

Resolution posted pursuant to Conference Rules Art. II, Sec. 6(c). The CCBA Board of Directors will consider whether to accept the filing of this resolution at its meeting on Sept. 15, 2011. Counterarguments may be submitted to the board at admin@calconference.org until 12:00pm on Sept. 15, 2011.

RESOLUTION ELF-2-2011

DIGEST

Court Funding: Call to State Legislature to Cease Funding Cuts

Proposes Consensus Resolution from California Bar Associations to be presented to the Legislature.

History:

No similar resolution found.

Reasons:

While California's Courts are a cornerstone of our civil society, and the most accessed of our three branches of State government, our judicial budget represents less than three percent of the overall State budget. Despite this comparatively modest financial draw, our State Court budgets have nevertheless been slashed by more than 30% over the past three years, totaling over 1 billion dollars in cuts to an already overburdened and often physically dilapidated system. As representatives of California's legal community, officers of the court, and concerned citizens, we must take action to prevent the Legislatures' continued ransacking of Court funding.

TEXT OF RESOLUTION

WHEREAS, the Judicial Branch is the Third Branch of Government, and the Courts of the State of California have served as a beacon to societies across this nation and the world;

WHEREAS, the Courts are fundamental to our safety and security, and to our very way of life in California, and there is no branch of government more critical to or more frequently accessed by the public than our Courts;

WHEREAS, the State of California cannot afford to lose its stature as a place for stable commerce and industry, nor the economic benefits of being a desirable business community, all of which will result from the closure of Courts throughout the state;

WHEREAS, we must fully fund our Courts to ensure that historically disadvantaged communities are protected by the rule of law, and to make sure that all disputes -- whether social, political, economic, or otherwise -- are resolved peacefully and efficiently;

WHEREAS, it is no doubt the underserved and underrepresented in our society will be most harmed by court closures;

WHEREAS, the access to and fairness in the administration of the justice throughout California is paramount to ensuring the survival of our constitutional democracy, and unless the funding

Resolution posted pursuant to Conference Rules Art. II, Sec. 6(c). The CCBA Board of Directors will consider whether to accept the filing of this resolution at its meeting on Sept. 15, 2011. Counterarguments may be submitted to the board at admin@calconference.org until 12:00pm on Sept. 15, 2011.

cuts to the Third Branch of Government are stopped and prior cuts in funding restored, the very fabric of our constitutional democracy is in peril;

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

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

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

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

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

WHEREAS, many 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 the courts, only to then take construction funds designated for Courthouse construction and transfer them to the general fund or otherwise "borrow" this construction funding, putting on hold long needed Courthouse improvements -- projects that would add jobs and employment in the State of California;

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

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

WHEREAS, unless the current funding trend is halted or reversed, the current Court closures are only a harbinger of future closures, layoffs of longtime employees and staff, and loss of employment that will further hamper our Courts from providing fundamental services to those who live or do business in our state.

Resolution posted pursuant to Conference Rules Art. II, Sec. 6(c). The CCBA Board of Directors will consider whether to accept the filing of this resolution at its meeting on Sept. 15, 2011. Counterarguments may be submitted to the board at admin@calconference.org until 12:00pm on Sept. 15, 2011.

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

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

PROPONENT: 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.

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

Resolution posted pursuant to Conference Rules Art. II, Sec. 6(c). The CCBA Board of Directors will consider whether to accept the filing of this resolution at its meeting on Sept. 15, 2011. Counterarguments may be submitted to the board at admin@calconference.org until 12:00pm on Sept. 15, 2011.

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.

AUTHOR AND/OR PERMANENT CONTACT: Bar Association of San Francisco, Oliver Dunlap, 101 Second Street, Suite 2300, San Francisco, CA, 94105, odunlap@kslaw.com

RESPONSIBLE FLOOR DELEGATE: James J. Brosnahan