

Reprint

FROM *THE ANALYSIS OF THE 1993-94 BUDGET BILL*

TRIAL COURT FUNDING

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March 1993

TRIAL COURT FUNDING ISSUES

Summary

The Trial Court Realignment and Efficiency Act of 1991 modified the Trial Court Funding Program, enacted by Ch 945/88 (SB 612, Presley), and significantly changed the state-local funding relationship for support of the trial courts. However, the Trial Court Funding Program has generally not met the Legislature's expectations or purposes described in statute. In addition, state funding for the program has become more complex and has not increased as intended by the Legislature. We address these and other trial court funding issues in the Analysis of the 1993-94 Budget Bill and recommend that the Legislature assess the progress of the Trial Court Funding Program and determine what changes to the program are necessary to met the Legislature's purposes.

TRIAL COURT FUNDING (0420 AND 0450)

The Trial Court Funding Program, enacted by Ch 945/88 (SB 612, Presley), the Brown-Presley Trial Court Funding Act, requires the state to assume primary responsibility for funding the operations of the trial courts in counties that choose to participate in the program. Chapter 90, Statutes of 1991 (AB 1297, Isenberg), the Trial Court Realignment and Efficiency Act of 1991, significantly modified the program and specifies the Legislature's intent to increase state support for trial court operations 5 percent per year from 50 percent in 1991-92 to a maximum of 70 percent in 1995-96.

The budget proposes total expenditures of \$706 million for support of the Trial Court Funding Program and assumes that all 58 counties will participate in 1993-94. The amount requested is \$45.7 million, or 6.1 percent, below estimated expenditures in the current year. The program is supported by appropriations of \$495 million from the General Fund and \$211 million from the Trial Court Trust Fund.

The Trial Court Funding Program is comprised of four funding components:

- Contributions to Judges' Retirement Fund (Item 0390).
- Salaries for Superior Court Judges (Item 0420).
- State Block Grants for Trial Court Funding (Item 0450).
- Trial Court Trust Fund (Chapter 696, Statutes of 1992 [AB 1344, Isenberg])

Figure 21 shows proposed expenditures for each component of the Trial Court Funding Program and *total* state funding for support of the trial courts in the current and budget years. We discuss Contributions to the Judges' Retirement Fund (Item 0390) in detail in the State Administration Section of this *Analysis*. The other components are discussed below.

Figure 21

Total State Funding for Support of Trial Courts 1991-92 Through 1993-94

(Dollars in Millions)

	1991-92 Actual	1992-93 Estimated	1993-94 Proposed	Percent Change From 1992-93
Contributions to Judges' Retirement System for superior and municipal court judges (Item 0390)	\$44.6	\$54.4	\$60.8	11.7%
Salaries and benefits of superior court judges (Item 0420)	73.7	73.9	75.8	2.7
State block grants for trial court funding (Item 0450)	629.0	483.6	358.6	-25.8
Block grants for trial courts	(575.6)	(430.2)	(358.6)	(-16.6)
Block grant supplement for salaries of municipal court judges	(49.1)	(49.1)	(—)	(-100.0)
Block grant supplement for salaries of justice court judges	(4.3)	(4.3)	(—)	(-100.0)
Trial Court Trust Fund	—	140.0	211.0	50.7
Totals	\$747.3	\$752.0	\$706.3	-6.1%
State share of statewide trial court costs ^a	51%	50%	46%	—

^a Based on Judicial Council estimates.

As the figure indicates, there have been significant reductions in General Fund block grant expenditures since 1991-92. In addition, the figure shows that a significant amount of the total funding for the program in the current and budget years will depend on locally generated revenues deposited into the Trial Court Trust Fund. Finally, the figure shows that the Governor's Budget does not set aside funds for municipal and justice court judges' salaries in 1993-94. Rather, the budget assumes that these costs will be paid from the block grant appropriations (we discuss municipal and justice court judges' salaries in greater detail below).

Currently AB 32 (Isenberg) is moving through the Legislature to provide the distribution formula for the Trial Court Trust Fund revenues in the current year. However, the bill is silent about the distribution of trust funds in the budget year. The Legislature will have to address the distribution of trust fund revenues in the budget year.

The Judicial Council has submitted a report, pursuant to Chapter 90, on how the state can incorporate trial court expenditures into the annual state budget. The report recommends that the Legislature budget

state funds based on specific court activities, such as bailiff services, rather than block grant payments as is currently done. The council recommended that the state assume funding for additional functions each year as it increases funding for support of the trial courts.

Funding for Trial Court Program Becomes More Complex

1992-93 Governor's Budget

When the 1992-93 Governor's Budget was first proposed, it maintained *total* General Fund expenditures for the Trial Court Funding Program at the 1991-92 amount of \$748 million. Although the request for 1992-93 was identical to 1991-92 expenditures, the proposed amount was \$143 million less than the Legislature's expressed intent for funding 55 percent of the total statewide operating costs for the trial courts in 1992-93.

As a means of closing the 1992-93 budget gap, the Legislature and the Governor agreed to reduce General Fund support for trial court block grants by \$100 million below the original \$748 million budget request.

Additional Fees Captured for Support of the Trial Courts

In an attempt to restore state support for the trial courts, the Legislature enacted Chapter 696. The measure significantly changes the funding sources for trial court operations and enacted optional provisions designed to make trial courts more efficient. In part, the measure establishes:

- A new formula for distributing trial court funding block grants for the first six months of 1992-93.
- New trial court fees and increases other trial court civil fees, which are captured by the state to support trial court operation costs. These funds are deposited in the new Trial Court Trust Fund.
- New trial court operation and coordination efficiencies, such as a single presiding judge and/or executive officer for all participating courts of a coordination plan.

In recognition of these efficiencies, the Legislature reduced funding by an additional \$35 million in General Fund costs, for a total reduction of \$135 million.

Fitting the Pieces Together

The Judicial Council estimated that \$208 million would be collected from the capture of the new and increased trial court civil fees (primarily through civil filing fees and court reporter fees). The combination of the efficiencies (\$35 million) and new revenues (\$208 million) allowed the state to fund trial court operations at the intended level of 55 percent in 1992-93. However, changes in current-year revenue projections for the Trial Court Trust Fund will result in the state funding about 50 percent of total trial court costs (we discuss the Trust Fund in greater detail below).

1993-94 Budget Issues

Budget Falls Short of Legislative Intent for Second Straight Year

Although Chapter 90 expresses the Legislature's intent to support 60 percent of total trial court costs in 1993-94, the proposed budget will support only about 46 percent of these costs. If the Legislature wishes to fund the program at the 60 percent level, the budget would have to be augmented by about \$218 million.

As indicated above, Chapter 90 specifies the Legislature's intent to increase state support of the trial courts by 5 percent per year, up to a state-supported funding level of 70 percent by 1995-96. This would result in the state supporting 60 percent of the statewide costs for trial court operations in 1993-94. Our review indicates, however, that the budget, as submitted, proposes to fund trial court operations significantly below the 60 percent level. This will be the second straight year that the budget fails to provide appropriations sufficient to fund trial court operations at the levels specified by the Legislature.

Budget Proposes Funding Reductions in Block Grants. The most significant change proposed in the Trial Court Funding Program is the reduction of the trial court funding block grants. The budget proposes expenditures of \$359 million from the General Fund to provide block grants for trial court operations. This is a decrease of \$125 million, or 26 percent, below estimated block grant expenditures for the current year (see Figure 21 on page 68).

Superior Court Judges' Salaries and Judges' Retirement System. As Figure 21 shows, the budget provides for an increase of \$1.9 million, or 2.7 percent, in expenditures for superior court judges salaries. This

increase reflects a salary increase that will be provided to superior court judges effective January 1, 1994. The budget also provides a significant increase (\$6.4 million, or 12 percent) in state contributions to the Judges' Retirement System (please see the State Administration Section of this *Analysis* for details).

Municipal and Justice Court Judges' Salaries. As we indicated earlier, the budget assumes that costs of salaries for municipal and justice court judges will be paid from the block grant appropriation. The Department of Finance advises that expenditures for municipal and justice court judges are anticipated to remain at the 1992-93 level—approximately \$53.4 million. However, this level of funding does not account for the statutorily required increase in municipal and justice court judges' salaries that will take effect at the same time as increases for superior court judges salaries. As a result, expenditures for municipal and justice court judges' salaries will increase by \$1.3 million during the last half of 1993-94. Because expenditures for municipal and justice court judges salaries are contained within the appropriation for trial court block grants, the salary increase will further reduce state funding for trial court block grants by \$1.3 million.

Budget Supports About 46 Percent of Statewide Trial Court Operating Costs. Based on information provided by the Judicial Council, we estimate that total expenditures to support the trial courts in 1993-94 will be about \$1.5 billion. Thus, the total proposed budget of \$706 million will support about 46 percent of the estimated statewide trial court costs in the budget year. If the Legislature wishes to carry out the intent of Chapter 90 for the state to fund 60 percent of court costs, the budget would need to be increased to at least \$924 million, or \$218 million more than the proposed amount.

Trial Court Funding Program Is Increasingly Dependent on Local Revenue Sources

Since the enactment of Ch 90/91, funding for the Trial Court Funding Program has become increasingly dependent on revenues remitted to the state by local governments and the trial courts, which are then redistributed back to counties.

In recent years, the state's support of the Trial Court Funding Program has become increasingly dependent on revenues transferred to the state from local governments, which, in turn, have been redistributed back to counties. Figure 22 shows the revenue sources for the Trial Court Funding Program. We have identified revenue sources as:

- "Pre-Ch 90/91," to identify General Fund support pursuant to Ch 945/88.
- "Fines and forfeitures," to identify funding remitted to the state General Fund, pursuant to Chapter 90.
- "Trust Fund," to identify civil fee revenues (for example, filing fees) remitted to the state pursuant to Ch 696/92.

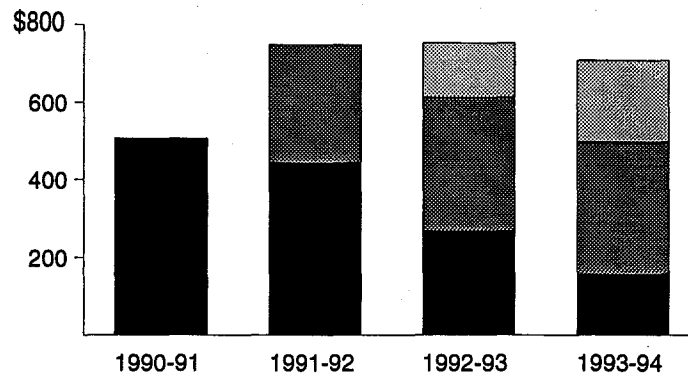
In 1990-91, the year before the enactment of Chapter 90, the state expended \$507 million from the General Fund for support of the Trial Court Funding Program. In 1991-92, under Chapter 90, the state expended \$747 million to support the trial court funding program. However, \$305 million of this amount was generated from counties' remittance of local fines, fees, and forfeitures to the state General Fund. As a result, the state actually reduced its General Fund expenditures from "pre-Ch 90/91" resources to \$442 million.

Figure 22

Trial Court Funding Program Increasingly Dependent on Local Revenue Sources 1990-91 Through 1993-94

(In Millions)

General Fund (Pre-Ch 90/91)
 General Fund (Fines/Forfeitures)
 Trust Fund



In the current year, the state again reduced its General Fund pre-Chapter 90 expenditures for the Trial Court Funding Program. Total state expenditures for the program in 1992-93 are estimated at \$752 million. However, \$484 million of this amount is from local

sources, thereby reducing state pre-Chapter 90 expenditures to \$268 million, or 36 percent of the *total* trial court operating costs. Of the \$485 million from local sources, \$345 million is from local fines, fees, and forfeitures. The remaining \$140 million is due to increased civil fees, which it is estimated the state will be able to capture pursuant to Chapter 696.

In the budget year, local revenue collections will account for \$553 million, or 78 percent, of the \$706 million in total expenditures for trial court operations.

The increasing reliance of the state to fund the Trial Court Funding Program using locally generated revenues is indicative of one of the ways the program has fallen short of the Legislature's expectations. These shortfalls are discussed in more detail below.

Trial Court Funding Program Has Not Met Expectations

The Trial Court Funding Program has not met the primary purposes expressed by the Legislature in Chapter 90. The Legislature needs to assess whether to continue the program.

When Chapter 90 was enacted, the measure expressed three primary purposes for the Trial Court Funding Program. The purposes were shaped by both the fiscal problems facing the state in 1991-92 and the Legislature's desire to improve the trial court system. The measure's expressed purposes are to:

- Increase state funding for the trial courts.
- Transfer local court revenues to the state for a net benefit to the General Fund.
- Improve the public's access to justice through the implementation of efficiencies and cost savings measures.

Increased State Funding for the Trial Courts. As we indicated above, although the state has increased funding for trial court operations in 1991-92 and 1992-93, a significant amount of the funding for these years as well as 1993-94 is a redistribution of locally generated revenues. In addition, the Governor's Budget proposes to *reduce* funding in the budget year by 6.1 percent below the current-year amount (from \$752 million in 1992-93 to \$706 million in 1993-94).

Transfer of Local Court Revenues to the State. Chapter 90 increased certain fines, fees, and forfeitures that are collected through the courts. It also transferred a significant portion of local fines, fees, and forfeiture revenue to the state General Fund. As a result, it was anticipated that

there would be a net increase in annual revenues to the General Fund through 1995-96. When the legislation was initially proposed in 1991, it was estimated that the legislation would provide a net gain of roughly \$300 million for the General Fund in 1991-92—revenues that could be used to help close the state's projected \$14.3 billion budget gap. Instead, because of poor revenue performance, the changes made by Chapter 90 resulted in additional General Fund *costs* (above what they would have otherwise been without Chapter 90) of about \$57 million in 1991-92. Based on the most recent revenue projections, it appears that the Trial Court Funding Program will result in additional General Fund costs in the current year, too.

Implementation of Efficiencies and Cost Savings. Another purpose of the Trial Court Funding Program was to improve public access to justice by requiring trial courts to implement certain efficiencies and cost saving measures. For example, Chapter 90 required trial courts to develop coordination plans designed to achieve maximum utilization of court resources and reduce statewide operating costs by 3 percent in the current year, 2 percent in the budget year, and an additional 2 percent in 1994-95. In addition, Chapter 696 provides other optional efficiencies that are estimated to save at least \$35 million in General Fund expenditures annually.

Assessing whether the programs have been successful in achieving court efficiencies is difficult because of the lack of quantitative data. Based on our site visits and discussions with local court personnel, it appears that the program has had mixed results. We do know that all courts developed coordination plans as required by Chapter 90. However, it is unknown how much, if any, savings resulted from these plans. In general, it appears that courts that have implemented the efficiencies contained in Chapter 90 were moving in that direction before its enactment. Courts that have not implemented the changes have indicated a number of reasons for this, such as geographical constraints (wide geographical areas making coordination of court operations difficult). We conclude that the majority of courts fall into this latter category.

Conclusions. Our analysis of the Trial Court Funding Program since 1991 indicates that the program has not met the Legislature's expectations based on the purposes stated in Chapter 90. Specifically, (1) state funding for the courts has not increased as anticipated, (2) the net General Fund revenue benefits to the state have not materialized, and (3) some, but not a majority, of courts have embraced the efficiency and coordination efforts. Therefore, the Legislature should assess whether to continue the program.

Trust Fund Revenues Are Likely to Fall Short of Expectations

Currently, Trial Court Trust Fund revenues are significantly below projections. We recommend that the Legislature adopt incentives to require the timely remittance of trust fund revenues.

As indicated above, Ch 696/92 increases certain trial court civil fees and allows the state to capture these fees (in the new Trial Court Trust Fund) to support a portion of the costs of trial court operations. It is generally assumed that the revenues supporting the trust fund are more stable and predictable than fines and forfeitures revenues (provided under Ch 90/91). This is because trust fund revenues are generated from court fees that must be paid *before* a matter can proceed through the court system.

At the time Chapter 696 was enacted, the Judicial Council estimated that \$208 million would be deposited in the Trial Court Trust Fund in the current year. More recent projections by the Judicial Council have revised downward the current-year collection estimate to about \$140 million. For the budget year, the council estimates revenues of \$211 million. Based on current trends, however, it appears that the projections may be overstated because current-year collections are lagging behind projections.

Current-Year Revenues Lag. Because of implementation delays, counties were not expected to begin remitting revenues to the state until October 1992. Based on the revised current-year projections, approximately \$64 million should have been deposited in the trust fund for the months of October, November, December 1992, and January 1993. However, as of February 1993, only \$26 million had been remitted to the State Controller and deposited into the trust fund. In addition, our review of the State Controller's report indicates that many counties have submitted little or no revenues in some of the individual revenue components. For example, 34 counties have not remitted any revenues for superior court reporter service fees and 20 counties have not remitted any revenues for superior court filing fees pursuant to Chapter 696.

Current-Year Revenue Lag Resembles 1991-92 Experience. In 1991-92, when Chapter 90 was enacted, many counties delayed the remittance of Chapter 90 revenues to the state for a variety of reasons, including confusion over assessing the increases in fines and forfeiture assessments. In addition, our review indicates that many counties chose to ignore the remittance guidelines and instead retained the revenues within their respective treasuries. This reluctance by counties to remit

revenues in a timely manner was later addressed by the Legislature in subsequent legislation. Currently, it appears that a similar situation is occurring regarding counties' remittance of Chapter 696 revenues.

In view of the above, we recommend that the Legislature examine the remittance practices for counties and adjust the incentives for counties to remit collected revenues in a more timely manner. Currently, the State Controller is authorized to conduct periodic audits of counties' remittances to the state. As part of an audit, the Legislature should direct the Controller to include an audit of the counties' remittance of trust fund revenues. Based on similar guidelines provided under Chapter 696, the Controller should assess penalties against delinquent counties on future trust fund payments.

This report was prepared by David Esparza and Craig Cornett. This material was originally printed in the *Analysis of the 1993-94 Budget Bill*. For information concerning this analysis, please contact the authors at (916) 445-4660.

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Recent Reports

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Options for Addressing the State's Fiscal Problem (January 1992), Report No. 92-1.

Supplemental Report of the 1992 Budget Act, 1992-93 Fiscal Year (Containing statements of intent or requests for studies adopted by the Legislature) (October 1992).

State Spending Plan for 1992-93 (November 1992), Report No. 92-3.

Analysis of the 1993-94 Budget Bill (February 1993). This report presents the results of our detailed examination of the Governor's Budget for 1993-94.

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