

**C00A00  
Judiciary**

***Operating Budget Data***

(\$ in Thousands)

	<u>FY 10 Actual</u>	<u>FY 11 Working</u>	<u>FY 12 Allowance</u>	<u>FY 11-12 Change</u>	<u>% Change Prior Year</u>
General Fund	\$365,425	\$370,346	\$385,897	\$15,552	4.2%
<b>Adjusted General Fund</b>	<b>\$365,425</b>	<b>\$370,346</b>	<b>\$385,897</b>	<b>\$15,552</b>	<b>4.2%</b>
Special Fund	38,299	55,117	52,554	-2,563	-4.6%
<b>Adjusted Special Fund</b>	<b>\$38,299</b>	<b>\$55,117</b>	<b>\$52,554</b>	<b>-\$2,563</b>	<b>-4.6%</b>
Federal Fund	3,990	3,998	3,595	-402	-10.1%
<b>Adjusted Federal Fund</b>	<b>\$3,990</b>	<b>\$3,998</b>	<b>\$3,595</b>	<b>-\$402</b>	<b>-10.1%</b>
Reimbursable Fund	67	168	141	-27	-16.2%
<b>Adjusted Reimbursable Fund</b>	<b>\$67</b>	<b>\$168</b>	<b>\$141</b>	<b>-\$27</b>	<b>-16.2%</b>
<b>Adjusted Grand Total</b>	<b>\$407,780</b>	<b>\$429,628</b>	<b>\$442,188</b>	<b>\$12,560</b>	<b>2.9%</b>

- The Maryland Judiciary's budget increases by \$12.6 million, or 2.9%, above the fiscal 2011 working appropriation. This is primarily due to an additional \$10.1 million for personnel expenditures, most notably health insurance premiums, the restoration of employee furloughs, and the employee retirement system.
- Nonpersonnel expenses increase \$2.4 million, primarily for the District Court and information technology.

Note: Numbers may not sum to total due to rounding.

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***Personnel Data***

	<b><u>FY 10 Actual</u></b>	<b><u>FY 11 Working</u></b>	<b><u>FY 12 Allowance</u></b>	<b><u>FY 11-12 Change</u></b>
Regular Positions	3,581.25	3,581.25	3,581.25	0.00
Contractual FTEs	<u>384.00</u>	<u>390.00</u>	<u>405.00</u>	<u>15.00</u>
<b>Total Personnel</b>	<b>3,965.25</b>	<b>3,971.25</b>	<b>3,986.25</b>	<b>15.00</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	144.32	4.03%
Positions and Percentage Vacant as of 12/31/10	196.00	5.47%

- The Judiciary has requested 15 contractual full-time equivalent positions for District Court bailiffs in the following counties: Montgomery (6), Howard (5), Carroll (2), Kent (1), and Allegany (1).
- As of December 31, 2010, the Judiciary had 196 vacant positions. The budgeted turnover rate of 4% requires the Judiciary maintain a minimum of 144 vacant positions.

## *Analysis in Brief*

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### Major Trends

*Average Case Processing Time:* In both the District and circuit courts, the statewide case flow assessments highlighted disparities between the timeliness of those cases that are terminated within the time standard as compared with those cases that are terminated beyond the time standard.

### Issues

*Land Records Improvement Fund Revenues:* The Budget Reconciliation and Financing Act (BRFA) of 2011 includes a provision to transfer \$10.0 million from the Land Records Improvement Fund (LRIF) to the general fund on or before June 30, 2012. This would deplete the fund in fiscal 2012 and result in a negative -\$7.4 million fund balance, such that the LRIF could not support major information technology as requested in the budget. **The Department of Legislative Services (DLS) recommends the legislature strike the BRFA provision to transfer \$10.0 million from the LRIF to the general fund. An \$8.0 million fund balance is available in the Disciplinary Fund and may be transferred to the general fund in lieu of LRIF funds.**

*Attorney Grievance Commission's Budget Circumvents Annual Appropriation Process:* The Attorney Grievance Commission (AGC) does not receive an annual appropriation for its expenditures and, as such, is not subject to legislative oversight. The Maryland Constitution requires that all monies of the State receive an appropriation before they are expended. **DLS recommends increasing the Judiciary's special fund appropriation by \$3.6 million to reflect expenses that will be incurred by AGC. DLS further recommends adopting the following provisions to the BRFA of 2011: establish the Disciplinary Fund as a special fund and require that the fund be held with the Treasurer; require that the Judiciary include the budget for AGC as a separate program in its annual budget request submission to the legislature; and establish a fee maximum and transfer \$8.0 million from the Disciplinary Fund to the general fund on July 1, 2011.**

*Maryland Legal Services Corporation Revenues:* As a result of Chapter 486 of 2010 which increased filing fee surcharges, the fiscal 2011 appropriation is now \$16.6 million, the highest level in at least five years. With demand remaining level and new surcharges adding to revenue, the Maryland Legal Services Corporation could still collect increased revenues in future years without the \$500,000 transfer from the abandoned property funds. **DLS recommends adopting a provision in the BRFA of 2011 to remove the mandatory annual transfer of \$500,000 from abandoned property funds and deleting \$500,000 in special funds from the fiscal 2012 allowance. This will benefit the general fund.**

## Recommended Actions

	<u>Funds</u>
1. Add budget language to provide special funds for the Attorney Grievance Commission.	
2. Add budget language to reduce general funds to maintain fiscal 2010 spending levels.	
3. Delete additional funds for retired judge use.	\$ 484,104
4. Reduce funds for new bailiffs.	250,938
5. Add budget language to reduce special funds for the Maryland Legal Services Corporation contingent on legislation.	
<b>Total Reductions</b>	<b>\$ 735,042</b>

## Updates

**Judicial Compensation Commission:** The Judicial Compensation Commission (JCC) did not meet during the 2010 interim. It is anticipated that JCC will convene during the 2011 interim as permitted by law and again propose recommendations for the legislature’s consideration during the 2012 session.

**Judgeship Needs and Space Constraints:** The fiscal 2012 allowance includes \$4.5 million for the purpose of recalling retired judges to the bench. Space constraints continue to create challenges in creating new judgeships where they are needed.

## C00A00 Judiciary

### *Operating Budget Analysis*

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#### **Program Description**

The Judiciary is composed of four courts and seven programs which support the administrative, personnel, and regulatory functions of the Judicial Branch of government. Courts consist of the Court of Appeals, Court of Special Appeals, circuit courts, and District Court. The Chief Judge of the Court of Appeals is the administrative head of the State's judicial system. The Chief Judge appoints the State court administrator as head of the Administrative Office of the Courts (AOC) to carry out the administrative duties which include data analysis, personnel policies, education, and training for judicial personnel.

Other agencies are included in the administrative and budgetary purview of the Judiciary. The Maryland Judicial Conference, consisting of judges of all levels, meets annually to discuss continuing education programs. Court-related agencies also include the Commission on Judicial Disabilities, Maryland Conflict Resolution Office, and the Maryland State Board of Law Examiners (Board of Law Examiners). The State Law Library serves the legal information needs of the State. The Department of Family Administration manages and administers programs in the Maryland Family Law Courts, including policy and program development. Judicial Data Processing manages information systems maintenance and development for the Judiciary. Major Information Technology (IT) development projects are in a separate program while all production and maintenance of current operating systems are in the Judicial Data Processing Program.

#### **Performance Analysis: Managing for Results**

Fiscal 2009 budget bill language directed the Judiciary to incorporate case flow standards adopted by the Maryland Judicial Council into its annual Managing for Results data in order to evaluate access to justice; expedition and timeliness; equality, fairness and integrity; independence and accountability; and public trust and confidence.

The Judiciary utilized standards set by the American Bar Association that determine the amount of time it should take to process a particular type of case. Those standards were modified due to existing statutes and rules that impact the way in which Maryland courts are required to process certain cases as compared with other states. The statewide case flow assessment submitted by the Judiciary analyzes in depth cases that come through the District and circuit courts and, in particular, the timeliness with which those cases are terminated or otherwise disposed. The time standards for District Court cases are set according to the following case types:

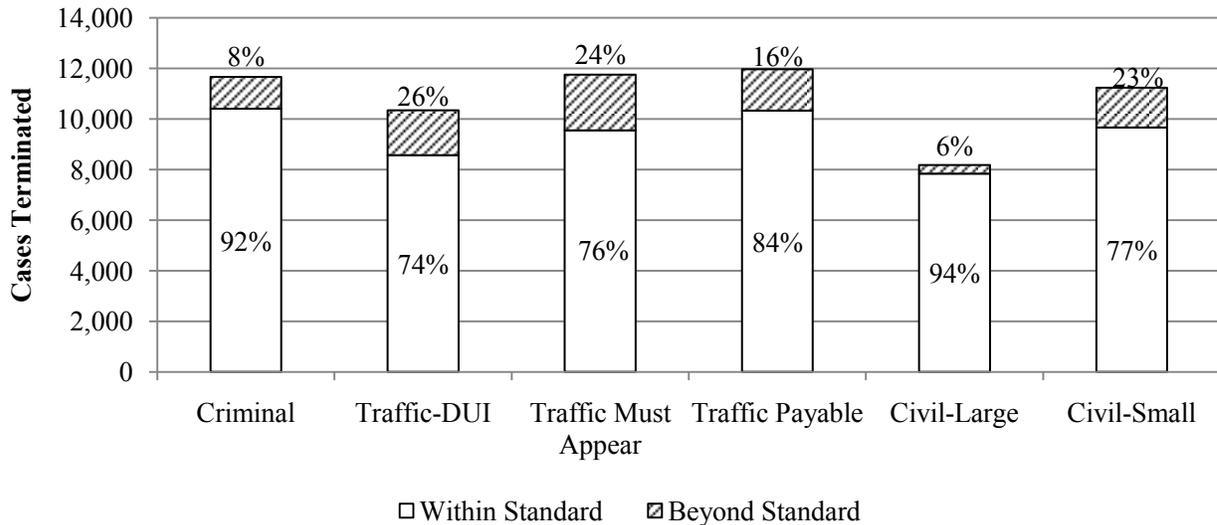
- ***Criminal:*** 180 days;
- ***Traffic Driving Under the Influence (DUI):*** 180 days;

- **Traffic Must Appear:** 180 days;
- **Traffic Payable:** 120 days;
- **Civil Large:** 250 days; and
- **Civil Small:** 90 days.

For each case type, the performance standard is to terminate 98% of cases within the time standard.

**Exhibit 1** illustrates the number of District Court cases terminated within the time standard. The majority of cases for each case type are disposed of within the established timeframe. However, in all categories, the District Court failed to meet the performance standard of 98%. For example, the Judiciary was able to terminate only 74% of Traffic-DUI cases within the time standard of 180 days and 94% of all civil-large cases within the time standard 250 days. Although the timely termination of Traffic Must Appear cases improved to 76% in fiscal 2009, from 58% in 2008, it should be noted that the standard was increased from 120 days in fiscal 2008 to 180 days in fiscal 2009. Still, there is dramatic difference in the timeliness of those cases that are terminated within the time standard as compared with those cases that are terminated beyond the time standard.

**Exhibit 1  
Maryland District Court  
Cases Terminated Within and Beyond Time Standard**

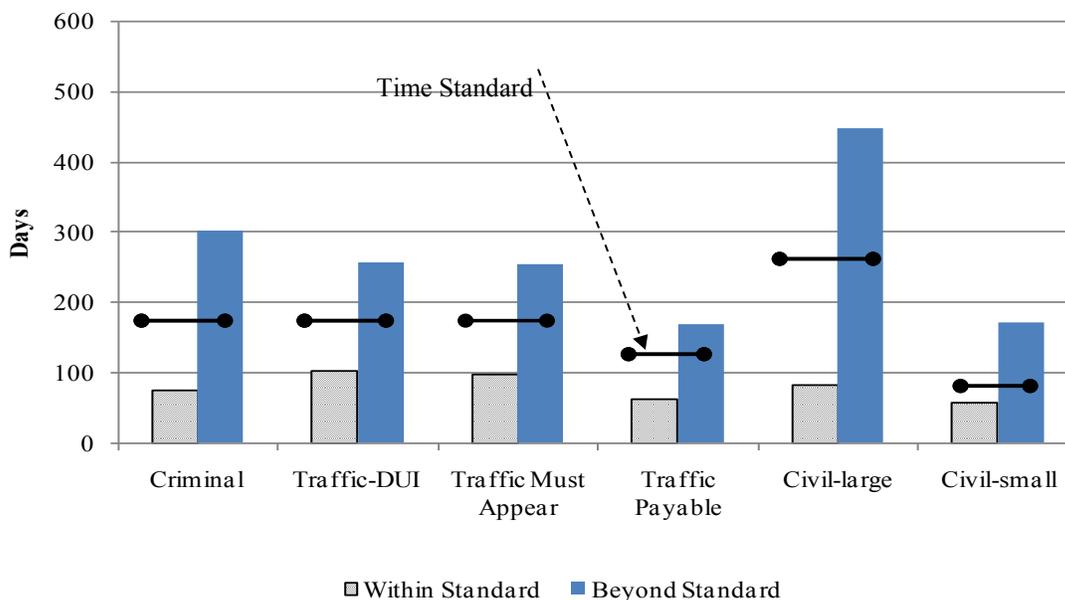


DUI: driving under the influence

Source: Maryland Judiciary

**Exhibit 2** displays the average case processing time for cases terminated within or beyond the time standard. In the example of Traffic Payable, cases terminated within the time standard were done so expediently – 61 days on average. However, Traffic Payable cases terminated beyond the time standard took 170 days on average to process. For civil-large cases, only 6% of all cases were terminated above the standard of 250 days. Still, those cases were significant, as they took almost 15 months (447 days) on average to terminate. These disparities suggest those cases terminated beyond the time standard have characteristics or complications that may make them more difficult to process timely.

**Exhibit 2**  
**Maryland District Court**  
**Average Case Processing Time for Cases Within and Beyond Time Standard**  
**Fiscal 2009**



Source: Maryland Judiciary

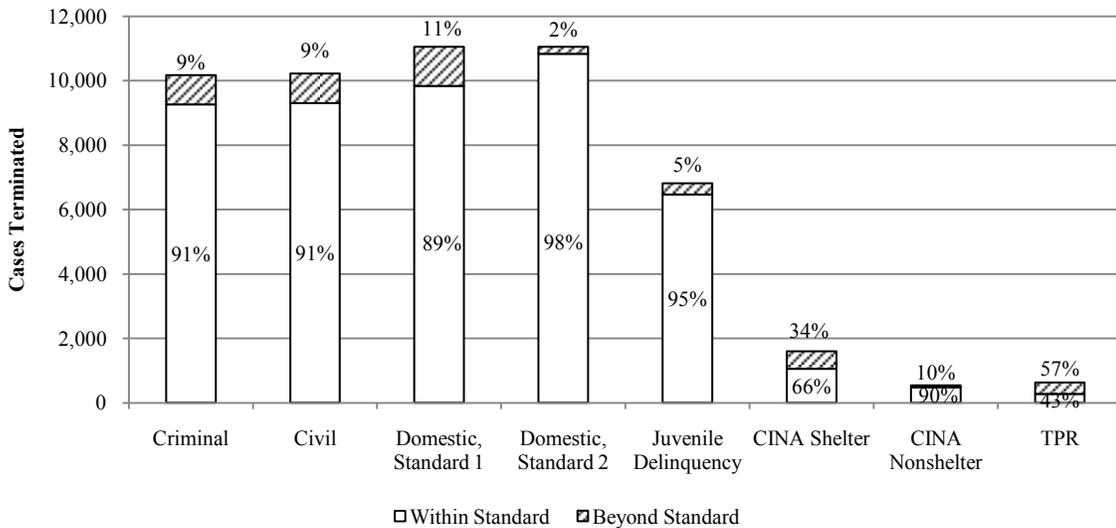
The time and performance standards for circuit court cases are set according to the following case types:

- **Criminal:** 180 days, 98%;
- **Civil:** 548 days, 98%;
- **Domestic Relations, Standard 1:** 365 days, 90%;

- **Domestic Relations, Standard 2:** 730 days, 98%;
- **Juvenile Delinquency:** 90 days, 98%;
- **Children In Need of Assistance (CINA) Shelter:** 30 days, 100%;
- **CINA Nonshelter:** 60 days, 100%; and
- **Termination of Parental Rights (TPR):** 180 days, 100%.

**Exhibit 3** illustrates the number of circuit court cases terminated within the time standard. The majority of cases for each case type are disposed of within the established timeframe, with the exception of TPR cases which are promptly terminated in less than half of all instances. Only Domestic Relations (Standard 2) cases met the performance goal of 98%, although Domestic Relations (Standard 1) was just one percentage point shy of its goal. By contrast, CINA Shelter cases were terminated within the standard only 66% of the time and TPR cases were terminated within the established standard only 43% of the time – both far short of the goal of 100%.

**Exhibit 3  
Maryland Circuit Courts  
Cases Terminated Within and Beyond Time Standard  
Fiscal 2009**

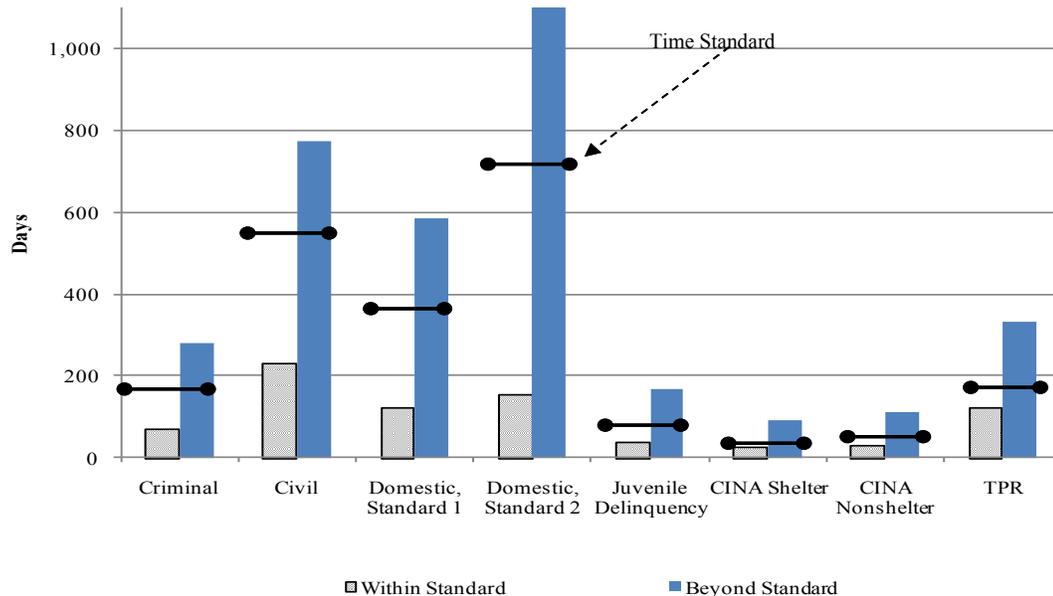


CINA: Children in Need of Assistance  
TPR: Termination of Parental Rights

Source: Maryland Judiciary

The disparities noted in the District Court exist in the circuit courts as well. **Exhibit 4** analyzes the average case processing time for circuit court cases. Again, there is dramatic difference in the timeliness of those cases that are terminated within the time standard as compared with those cases that are terminated beyond the time standard. For example, although Domestic Relations (Standard 2) met its performance goal of terminating 98% of cases within the standard of 730 days, cases terminated beyond the standard took 1,142 days, or more than three years, on average to process. That is 7.5 times longer than the average processing time for cases terminated within the time standard, which was only 153 days.

**Exhibit 4**  
**Maryland Circuit Courts**  
**Average Case Processing Time for Cases Within and Beyond Time Standard**  
**Fiscal 2009**



CINA: Children in Need of Assistance  
 TPR: Termination of Parental Rights

Source: Maryland Judiciary

## Proposed Budget

As shown in **Exhibit 5**, the Judiciary’s fiscal 2012 budget increases by \$12.6 million, or 2.9%, above the fiscal 2011 working appropriation. The majority of the increase is due to personnel costs as well as operating expenses in the District Court and for IT endeavors.

**Exhibit 5**  
**Proposed Budget**  
**Judiciary**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b><u>General</u> <u>Fund</u></b>	<b><u>Special</u> <u>Fund</u></b>	<b><u>Federal</u> <u>Fund</u></b>	<b><u>Reimb.</u> <u>Fund</u></b>	<b><u>Total</u></b>
2011 Working Appropriation	\$370,346	\$55,117	\$3,998	\$168	\$429,628
2012 Allowance	<u>385,897</u>	<u>52,554</u>	<u>3,595</u>	<u>141</u>	<u>442,188</u>
Amount Change	\$15,552	-\$2,563	-\$402	-\$27	\$12,560
Percent Change	4.2%	-4.6%	-10.1%	-16.2%	2.9%
Contingent Reduction	0	0	0	0	\$0
Adjusted Change	\$15,552	-\$2,563	-\$402	-\$27	\$12,560
Adjusted Percent Change	4.2%	-4.6%	-10.1%	-16.2%	2.9%

**Where It Goes:****Personnel Expenses**

Health insurance.....	\$2,923
Furlough restoration.....	3,629
Employee and judges retirement.....	2,875
Retired judge use.....	484
Workers' compensation.....	173
Other personnel.....	41

**District Court**

Contractual full-time equivalents and 15 new bailiffs.....	757
Office equipment.....	-726
Renovations.....	585
Building repairs.....	469
Telephones.....	299
Postage.....	299
Office supplies.....	259
Equipment repairs and maintenance.....	235

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**Where It Goes:**

**Judicial Information Systems**

Data processing equipment .....	-741
Private Internet Protocol Network & back-up Internet service provider .....	715
Programming.....	-550
Data processing .....	516
Computer maintenance contracts .....	442
Software maintenance .....	313
Equipment repairs and maintenance .....	305
Office equipment.....	-287
Software acquisition.....	242

**Major Information Technology Development Projects**

Data processing .....	-531
Management studies and consultants .....	-530
Other contractual services .....	-200

**Other Changes**

Clerks of the Circuit Court – equipment replacement.....	550
Other.....	14

**Total** **\$12,560**

Note: Numbers may not sum to total due to rounding.

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**Personnel**

The fiscal 2012 allowance does not include any new regular positions. Nevertheless, personnel expenditures increase \$10.1 million in fiscal 2012, primarily due to \$2.9 million for health insurance premiums, \$3.6 million to restore employee furloughs that were reduced from the fiscal 2011 budget, and \$2.4 million for the employee retirement system. The allowance also includes an additional \$484,104 for recalling retired judges to the bench.

**District Court**

The District Court has requested 15 new contractual full-time equivalents in the amount of \$418,235 to provide additional bailiffs for Montgomery, Howard, Carroll, Kent, and Allegany counties. There is also \$338,750 for additional contractual funding based on fiscal 2010 spending levels. This is largely offset by \$725,705 in one-time office equipment purchases which is removed from the 2012 request. Other increases totaling \$2.1 million include (1) \$584,600 for renovations at the Upper Marlboro, Glen Burnie, and Snow Hill courthouses; (2) \$468,585 for building repairs; (3) \$298,840 for telephone usage; (4) \$298,592 for postage; (5) \$258,594 for office supplies; and (6) \$235,112 for equipment repairs and maintenance.

## **Information Technology**

Funding for IT has a significant impact on the 2012 budget. Major IT development project costs decrease by roughly \$1.6 million in fiscal 2012. However, as major projects move out of the development phase and into an ongoing maintenance and upgrade phase, funding is shifted to Judicial Information Systems (JIS) which has such oversight. Therefore, JIS funding increases roughly \$1.2 million when excluding personnel. These increases are attributable to network and server upgrades, data processing, computer maintenance contracts, software maintenance, and equipment repairs.

## **Impact of Cost Containment**

The fiscal 2012 budget incorporates several across-the-board actions for Executive Branch agencies to reflect changes in employee health insurance, retiree prescription drug benefits, and retirement benefits. The fiscal 2012 budget bill assumes corresponding savings through reversions for the Judiciary and Legislature. In fiscal 2012, the Judiciary's share of reversions is \$923,105 in general funds for changes in employee health insurance. Judiciary reversions contingent upon statutory changes include \$1.5 million in general funds for retiree prescription drug benefits and \$1.7 million in general funds for retirement benefits. When adjusted for contingent reversions, the Judiciary's budget grows \$8.5 million, or 2%.

The Budget Reconciliation and Financing Act (BRFA) includes a provision to transfer \$10 million from the Land Records Improvement Fund (LRIF) to the general fund on July 1, 2011. This would deplete the fund in fiscal 2012 and result in a -\$10 million fund balance, such that the LRIF could not support major IT as requested in the budget. The impact of this action and possible solutions are discussed further in Issue 1.

## ***Issues***

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### **1. Land Records Improvement Fund Revenues**

The Circuit Court Real Property Records Improvement Fund, also known as the Land Records Improvement Fund (LRIF), is a nonlapsing fund that supports all personnel and operating costs within the land records offices of the Clerks of the Circuit Court. It further supports the maintenance costs of the Electronic Land Records Online Imagery system and its website for making images accessible to the public. Revenues for the LRIF are generated primarily through a recordation surcharge fee of up to \$20 on all real estate transactions. Accordingly, revenues to the fund are largely driven by home sales. As the housing climate has deteriorated, revenues to the fund have declined similarly.

During the 2007 special session, legislation was adopted to fund the Judiciary’s major IT development projects with special funds from the LRIF for two fiscal years. That provision was scheduled to sunset at the end of fiscal 2010; however, during the 2010 session, the General Assembly removed the sunset. The fiscal 2012 request for all major IT development programs includes \$11.8 million in LRIF special funds, a \$1.6 million decrease from fiscal 2011.

As shown in **Exhibit 6**, the LRIF had an ending balance of \$47.1 million at the close of fiscal 2010. Although projections for the fund depend on home sales, the Department of Legislative Services (DLS) estimates that the fund balance will decrease to \$23.7 million at the close of fiscal 2011. The BRFA of 2011 includes a provision to transfer \$10.0 million from the LRIF to the general fund on or before June 30, 2012. This would deplete the fund in fiscal 2012 and result in a -\$7.4 million fund balance, such that the LRIF could not support major IT as requested in the budget. Without the BRFA transfer – and a significant recovery in the housing market – the fund balance may still be depleted as early as fiscal 2013. This is due to operating expenses that exceed revenues which has caused a structural imbalance in the fund.

#### **Addressing the Fiscal 2012 Fund Imbalance**

Fiscal 2012 revenues will not be sufficient to cover expenses as proposed by the Judiciary and the Governor. The legislature has several options for addressing the imbalance in the LRIF, and the resulting fund balances are shown in Exhibit 6. However, because of a structural imbalance, the following options would alleviate the problem for one year only:

- strike the BRFA provision to transfer \$10.0 million from the LRIF to the general fund;
- reduce special funds by \$8.4 million to delay the Case Management Modernization Project for one year; or

**Exhibit 6**  
**Land Records Improvement Fund**  
**Fiscal 2009-2013**  
**(\$ in Thousands)**

	<u>2009</u>	<u>2010</u>	<u>2011 Est.</u>	<u>Projected 2012</u>	<u>Projected 2013</u>
<b>Starting Balance</b>	<b>\$66,695</b>	<b>\$58,023</b>	<b>\$47,120</b>	<b>\$23,662</b>	<b>-\$7,437</b>
<b>Total Revenue</b>	<b>\$19,758</b>	<b>\$16,522</b>	<b>\$16,121</b>	<b>\$16,764</b>	<b>\$16,941</b>
<b>Expenses</b>					
Land Records Offices	\$13,428	\$13,178	\$16,679	\$17,513	\$18,389
mdlandrec.net	5,000	5,000	5,000	5,000	5,000
ELROI	2,926	3,426	3,152	3,500	3,500
Major IT	7,077	5,821	13,447	11,850	10,321
BRFA of 2011				10,000	
GF Reversion			1,300		
<b>Total Expenses</b>	<b>\$28,431</b>	<b>\$27,425</b>	<b>\$39,578</b>	<b>\$47,864</b>	<b>\$37,210</b>
<b>Ending Balance</b>	<b>\$58,023</b>	<b>\$47,120</b>	<b>\$23,662</b>	<b>-\$7,437</b>	<b>-\$27,707</b>
Structural Imbalance	-\$8,672	-\$10,903	-\$23,458	-\$31,099	-\$20,269
<b><u>Ending Balance for Possible Solutions:</u></b>					
<i>Option 1: Strike BRFA provision</i>				\$2,563	-\$17,707
<i>Option 2: Delay Case Management one year</i>				938	-19,332
<i>Option 3: Fund Major IT projects with GF</i>				4,413	-5,535
<i>Option 4: Increase surcharge by \$20</i>				9,327	5,998

BRFA: Budget Reconciliation and Financing Act  
ELROI: Electronic Land Records Online Imagery  
GF: general fund  
IT: Information Technology

Note: Fiscal 2012-2013 revenue increase estimates based on the Regional Economic Studies Institute's annual projected increase in home sales.

Source: Maryland Judiciary; Department of Legislative Services

- allow the \$10.0 million transfer to the general fund and replace special funds with general funds in fiscal 2012 to fund all major IT development projects and add language expressing intent that the Judiciary request general funds for major IT in fiscal 2013 and beyond. This option results in no increase to the general fund balance, however, since there are insufficient revenues to permit funding major IT and transferring the balance from LRIF.

## **Long-term Solutions**

Reducing expenditures in fiscal 2012 is not expected to provide sufficient funds in future years because expenses will continue to exceed revenues. The following option would address the long-term solvency of the fund and allow for self-sufficiency:

- Raise the land records recordation surcharge from \$20 to \$40. A \$20 increase to the land records surcharge would provide sufficient funds for major IT development projects for at least two more years.

**DLS recommends the legislature strike the BRFA provision to transfer \$10 million from the LRIF to the general fund. An \$8 million fund balance is available in the Disciplinary Fund, as discussed below, and may be transferred to the general fund in lieu of LRIF funds.**

## **2. Attorney Grievance Commission’s Budget Circumvents Annual Appropriation Process**

The Judiciary established the Disciplinary Fund in 1975 by Maryland Rule 16-714 to support the activities of the Attorney Grievance Commission (AGC), which investigates and prosecutes attorneys whose conduct violates the Maryland Lawyers Rules of Professional Conduct as well as those engaged in the unauthorized practice of law. Revenues for the fund are generated by fees imposed on practicing attorneys in Maryland. Currently, the Judiciary levies two annual assessment fees totaling \$145 per attorney. According to Section 10-311 of the Business Occupations and Professions Article, the first \$20 assessment is applied to the Client Protection Fund. Although the second \$125 assessment is credited to the Disciplinary Fund, neither the current fee nor a maximum are established in Maryland Code or Rule. The last increase to this second assessment occurred in 2003 but was not accomplished by rule or court order. Rather, the Judiciary increased the fee by a letter to the chairman of AGC in which it approved a \$35 increase for fiscal 2005 and a \$5 increase for the following five consecutive fiscal years. The fund’s balance at the close of fiscal 2010 was \$7.9 million as shown in **Exhibit 7**.

Currently, AGC does not receive an annual appropriation for its expenditures, and as such is not subject to legislative oversight. The Maryland Declaration of Rights states that no fees may be levied without the consent of the Legislature. The Maryland Constitution further requires that all monies of the State be held with the State Treasury and administered by the Treasurer and Comptroller, and that all monies of the State receive an appropriation before they are expended. Under these provisions, the annual assessment fees would be considered monies of the State and, therefore, should be subject to the same laws governing other special funds.

**DLS recommends increasing the Judiciary’s special fund appropriation by \$3.6 million to reflect expenses that will be incurred by AGC. DLS further recommends adopting the following provisions to the BRFA of 2011:**

**Exhibit 7**  
**Attorney Grievance Commission**  
**Revenues and Expenses**  
**Fiscal 2006-2012**

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011 Est.</u>	<u>2012 Est.</u>	<u>Avg. Annual % Change</u>
<i>Complaints Received</i> <sup>1</sup>	2,244	1,940	2,053	1,885	2,003	2,003	2,003	-1.9%
Starting Balance	\$1,383,654	\$2,329,797	\$3,664,335	\$4,884,760	\$6,203,258	\$7,853,786	\$9,038,343	36.7%
Revenues <sup>2</sup>	3,764,930	4,112,759	4,374,025	4,554,641	4,761,194	4,755,277	4,800,000	4.1%
Expenditures <sup>2</sup>	2,818,787	2,778,221	3,153,600	3,236,143	3,110,666	3,570,720	3,800,000	5.1%
Ending Balance	\$2,329,797	\$3,664,335	\$4,884,760	\$6,203,258	\$7,853,786	\$9,038,343	\$10,038,343	27.6%

<sup>1</sup> The Attorney Grievance Commission (AGC) noted difficulties with providing estimates of complaints received in fiscal 2011 and 2012. For illustration purposes, the Department of Legislative Services has estimated that complaints received will remain level as compared to fiscal 2010.

<sup>2</sup> Revenues and expenditures for fiscal 2011 are based on the budget submitted by AGC. However, fiscal 2012 is an estimate. AGC has not yet submitted its budget request for fiscal 2012.

Source: Attorney Grievance Commission Annual Reports

- **establish the Disciplinary Fund as a special fund and require that the fund be held with the Treasurer;**
- **require that the Judiciary include the budget for AGC as a separate program in its annual budget request submission to the legislature;**
- **establish a fee maximum; and**
- **transfer \$8.0 million from the Disciplinary Fund to the general fund on July 1, 2011.**

### **3. Maryland Legal Services Corporation Revenues**

The Maryland Legal Services Corporation (MLSC) was established in 1982 to make grants to organizations providing legal services to indigent residents of the State. Grant revenue is generated by the MLSC Fund (fund) and stems from the following sources:

- ***Interest on Lawyer Trust Accounts (IOLTA):*** Maryland Rule 16-604 requires that all Maryland attorneys deposit funds received from a client or third person into an attorney trust account with an approved financial institution. The interest on those accounts benefits MLSC. In recent years, the federal funds target rate has been set at historic lows by the Federal Reserve, negatively impacting interest rates and, therefore, IOLTA revenues.
- ***Filing Fees:*** In accordance with § 7-202 and 7-301 of the Courts and Judicial Proceedings article, a surcharge on certain circuit and District Court filing fees is deposited into the fund. Chapter 486 of 2010 increased the surcharge on civil cases filed in circuit courts from a maximum of \$25 to a maximum of \$55. In the District Court, the maximum authorized surcharge increased from \$5 to \$8 for summary ejectment cases; and from \$10 to \$18 for all other civil cases. The law was enacted in response to declining IOLTA revenues and sunsets on June 30, 2013.
- ***General Funds:*** Section 11-401 of the Human Services Article requires that the Governor transfer \$500,000 annually from abandoned property funds to the MLSC Fund. Although the source of the money is general funds, it is appropriated as special fund revenue to MLSC.
- ***MLSC Reserve Fund:*** Any revenues in excess of expenses may be deposited to the MLSC Reserve Fund regardless of the source. This is because while the State may appropriate a certain level of spending for MLSC, MLSC is permitted to transfer MLSC Fund revenues into the MLSC Reserve Fund rather than grant it to legal services organizations. However, when revenues exceed the legislative appropriation, the money remains in the MLSC Fund. It is MLSC policy to maintain at least 50% of its total anticipated grant commitments in the MLSC Reserve Fund; however, it has dropped below that threshold in recent years due to transfers

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from the MLSC Reserve Fund to the MLSC Fund that were necessitated by declining IOLTA revenue.

- **Donations:** While not a significant source of revenue, MLSC may receive donations to help support its mission.

As a result of Chapter 486 of 2010 and the increased filing fee surcharges, the fiscal 2011 appropriation is now \$16.6 million, the highest level in at least five years. **Exhibit 8** illustrates revenues and expenses to the fund from fiscal 2007 through 2012. Although revenues exceeded expectations in fiscal 2007 and 2008, a significant decline in IOLTA revenues created a structural imbalance in fiscal 2009, and MLSC transferred \$800,000 from its Reserve Fund to maintain grant activity levels. In fiscal 2010, the structural imbalance improves slightly due to decreased grants; however, the improvement in 2011 is entirely attributable to the impact of Chapter 486.

MLSC expects caseloads among grant recipients to remain stable through 2012. With demand remaining level and the new surcharges adding to revenue, MLSC could still collect increased revenues in future years even without the \$500,000 transfer from the abandoned property funds.

**Given the additional revenue source benefiting MSLC, DLS recommends adopting a provision in the BRFA of 2011 to remove the mandatory annual transfer of \$500,000 from abandoned property funds and deleting \$500,000 in special funds from the fiscal 2012 allowance. This will benefit the general fund.**

**Exhibit 8**  
**Maryland Legal Services Corporation**  
**Operating Revenues and Expenses**  
**Fiscal 2007-2012**

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011 Est.</u>	<u>2012 Est.</u>
<b>Revenues</b>						
Interest on Lawyers Trust Accounts	\$6,384,061	\$6,723,236	\$3,951,000	\$2,276,000	\$2,200,000	\$2,200,000
Filing Fee Surcharge	6,889,035	7,475,582	7,898,000	8,091,722	13,900,000	13,900,000
Abandoned Property Fund	500,000	500,000	500,000	500,000	500,000	500,000
MLSC Fund Carryover from prior year	0	0	1,073,000	0	0	0
<b>Transfers</b>						
Transfer from Reserve Fund	\$0	\$0	\$800,000	\$1,507,000	\$52,615	\$52,615
<b>Total Revenue &amp; Transfers</b>	<b>\$13,773,096</b>	<b>\$14,698,818</b>	<b>\$14,222,000</b>	<b>\$12,374,722</b>	<b>\$16,652,615</b>	<b>\$16,652,615</b>
<b>Expenses</b>						
Grants	\$11,000,000	\$13,784,550	\$15,000,000	\$11,740,000	\$15,904,977	\$15,904,977
Operating Expenses	541,768	664,286	722,488	703,743	747,638	747,638
<b>Total Expenses</b>	<b>\$11,541,768</b>	<b>\$14,448,836</b>	<b>\$15,722,488</b>	<b>\$12,443,743</b>	<b>\$16,652,615</b>	<b>\$16,652,615</b>
<b>Structural Imbalance</b>	<b>\$2,231,328</b>	<b>\$249,982</b>	<b>-\$1,500,488</b>	<b>-\$69,021</b>	<b>\$0</b>	<b>\$0</b>
<i>Available Reserves on June 30<sup>1</sup></i>	<i>\$7,599,000</i>	<i>\$7,219,000</i>	<i>\$5,380,000</i>	<i>\$4,592,000</i>	<i>\$4,539,385</i>	<i>\$4,486,770</i>

MLSC: Maryland Legal Services Corporation

<sup>1</sup> Includes a deposit of \$1,500,000 made by MLSC in fiscal 2007.

Source: Maryland Legal Services Corporation

## Recommended Actions

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1. Add the following language:

Provided that the special fund appropriation shall be increased by \$3,570,720 in special funds to reflect the expenses of the Attorney Grievance Commission.

**Explanation:** Revenues for the Disciplinary Fund are generated by fees imposed on practicing attorneys in Maryland and used to support the activities of the Attorney Grievance Commission (AGC). AGC currently does not receive an annual appropriation for its expenditures, and as such is not subject to legislative oversight. This action would appropriate special funds for AGC in the Judiciary’s budget.

2. Add the following language:

Further provided that a \$3,894,860 general fund reduction is made for operating expenditures. This reduction shall be allocated among the following divisions and fund types:

<u>Fund</u>	<u>Program</u>	<u>Comptroller Subobject</u>	<u>Amount</u>
<u>General</u>	<u>C00A00.01</u>	<u>0401 – In-State Routine Operations</u>	<u>\$27,379</u>
	<u>C00A00.01</u>	<u>0402 – In-State/Conferences/Seminars/Training</u>	<u>30,773</u>
	<u>C00A00.01</u>	<u>0802 – Agriculture</u>	<u>126,817</u>
	<u>C00A00.01</u>	<u>0804 – Printing/Reproduction</u>	<u>66,336</u>
	<u>C00A00.01</u>	<u>0817 – Legal Services</u>	<u>98,188</u>
	<u>C00A00.01</u>	<u>0828 – Office Assistance</u>	<u>73,231</u>
	<u>C00A00.01</u>	<u>0899 – Other Contractual Svcs Non-DP</u>	<u>139,040</u>

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<u>C00A00.04</u>	<u>0812 – Building/Road Repairs and Maintenance</u>	<u>525,218</u>
<u>C00A00.05</u>	<u>0402 – In-State/ Conferences/Seminars/T raining</u>	<u>120,033</u>
<u>C00A00.06</u>	<u>0401– In-State Routine Operations</u>	<u>57,637</u>
<u>C00A00.06</u>	<u>0804 – Printing/Reproduction</u>	<u>38,159</u>
<u>C00A00.06</u>	<u>0819 – Education/Training Contracts</u>	<u>266,390</u>
<u>C00A00.06</u>	<u>0828 – Office Assistance</u>	<u>82,468</u>
<u>C00A00.06</u>	<u>0899– Other Contractual Svcs Non-DP</u>	<u>347,411</u>
<u>C00A00.07</u>	<u>0817 – Legal Services</u>	<u>213,674</u>
<u>C00A00.09</u>	<u>0809 – Equipment Repairs and Maint</u>	<u>376,718</u>
<u>C00A00.10</u>	<u>0804– Printing/Reproduction</u>	<u>140,724</u>
<u>C00A00.10</u>	<u>0806 – Microfilming</u>	<u>408,647</u>
<u>C00A00.10</u>	<u>0808 – Equipment Rental</u>	<u>113,801</u>
<u>C00A00.10</u>	<u>0809– Equipment Repairs and Maint</u>	<u>241,332</u>
<u>C00A00.10</u>	<u>0812 – Building/Road Repairs and Maintenance</u>	<u>\$400,884</u>

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**Explanation:** This action reduces the Judiciary’s fiscal 2012 allowance for various operating expenses in the Court of Appeals, District Court, Judicial Conference, Administrative Office of the Courts, Court-related Agencies, Judicial Information Systems, and Clerks of the Circuit Court to maintain fiscal 2010 actual spending levels. The total reduction should be split as indicated above among general funds.

	<b><u>Amount</u></b>	
	<b><u>Reduction</u></b>	
3. Delete additional funds for retired judge use. This action will fund the use of retired judges at the fiscal 2011 working appropriation level.	\$ 484,104	GF
4. Reduce funds for new bailiffs. The District Court has requested 15.0 new contractual full-time equivalents (FTEs) for bailiffs. This reduction would permit 6.0 new contractual FTEs.	250,938	GF
5. Add the following language to the special fund appropriation:		

. provided that this appropriation shall be reduced by \$500,000 contingent on enactment of HB 72/SB 87 to remove the mandatory annual transfer of \$500,000 in general funds from abandoned property funds to the Maryland Legal Services Corporation.

**Explanation:** Section 11-401 of the Human Services Article requires that the Governor annually transfer \$500,000 in general funds from abandoned property funds to the Maryland Legal Services Corporation (MLSC). While the revenue is appropriated as special funds for MLSC, the source of the revenue is general funds. Additionally, MLSC’s total other revenue has reached its highest level in at least five years. This reduction of special funds would benefit the general fund and is contingent on enactment of budget reconciliation legislation to remove the mandatory annual transfer.

<b>Total General Fund Reductions</b>	<b>\$ 735,042</b>
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## ***Updates***

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### **1. Judicial Compensation Commission**

During the 2010 legislative session, the Judicial Compensation Commission (JCC) recommended again that the salaries of all Maryland judges be increased over a four-year period. Although its proposal was rejected by the General Assembly, the BRFA of 2010 altered the meeting schedule of JCC, allowing it to review judicial salaries after September 1, 2011, again after September 1, 2013, and every four years thereafter. JCC did not meet during the 2010 interim. It is anticipated that JCC will convene during the 2011 interim as permitted by law and again propose recommendations for the legislature’s consideration during the 2012 session.

### **2. Judgeship Needs and Space Constraints**

Since 1979, the Chief Judge of the Court of Appeals has annually certified to the General Assembly the need for additional judges in the State’s District and circuit courts. This reviews the needs for the upcoming fiscal year. The 2009 *Joint Chairmen’s Report* required that the certification also include an evaluation of the use and cost of recalling retired judges to the bench, as well as a plan to address space constraints. On November 1, 2010, the certification of judgeships for fiscal 2012 was submitted. Citing the ongoing economic crisis facing the State, no new judgeships were required despite having certified a need for 20 circuit court and 21 District Court judges. This need is in spite of legislation enacted in 2009 that created four new circuit court judgeships. A similar measure proposed during the 2010 session failed.

The fiscal 2012 allowance includes \$4.5 million for the purpose of recalling retired judges to the bench – \$484,104 more than fiscal 2011. Retired judges regularly supplement the work of full-time judges and help address increases in caseloads. The report submitted by the Judiciary indicated the extent to which retired judges play a role in each jurisdiction and once again indicated space constraints with regard to chamber and courtroom space. Space constraints continue to create challenges in creating new judgeships where they are needed.

## ***Current and Prior Year Budgets***

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### **Current and Prior Year Budgets Judiciary (\$ in Thousands)**

	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2010</b>					
Legislative Appropriation	\$375,063	\$52,975	\$4,200	\$268	\$432,507
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	276	0	276
Cost Containment	0	0	0	0	0
Reversions and Cancellations	-9,638	-14,677	-487	-202	-25,003
<b>Actual Expenditures</b>	<b>\$365,425</b>	<b>\$38,299</b>	<b>\$3,990</b>	<b>\$67</b>	<b>\$407,780</b>
<b>Fiscal 2011</b>					
Legislative Appropriation	\$370,346	\$36,717	\$3,998	\$168	\$411,229
Budget Amendments	0	18,399	0	0	18,399
<b>Working Appropriation</b>	<b>\$370,346</b>	<b>\$55,117</b>	<b>\$3,998</b>	<b>\$168</b>	<b>\$429,628</b>

Note: Numbers may not sum to total due to rounding.

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## **Fiscal 2010**

The Judiciary completed fiscal 2010 \$24.7 million below its legislative appropriation. This was primarily driven by a \$25.0 million decrease due to reversions and cancellations.

**General Funds:** Actual fiscal 2010 general fund expenditures were \$9.6 million below the legislative appropriation. This is due to several reversions, including the following: \$5.0 million which was reverted at the request of the Governor to help address the State's fiscal crisis; \$3.6 million for the statewide furlough; and \$900,000 in Department of General Services rent differentials.

**Special Funds:** Actual fiscal 2010 special fund expenditures were \$14.7 million below the legislative appropriation. The Judiciary cancelled \$14.7 million in special funds primarily for the following items: (1) \$5.7 million in unspent contractual services and equipment for major IT projects due to delays with various programs; (2) a \$4.6 million shortfall in MLSC revenues; (3) salary savings of \$1.7 million as a result of the statewide furlough, turnover, and unspent health insurance; and (4) \$2.0 million in contractual savings in Judicial Information Systems and Clerks of the Circuit Court.

**Federal Funds:** Actual fiscal 2010 federal fund expenditures were \$210,000 below the legislative appropriation. There were two budget amendments: (1) \$225,000 made available by the Child Support Enforcement Program in the U.S. Department of Health and Human Services; and (2) \$51,353 for a State Justice Institute grant to support truancy courts. A total of \$486,571 in federal funds were unspent and, therefore, cancelled at the end of the year.

**Reimbursable Funds:** The reimbursable fund appropriation decreased by \$202,000 due to unspent funds.

## **Fiscal 2011**

The Judiciary's fiscal 2011 working appropriation is \$18.4 million above the legislative appropriation. This is due to budget amendments that increased the special fund appropriation by \$18.4 million. Of that amount, \$11.9 million is to offset a reduction that was enacted during the 2010 legislative session and is available as a result of a fund balance in the LRIF. The remaining \$6.5 million represents additional revenue that will be available to MLSC as a result of Chapter 486 of 2010.

## ***Audit Findings***

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Audit Period for Last Audit:	October 1, 2006 – October 18, 2009
Issue Date:	August 2010
Number of Findings:	4
Number of Repeat Findings:	1
% of Repeat Findings:	25%
Rating: (if applicable)	

- Finding 1:** Certain expenditures were not charged to the Real Property Records Improvement Fund in a timely manner.
- Finding 2:** **Property transfer tax revenues were not distributed in accordance with State law.**
- Finding 3:** Corporate purchasing card purchases were not adequately monitored.
- Finding 4:** The Judiciary lacked adequate controls over equipment.

\*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report  
Judiciary**

<u>Object/Fund</u>	<u>FY 10 Actual</u>	<u>FY 11 Working Appropriation</u>	<u>FY 12 Allowance</u>	<u>FY 11 - FY 12 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	3,581.25	3,581.25	3,581.25	0.00	0%
02 Contractual	384.00	390.00	405.00	15.00	3.8%
<b>Total Positions</b>	<b>3,965.25</b>	<b>3,971.25</b>	<b>3,986.25</b>	<b>15.00</b>	<b>0.4%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 272,998,408	\$ 280,597,028	\$ 290,723,388	\$ 10,126,360	3.6%
02 Technical and Spec. Fees	12,476,156	13,116,651	13,937,148	820,497	6.3%
03 Communication	10,787,080	10,726,204	12,081,412	1,355,208	12.6%
04 Travel	1,235,319	1,601,234	1,550,233	-51,001	-3.2%
06 Fuel and Utilities	930,433	790,821	970,759	179,938	22.8%
07 Motor Vehicles	163,193	114,448	134,612	20,164	17.6%
08 Contractual Services	35,898,182	48,922,514	48,950,751	28,237	0.1%
09 Supplies and Materials	5,258,849	6,167,395	6,176,921	9,526	0.2%
10 Equipment – Replacement	5,585,826	5,615,187	4,708,254	-906,933	-16.2%
11 Equipment – Additional	6,972,423	2,226,780	2,195,125	-31,655	-1.4%
12 Grants, Subsidies, and Contributions	39,759,008	45,397,354	45,159,794	-237,560	-0.5%
13 Fixed Charges	13,052,688	14,111,039	14,618,243	507,204	3.6%
14 Land and Structures	2,662,411	241,400	981,000	739,600	306.4%
<b>Total Objects</b>	<b>\$ 407,779,976</b>	<b>\$ 429,628,055</b>	<b>\$ 442,187,640</b>	<b>\$ 12,559,585</b>	<b>2.9%</b>
<b>Funds</b>					
01 General Fund	\$ 365,424,566	\$ 370,345,610	\$ 385,897,376	\$ 15,551,766	4.2%
03 Special Fund	38,298,699	55,116,686	52,554,025	-2,562,661	-4.6%
05 Federal Fund	3,990,169	3,997,559	3,595,239	-402,320	-10.1%
09 Reimbursable Fund	66,542	168,200	141,000	-27,200	-16.2%
<b>Total Funds</b>	<b>\$ 407,779,976</b>	<b>\$ 429,628,055</b>	<b>\$ 442,187,640</b>	<b>\$ 12,559,585</b>	<b>2.9%</b>

Note: The fiscal 2011 appropriation does not include deficiencies. The fiscal 2012 allowance does not include contingent reductions.

**Fiscal Summary  
Judiciary**

<u>Program/Unit</u>	<u>FY 10 Actual</u>	<u>FY 11 Wrk Approp</u>	<u>FY 12 Allowance</u>	<u>Change</u>	<u>FY 11 - FY 12 % Change</u>
01 Court of Appeals	\$ 12,331,430	\$ 12,849,278	\$ 13,844,398	\$ 995,120	7.7%
02 Court of Special Appeals	8,764,310	8,426,879	8,862,520	435,641	5.2%
03 Circuit Court Judges	55,797,839	59,273,077	60,542,412	1,269,335	2.1%
04 District Court	140,261,078	142,384,201	147,448,175	5,063,974	3.6%
05 Maryland Judicial Conference	26,340	148,527	148,527	0	0%
06 Administrative Office of the Courts	38,651,578	39,357,342	40,189,243	831,901	2.1%
07 Court Related Agencies	5,752,429	5,881,888	6,018,795	136,907	2.3%
08 State Law Library	2,308,612	2,582,453	2,648,430	65,977	2.6%
09 Judicial Information Systems	36,170,186	34,739,256	36,537,877	1,798,621	5.2%
10 Clerks of the Circuit Court	85,582,513	94,014,595	98,013,671	3,999,076	4.3%
11 Family Law Division	16,312,890	16,523,159	16,083,182	-439,977	-2.7%
12 Major IT Development Projects	5,820,771	13,447,400	11,850,410	-1,596,990	-11.9%
<b>Total Expenditures</b>	<b>\$ 407,779,976</b>	<b>\$ 429,628,055</b>	<b>\$ 442,187,640</b>	<b>\$ 12,559,585</b>	<b>2.9%</b>
General Fund	\$ 365,424,566	\$ 370,345,610	\$ 385,897,376	\$ 15,551,766	4.2%
Special Fund	38,298,699	55,116,686	52,554,025	-2,562,661	-4.6%
Federal Fund	3,990,169	3,997,559	3,595,239	-402,320	-10.1%
<b>Total Appropriations</b>	<b>\$ 407,713,434</b>	<b>\$ 429,459,855</b>	<b>\$ 442,046,640</b>	<b>\$ 12,586,785</b>	<b>2.9%</b>
Reimbursable Fund	\$ 66,542	\$ 168,200	\$ 141,000	-\$ 27,200	-16.2%
<b>Total Funds</b>	<b>\$ 407,779,976</b>	<b>\$ 429,628,055</b>	<b>\$ 442,187,640</b>	<b>\$ 12,559,585</b>	<b>2.9%</b>

Note: The fiscal 2011 appropriation does not include deficiencies. The fiscal 2012 allowance does not include contingent reductions.