

TRIAL COURT FUNDING

Should the State Assume Responsibility for Funding the Trial Courts?

Summary

California's judicial system is comprised of three levels of courts: the state Supreme Court, the courts of appeals, and the trial courts. While the first two types of courts are funded by the state, the trial courts are funded with a combination of state and county resources.

The 1997-98 Governor's Budget— proposes a major consolidation of funding responsibility for the trial courts. Under this proposal, the state would assume funding responsibility for all court costs in excess of a specified base year amount.

The Governor's proposal addresses significant problems with the trial court funding system. Specifically, the current system of funding fails to promote equal access to justice, does not adequately provide for accountability, and strains county finances and the state-county relationship.

Our review indicates that the Governor's proposal has merit. There are however, several unresolved issues. Specifically, performance expectations are needed, a mechanism for controlling court personnel costs must be developed, and funding responsibility for court facilities must be resolved.

INTRODUCTION

California's judicial system is comprised of three levels of courts: the state Supreme Court, the courts of appeals, and the trial courts. While the supreme and appeals courts are funded entirely by the state, the trial courts are funded jointly by the state and the counties. The state's contribution to the trial courts is determined annually as part of the state budget process, and the remaining cost of the trial courts is paid by the counties. We estimate that the 1996-97 state funding for trial courts will cover approximately 41 percent of the \$1.7 billion total budget for the trial courts, with the counties paying the remaining 59 percent.

The Trial Court Realignment and Efficiency Act of 1991 stated the Legislature's intent to increase state support for trial court funding as a means of promoting equal access to justice. Due to fiscal constraints, however, the state has not increased its contribution for trial courts in accordance with the intent of this measure.

GOVERNOR'S PROPOSAL

The 1997-98 *Governor's Budget* proposes a major consolidation of funding responsibility for the trial courts. Under this proposal, similar to one in last year's Governor's budget, the state would assume significant responsibility for financing trial courts. Specifically, counties would be responsible for contributing an amount to the Trial Court Trust Fund equivalent to their 1994-95 level of funding for trial courts. The state would be responsible for all trial court costs in excess of the county contribution, including all future cost increases. In addition, the state would assume complete responsibility for funding court operations in the 20 smallest counties. Finally, all counties would continue to contribute fine and penalty revenues to the state, but they would now get a share of the growth in this revenue source.

The Governor's budget addresses significant problems with the current trial court funding system. The proposal also raises the fundamental question of which level of government should be responsible for policy control and funding of the courts.

What Problems Does the Governor's Proposal Address?

Current System Fails to Promote Equal Access to Justice. The state has a clear interest in equal access to justice. Those accused of comparable crimes have a right to expect that the state's laws will be applied uniformly, regardless of the county in which the crime occurred. Litigants bringing civil suits should be able to expect equal treatment in every region of the state. Yet, the current system does not assure this equal treatment. Under the current system, court budgets are largely determined by the level of financial support available from the county. The result can be widely differing levels of support for the courts depending on county fiscal capacity and budget priorities. Such a funding system creates disparities in access to the courts and the administration of justice.

Current System Fails to Provide Accountability. Both the state and the counties have an interest in ensuring that the courts operate in an efficient

and effective manner. However, under the current system of divided funding responsibility, neither the state nor the counties can exercise effective fiscal oversight of court operations. Counties are limited in their ability to control court costs and review court operations. For example, counties have limited authority to conduct performance audits of court operations. In addition, state law provides a procedure for trial courts to seek additional funds from counties if budgeted funds are insufficient to meet the “needs of the court.”

The state also has limited ability to exercise effective fiscal oversight. Since the level of funding for an individual court system is largely determined by the county, it is difficult for the state to use fiscal incentives or sanctions to promote its goals for court operations. Increases—or decreases—in state support may not translate into changes in the level of funding provided if counties alter their financial contribution in response to state policy changes.

Current System Places Strain on County Finances. While the state and the counties both pay for the operation of the trial courts, the county is responsible for funding all trial court costs in excess of the state contribution. Although the Legislature has expressed an intent to increase the state share of trial court funding according to a schedule outlined in statute, in practice, the level of state funding for the trial courts is the outcome of the state’s annual budget process and has varied from year to year. As a result, counties face considerable uncertainty in planning for court expenditures. County finances can also come under considerable strain when court costs increase more rapidly than the state contribution for courts.

Current System Doesn’t Maximize Fines and Penalties. The current system requires that fine and penalty revenue collected locally be remitted to the state General Fund. This fails to provide counties with incentives to collect fines and penalties. The current system also creates tension in the state-county relationship because if counties do not collect fines at a statutorily determined level, they are required to make up the difference with county General Fund revenues.

Which Level of Government Should Control the Trial Courts?

Both the state and local governments can exercise considerable influence over court workload and operations. The state writes the laws defining what constitutes a crime, determines appropriate punishment for those crimes through sentencing laws, and controls the number of judges. In addition, the state controls, to a large extent, the rules governing court

operations and, in some cases, the type and number of court employees. On the other hand, the number of criminal cases filed in the courts is largely determined by local law enforcement officials who exercise a certain amount of discretion in deciding who to arrest and which cases to prosecute.

In evaluating which level of government should control the courts, the Legislature should seek to balance the significant interest of the state in maintaining equal access to justice with the fact that local officials will maintain some control over court workload. In our view, the state's interest in equal access to justice overrides the concern about local influence on court workload. Moreover, even if the state assumes full responsibility for trial court funding, counties would continue to face incentives to minimize court workload because counties pay for pretrial incarceration, prosecution, and defense of the indigent as well as probation and post-sentencing incarceration of low-level offenders (misdemeanants).

WHAT SHOULD THE LEGISLATURE DO?

The state has an interest in ensuring uniform access to justice through the courts. Transferring funding responsibility for the courts from the counties to the state offers the best means of ensuring such uniformity. Policy control and funding responsibility would be largely consolidated with the same level of government, improving accountability. Such a policy would also ease county fiscal distress and improve the state-county relationship both by relieving counties of their obligation to fund increases in court costs as well as by creating the appropriate incentives for collection of fine and penalty revenues. Therefore, from both a fiscal and a programmatic standpoint, the Governor's proposal makes sense.

Unresolved Issues

There are significant policy issues, however, which remain to be resolved. Under the Governor's proposal, the state would be responsible for all future increases in court costs. These increases could be on the order of \$30 million to \$80 million annually, but could be greater if the Legislature creates new judgeships or implements new programs.

If the state is to be responsible for these costs, it must also have the ability to exercise program control. Several important factors relating to accountability and court costs remain to be resolved. Namely:

- **Performance Expectations Are Needed.** If the state is to have funding responsibility for court operations, it must also have the ability to hold the courts accountable for performance. Currently, there is insufficient data available to evaluate progress toward meeting specific output goals or to permit cross-court comparisons.
- **Proposal Does Not Have a Specific Mechanism for Controlling Costs of Trial Court Personnel.** Trial courts employ thousands of nonjudicial personnel (such as administrators, attorneys, and clerical staff) in addition to judges. Currently, the counties largely determine increases in pay and benefit levels for these employees. However, if the state is to be responsible for funding of the courts, the Legislature must have control over these costs. The implementing legislation for the Governor's proposal establishes a task force to address personnel issues. The task force is to make recommendations to the Legislature by June 1, 1999. Establishing a task force is an important first step toward resolving this important issue.
- **Proposal Does Not Specifically Address Financing for Facilities.** Currently counties pay the costs associated with court facilities. Many courts are located in buildings owned by the county. However, if the courts are to be state financed, it makes sense to transfer funding responsibility and oversight authority to the state as well. The implementing legislation for the Governor's proposal establishes a task force to address facilities issues. The task force is to make recommendations to the Legislature by July 1, 2001.

In principle, the Governor's proposal to transfer control over operations and funding responsibility for the courts from the counties to the state makes both fiscal and programmatic sense. Without resolution of the issues discussed above, however, the proposal remains incomplete. (Please see the *Analysis*, Item 0450 for a more in-depth discussion of the Governor's Trial Court Funding consolidation proposal.)
