

AMENDED IN ASSEMBLY MAY 18, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1208

Introduced by Assembly Member Charles Calderon

February 18, 2011

An act to amend Sections ~~77202~~ 68085, 68502.5, 77006.5, 77009, 77200, 77202, 77203, 77206, 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, *among other things, delete the provisions relating to the manner in which the Judicial Council allocates funding for trial court operations, and would instead require that the amount allocated to each trial court from the amount appropriated for trial court*

operations be equal to the pro rata share of the prior fiscal year's adjusted base budget, except as provided. The 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 66⅔% of a proportional representation of all local trial courts. The bill would require the Judicial Council, or its designee, to allocate 100% of the funds appropriated for trial court operations according to each court's share of statewide operational funding.

Existing law provides that the Judicial Council retains the ultimate responsibility to adopt a budget and allocate funding for the trial courts, as specified, and empowers the Judicial Council to authorize a trial court to carry unexpended funds over from one fiscal year to the next.

This bill would delete those provisions and would instead provide that unexpended funds shall be the funds of that court, which may carry those funds over from one fiscal year to the next. The bill would prohibit those funds from being reallocated or redirected without the consent of the management of the trial court.

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 68085 of the Government Code is*
2 *amended to read:*
3 68085. (a) (1) There is hereby established the Trial Court
4 Trust Fund, the proceeds of which shall be apportioned for the
5 purposes authorized in this section, including apportionment to
6 the trial courts to fund trial court operations, as defined in Section
7 77003.

1 (2) The apportionment payments shall be made by the
2 Controller. The final payment from the Trial Court Trust Fund for
3 each fiscal year shall be made on or before August 31 of the
4 subsequent fiscal year.

5 ~~(A) Notwithstanding any other provision of law, in order to~~
6 ~~promote statewide efficiency, the Judicial Council may authorize~~
7 ~~the direct payment or reimbursement or both of actual costs from~~
8 ~~the Trial Court Trust Fund or the Trial Court Improvement Fund~~
9 ~~to fund the costs of operating one or more trial courts upon the~~
10 ~~consent of participating courts. These paid or reimbursed costs~~
11 ~~may be for services provided to the court or courts by the~~
12 ~~Administrative Office of the Courts or payment for services or~~
13 ~~property of any kind contracted for by the court or courts or on~~
14 ~~behalf of the courts by the Administrative Office of the Courts.~~
15 ~~The amount of appropriations from the Trial Court Improvement~~
16 ~~Fund under this subdivision may not exceed 20 percent of the~~
17 ~~amount deposited in the Trial Court Improvement Fund pursuant~~
18 ~~to subdivision (a) of Section 77205. The direct payment or~~
19 ~~reimbursement of costs from the Trial Court Trust Fund may be~~
20 ~~supported by the reduction of a participating court's allocation~~
21 ~~from the Trial Court Trust Fund to the extent that the court's~~
22 ~~expenditures for the program are reduced and the court is supported~~
23 ~~by the expenditure. The Judicial Council shall provide the affected~~
24 ~~trial courts with quarterly reports on expenditures from the Trial~~
25 ~~Court Trust Fund incurred as authorized by this subdivision. The~~
26 ~~Judicial Council shall establish procedures to provide for the~~
27 ~~administration of this paragraph in a way that promotes the~~
28 ~~effective, efficient, reliable, and accountable operation of the trial~~
29 ~~courts.~~

30 ~~(B) As used in subparagraph (A), the term "costs of operating~~
31 ~~one or more trial courts" includes any expenses related to operation~~
32 ~~of the court or performance of its functions, including, but not~~
33 ~~limited to, statewide administrative and information technology~~
34 ~~infrastructure supporting the courts. The term "costs of operating~~
35 ~~one or more trial courts" is not restricted to items considered "court~~
36 ~~operations" pursuant to Section 77003, but is subject to policies,~~
37 ~~procedures, and criteria established by the Judicial Council, and~~
38 ~~may not include an item that is a cost that must otherwise be paid~~
39 ~~by the county or city and county in which the court is located.~~

1 (b) Notwithstanding any other provision of law, the fees listed
2 in subdivision (c) shall all be deposited upon collection in a special
3 account in the county treasury, and transmitted monthly to the
4 State Treasury for deposit in the Trial Court Trust Fund.

5 (c) (1) Except as specified in subdivision (d), this section applies
6 to all fees collected on or before December 31, 2005, pursuant to
7 Sections 631.3, 116.230, and 403.060 of the Code of Civil
8 Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827,
9 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1,
10 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862,
11 68086, 72055, 72056, 72056.01, and 72060.

12 (2) Notwithstanding any other provision of law, except as
13 specified in subdivision (d) of this section and subdivision (a) of
14 Section 68085.7, this section applies to all fees and fines collected
15 on or before December 31, 2005, pursuant to Sections 116.390,
16 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,
17 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,
18 Sections 26824, 26828, 26829, 26834, and 72059 of the
19 Government Code, and subdivisions (b) and (c) of Section 166
20 and Section 1214.1 of the Penal Code.

21 (3) If any of the fees provided for in this subdivision are partially
22 waived by court order, and the fee is to be divided between the
23 Trial Court Trust Fund and any other fund, the amount of the partial
24 waiver shall be deducted from the amount to be distributed to each
25 fund in the same proportion as the amount of each distribution
26 bears to the total amount of the fee.

27 (d) This section does not apply to that portion of a filing fee
28 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
29 72056 that is allocated for dispute resolution pursuant to Section
30 470.3 of the Business and Professions Code, the county law library
31 pursuant to Section 6320 of the Business and Professions Code,
32 the Judges' Retirement Fund pursuant to Section 26822.3,
33 automated recordkeeping or conversion to micrographics pursuant
34 to Sections 26863 and 68090.7, and courthouse financing pursuant
35 to Section 76238. This section also does not apply to fees collected
36 pursuant to subdivisions (a) and (c) of Section 27361.

37 (e) This section applies to all payments required to be made to
38 the State Treasury by any county or city and county pursuant to
39 Section 77201, 77201.1, or 77205.

1 (f) Notwithstanding any other provision of law, no agency may
2 take action to change the amounts allocated to any of the funds
3 described in subdivision (a), (b), (c), or (d).

4 (g) The Judicial Council shall reimburse the Controller for the
5 actual administrative costs that will be incurred under this section.
6 Costs reimbursed under this section shall be determined on an
7 annual basis in consultation with the Judicial Council.

8 (h) Any amounts required to be transmitted by a county or city
9 and county to the state pursuant to this section shall be remitted
10 to the State Treasury no later than 45 days after the end of the
11 month in which the fees were collected. This remittance shall be
12 accompanied by a remittance advice identifying the collection
13 month and the appropriate account in the Trial Court Trust Fund
14 to which it is to be deposited. Any remittance that is not made by
15 the county or city and county in accordance with this section shall
16 be considered delinquent, and subject to the interest and penalties
17 specified in this section.

18 (i) Upon receipt of any delinquent payment required pursuant
19 to this section, the Controller shall do the following:

20 (1) Calculate interest on the delinquent payment by multiplying
21 the amount of the delinquent payment at a daily rate equivalent to
22 the rate of return of money deposited in the Local Agency
23 Investment Fund pursuant to Section 16429.1 from the date the
24 payment was originally due to either 30 days after the date of the
25 issuance by the Controller of the final audit report concerning the
26 failure to pay or the date of payment by the entity responsible for
27 the delinquent payment, whichever comes first.

28 (2) Calculate a penalty at a daily rate equivalent to 1 ½ percent
29 per month from the date 30 days after the date of the issuance by
30 the Controller of the final audit report concerning the failure to
31 pay.

32 (j) (1) Interest or penalty amounts calculated pursuant to
33 subdivision (i) shall be paid by the county, city and county, or
34 court to the Trial Court Trust Fund no later than 45 days after the
35 end of the month in which the interest or penalty was calculated.
36 Payment shall be made by the entity responsible for the error or
37 other action that caused the failure to pay, as determined by the
38 Controller in notice given to that party by the Controller.

39 (2) Notwithstanding Section 77009, any interest or penalty on
40 a delinquent payment that a court is required to make pursuant to

1 this section and Section 24353 shall be paid from the Trial Court
2 Operations Fund for that court.

3 (3) The Controller may permit a county, city and county, or
4 court to pay the interest or penalty amounts according to a payment
5 schedule in the event of a large interest or penalty amount that
6 causes a hardship to the paying entity.

7 (4) The party responsible for the error or other action that caused
8 the failure to pay may include, but is not limited to, the party that
9 collected the funds who is not the party responsible for remitting
10 the funds to the Trial Court Trust Fund, if the collecting party
11 failed or delayed in providing the remitting party with sufficient
12 information needed by the remitting party to distribute the funds.

13 (k) The Trial Court Trust Fund shall be invested in the Surplus
14 Money Investment Fund and all interest earned shall be allocated
15 to the Trial Court Trust Fund quarterly and shall be allocated
16 among the courts in accordance with the requirements of
17 subdivision (a). The specific allocations shall be specified by the
18 Judicial Council.

19 (l) It is the intent of the Legislature that the revenues required
20 to be deposited into the Trial Court Trust Fund be remitted as soon
21 after collection by the courts as possible.

22 (m) Except for subdivisions (a) and (k), this section does not
23 apply to fees and fines that are listed in subdivision (a) of Section
24 68085.1 that are collected on or after January 1, 2006.

25 (n) The changes made to subdivisions (i) and (j) of this section
26 by the act adding this subdivision shall apply to all delinquent
27 payments for which no final audit has been issued by the Controller
28 prior to January 1, 2008.

29 *SEC. 2. Section 68502.5 of the Government Code is amended*
30 *to read:*

31 68502.5. (a) The Judicial Council may, as part of its trial court
32 budget process, seek input from groups and individuals as it deems
33 appropriate including, but not limited to, advisory committees and
34 the Administrative Director of the Courts. The trial court budget
35 process may include, but is not limited to, the following:

- 36 (1) The receipt of budget requests from the trial courts.
- 37 (2) The review of the trial courts' budget requests and evaluate
38 them against performance criteria established by the Judicial
39 Council by which a court's performance, ~~level of coordination,~~
40 and efficiency can be measured.

1 (3) The annual adoption of the projected cost in the subsequent
2 fiscal year of court operations as defined in Section 77003 for each
3 trial court. This estimation shall serve as a basis for recommended
4 court budgets, which shall be developed for comparison purposes
5 and to delineate funding responsibilities.

6 (4) The annual approval of a schedule for the allocation of
7 moneys to individual courts *as set forth in Section 77202*, and an
8 overall trial court budget for forwarding to the Governor for
9 inclusion in the Governor's proposed State Budget. ~~The schedule~~
10 ~~overall trial court budget~~ shall be based on the performance criteria
11 established pursuant to paragraph (2), on a minimum standard
12 established by the Judicial Council for the operation and staffing
13 of all trial court operations, and on any other factors as determined
14 by the Judicial Council. This minimum standard shall be modeled
15 on court operations using all reasonable and available measures
16 to increase court efficiency. ~~The schedule of allocations~~ *overall*
17 *trial court budget* shall ~~assure~~ *ensure* that all trial courts receive
18 funding for the minimum operating and staffing standards before
19 funding operating and staffing requests above the minimum
20 standards, ~~and shall include incentives and rewards for any trial~~
21 ~~court's implementation of efficiencies and cost saving measures.~~

22 ~~(5) The reallocation of funds during the course of the fiscal year~~
23 ~~to ensure equal access to the trial courts by the public, to improve~~
24 ~~trial court operations, and to meet trial court emergencies. Neither~~
25 ~~the state nor the counties shall have any obligation to replace~~
26 ~~moneys appropriated for trial courts and reallocated pursuant to~~
27 ~~this paragraph.~~

28 (6)

29 (5) The allocation of funds in the Trial Court Improvement Fund
30 to ensure equal access to trial courts by the public, to improve trial
31 court operations, and to meet trial court emergencies.

32 (7)

33 (6) Upon approval of the trial courts' budget by the Legislature,
34 the preparation during the course of the fiscal year of allocation
35 schedules for payments to the trial courts, consistent with Section
36 68085, which shall be submitted to the Controller's office at least
37 15 days before the due date of any allocation.

38 (8)

39 (7) The establishment of ~~rules regarding a court's procedures~~
40 *for a court to report its exercise of authority to transfer trial court*

1 funding moneys from one functional category to another in order
2 to address needs in any functional category.

3 ~~(9)~~

4 (8) At the request of the presiding judge of a trial court, an
5 independent review of the funding level of the court to determine
6 whether it is adequate to enable the court to discharge its statutory
7 and constitutional responsibilities.

8 ~~(10)~~

9 (9) From time to time, a review of the level of fees charged by
10 the courts for various services and prepare recommended
11 adjustments for forwarding to the Legislature.

12 ~~(11)~~

13 (10) Provisions set forth in rules adopted pursuant to Section
14 77206 of the Government Code.

15 (b) Courts and counties shall establish procedures to allow for
16 the sharing of information as it relates to approved budget proposals
17 and expenditures that impact the respective court and county
18 budgets. The procedures shall include, upon the request of a court
19 or county, that a respective court or county shall provide the
20 requesting court or county a copy of its approved budget and, to
21 the extent possible, approved program expenditure component
22 information and a description of budget changes that are anticipated
23 to have an impact on the requesting court or county. The Judicial
24 Council shall provide to the Legislature on December 31, 2001,
25 and yearly thereafter, budget expenditure data at the program
26 component level for each court.

27 ~~(e) The Judicial Council shall retain the ultimate responsibility
28 to adopt a budget and allocate funding for the trial courts and
29 perform the other activities listed in subdivision (a) that best assure
30 their ability to carry out their functions, promote implementation
31 of statewide policies, and promote the immediate implementation
32 of efficiencies and cost saving measures in court operations, in
33 order to guarantee equal access to the courts.~~

34 *SEC. 3. Section 77006.5 of the Government Code is amended*
35 *to read:*

36 77006.5. As used in this chapter, “trial court funding” means
37 the amount of state funds provided for the operation of the trial
38 courts, as defined in Section 77003, appropriated in the Budget
39 Act, and allocated or reallocated by the Judicial Council law.

1 *SEC. 4. Section 77009 of the Government Code is amended to*
2 *read:*

3 77009. (a) The Judicial Council may establish bank accounts
4 for the superior courts and require the courts to deposit moneys
5 for trial court operations, and any other moneys under the control
6 of the courts, into those accounts. Deposits to these accounts shall
7 include, but are not limited to, the following:

8 (1) Moneys appropriated in the Budget Act and allocated or
9 reallocated to the superior court by the Judicial Council.

10 (2) Moneys held in trust.

11 (3) Other moneys as deemed necessary or appropriate.

12 (b) Subdivision (a) shall not apply to payments from a party or
13 a defendant received by the superior court for any criminal fees,
14 fines, or forfeitures. However, the court and county may enter into
15 a contract for the court to provide depository services in an account
16 established by the Judicial Council for criminal fees, fines, and
17 forfeitures, with the approval of the Administrative Director of the
18 Courts. The contract shall identify the scope of service, method
19 of service delivery, term of agreement, anticipated service
20 outcomes, and the cost of the service. The amount of any indirect
21 or overhead costs shall be individually stated with the method of
22 calculation of the indirect or overhead costs.

23 (c) Moneys deposited into a bank account established pursuant
24 to subdivision (a) for the Trial Court Operations Fund that are
25 appropriated in the Budget Act and allocated or reallocated to ~~the~~
26 ~~superior court by the Judicial Council~~ *any trial court* shall be
27 payable only for the purposes set forth in Sections 77003 and
28 77006.5, and for services purchased by the court pursuant to
29 subdivisions (b) and (c) of Section 77212.

30 (d) (1) All moneys received by a superior court from any source
31 for court operating and program purposes shall be deposited into
32 a bank account established pursuant to subdivision (a) and
33 accounted for in the Trial Court Operations Fund. Moneys that are
34 received to fulfill the requirements of Article 4 (commencing with
35 Section 4250) of Chapter 2 of Part 2 of Division 9 and Division
36 14 (commencing with Section 10000) of the Family Code shall be
37 identified and maintained in a separate account established in the
38 fund for this purpose.

39 (2) All other moneys deposited into a bank account established
40 pursuant to subdivision (a) and accounted for in the Trial Court

1 Operations Fund that are received for purposes other than court
2 operations, as defined in Section 77003 and Rule 10.810 of the
3 California Rules of Court, shall be identified and maintained in
4 separate accounts in the fund.

5 (3) This subdivision shall not apply to either of the following:

6 (A) Moneys received by the courts pursuant to paragraph (2)
7 of subdivision (a) of this section and Section 68084, if those
8 moneys are not for court operating or program purposes.

9 (B) Payments from a party or a defendant received by the county
10 for any fees, fines, or forfeitures; moneys collected by the superior
11 court under Chapter 5.8 (commencing with Section 70600); or
12 fees and fines to which Section 68085.1 applies.

13 (e) The presiding judge of the superior court, or his or her
14 designee, shall authorize and direct all expenditures by the court
15 for operating and program purposes from any account established
16 under subdivision (b) or (c).

17 (f) The Judicial Council, in consultation with the Controller's
18 office, shall establish procedures to implement this section and to
19 provide for payment of trial court operations expenses, as described
20 in Sections 77003 and 77006.5, incurred on July 1, 1997, and
21 thereafter.

22 (g) (1) If the Judicial Council has not established bank accounts
23 pursuant to subdivision (a), the court shall contract with the county
24 for fiscal services. Each board of supervisors shall maintain in the
25 county treasury a Trial Court Operations Fund, which will operate
26 as an agency fund. All moneys appropriated in the Budget Act and
27 allocated and reallocated to the superior court in the county by the
28 Judicial Council shall be deposited into the fund.

29 (2) Moneys deposited into the fund that are appropriated for the
30 Trial Court Operations Fund in the Budget Act and allocated or
31 reallocated to the superior court by the Judicial Council shall be
32 payable only for the purposes set forth in Sections 77003 and
33 77006.5, and for services purchased by the court pursuant to
34 subdivisions (b) and (c) of Section 77212. The presiding judge of
35 the superior court, or his or her designee, shall authorize and direct
36 expenditures from the fund and the county auditor-controller shall
37 make payments from the funds as directed. Approval of the board
38 of supervisors is not required for expenditure from this fund.

39 (3) All moneys received by a superior court from any source
40 for court operating and program purposes shall be deposited in the

1 fund, except as provided in this subdivision. Moneys that are
2 received to fulfill the requirements of Article 4 (commencing with
3 Section 4250) of Chapter 2 of Part 2 of Division 9 and Division
4 14 (commencing with Section 10000) of the Family Code shall be
5 identified and maintained in a separate account established in the
6 fund for this purpose. All other moneys that are received for
7 purposes other than court operations, as defined in Section 77003
8 and Rule 10.810 of the California Rules of Court, shall be identified
9 and maintained in one or more separate accounts established in
10 the fund pursuant to procedures adopted by the Judicial Council.
11 This subdivision shall only apply to moneys received by the courts
12 for operating and program purposes. This subdivision shall not
13 apply to either of the following:

14 (A) Moneys received by the courts pursuant to Section 68084,
15 if those funds are not for court operating or program purposes.

16 (B) Payments from a party or a defendant received by the county
17 for any fees, fines, or forfeitures; moneys collected by the superior
18 court under Chapter 5.8 (commencing with Section 70600); or
19 fees and fines to which Section 68085.1 applies.

20 (4) Interest received by a county that is attributable to investment
21 of moneys, which interest is required by this subdivision to be
22 deposited in the superior court's fund, shall be deposited in the
23 fund and shall be used for trial court operations purposes.

24 (5) In no event shall interest be charged to the superior court's
25 fund, except as provided in Section 77009.1.

26 (6) Reasonable administrative expenses incurred by the county
27 associated with the operation of this fund shall be charged to the
28 superior court.

29 (7) A county, or city and county, may bill the superior court
30 within its jurisdiction for costs for services provided by the county,
31 or city and county, as described in Sections 77003 and 77212,
32 including indirect costs as described in paragraph (7) of subdivision
33 (a) of Section 77003 and Section 77212. The costs billed by the
34 county, or the city and the county, pursuant to this subdivision
35 shall not exceed the costs incurred by the county, or the city and
36 the county, of providing similar services to county departments or
37 special districts.

38 (8) Pursuant to Section 77206, the Controller, at the request of
39 the Legislature, may perform financial and fiscal compliance audits
40 of this fund. The Judicial Council or its representatives may

1 perform audits, reviews, and investigations of this fund wherever
2 the records may be located.

3 (h) The Judicial Council or its representatives may perform
4 audits, reviews, and investigations of superior court operations
5 and records wherever they may be located.

6 *SEC. 5. Section 77200 of the Government Code is amended to*
7 *read:*

8 77200. On and after July 1, 1997, the state shall assume sole
9 responsibility for the funding of court operations, as defined in
10 Section 77003 and Rule 10.810 of the California Rules of Court
11 as it read on January 1, 2007. In meeting this responsibility, the
12 state shall do all of the following:

13 (a) Deposit in the Trial Court Trust Fund, for subsequent
14 allocation to or for the trial courts, all county funds remitted to the
15 state pursuant to Section 77201 until June 30, 1998, pursuant to
16 Section 77201.1 from July 1, 1998, until June 30, 2006, inclusive,
17 and pursuant to Section 77201.3, thereafter.

18 (b) Be responsible for the cost of court operations incurred by
19 the trial courts in the 1997–98 fiscal year and subsequent fiscal
20 years.

21 (c) Allocate funds to the individual trial courts pursuant to an
22 allocation schedule ~~adopted by the Judicial Council~~ *as set forth in*
23 *Section 77202*, but in no case shall the amount allocated to the trial
24 court in a county be less than the amount remitted to the state by
25 the county in which that court is located pursuant to paragraphs
26 (1) and (2) of subdivision (b) of Section 77201 until June 30, 1998,
27 pursuant to paragraphs (1) and (2) of subdivision (b) of Section
28 77201.1 from July 1, 1998, until June 30, 2006, inclusive, and
29 pursuant to paragraphs (1) and (2) of subdivision (a) of Section
30 77201.3, thereafter.

31 (d) The Judicial Council shall submit its allocation schedule to
32 the Controller at least five days before the due date of any
33 allocation.

34 ~~SECTION 4.~~

35 *SEC. 6. Section 77202 of the Government Code is amended*
36 *to read:*

37 77202. (a) The Legislature shall make an annual appropriation
38 to the Judicial Council for the general operations of the trial courts
39 based on the request of the Judicial Council. The Judicial Council’s
40 trial court budget request, which shall be submitted to the Governor

1 and the Legislature, shall meet the needs of all trial courts in a
2 manner that ensures a predictable fiscal environment for labor
3 negotiations in accordance with the Trial Court Employment
4 Protection and Governance Act (Chapter 7 (commencing with
5 Section 71600) of Title 8), that promotes equal access to the courts
6 statewide, and that promotes court financial accountability. The
7 annual budget request shall include the following components:

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

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

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

15 (ii) Transfers to the Judicial Administration Efficiency and
16 Modernization Fund.

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

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

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

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

31 (ii) The amount of county obligations established pursuant to
32 subdivision (b) of Section 77201.1 in effect as of June 30, 2005,
33 six hundred ninety-eight million sixty-eight thousand dollars
34 (\$698,068,000).

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

39 (iv) Funding deposited into the Court Facilities Trust Fund
40 associated with each facility that was transferred to the state not

1 less than two fiscal years earlier than the fiscal year for which the
2 cost-of-living and growth adjustment is being calculated.

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

8 (2) In addition to the moneys to be applied pursuant to
9 subdivision (c), the Judicial Council may identify and request
10 additional funding for the trial courts for costs resulting from the
11 implementation of statutory changes that result in either an
12 increased level of service or a new activity that directly affects the
13 programmatic or operational needs of the courts.

14 (b) (1) Based on the information submitted in the Governor’s
15 proposed budget, and prior to the allocation of funds to each local
16 trial court in accordance with the allocation schedule adopted by
17 the Judicial Council pursuant to subdivision (c) of Section 77200,
18 the Legislature shall specify, in each annual Budget Act, the
19 funding amounts to be allocated for programs of statewide concern
20 from the total funds appropriated for trial court operations by the
21 Legislature. For purposes of this paragraph, programs of statewide
22 concern operate in the superior courts of multiple counties and
23 may include, but shall not be limited to, equal access,
24 court-appointed special counsel, family law information centers,
25 model self-help, assigned judges, information technology, and
26 administrative infrastructure, *including continued funding for a*
27 *uniform statewide accounting system.*

28 (2) *The Judicial Council or its designee shall allocate 100*
29 *percent of the funds appropriated for trial court operations*
30 *according to each court’s share of statewide operational funding.*

31 ~~(2)~~

32 (3) Notwithstanding any other law, the Judicial Council, or its
33 designee, shall not withhold or expend any portion of the total
34 funds appropriated for trial court operations by the Legislature for
35 any statewide information technology or administrative
36 infrastructure program, *including the California Case Management*
37 *System*, that was not identified in the annual Budget Act, unless
38 the Judicial Council, or its designee, first obtains the written
39 approval of $66\frac{2}{3}$ percent of a proportional representation of all
40 local trial courts. For purposes of this paragraph, proportional

1 representation shall be calculated according to the number of judges
2 in the superior court of each county as a percentage of the total
3 number of judges authorized by Section 4 of Article VI of the
4 California Constitution in all county superior courts statewide.

5 ~~(e) The Judicial Council shall allocate the funding from the Trial
6 Court Trust Fund to the trial courts in a manner that best ensures
7 the ability of the courts to carry out their functions, promotes
8 implementation of statewide policies, and promotes the immediate
9 implementation of efficiencies and cost-saving measures in court
10 operations, in order to guarantee access to justice to citizens of the
11 state.~~

12 ~~The Judicial Council shall ensure that allocations to the trial
13 courts recognize each trial court's implementation of efficiencies
14 and cost-saving measures.~~

15 ~~These efficiencies and cost-saving measures shall include, but
16 not be limited to, the following:~~

17 ~~(1) The sharing or merger of court support staff among trial
18 courts across counties.~~

19 ~~(2) The assignment of any type of case to a judge for all
20 purposes commencing with the filing of the case and regardless
21 of jurisdictional boundaries.~~

22 ~~(3) The establishment of a separate calendar or division to hear
23 a particular type of case.~~

24 ~~(4) In rural counties, the use of all court facilities for hearings
25 and trials of all types of cases and the acceptance of filing
26 documents in any case.~~

27 ~~(5) The use of alternative dispute resolution programs, such as
28 arbitration.~~

29 ~~(6) The development and use of automated accounting and
30 case-processing systems.~~

31 *(c) Commencing with the 2011–12 fiscal year, the amount*
32 *allocated to each trial court from the amount appropriated for*
33 *trial court operations shall be equal to the pro rata share of the*
34 *adjusted base budget of the prior fiscal year, less the amount of*
35 *funding for court security if a realignment of trial court security*
36 *occurs. Any workload or technical adjustments to a trial court's*
37 *base budgets shall be allocated separately from that year's trial*
38 *court operation funds. Ongoing workload and technical*
39 *adjustments to a trial court's base budget shall be incorporated*
40 *into the base budget of the trial court for the following fiscal year,*

1 *and the pro rata share shall be adjusted to account for adjustments*
2 *in that trial court's base budget. Except for the Judicial*
3 *Administration Efficiency and the Modernization Fund and the*
4 *Trial Court Improvement Fund, at the end of each fiscal year, any*
5 *unspent funds allocated pursuant to subdivision (b) shall be*
6 *distributed to each court based upon its pro rata share determined*
7 *pursuant to this subdivision.*

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

15 (2) *Each trial court may transfer funds, once budgeted and*
16 *allocated, between functions, line items, or programs as directed*
17 *by the management of that trial court. The trial court policies and*
18 *procedures shall specify the process for a court to transfer existing*
19 *funds between or among the budgeted program components to*
20 *reflect changes in the court's planned operation or to correct*
21 *technical errors. If the process requires a trial court to request*
22 ~~approval of a specific transfer of existing funds, the Administrative~~
23 ~~Office of the Courts shall review the request to transfer funds and~~
24 ~~respond within 30 days of receipt of the request. The~~
25 ~~Administrative Office of the Courts shall respond to the request~~
26 ~~for approval or denial to the affected court, in writing, with copies~~
27 ~~provided to the Department of Finance, the make the transfers and~~
28 ~~notify the Department of Finance, the Legislative Analyst's Office,~~
29 ~~the Legislature's budget committees, and the court's affected labor~~
30 ~~organizations.~~

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

36 *SEC. 7. Section 77203 of the Government Code is amended to*
37 *read:*

38 ~~77203. The Judicial Council may authorize a trial court to A~~
39 ~~trial court may carry unexpended funds over from one fiscal year~~
40 ~~to the next, provided that the court carrying over the funds has~~

1 ~~fully implemented all provisions of former Rule 991 of the~~
2 ~~California Rules of Court as it read on July 1, 1996, regarding trial~~
3 ~~court coordination and those funds shall be funds of that court and~~
4 ~~shall not be reallocated or redirected without the consent of the~~
5 ~~court's trial court management.~~

6 SEC. 8. Section 77206 of the Government Code is amended to
7 read:

8 77206. (a) ~~Notwithstanding any other law, the~~The Judicial
9 Council may regulate the budget and fiscal management of the
10 trial courts. The Judicial Council, in consultation with the
11 Controller, shall maintain appropriate regulations for recordkeeping
12 and accounting by the courts. The Judicial Council shall seek to
13 ensure, by these provisions, both of the following:

14 (1) That the fiscal affairs of the trial courts are managed
15 efficiently, effectively, and responsibly.

16 (2) That all moneys collected by the courts, including filing
17 fees, fines, forfeitures, and penalties, and all revenues and
18 expenditures relating to court operations are known.

19 The Judicial Council may delegate its authority under this
20 section, when appropriate, to the Administrative Director of the
21 Courts.

22 (b) Regulations, rules, and reporting requirements adopted
23 pursuant to this chapter shall be exempt from review and approval
24 or other processing by the Office of Administrative Law as
25 provided for in Chapter 3.5 (commencing with Section 11340) of
26 Part 1 of Division 3 of Title 2.

27 (c) The Controller, at the request of the Legislature, may perform
28 and publish financial and fiscal compliance audits of the reports
29 of court revenues and expenditures. The Controller shall report
30 the results of these audits to the Legislature and the Judicial
31 Council.

32 (d) The Judicial Council shall provide for the transmission of
33 summary information concerning court revenues and expenditures
34 to the Controller.

35 (e) The Judicial Council shall adopt rules to provide for
36 reasonable public access to budget allocation and expenditure
37 information at the state and local levels.

38 (f) The Judicial Council shall adopt rules ensuring that, upon
39 written request, the trial courts provide, in a timely manner,
40 information relating to the administration of the courts, including

1 financial information and other information that affects the wages,
2 hours, and working conditions of trial court employees.

3 (g) (1) The Judicial Council or its representatives may do any
4 of the following:

5 (A) Inspect, review, and perform comprehensive oversight and
6 analysis of court financial records wherever they may be located.

7 (B) Investigate allegations of financial impropriety or
8 mismanagement.

9 (2) The authority granted pursuant to this subdivision shall not
10 substitute for, or conflict with, the audits conducted pursuant to
11 subdivisions (h) and (i).

12 (h) (1) Commencing not earlier than July 1, 2011, and not later
13 than December 15, 2012, the entity contracted with pursuant to
14 subdivision (j) shall establish a pilot program to audit six trial
15 courts. That entity shall select the trial courts using the following
16 criteria:

17 (A) Two trial courts selected from counties with a population
18 of 200,000 or less.

19 (B) Two trial courts selected from counties with a population
20 greater than 200,000 and less than 750,000.

21 (C) Two trial courts selected from counties with a population
22 of 750,000 or greater.

23 The audits shall be performed in accordance with generally
24 accepted government auditing standards and shall determine the
25 trial court's compliance with governing statutes, rules, and
26 regulations relating to the revenues, expenditures, and fund
27 balances of all material and significant funds, including state
28 General Fund funds, funds generated from fees or fines, federal
29 funds, grants, and any other funds within the trial court's
30 administration or control. Pursuant to Section 19210 of the Public
31 Contract Code, the audit shall also determine compliance with Part
32 2.5 (commencing with Section 19201) of Division 2 of the Public
33 Contract Code. The audits required by this section shall be in
34 addition to any audit regularly conducted pursuant to any other
35 provision of law.

36 (2) Based on the results of the pilot program audits described
37 in paragraph (1), the entity contracted with pursuant to subdivision
38 (j) shall, on or before December 15, 2013, commence an audit of
39 the trial courts, provided that every trial court is audited in the
40 manner prescribed by this section at least once every four years.

1 The audits shall be performed in accordance with generally
2 accepted government auditing standards and shall determine the
3 trial court's compliance with governing statutes, rules, and
4 regulations relating to the revenues, expenditures, and fund
5 balances of all material and significant funds, including state
6 General Fund funds, funds generated from fees or fines, federal
7 funds, grants, or any other funds within the trial court's
8 administration or control. Pursuant to Section 19210 of the Public
9 Contract Code, the audit shall also determine compliance with Part
10 2.5 (commencing with Section 19201) of Division 2 of the Public
11 Contract Code. The audits required by this paragraph shall be in
12 addition to any audit regularly conducted pursuant to any other
13 provision of law.

14 (3) Notwithstanding Section 10231.5, the auditing entity shall
15 compile the trial court audit findings and report the results of these
16 audits to the Legislature, the Judicial Council, and the Department
17 of Finance no later than April 1 of each year. An audit report shall
18 not be considered final until the audited entity is provided a
19 reasonable opportunity to respond and the response is included
20 with, or incorporated into, the report.

21 (4) The reasonable and necessary contracted cost of the audit
22 conducted pursuant to this subdivision shall be paid from funds
23 of the local trial court being audited.

24 (i) (1) On or before December 15, 2013, and biennially
25 thereafter, the entity contracted with pursuant to subdivision (j)
26 shall perform an audit of the Administrative Office of the Courts
27 in accordance with generally accepted government auditing
28 standards and shall determine the Administrative Office of the
29 Court's compliance with governing statutes, rules, regulations,
30 and policies relating to the revenues, expenditures, and fund
31 balances of all material and significant funds under the
32 administration, jurisdiction, or control of the Administrative Office
33 of the Courts. Pursuant to Section 19210 of the Public Contract
34 Code, the audit shall also determine compliance of the
35 Administrative Office of the Courts, the Habeas Corpus Resource
36 Center, and the appellate courts with Part 2.5 (commencing with
37 Section 19201) of Division 2 of the Public Contract Code.

38 (2) Notwithstanding Section 10231.5, the auditing entity shall
39 provide a copy of the final audit report of the Administrative Office
40 of the Courts to the Legislature, the Judicial Council, and the

1 Department of Finance upon issuance. An audit report shall not
2 be considered final until the audited entity is provided a reasonable
3 opportunity to respond and the response is included with, or
4 incorporated into, the report.

5 (3) Any reasonable and necessary contracted costs incurred by
6 the auditing entity pursuant to this subdivision shall be reimbursed
7 by the Administrative Office of the Courts.

8 (j) The Administrative Office of the Courts shall contract with
9 the Controller to perform the audits described in subdivisions (h)
10 and (i), unless either the Bureau of State Audits or the Department
11 of Finance demonstrates that it can perform the audits pursuant to
12 the same timeframes, scope, and methodology as the Controller
13 for a cost that is less than that proposed by the Controller. In that
14 case, the Administrative Office of the Courts may contract with
15 the state entity named in this subdivision that is most cost effective.
16 The Administrative Office of the Courts shall provide written
17 notification to the chairs of the Senate Committee on Budget and
18 Fiscal Review, the Assembly Committee on Budget, and the Senate
19 and Assembly Committees on Judiciary, if the Administrative
20 Office of the Courts contracts with an entity other than the
21 Controller. The contract period for any contract entered into
22 pursuant to this section shall not exceed four years from the date
23 of commencement.

24 (k) A report submitted pursuant to subdivision (h) or (i) shall
25 be submitted in compliance with Section 9795.

26 ~~SEC. 2:~~

27 *SEC. 9.* Section 77207 of the Government Code is amended
28 to read:

29 77207. The Legislature shall appropriate trial court funding.
30 The Controller shall apportion trial court funding payments to the
31 courts as provided in Section 68085 pursuant to an allocation
32 schedule adopted by the Judicial Council, and consistent with
33 subdivision (b) of Section 77202.