in the trial courts in a manner that best ensures the ability of the courts to carry out their functions and may delegate the adoption to the Administrative Director of the Courts. The Administrative Director of the Courts shall establish budget procedures and an annual schedule of budget development and management consistent with these rules.

(2) The trial court policies and procedures shall specify the process for a court to transfer existing funds between or among the budgeted program components to reflect changes in the court's planned operation or to correct technical errors. If the process requires a trial court to request approval of a specific transfer of existing funds, the Administrative Office of the Courts shall review the request to transfer funds and respond within 30 days of receipt of the request. The Administrative Office of the Courts shall respond to the request for approval or denial to the affected court, in writing, with copies provided to the Department of Finance, the Legislative Analyst's Office, the Legislature's budget committees, and the court's affected labor organizations.

(3) The Judicial Council shall circulate for comment to all affected entities any amendments proposed to the trial court policies and procedures as they relate to budget monitoring and reporting. Final changes shall be adopted at a meeting of the Judicial Council.

*SEC. 2. Section 77207 of the Government Code is amended to read:*

77207. The Legislature shall appropriate trial court funding. The Controller shall apportion trial court funding payments to the courts as provided in Section 68085 pursuant to an allocation schedule adopted by the Judicial Council, *and consistent with subdivision (b) of Section 77202.*

~~SECTION 1. This act shall be known, and may be cited, as the Trial Court Rights Act of 2011.~~

~~SEC. 2. The Legislature finds and declares all of the following:~~

~~(a) While the Legislature has previously affirmed, recognized, and established that the funding of trial court operations is a function of the state for greater efficiency and accountability in the allocation of state resources for the local trial courts, the Legislature has also previously affirmed the need for strong and independent local county court management.~~

1     ~~(b) The common law structure of our judiciary is constitutionally~~  
2     ~~and statutorily implemented in California through the county trial~~  
3     ~~court system, as courts of general jurisdiction.~~

4     ~~(1) The California Constitution states: “In each county there is~~  
5     ~~a superior court of one or more judges” (Section 4 of Article VI~~  
6     ~~of the California Constitution; see Section 914.1 of the Penal Code~~  
7     ~~(referring to “the superior court of the county”); Dineen v. City~~  
8     ~~and County of San Francisco (1940) 38 Cal.App.2d 486, 490~~  
9     ~~(“While the superior court is, in one sense, a state court, it is also~~  
10    ~~a county court.”)).~~

11    ~~(2) The correct view, therefore, is that the California~~  
12    ~~Constitution mandates that there are 58 superior courts in~~  
13    ~~California, one in each of the 58 counties.~~

14    ~~(3) Each judge of every superior court conducts a “session” as~~  
15    ~~a “court of record,” and the judgments, orders, and proceedings~~  
16    ~~of each judge are as effective as if conducted by all of the judges~~  
17    ~~of the court (see Section 69741.5 of the Government Code).~~

18    ~~(e) The importance of having decentralized management of the~~  
19    ~~trial courts was recognized by the Legislature in adopting the~~  
20    ~~Lockyer-Isenberg Trial Court Funding Act of 1997 (Chapter 850~~  
21    ~~of the Statutes of 1997). The Legislature stated in subdivision (f)~~  
22    ~~of Section 3 of that act that the Judicial Council shall adopt a Trial~~  
23    ~~Courts Bill of Financial Management Rights, to be approved no~~  
24    ~~later than January 1, 1998, and provided the standards to be~~  
25    ~~followed by the Judicial Council in Section 77001 of the~~  
26    ~~Government Code.~~

27    ~~(d) In fact, the Judicial Council never adopted the Trial Courts~~  
28    ~~Bill of Financial Management Rights.~~

29    ~~(e) Accordingly, the Legislature hereby enacts a Trial Court~~  
30    ~~Bill of Rights to ensure the management principles recognized by~~  
31    ~~the Legislature in adopting the Lockyer-Isenberg Trial Court~~  
32    ~~Funding Act of 1997.~~

33    ~~SEC. 3. Section 77001.1 is added to the Government Code, to~~  
34    ~~read:~~

35    ~~77001.1. Each trial court of this state is recognized as an~~  
36    ~~independent constitutional and statutory court according to, and~~  
37    ~~subject to, the following provisions:~~

38    ~~(a) Each trial court shall be considered, and is hereby established~~  
39    ~~and denominated, an independent county trial court within the~~  
40    ~~historic geographic boundaries of the counties of this state, in~~

1 ~~accordance with the traditional rules of jurisdiction and venue.~~  
2 ~~The Judicial Council does not govern the trial courts. The Judicial~~  
3 ~~Council's authority and functions are expressly provided for, and~~  
4 ~~limited by, the California Constitution and statute.~~

5 (b) ~~Each judge of each trial court is an independent constitutional~~  
6 ~~officer of the state, empowered to conduct the sessions of the trial~~  
7 ~~court assigned to that judge with independent authority, subject to~~  
8 ~~state and federal law.~~

9 (c) ~~Each trial court shall have the independent right and duty to~~  
10 ~~manage its administrative and financial affairs in accordance with~~  
11 ~~its own policies, as provided by its trial court management, if the~~  
12 ~~court is in reasonable compliance with the accounting, audit, and~~  
13 ~~budgetary standards established by law.~~

14 (d) ~~Each trial court of this state shall be independently~~  
15 ~~empowered with all of the following powers, including, but not~~  
16 ~~limited to:~~

17 (1) ~~To elect and maintain its own presiding judge, and assistant~~  
18 ~~presiding judge, according to the majority vote of the active judges~~  
19 ~~of that trial court, in accordance with its own policies established~~  
20 ~~by majority vote of its active judges from time to time.~~

21 (2) ~~To hire, maintain, compensate, and supervise its own~~  
22 ~~executive officer, subordinate officers, court administrators, clerks~~  
23 ~~of the court, jury commissioner, chief probation officer, and~~  
24 ~~employees, and to employ, compensate, negotiate with, and~~  
25 ~~supervise those employees in its own discretion, in accordance~~  
26 ~~with law, and to maintain its own personnel plans and policies~~  
27 ~~consistent with law.~~

28 (3) ~~To enter into its own contracts and agreements to provide~~  
29 ~~for the security of its court sessions, including negotiating and~~  
30 ~~maintaining contracts with local law enforcement agencies.~~

31 (4) ~~To retain and employ its own administrative legal counsel~~  
32 ~~to assist with the administration of court affairs, and to represent~~  
33 ~~the court with respect to its rights, duties, and obligations.~~

34 (5) ~~To assign its judges to any session and to any facility within~~  
35 ~~its geographic boundaries within the sole discretion of its presiding~~  
36 ~~judge and in accordance with policies as may be established by its~~  
37 ~~trial court management.~~

38 (6) ~~Except as otherwise required by law, to maintain the~~  
39 ~~schedule of its own sessions at times and places as deemed prudent~~  
40 ~~by its presiding judge and trial court management, and to open or~~



1 close the court facilities within its geographic boundaries as  
2 deemed prudent by its presiding judge and trial court management.

3 (e) Except as necessary to otherwise carry out the constitutional  
4 or other established statutory authority of the Judicial Council, a  
5 trial court shall not be required to coordinate or combine its  
6 operations with any other trial court, except as the trial court  
7 management of that trial court consents, including the assignment  
8 of its judges to any other court.

9 (f) Except as otherwise provided by law, all funds allocated for  
10 trial court operations, once appropriated, shall be fully allocated  
11 among the trial courts, and no deductions shall take place without  
12 the consent of the affected courts. Funds, once allocated to a trial  
13 court, shall be the funds of that court, subject to reserve by that  
14 court, and shall not be reallocated without the consent of that  
15 court's trial court management.

16 (g) Each trial court may move funds, once budgeted and  
17 allocated, between functions or line items or programs as directed  
18 by that court's trial court management. Notwithstanding Section  
19 68085, an allocation of funds from the Trial Court Trust Fund shall  
20 not be made without the consent of the trial court management of  
21 the affected court or courts.

22 (h) A trial court shall not be required to impose, implement, or  
23 share any case or accounting information system, or to contribute  
24 any portion of its budget to a statewide case or accounting  
25 information system, except with the written consent of its trial  
26 court management. Each trial court shall have full operational  
27 control of its financial information, case files, and all file and  
28 calendar information, electronic or otherwise. The Judicial Council  
29 shall ensure that any data management controls, such as software  
30 compilation codes, are provided to each trial court for that purpose.

31 (i) The design or construction of a court facility shall not be  
32 undertaken in a county without the prior and final written consent  
33 and approval of that court's trial court management. The location  
34 of a court facility construction project shall be approved by that  
35 court's trial court management. A pending construction project  
36 that is not yet under construction at the time this section is enacted  
37 shall be submitted for approval of the trial court management of  
38 the affected court as soon as possible. All court facilities within  
39 each county shall prominently display the name of the county in  
40 substantially the following manner: "Superior Court of the State

1 of California in and for the County of [name of county].” A court  
2 facility shall not be named except by, or with the written consent  
3 of, that court’s trial court management.  
4 (j) No rule or policy established or adopted by the Judicial  
5 Council shall conflict with this section. The Judicial Council shall  
6 consider, and revise or adopt, rules and policies consistent with  
7 this section. In the event of a conflict between any rule or policy  
8 of the Judicial Council and this section, this section shall prevail.  
9 (k) For purposes of this section, “trial court management” means  
10 the presiding judge and any executive committee of the judges of  
11 the trial court.