

**75th OREGON LEGISLATIVE ASSEMBLY – 2009 Regular Session
BUDGET REPORT AND MEASURE SUMMARY**

MEASURE: HB 5020-A

JOINT COMMITTEE ON WAYS AND MEANS

**Carrier – House: Rep. Shields
Carrier – Senate: Sen. Walker**

Action: Do Pass as Amended and Be Printed A-Engrossed

Vote: 20 – 0 – 2

House – Yeas: Buckley, D. Edwards, Galizio, Garrard, Gilman, Jenson, Kotek, Nathanson, Richardson, Shields, G. Smith

– Nays:

– Exc: C. Edwards

Senate – Yeas: Bates, Carter, Girod, Johnson, Monroe, Nelson, Verger, Walker, Whitsett

– Nays:

– Exc: Winters

Prepared By: Linda Gilbert, Department of Administrative Services

Reviewed By: John Borden, Legislative Fiscal Office

Meeting Date: June 23, 2009

Agency

Oregon Judicial Department

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Biennium

2009-11

Budget Summary*

	2007-09 Legislatively Approved Budget (1)	2009-11 Essential Budget Level	2009-11 Committee Recommendation	Committee Change from 2007-09 Leg. Approved	
				\$\$ Change	% Change
General Fund	\$ 321,426,492	\$ 336,208,975	\$ 288,141,746	\$ -33,284,746	-10.4%
General Fund Debt Service	\$ 0	\$ 11,839,344	\$ 7,657,794	\$ 7,657,794	---%
Other Funds	\$ 44,719,467	\$ 36,072,994	\$ 46,512,559	\$ 1,793,092	4.0%
Other Funds Nonlimited	\$ 10,492,966	\$ 10,233,769	\$ 0	\$ -10,492,966	-100.0%
Federal Funds	\$ 1,013,463	\$ 1,047,391	\$ 869,835	\$ -143,628	-14.2%
Total	\$ 377,652,388	\$ 395,402,473	\$ 343,181,934	\$ -34,470,454	-9.1%

Position Summary

Authorized Positions	2,074	2,065	1,803	-271
Full-time Equivalent (FTE) positions	1,912.85	1,923.13	1,638.92	-273.93

(1) Includes adjustments through the December 2008 meeting of the Emergency Board

* Excludes Capital Construction expenditures

Summary of Revenue Changes

Oregon Judicial Department (OJD)'s revenues are generated from fines, fees, and restitution associated with cases in the 36 trial courts, the Tax Court, the Court of Appeals, and the Supreme Court. OJD retains a percentage of the total collected revenues to fund its collection program. The remaining revenue is transferred to the General Fund, the Criminal Fine and Assessment Account, and to state and local government agencies.

Other Fund revenue is also generated through the sale and distribution of court publications, manuals and forms, and providing online access to the Oregon Judicial Information Network. Revenue from these transactions is used to pay for the cost of these programs. Other revenues also include transfers from the State Office for Services to Children and Families to assist in funding the Citizen Review Board's review of child placements, assessments to the State of Oregon Law Library, and funds from the Public Defense Services Commission (PDSC) to pay for the services of court staff to verify indigence of persons seeking state-paid court-appointed counsel.

Restitution and compensatory fines collected by the courts are distributed directly to victims.

Federal Funds are received from a grant from the Department of Health and Human Services for the continuation of the Juvenile Court Improvement Project.

House Bill 2287 (2009), if passed into law, would establish temporary surcharges on a variety of filing fees and establish several temporary fees. All the surcharges and fee amounts would be statutorily established and be temporary with a June 30, 2011 sunset. The bill creates a Judicial System Surcharge Account, and all fee and surcharge revenue collected from July 1, 2009 through June 30, 2011 is deposited into this new

account, with the exception of that raised by local Justice of the Peace, municipal, and county courts. House Bill 2287 provides for an initial distribution of up to \$10 million from the Judicial System Surcharge Account contingent on funds being available in the account. These funds would be distributed on a 65 percent/35 percent basis to OJD and PDSC. Any further distribution would require legislative action. House Bill 2287 would raise an estimated \$39.6 million revenue. The expenditure limitation for these revenues is included in House Bill 5054, the end of session reconciliation bill.

The legislative-intended use of House Bill 2287 revenue is to meet the state's obligation to ensure citizen access to the judicial system, including restoring the reductions to the PDSC for trial court representation for indigent persons. This includes the intent to restore the OJD budget to no less than a 7.5 percent General Fund reduction level. However, the allocation of any House Bill 2287 revenue is subject to change due to the uncertainty associated with Oregon's economy and state budget situation, caseloads for the public safety system, and passage (or failure) of key legislation.

Summary of the Public Safety Subcommittee Action

OJD operates 36 circuit courts located in 27 judicial districts statewide. It operates the Oregon Supreme Court, Court of Appeals, and the Tax Court. The department administers the Mandated Payments Program that pays for the cost of jurors, transcript costs for certain indigents in civil appeals, Americans with Disabilities Act compliance, and interpreters for non-English-speaking and hearing-impaired persons in the courts.

The Subcommittee approved a budget of \$343.2 million total funds, \$295.8 million General Fund and 1,638.92 FTE for the OJD. The approved budget is a decrease of \$25.6 million General Fund (8 percent), \$34.5 million total funds (9.1 percent), and 271 positions (273.93 FTE) from the 2007-09 Legislatively Approved Budget as of December 2008 (LAB). Compared to the 2009-11 Essential Budget Level, the General Fund reduction of \$52.3 million is 15 percent, while total funds are a 13.1 percent reduction.

010 – Judge Compensation

This is a new budget division for the OJD. It collects in one place the cost of Personal Services for the system's judges. Added funding in this division is offset by equal reductions in Trial and Appellate/Tax Court Operations. The Subcommittee approved one package.

Package 818: Judge Compensation adds \$62.7 million General Fund, 191 positions (191.00 FTE). The package captures compensation for all judges in the system in accordance with statutory rates. The OJD is instructed to establish four separate ORBITS Detail Cross Reference structures for: Supreme Court, Appellate Court, Tax Court, and circuit court judgeships.

087 – eCourt Debt Service

The Debt Service Program provides the funding to make payments on principal, and interest, and financing costs associated with the issuance of certificates of participation (COPs). COPs are tax exempt government securities. The department's debt service is related exclusively to the eCourt Program.

Issuance of COPs for eCourt was authorized by legislation passed in the 2008 supplemental session in House Bill 5100. The initial COP issuance was \$8 million. A second COP issuance of \$7.5 million was approved early in the 2009 Legislature. OJD's 2009-11 base budget, however, assumed debt service to support repayment of a higher amount. The issuance of the lower amount has resulted in debt service savings. As adjusted by the following package, total debt service is \$7.7 million General Fund.

Package 801: LFO Analyst Technical Changes reduces debt service associated with the eCourt project by \$4.2 million General Fund.

100 - Trial Court Operations

This division includes the resources for operating the circuit courts in Oregon. These courts adjudicate matters and disputes in criminal, civil, domestic relations, traffic, juvenile, small claims, violations, abuse prevention act, probate, mental commitments, adoption, and guardianship cases. Trial court resources also include those related to revenue management and collections.

The Subcommittee approved a budget of \$156.4 million General Fund, \$176.5 million total funds (1,251.06 FTE). This is a reduction from the 2007-09 LAB of \$74.7 million General Fund or 32.3 percent. Much of the reduction is associated with shifting Personal Services expense for trial court judges to the new Judge Compensation budget division.

The Subcommittee approved nine packages and two budget notes:

Package 804: Roll-Up of 2007-09 Reductions reduces General Fund Personal Services by \$61,953 and Other Funds by \$0.3 million to eliminate four long-term vacant positions (2.74 FTE), that were originally identified as part of the OJD's 2007-09 biennium reduction plan.

Package 810: Merit/Inflation/Mandated Payment Reduction reduces \$6.3 million General Fund and \$0.7 million Other Funds to eliminate standard employee merit increases, assumed as equivalent to one salary step increase per eligible position. It also eliminates the 2.8 percent inflation factor assumed in the 2009-11 budget instructions. The package does not affect current employee or judge compensation.

Package 811: Central Administrative Reduction reduces General Fund just under \$3 million and eliminates 20 information technology positions (20.00 FTE). To mitigate the impact of this reduction, the OJD would pursue a regionalized IT service model delivery system. Services and Supplies are reduced for costs associated with the positions as well as savings from reducing mileage and equipment replacement expenses and eliminating some contract and service agreements.

Package 812: Court Support Services Reduction reduces General Fund by just under \$4.2 million and eliminates 35 positions (34.38 FTE). The positions are two law clerks (2.00 FTE), eight stenographic court reporters (7.00 FTE), and 25 drug treatment court coordinator positions (25.38 FTE).

Package 813: Cost Shift Reduction reduces General Fund by \$8.2 million and eliminates 58 positions (53.99 FTE), in four programs. In Pre-Trial Release 12 positions (12.00 FTE) are eliminated, which creates a cost shift to local government. The Court Referee program is eliminated at \$4.5 million General Fund, 28 positions (23.07 FTE). General Fund support for the Pro Se Facilitation program is eliminated, as well as the 12 positions (12.24 FTE) associated with the program. The Mediation program loses all General Fund support, six positions (6.68 FTE).

In the interest of budgetary transparency, the Subcommittee added the following budget note:

Budget Note

The Department is directed to work with the Legislative Fiscal Office to develop program and subprogram structures in the Oregon Budget Information Tracking System that transparently reflect the Department's budgetary activities. The Department is also directed to identify the complete budgetary costs, by budget category, of each subprogram level activity within ORBITS.

Package 814: Additional Program Reductions eliminates the General Fund portion of indigent defense verification and the Application Contribution Program. The program retains the Other Fund positions, which are paid from an Application Contribution fee received from the PDSC. The impact is a reduction of \$0.9 million General Fund, eight positions (11.84 FTE).

Package 815: Court Operations Reduction is this division's share of an across-the-board reduction of three percent of the OJD's remaining essential budget level General Fund. The impact in this package is a reduction of \$6.5 million and 54 positions (54.00 FTE).

Package 817: Non-Limited to Limited reflects the legislative preference in recent biennia to reduce Nonlimited authority and thereby retain, rather than delegate, its budget authority by limiting expenditures through the appropriation process. Any needed increase to Other Funds expenditure limitation can be accommodated by a request from the OJD to the Emergency Board or a Regular or Special Session of the Legislature. The package moves \$0.8 million Nonlimited Other Funds limitation to Other Funds limitation. The funding is a fee the OJD collects to recover costs of labor and materials to provide court forms.

Package 818: Judge Compensation moves Personal Services costs of 173 circuit court judgeship positions (173.00 FTE), into a newly established budgetary program. The purpose is to differentiate the compensation of statutory judgeships from the Department's operating expenses. The differentiation is important because constitutionally the Legislature is unable to reduce the compensation of any judge presiding during his or her term of office. In the future, this structure will allow for new judgeship requests and compensation changes to be more easily identified. The \$56.4 million General Fund reduction in this package is exactly offset in the Judge Compensation budget division.

In consideration of legislation concurrently working its way through the system, the Subcommittee added the following budget note:

Budget Note

The Department is instructed to report to the 2010 Special Session of the Legislature on current caseload trends and any resentencing costs required by legislation enacted during the 2009 Session.

101 - Appellate/Tax Courts

This program funds the operations and staffing of the Supreme Court, Court of Appeals, and Tax Courts. The Supreme Court is established by the Oregon Constitution, and consists of seven justices elected to serve six-year terms. The Court of Appeals consists of ten judges who hear appeals

from trial courts, and state agencies and boards. The Tax Court consists of one judge, who hears matters arising from Oregon tax law, and a Tax Magistrate Division created in 1997 to replace the informal administrative tax appeals process conducted by the Department of Revenue.

The Subcommittee approved a budget of \$10.2 million total funds of which \$10.1 million is General Fund, 50 positions (47.60 FTE) for these courts. This is a reduction of \$9.2 million or 47.5 percent from the 2007-09 LAB. In large part the reduction stems from moving the Personal Services expense of the judges from this division to the Judge Compensation budget division. In developing its budget, the OJD determined that there is a revenue shortfall of \$193,626 Other Funds in the mediation program and eliminated the expenditure along with one position (0.60 FTE) in an 070: Revenue Reductions/Shortfall package to reconcile the essential budget level.

The Subcommittee approved four packages:

Package 810: Merit/Inflation/Mandated Payment Reduction reduces \$0.3 million General Fund and \$3,006 Other Funds to eliminate standard employee merit increases, assumed as equivalent to one salary step increase per eligible position. It also eliminates the 2.8 percent inflation factor assumed in the 2009-11 budget instructions. The package does not affect current employee or judge compensation.

Package 812: Court Support Services Reduction reduces General Fund by just under \$1.4 million and eliminates 11 positions (11.00 FTE). The positions are Appellate and Tax Court support staff.

Package 815: Court Operations Reduction is this division's share of an across-the-board reduction of three percent of the OJD's remaining essential budget level General Fund. The impact in this package is a reduction of \$0.5 million, four positions (4.00 FTE).

Package 818: Judge Compensation moves Personal Services costs of seven Supreme Court judgeships, 10 Appellate Court judgeships, and one Tax Court judgeship (18.00 FTE), into a newly established budgetary program. The purpose is to differentiate the compensation of statutory judgeships from the department's operating expenses. The differentiation is important because constitutionally the Legislature is unable to reduce the compensation of any judge presiding during his or her term of office. In the future, this structure will allow for new judgeship requests and compensation changes to be more easily identified. The \$6.3 million General Fund reduction in this package is exactly offset in the Judge Compensation budget division.

102 - Administration and Central Support

The State Court Administrator (SCA) supports and assists the Chief Justice in exercising administrative authority and supervision over the trial and appellate courts of this state and in establishing statewide administrative policies and procedures. This division includes resources for the Revenue Management Program, budget and accounting, personnel, legal, audit, education, court programs and analytical services, pro tem services, and information technology. In addition the SCA has responsibility for administrative management of the Appellate Court Records Section, State of Oregon Law Library, publications, interpreter and shorthand reporter certification programs, and state Citizen Review Board program.

The Subcommittee approved a budget of \$45.1 million General Fund, \$65.1 million total funds (121.02 FTE). This is a reduction from the 2007-09 LAB of \$10.7 million General Fund or 19.1 percent. In developing its budget, the OJD determined that there is a revenue shortfall of \$390,078

Other Funds in the publications and state court services programs and eliminated the expenditure along with two positions (3.10 FTE) in an 070: Revenue Reductions/Shortfall package to reconcile the essential budget level. A feature of the state position information system adds \$3 General Fund.

The Subcommittee approved nine packages and one budget note:

Package 801: LFO Analyst Technical Changes phases out a 2007 one-time grant to the Oregon State Bar for legal aid expenses of \$700,000 General Fund.

Package 804: Roll-Up of 2007-09 Reductions reduces Other and Federal Funds Personal Services by \$0.2 million to eliminate four long-term vacant positions (1.65 FTE), that were originally identified as part of the OJD's 2007-09 biennium reduction plan.

Package 810: Merit/Inflation/Mandated Payment Reduction reduces \$1.4 million General Fund, \$0.5 million Other Funds, and \$29,791 Federal Funds to eliminate standard employee merit increases, assumed as equivalent to one salary step increase per eligible position. It also eliminates the 2.8 percent inflation factor assumed in the 2009-11 budget instructions. The package does not affect current employee or judge compensation.

Package 811: Central Administrative Reduction reduces General Fund by \$8.3 million and eliminates 49 positions (49.00 FTE). Reductions are made by:

- Reducing mileage reimbursements, delaying equipment replacement, and eliminating some contract and service agreements (\$1.8 million);
- Reducing travel costs for statewide committee meetings, workgroups, education, and training events (\$2.3 million);
- Consolidating Citizen Review Board program functions and eliminating ten vacant positions (10.00 FTE) without jeopardizing the Board's capacity to meet federal statutory review requirements or the level of federal Title IV-E funding for the Department of Human Services (\$1.1 million);
- Reducing central support activities related to the state law library, legal counsel, education and outreach, internal audit, procurement, performance analysis, strategic planning, case flow management, and statewide reporting; and
- Eliminating two information technology positions.

Package 812: Court Support Services Reduction reduces General Fund by \$0.6 million and eliminates two positions in the Appellate Court Publications section (2.00 FTE), and 2.00 FTE on positions in the State Law Library.

Package 813: Cost Shift Reduction reduces General Fund by \$1.6 million and Other Funds by \$1.5 million and eliminates 25 positions (25.00 FTE), which is the remaining resource for the Citizen Review Board. This reduction may adversely affect federal Title IV-E funding received by the state Department of Human Services.

Package 815: Court Operations Reduction is this division's share of an across-the-board reduction of three percent of the OJD's remaining essential budget level General Fund. The impact in this package is a reduction of \$1.6 million, 14 positions (14.00 FTE).

Package 817: Non-Limited to Limited reflects the legislative preference in recent biennia to reduce Nonlimited authority and thereby retain, rather than delegate, its budget authority by limiting expenditures through the appropriation process. Any needed increase to Other Funds expenditure limitation can be accommodated by a request from the OJD to the Emergency Board or a Regular or Special Session of the Legislature. The package moves just under \$9 million Nonlimited Other Funds limitation to Other Funds limitation. The funding is fees the OJD collects to recover costs of third party collectors or credit card fees.

Package 841: State Court Security Account provides the vehicle to move expenditures out of Administration and Central Support to a newly established budgetary division to differentiate the department's statutory State Court Facilities Security Account activities. It reduces Other Funds expenditure limitation by \$2.9 million and transfers out four positions (3.50 FTE). This package has an equal offset in the State Court Facilities Security Account budget division.

In consideration of further budgetary transparency, the Subcommittee included the following Budget Note.

Budget Note

The Department is directed to work with the Legislative Fiscal Office to reconcile in Oregon Budget Information Tracking System the General and Other Funds budget and staffing level associated with its Revenue Management and Collections Program.

200 - Mandated Payments

The Mandated Payments Program funds the jury system and access to courts by all persons. This program finances costs associated with the administration of the trial and grand jury systems. Services include:

- Foreign-language interpreters for court proceedings;
- Provision of assistive devices required to provide reasonable accommodation to disabled persons;
- State-paid sign interpreters or real-time reporters for hearing-impaired jurors;
- Mileage reimbursed to grand and trial jurors;
- Payment of jurors' meals, lodging, and commercial transportation at the actual cost;
- Per diem provided to grand and petit jurors;
- Summoning and qualifying jurors and providing jurors' orientation programs and materials; and
- Payment of other miscellaneous costs.

The Subcommittee approved a budget of \$14.4 million total funds, of which \$13.9 million is General Fund, 20 positions (19.65 FTE). This is a General Fund reduction of \$1.5 million or ten percent from the 2007-09 LAB. Total funds is reduced \$2.1 million or 12.6 percent.

The Subcommittee approved three packages:

Package 810: Merit/Inflation/Mandated Payment Reduction reduces just under \$1 million General Fund to eliminate standard employee merit increases, assumed as equivalent to one salary step increase per eligible position. It also eliminates the 2.8 percent inflation factor assumed in the 2009-11 budget instructions and \$0.5 million mandated caseload adjustment made to the base budget. The package does not affect current employee or judge compensation.

Package 816: Mandated Payment Reduction reduces General Fund by \$1.5 million affecting a portion of the essential budget for:

- Foreign language interpreters;
- Trial and grand jury system administrative costs;
- Americans with Disabilities Act accommodations; and
- Waiver of appellate transcript costs in civil proceedings when a party is indigent.

Package 817: Non-Limited to Limited reflects the legislative preference in recent biennia to reduce Nonlimited authority and thereby retain, rather than delegate, its budget authority by limiting expenditures through the appropriation process. Any needed increase to Other Funds expenditure limitation can be accommodated by a request from the OJD to the Emergency Board or a Regular or Special Session of the Legislature. The package moves \$0.5 million Nonlimited Other Funds limitation to Other Funds limitation. The funding is associated with juror per diem and mileage reimbursement.

400 – State Court Facilities Security Account

This is a newly established budget division for the department. The Subcommittee recommended a \$3.2 million Other Funds budget, six positions (5.50 FTE), and approved two packages:

Package 204: Continue E-Board Approved Staffing converts two limited-duration positions to permanent full-time status, funded with the State Court Facilities Security Account. The cost is \$0.3 million Other Funds. One position will continue to provide statewide security improvements, emergency preparedness, and business continuity training. The other position will manage security development and business continuity for the Multnomah Circuit Court.

Package 841: State Court Security Account is the offset to the same numbered package in Administration and Central Support. It is the vehicle to move expenditures and positions to this newly established budgetary division to distinguish the department's statutory State Court Facilities Security Account activities. It increases Other Funds expenditure limitation by \$2.9 million and transfers in the four positions (3.50 FTE) from Administration and Central Support.

500 – Electronic Court

The Oregon eCourt is the projected seven year program to modernize Oregon court business practices. The Oregon Judicial Information Network (OJIN), which is the department's current electronic case management system, has been in operation for the past 25 years. OJIN contains all of the records of circuit courts, including financial information. The records are an integral part of Oregon's civil, business, and public safety systems and provide various jurisdictions and agencies with data relevant to judicial determinations. However, maintaining these records in such an antiquated system is risky, and OJIN does not provide courts with any flexibility in accessing and using these records, including compiling outcome or other essential decision support data.

Implementation of the Oregon eCourt Program involves far more than information technology, and will require major reengineering of OJD's business practices across the department's 36 circuit courts that are consolidated administratively in 27 judicial districts statewide, as well as the Oregon Supreme Court, Court of Appeals, and the Tax Court. The complexity of the revising (and gaining acceptance) of business practices equals, if not exceeds, its high technical complexity. In addition, the implementation plan is highly complex and assumes that its nine separate projects will be designed and implemented independently, but simultaneously.

The Legislature considers the eCourt Program a key component in increasing data sharing across all of the state's public safety entities.

ECourt is funded with a combination of General Fund, Other Funds, and proceeds from sales of COPs, which are supported with General Fund debt service.

This is a newly established budgetary division to isolate and make transparent the costs associated with implementing the multi-phase, multi-year project. The Subcommittee approved a budget of \$3.5 million Other Funds, 27 positions (3.09 FTE). These expenditures are the costs to implement the 2009-11 portion of the project.

Package 844: eCourt – SB 5543 was approved by the Subcommittee. It establishes eCourt in this budgetary division. The Other Funds limitation of \$3.5 million is related to a previously authorized COP issuance of \$7.5 million for the program. This funding would allow the department to continue eCourt activities until October 2009. In addition, \$41,535 in General Fund savings is identified.

Summary of Performance Measure Action

See attached Legislatively Adopted 2009-11 Key Performance Measures form.