



COURT REPORTERS BOARD OF CALIFORNIA

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Report on Transcript Reimbursement Fund

DATE	November 1, 2018
TO	California Legislature
FROM	Paula Bruning, Executive Analyst

PURPOSE

Business & Professions Code (BPC) section 8030.9 requires the Court Reporters Board (Board) to provide a report to the Legislature by November 1, 2018, regarding the Transcript Reimbursement Fund (TRF).

BACKGROUND

There are two programs under the Transcript Reimbursement Fund (TRF) (BPC sections 8030.1. through 8030.9). The first program, known as the Pro Bono Program, was established by the Legislature in 1981 and is available to pro bono attorneys representing indigent litigants. The second program, known as the Pro Per Program, was an expansion of the TRF in 2011 for indigent pro per litigants. Both programs assist qualified indigent litigants in civil matters; however, they differ in who may apply and how much monetary assistance is available to individual cases and all cases overall. The TRF is funded by annual license renewal fees and since its inception has reimbursed transcription costs totaling just under \$9 million.

During the 2011/12 sunset review process, the Pro Per Program was extended along with the rest of the Board's laws until January 1, 2017. During the sunset review process of 2015/16, the pro per program allowance was increased to \$75,000 annually. In addition, vexatious litigants were deemed ineligible to receive funds from the TRF.

The Board endured delays in processing applications in 2017 when a new statewide accounting and budgeting system, Fi\$Cal, was implemented, triggering a series of technical issues. Processing applications resumed after eight months.

Transfers are made from the Court Reporters Board Fund to the TRF in increments of \$100,000 up to \$300,000 per year. The Board must stop transfer to the TRF when the Board's reserve of operating expenses falls below six months. This threshold was reached in FY 2016-17, and the TRF is temporarily closed. The Board continued to pay claims received through July 6, 2017, with funds previously transferred. In April of 2018, Board staff returned 299 Pro Bono Program applications and 188 Pro Per Program applications. Applicants may reapply when funding is reestablished.

DATA

The Pro Bono Program is operated on a fiscal year basis, while the Pro Per Program operates on a calendar year. The balance of the TRF on January 1, 2017, was \$106,000. In May 2017, \$300,000 was transferred from the Court Reporters Board Fund to the TRF.

Pro Bono Fund

The totals below are based on the number of invoices received and/or processed, not the number of applications or cases.

Transcript Reimbursement Fund (Pro Bono)			
	FY 2015/16	FY 2016/17	FY 2017/18
No. of Requests for Reimbursement Received	531	420	316
No. of Requests Approved	473	378	8
No. of Requests Denied	58	42	308*
Amount of Funds Disbursed	\$105,971	\$307,965	\$96,219
Amount of Funds Recovered by Judicial Award of Costs	\$63,241	\$23,612	\$7,018

* Includes applications returned due to lack of funding.

Pro Per Pilot Project Fund

The totals below are based on the number of invoices or estimates received and/or processed, not the number of applications or cases.

Transcript Reimbursement Fund (Pro Per Pilot Project)				
	CY 2015	CY 2016	CY 2017	CY 2018
No. of Requests for Reimbursement Received	156	172	209	52
No. of Requests Approved	146	95	188	24
No. of Requests Denied	64	62	67*	14*
Amount of Funds Allocations (Provisional Approval)	\$6,677	\$10,527	\$10,479	\$884
Amount of Funds Disbursed	\$28,395	\$13,952	\$21,805	\$16,731
Amount of Funds Recovered by Judicial Award of Costs	\$0	\$0	\$0	\$0

* Includes applications returned due to lack of funding.

Most Pro Per Program allocations are based on estimates provided by the applicants from the court reporters. As invoices for payment are processed, the actual cost for the transcript is commonly lower than the original estimate; therefore, previously allocated money slowly becomes available and can be reallocated.

ANALYSIS

The Board believes the current level of \$300,000, \$75,000 of which is earmarked exclusively for the Pro Per Program, is the appropriate funding level. However, with the temporary closure it is anticipated that the Board will receive a large increase in applications when it reopens. The TRF is funded entirely from court reporter license fees, using no General Fund money whatsoever. Appropriation from the General Fund would assist the Board's ability to pay claims in a timely manner.

The Board is currently pursuing an increase to license and examination fees via the regulatory process. A regulatory package to increase license fees from \$125 to \$225 and examination fees from \$25 to \$50 for each portion of the three-part exam was submitted to the Office of Administrative Law (OAL) for publication in April of 2018. The Board voted on the final regulatory package at its July 2018 meeting, and the final package was submitted to OAL for review on October 9, 2018. It is hoped the increase will be effective by January 1, 2019.

Since the fund is currently closed and the Board has not yet been able to implement the license fee increase, the Board is not able to provide the requested five-year projection of fiscal solvency.

Administrative costs include an annual pro rata fee of approximately \$14,000 paid to the Department of Consumers Affairs. This fee covers the administrative costs associated with scheduling payments through Fi\$Cal along with other budget-related duties. The costs for TRF program staff are absorbed by the Board and include one half-time SSA and one full-time AGPA. Of the duties assigned to the AGPA, 55% of her time is allocated to the TRF.

Spreadsheets have been included with this report to demonstrate the following, as required in BPC section 8030.9(a)(3):

- Types of Cases
- Courts Involved
- Amount Approved
- Amount Denied and Reason for Denial
- Service Sought (i.e., number or copies, deposition or court proceeding)

OUTREACH

As part of the addition of BPC section 8030.1, the Board was mandated to further publicize the availability of the TRF. These efforts were to be made utilizing existing resources and include outreach to the State Bar Association of California, the California Commission on Access to Justice, and the Legal Aid Association of California.

With the restriction of travel and other expenditures, the Board was limited on the type of outreach available. In addition, the eight-month delay in processing mentioned above in the section titled "Background" along with the subsequent temporary closure caused Board staff to give pause on encouraging the submission of more applications.

The Board does have a working relationship with the Legal Aid Association of California and has disseminated pertinent information to its members through their newsletter. Further, the Board continues to publish articles in its biannual *CRB Today* newsletter with updates regarding the TRF.

SUMMARY

For more than 30 years, the TRF has played an integral part in helping provide access to justice for some of the most vulnerable Californians. On average over the past decade, the Board has received 385 applications for reimbursements in pro bono cases. In 2011, the fund began accepting applications from pro per litigants and has received an average of 188 applications per year. Board staff also noted an increase in demand for the TRF programs, having received 50 percent more applications in fiscal year 2015-16 than the previous year for the Pro Bono Program. Additionally, the Pro Per Program's annual reimbursement allowance was increased by the Legislature from \$30,000 to \$75,000 per calendar year effective January 1, 2017.

The Board must stop transfers to the fund when its overall budget reserve falls below six months. Although previous reports indicated that the Board's fund condition would not fall below six months in reserve until fiscal year 2017-18, a new analysis showed the drop in fiscal year 2016-17. The funding that previously existed in the TRF account from prior transfers was exhausted. Invoices for applications that were previously provisionally approved before the temporary shutdown are being paid from the funds that were set aside for them.

The Board notified all affected parties by letter of the temporary shutdown and added the appropriate information to the "Consumers" tab on the Board's website. Applicants may reapply when funding is reestablished. An email blast will be sent to the Board's subscriber list when the fund is reopened.

This report may be found on the Board's website at www.courtreportersboard.ca.gov. Hard copies may be ordered by calling (916) 263-4690.