

Resolution 22

State Judicial Branch Budgets in Times of Fiscal Crisis

WHEREAS, state governments are currently experiencing the worst fiscal crisis in decades, and many state courts are facing deep budget cuts, court closures, jury trial suspensions, layoffs, hiring freezes and the like; and

WHEREAS, many state judicial systems have found it difficult to secure adequate resources even in good economic times, and are therefore particularly vulnerable in this fiscal crisis; and

WHEREAS, state courts need to operate from a position of strength in the budget process in order to avoid unreasonable budget cuts and external micro-management that undermine the courts' ability to carry out their mission during difficult fiscal times; and

WHEREAS, judicial governance of certain core functions is essential to meeting the courts' constitutional responsibility to the citizenry; and

WHEREAS, the Judiciary, as a responsible partner in government, recognizes its obligation to share in the sacrifices being made by state government during a fiscal crisis; and

WHEREAS, the Judicial Branch's obligation to be a good partner in government in no way detracts from the necessity of providing the courts with adequate funding given the Judiciary's constitutional status as a separate and co-equal branch of government responsible for upholding the rule of law and performing certain core functions at the heart of democratic government;

NOW, THEREFORE, BE IT RESOLVED, that the Conference in general endorses the broad principles and practical strategies set forth in the White Paper on State Judicial Budgets in Times of Fiscal Crisis (prepared by the Conference of State Court Administrators), including the following principles and strategies:

1. An important determinant of success in obtaining adequate resources in difficult fiscal times is the Judicial Branch's credibility with the other Branches and with the public, based on a track record of good governance, such as
 - Consistent submission over time of prudent, transparent judicial budget requests that provide clear justification for the resources requested, and judicial budget priorities that are consistent from year to year.
 - Sound financial management system-wide and among individual courts.
 - Efforts to measure and report on the courts' management performance.
 - Self-imposed austerity measures during difficult budget times.
2. The Chief Justice is the inspirational leader of the courts and should be a strong, visible advocate for their needs and priorities. The strength and quality of the Chief Justice's leadership and skills in administering the Third Branch during good economic times carry over into difficult economic times.
3. The State Court Administrator (SCA) bears a major responsibility for how the other branches and public perceive the courts' management and fiscal performance. The SCA must be perceived as credible and knowledgeable on budget matters and as a strong internal leader capable of making difficult budget decisions.

4. Constitutional and statutory provisions bearing on the state's overall budget process can greatly affect the impact of a state's fiscal crisis on the Judiciary. For example:
 - Certain structural conditions, such as permitting the Executive to alter the Judiciary's budget request prior to submission to the Legislature, undermine judicial independence and effective self-governance.
 - Line item restrictions on Judicial Branch spending preclude courts from making most efficient use of their resources.
 - The Judicial Branch should speak with one voice in advancing its budget goals. Those goals may be promoted by state unification of budget and finance through the administrative office of the courts.

5. Courts can respond to a state budget crisis in one or more ways, such as cutting costs and services, increasing revenues, negotiating budget cuts and maintaining their constitutional prerogatives. The following are considerations relating to each:
 - Firm insistence that the Judiciary be treated as a co-equal branch of government in the context of court funding is both appropriate and necessary.
 - Cuts in costs/services cannot rise to the level where courts become mere "case processing centers."
 - Sharing in across-the-board cuts hurts the Judiciary disproportionately because the courts are personnel-heavy, cannot turn away cases, and therefore have little spending flexibility.
 - Where austerity measures are taken, courts should make their sacrifices known, in an effort to build public support and strengthen their budget position.
 - Courts should consider whether to raise revenues by increasing fees and fines but must avoid sending a message that they are responsible for self-funding.
 - Courts must have significant input concerning their response to a budget crisis, rather than others managing the crisis for them.
 - Budget crises may well present opportunities for reform that could not be pursued in more favorable economic times.

Adopted as proposed by the Court Management Committee of the Conference of Chief Justices at the 27th Midyear Meeting on January 21, 2004.