

RESOLUTION 01-02-2012

DIGEST

Court Funding: Call to State Legislature to Cease Funding Cuts

This resolution seeks to adopt a resolution to call upon the California State Legislature to cease funding cuts of the judiciary.

**RESOLUTIONS COMMITTEE RECOMMENDATION
DISAPPROVE**

History:

Same as Resolution ELF-02-2011, which was approved in principle.

Reasons:

This resolution seeks to adopt a resolution to call upon the California State Legislature to cease cutting funding for the judiciary. This resolution should be disapproved because, even though the intent is to send a message to the Legislature that funding cuts to the courts need to stop, it does not specifically address how to obtain the goal.

Our state courts are already embarrassingly underfunded and painfully overburdened and have endured significant budget cuts since 2008, which have led to the courts being understaffed and underfunded. Even though this resolution acknowledges a problem and presents a laudable goal, Resolution 01-07-2012 better addresses these goals and looks at what is most critical to the courts.

Similar to Resolution 01-07-2012.

TEXT OF RESOLUTION

1 RESOLVED, that the Conference of California Bar Associations adopt a resolution to call upon
2 the California State Legislature to cease funding cuts of the judiciary to read as follows:
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4 WHEREAS, the Judicial Branch is the Third Branch of Government, and the Courts of
5 the State of California have served as a beacon to societies across this nation and the world;
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7 WHEREAS, the Courts are fundamental to our safety and security, and to our very way
8 of life in California, and there is no branch of government more critical to or more frequently
9 accessed by the public than our Courts;
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11 WHEREAS, the State of California cannot afford to lose its stature as a place for stable
12 commerce and industry, nor the economic benefits of being a desirable business community, all
13 of which will result from the closure of Courts throughout the state;
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15 WHEREAS, we must fully fund our Courts to ensure that historically disadvantaged
16 communities are protected by the rule of law, and to make sure that all disputes -- whether social,
17 political, economic, or otherwise -- are resolved peacefully and efficiently;
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19 WHEREAS, it is no doubt the underserved and underrepresented in our society will be
20 most harmed by court closures;

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22 WHEREAS, the access to and fairness in the administration of the justice throughout
23 California is paramount to ensuring the survival of our constitutional democracy, and unless the
24 funding cuts to the Third Branch of Government are stopped and prior cuts in funding restored,
25 the very fabric of our constitutional democracy is in peril;

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27 WHEREAS, it is understood that although the State has endured an economic crisis,
28 nonetheless, the inadequate funding of our Third Branch of Government threatens our very
29 democracy, and may present an unconstitutional infringement upon the independence of the
30 Courts and their ability to function properly;

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32 WHEREAS, the comparatively modest California judicial budget -- which represents less
33 than 3% of the overall State budget -- has been slashed by more than 30% over the past three
34 years, totaling over 1 billion dollars in serious funding cuts;

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36 WHEREAS, it has been long recognized throughout the State of California that the
37 number of judges sitting in our trial courts has not kept pace with the growth of the population of
38 the State of California, and the Legislature has realized that the State of California already lacks
39 sufficient Judges;

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41 WHEREAS, it is a truism that justice delayed is justice denied;

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43 WHEREAS, the Legislature in its wisdom has enacted legislation partially authorizing
44 the appointment of 150 additional judgeships noting this critical need, yet even those judgeships
45 remain unfunded;

46
47 WHEREAS, many Courthouses throughout the State of California are dilapidated,
48 dangerous and insecure, and the Legislature has approved courthouse construction so that
49 Californians can safely and securely access the courts, only to then take construction funds
50 designated for Courthouse construction and transfer them to the general fund or otherwise
51 "borrow" this construction funding, putting on hold long needed Courthouse improvements --
52 projects that would add jobs and employment in the State of California;

53
54 WHEREAS, quoting retired Chief Justice Ronald M. George, "Courthouses must be a
55 safe harbor to which members of the public come to resolve disputes that often are volatile.
56 Once Courthouse themselves are perceived as dangerous, the integrity and efficacy of the entire
57 judicial process is in jeopardy";

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59 WHEREAS, the State of California cannot afford to allow any more Courts to be
60 shuttered, personnel terminated, and access denied;

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62 WHEREAS, unless the current funding trend is halted or reversed, the current Court
63 closures are only a harbinger of future closures, layoffs of longtime employees and staff, and loss

64 of employment that will further hamper our Courts from providing fundamental services to those
65 who live or do business in our state;

66

67 WHEREAS, it is the responsibility of the legal profession to support and defend the
68 Constitution of the State of California and the Constitution of the United States of America, and
69 as lawyers we have a responsibility to ensure that our judiciary's critical role be understood by
70 elected officials and by the public, that our courtrooms remain open and adequately staffed, and
71 that access to justice remain a cornerstone of our constitutional democracy;

72

73 THEREFORE, BE IT RESOLVED, that it is the Consensus of this Conference of
74 California Bar Associations that the funding cuts heretofore made by the Legislature be restored;
75 that no further cuts to funding the Third Branch of Government be countenanced; that use by the
76 Legislature of the judiciary's SB 1407 construction funds be ended; and that mechanisms be
77 explored such that permanent funding will result that will not subject the Courts to annual
78 upheaval and political involvement threatening their very independence, and that our courtrooms
79 will remain open and adequately staffed, and that access to justice -- a cornerstone of our
80 constitutional democracy -- not be imperiled.

PROPONENT: The Bar Association of San Francisco

STATEMENT OF REASONS

Existing Law: Year after year, the legislature has found new ways to make ever deeper cuts to the already woefully inadequate state judicial budget, constantly deferring and/or disregarding issues the Legislature itself has identified as requiring immediate funding.

This Resolution: This Consensus Resolution sends a strong message to the legislature that the looting of our courts must stop: Funding cuts heretofore made by the legislature should be restored, and no further cuts to funding can be countenanced. The legislature must stop robbing Peter to pay Paul, by using the judiciary's SB 1407 construction funds for other purposes. And mechanisms must be explored to ensure permanent funding that will not subject the courts to annual upheaval and political involvement -- all of which threaten their vital independence. In short, by demanding adequate funding, this resolution ensures that our courtrooms remain open and adequately staffed, and that access to justice -- a cornerstone of our constitutional democracy -- is not imperiled.

This resolution is the same as ELF-02-2011, which was passed at the Conference in 2011.

The Problem: Our state courts are already embarrassingly underfunded and painfully overburdened, hurting California's standing in the business community and undermining our duty and responsibility to help the underserved and underrepresented (who are most harmed by court closures). The state legislature, however, continues to cut the already modest -- if wholly inadequate -- judicial budget, even while acknowledging the need for more court funding.

For example, while the legislature has already approved positions for 150 additional judgeships, noting the critical need, those positions remain unfunded. Similarly, even though courthouses

throughout the State of California are dilapidated, dangerous and insecure, and the legislature has approved courthouse construction so that Californians can safely and securely access our courts, the legislature has taken construction funds designated for this work and transferred them to the general fund and/or otherwise “borrowed” construction funding, putting on hold long needed courthouse improvements -- projects that would not only provide much needed infrastructure, but would also create jobs in the State of California.

We must ensure that the legislature understands cuts to court funding must stop. We must call upon the legislature to honor its commitments, and restore court funding so that we can ensure that everyone in the state is protected by the rule of law, and that all disputes – whether social, political, economic, or otherwise -- are resolved peacefully and efficiently.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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