



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 16, 2016

Title	Agenda Item Type
Judicial Council: 2017 Legislative Priorities	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	December 16, 2016
Recommended by	Date of Report
Policy Coordination and Liaison Committee Hon. Kenneth K. So, Chair	November 18, 2016
	Contact
	Cory T. Jasperson, 916-323-3121 cory.jasperson@jud.ca.gov
	Laura Speed, 916-323-3121 laura.speed@jud.ca.gov

Executive Summary

Each year, the Judicial Council authorizes sponsorship of legislation to further key council objectives and establishes priorities for the upcoming legislative year. Last year, the council's legislative priorities focused on investment in the judicial branch and securing critically needed judgeships. The Policy Coordination and Liaison Committee recommends a similar approach for the 2017 legislative year.

Recommendation

The Policy Coordination and Liaison Committee (PCLC) recommends that the Judicial Council consider the following actions as Judicial Council legislative priorities in 2017:

1. Advocate for continued investment in the judicial branch to include a method for stable and reliable funding for courts to address annual cost increases in baseline operations and plan

for the future; and for sufficient additional resources to improve physical access to the courts by keeping courts open, to expand access by increasing the ability of court users to conduct branch business online, and to restore programs and services, including dependency counsel funding, that were reduced over the past few years. This priority also includes seeking the extension of sunset dates on increased fees implemented in the fiscal year (FY) 2012–2013 budget,¹ as follows:

- \$40 increase to first paper filing fees for unlimited civil cases, where the amount in dispute is more than \$25,000 (Gov. Code, § 70602.6)
 - \$40 increase to various probate and family law fees (Gov. Code, § 70602.6)
 - \$20 increase to various motion fees (Gov. Code, §§ 70617, 70657, 70677)
 - \$450 increase to the complex case fee (Gov. Code, § 70616)
 - \$40 probate fee enacted in 2013, expiring on January 1, 2019 (Gov. Code, § 70662)
2. Increase the number of judgeships and judicial officers in superior courts with the greatest need.
 - a. Seek funding for 12 of the 50 authorized but unfunded judgeships, to be allocated to the courts with the greatest need based on the most recently approved Judicial Needs Assessment.
 - b. Seek funding for two additional justices in Division Two of the Fourth Appellate District (Inyo, Riverside, and San Bernardino Counties), one in FY 2017–2018 and the second in FY 2018–2019.
 - c. Advocate for legislative ratification of the Judicial Council’s authority to convert 16 subordinate judicial officer (SJO) positions to judgeships in eligible courts, and sponsor legislation for legislative ratification of the council’s authority to convert up to 10 additional SJO positions to judgeships, in eligible courts, if the conversion will result in an additional judge sitting in a family or juvenile law assignment that was previously presided over by an SJO.
 - d. Work with the administration and the Legislature to resolve the concerns raised in the Governor’s veto message of Senate Bill 229 (2015 [Roth]), regarding vacant judgeships in courts with more authorized judges than their assessed judicial need.
 3. Seek sufficient funding for the courthouse construction projects authorized by Senate Bill 1407 (Perata; Stats. 2008, ch. 311).
 4. Seek legislative authorization for the disposition of the Chico, Corning, and San Diego courthouses as previously authorized by the Judicial Council and any remaining properties

¹ All fee increases sunset on July 1, 2018, unless otherwise noted (see table 1 for estimated revenue totals).

subsequently approved by the council in 2016. Also, identify the account or fund into which sales proceeds would be deposited—in this case, the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund, which funds the most critical judicial branch facilities projects—but with the understanding that the Legislature may choose to direct those sales proceeds elsewhere.²

5. Continue to sponsor or support legislation to improve judicial branch operational efficiencies, including cost savings and cost recovery measures.
6. Advocate for a three-branch solution to ensure the fairness and efficiency of California's fines, fees, penalties, and assessments structure.
7. Delegate to PCLC the authority to take positions or provide comments on behalf of the Judicial Council on proposed legislation (state and federal) and administrative rules or regulations, after evaluating input from council advisory bodies, council staff, and the courts, provided that the input is consistent with the council's established policies and precedents.

Previous Council Action

The council has taken a variety of actions over the past years related to the above recommendations. A description of recent key actions in these areas follows.

Budget

In 2009 and 2010, the council adopted as a key legislative priority for the following year advocating to secure sufficient funding for the judicial branch to allow the courts to meet their constitutional and statutory obligations and provide appropriate and necessary services to the public. In December 2011, the council adopted as a key legislative priority for 2012 advocating against further budget reductions and for sufficient resources to allow counties to be in a position to reopen closed courts and restore critical staff, programs, and services that were reduced or eliminated in the preceding several years. Another key legislative priority for 2012 was to advocate for a combination of solutions to provide funding restorations for a portion of the funding eliminated from the branch budget since 2008. The combination of solutions included restoring the general fund, implementing cost savings and efficiencies through legislation, identifying new revenues, and using existing revenues to restore services to the public and keep courts open.

In 2013, the council adopted a key legislative priority of advocating to achieve budget stability for the judicial branch, including advocating against further budget reductions and for sufficient resources to allow courts to be in a position to reopen closed courthouses; restore court facility construction and maintenance projects; and restore critical staff, programs, and services that were reduced or eliminated in the preceding four years. Annually, since 2014, the council has

² Consistent with the legislative authorization to dispose of the San Pedro superior courthouse in Assembly Bill 1900 (Jones-Sawyer; Stats. 2016, ch. 510).

included similar priorities to achieve budget stability for the judicial branch, including advocating for (1) sufficient fund balances to allow courts to manage cash flow challenges; (2) a method for stable and reliable funding for courts to address annual cost increases in baseline operations; and (3) sufficient additional resources to allow courts to improve physical access to the courts by keeping courts open, to expand access by increasing the ability of court users to conduct branch business online, and to restore programs and services that were reduced or eliminated in the preceding few years.

Senate Bill 1021 (Stats. 2012, ch. 41)—Public safety

In FY 2012–2013 temporary fee increases were approved by the Legislature to help address some of the fiscal issues faced by the courts. Many of these fees were extended for an additional three years in the 2015–2016 Budget Act. However, given that the courts are not fully funded, it is necessary to seek another extension on the temporary fee increases. See table 1 for actual and projected revenues from the Senate Bill 1021 fees.

Table 1: Senate Bill 1021 Fee Increases with a July 1, 2018, Sunset Date

Description	Current Fee Amount	FY 2012–13 Increased Revenues	FY 2013–14 Increased Revenues	FY 2014–15 Increased Revenues	FY 2015–16 Increased Revenues	FY 2016–17 Increased Revenues (Estimated–1st Turn 10R)	FY 2017–18 Increased Revenues (Estimated–1st Turn 10R)
\$40 increase to first paper filing fees for unlimited civil cases where the amount in dispute is more than \$25K (Gov. Code, § 70602.6)	\$435	\$12,176,947	\$12,645,966	\$11,890,458	\$12,174,025	\$12,248,647	\$12,209,487
\$40 increase to various probate and family law fees (Gov. Code, § 70602.6)	435	7,637,791	7,727,878	7,744,597	7,758,492	7,629,377	7,780,973
\$20 increase to various motion fees (Gov. Code, § 70617, 70657, 70677)	60	7,641,569	7,332,651	7,192,278	7,176,182	6,967,962	6,862,347
\$450 increase to the complex case fee (Gov. Code, § 70616)	1,000	11,253,455	11,830,217	9,181,206	8,211,862	7,012,778	5,966,988
Total		\$ 38,709,762	\$ 39,536,712	\$ 36,008,539	\$ 35,320,561	\$ 33,858,764	\$ 32,819,794

Other Fees That Will Increase on January 1, 2019

Description	Current Fee Amount	FY 2012–13 Increased Revenues	FY 2013–14 Increased Revenues	FY 2014–15 Increased Revenues	FY 2015–16 Increased Revenues	FY 2016–17 Increased Revenues (Estimated–1st Turn 10R)	FY 2017–18 Increased Revenues (Estimated–1st Turn 10R)
New \$40 probate fee (Gov. Code, § 70662), eff. 1/1/14	\$40	\$ —	\$57,740	\$121,442	\$123,471	\$123,471	\$123,471
Total		\$ —	\$ 57,740	\$ 121,442	\$ 123,471	\$ 123,471	\$ 123,471

Judgeships and SJO conversions

In 2005, the Judicial Council sponsored Senate Bill 56 (Dunn; Stats. 2006, ch. 390), which authorized the first 50 of 150 critically needed judgeships. Full funding was provided in the 2007 Budget Act, and judges were appointed to each of the 50 judgeships created by SB 56.

In 2007, the council secured the second set of 50 new judgeships of the 150 critically needed judgeships. (Assem. Bill 159 [Jones]; Stats 2007, ch. 722.) Initially, funding for the second set of new judgeships would have allowed appointments to begin in June 2008. However, because

of budget constraints, the funding was delayed until July 2009. The delay allowed the state to move the fiscal impact from FY 2007–2008 to FY 2009–2010. The Governor included funding for the second set of judgeships in the proposed 2009 Budget Act, but the funding ultimately was made subject to what has been called the “federal stimulus trigger.” This trigger was “pulled,” and the funding for the new judgeships and the various other items made contingent on the trigger was not provided.

In 2008, the council sponsored Senate Bill 1150 (Corbett) to authorize the third set of new judgeships. With the delay of the funding for the second set of judgeships and the state’s worsening fiscal condition, SB 1150 was held in the Senate Appropriations Committee. At its October 24, 2008, meeting, the council approved the 2008 update of the Judicial Workload Assessment. At the same time, the council confirmed the need for the Legislature to create the third set of 50 judgeships, completing the initial request for 150 new judgeships, based on the allocation list approved by the Judicial Council in 2007. The council also sponsored Senate Bill 377 (Corbett) in 2009 to authorize the third set of judgeships to become effective when funding was provided for that purpose. That legislation was also held in the Senate Appropriations Committee.

In both 2011 and 2012, the council sponsored Assembly Bill 1405 to establish the third set of 50 judgeships. Even though the legislation did not provide funding for those positions, the state’s continuing fiscal crisis and the fact that the second set of 50 judgeships had yet to be appointed because of lack of funding resulted in the legislation’s not moving forward. The Judicial Council chose not to sponsor similar legislation in 2013 and, instead, chose to focus on other critical budgetary concerns.

In 2014, the council sponsored Senate Bill 1190 (Jackson), which sought to secure funding for the second set of 50 new judgeships approved in 2007 but not yet funded and to authorize a third set of 50 new judgeships to be allocated consistent with the council’s most recent Judicial Needs Assessment. This bill also would have authorized the two additional justices in Division Two of the Fourth Appellate District. The bill was held in the Senate Appropriations Committee.

In 2015, the Judicial Council sponsored SB 229 (Roth), which would have appropriated \$5 million for the funding of 12 of the 50 previously authorized judgeships. Unfortunately, Governor Brown vetoed the bill.

In 2016, the council sponsored Senate Bill 1023 (Judiciary), which was identical to SB 229 except that SB 1023 was held in the Senate Appropriations Committee rather than vetoed.

Also in 2016, the Judicial Council sponsored Assembly Bill 2341 (Oberholte) for the Legislature to reallocate up to five vacant judgeships from courts with more authorized judgeships than their assessed judicial need to courts with fewer judgeships than their assessed judicial need. Consistent with prior legislation referenced above, the allocation of the vacant judgeships would

have been based on a methodology approved by the council and under criteria contained in statute—subdivision (b) of section 69614 of the Government Code. AB 2341 was intended to address the Governor’s message when he vetoed SB 229 in 2015, in which he wrote:

I am aware that the need for judges in many courts is acute—Riverside and San Bernardino are two clear examples. However, before funding any new positions, I intend to work with the Judicial Council to develop a more system wide approach to balance the workload and the distribution of judgeships around the state.

(Governor’s veto message to Sen. Bill No. 229 (2015–2016 Reg. Sess.).)

AB 2341 was approved by the Senate Judiciary Committee. While AB 2341 was pending in the Senate Appropriations Committee, Judicial Council staff, legislative staff, leadership from the affected courts (in Alameda, Santa Clara, Riverside, and San Bernardino Counties), and representatives of organized labor worked closely on amendments to AB 2341 that would have removed opposition to the bill. These amendments (see Attachment A) made the following key changes: (1) limited the number of vacant judgeships to four, like the Governor proposed in the May Revision; (2) changed prior references of *reallocate*, *reallocation*, and *reallocated* to *suspend*, *suspension*, and *suspended*; (3) allocated four new judgeships to courts with the greatest need; and (4) provided that a court with a vacant suspended judgeship would not have its funding allocation reduced or any of its funding shifted or transferred as a result of, or in connection with, the suspension of a vacant judgeship. These amendments did not appear in print because AB 2341 was held by the Senate Appropriations Committee on the suspense file and did not move forward in the 2015–2016 legislative session. The estimate cost of judgeships is outlined in table 2.

Table 2: Judgeship Costs (With 8.87 Full-Time Equivalents (FTE’s) Staff Complement)*

Cost Component	Statewide Average Ongoing	Average One-Time	Total Ongoing & One-Time	Total Ongoing Salary & OE&E
Judge Salary/Benefits (excludes retirement) [†]	\$208,220		\$208,220	\$208,220
Judge Operating Expenses and Equipment (OE&E)	11,665	\$12,450	24,115	11,665
WAFM Staff Salary/Benefits & OE&E (8.87 FTE) ^{‡, §}	1,037,923		1,037,923	1,037,923
Security (1.35 FTE)	196,134		196,134	196,134
Interpreter (0.42 FTE)	60,242		60,242	60,242
Estimated Total Per Judgeship	\$ 1,514,185	\$ 12,450	\$ 1,526,635	\$ 1,514,185

* Staff complement that is needed to support a new judgeship using the Resource Allocation Study model. That model suggests that about 8.87 FTE are needed to provide both direct and indirect support of the judicial officer. The 12 judgeships previously sought in SB 1023 (2016) and SB 229 (2015) included funding for 3.0 FTE.

[†] Note: Judges’ retirement is paid from the state General Fund, **not** the Trial Court Trust Fund, and is normally excluded from budget change proposals for judgeships. Adding the retirement amount would increase the cost per judgeship to \$1.558 million.

[‡] Salaries based on statewide average salaries from courts’ FY 2015–2016 Schedule 7As, excluding collections staff, SJOs, court executive officers (CEOs), security, and vacant positions.

[§] Benefits based on average of individual courts’ reported Program 10 benefits from FY 2015–2016 Schedule 7As, excluding collections staff, SJOs, CEOs, security, and vacant positions.

With regard to subordinate judicial officer conversions, existing law allows the Judicial Council to convert a total of 162 subordinate judicial officer positions, upon vacancy, to judgeships. The statute caps the number that may be converted each year at 16 and requires the council to seek legislative ratification to exercise its authority to convert positions in any given year. For the past five years, that legislative ratification took the form of language included in the annual Budget Act. The council converted the maximum 16 positions in fiscal years 2007–2008, 2008–2009, 2009–2010, 2010–2011, and 2011–2012; 13 in 2012–13; and 11 in 2013–2014. In FY 2014–2015, 9 SJO positions were converted. In FY 2015–2016, 11 SJO positions were converted.

Additionally, legislation enacted in 2010 (Assem. Bill 2763; Stats. 2010, ch. 690) expedites conversions by authorizing up to 10 additional conversions per year, if the conversion results in a judge’s being assigned to a family or juvenile law assignment previously presided over by an SJO. This legislation requires that the ratification for these additional 10 positions be secured through legislation separate from the budget. Since 2011, the Judicial Council has sponsored legislation to secure legislative ratification of these additional SJO conversions: Senate Bill 405 (Stats. 2011, ch. 705), Assembly Bill 1403 (Stats. 2013, ch. 510), Assembly Bill 2745 (Stats. 2014, ch. 311), Assembly Bill 1519 (Stats. 2015, ch. 416), and Assembly Bill 2882 (Stats. 2016, ch. 474). In total, 128 SJO positions have been converted, leaving only 34 of the total 162 positions that remain to be converted.

Court construction projects

Construction fund redirections during the state’s fiscal crisis and a decline in funds from reduced filings have dramatically cut the funds available for the bonds needed to replace unsafe and substandard facilities and build court facilities that serve the needs of all court users. During the state’s fiscal crisis, approximately \$1.4 billion was redirected, borrowed, shifted, and transferred from the Immediate and Critical Needs Account, and of the \$250 million of annual funds in the State Court Facilities Construction Fund, \$110 million—almost 45 percent—has been permanently redirected to other purposes.

On August 26, 2016, the Judicial Council approved a recommendation from the Court Facilities Advisory Committee that all 23 judicial branch projects now under way continue through completion of their current project phase and then be put on hold until proper funding to ICNA is restored. Six of those projects are in construction and will be completed; the balance are in some stage of site acquisition, scope definition, or design.

Disposition of vacant courthouses

AB 1900 authorized the disposition of the San Pedro superior courthouse and required the proceeds of the sale to be deposited into the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, which funds the most critical judicial branch facilities projects.

In February 2016, the Judicial Council approved the disposition of the Corning Courthouse and the Chico Courthouse, with the final form of the legislation authorizing sale of these court

facilities conforming to the final form of legislation authorizing disposition of the San Pedro superior courthouse.³

In April 2015, PCLC, acting on the authority delegated by the Judicial Council, approved Judicial Council–sponsored legislation authorizing the disposal of the San Diego courthouse property at its fair market value in exchange for cash to pay for, or the in-kind performance of, certain Judicial Council obligations to the County of San Diego.

Efficiencies

To address the budget crisis faced by the branch, in April 2012, the Judicial Council approved for sponsorship 17 legislative proposals for trial court operational efficiencies, cost recovery, and new revenue. An additional 6 efficiency proposals were approved for sponsorship in April 2013. Several noncontroversial and relatively minor measures were successfully enacted into law, while several remaining efficiencies were rejected by the Legislature.⁴

Fines, fees, penalties, and assessments

The issue of fines, fees, penalties, and assessments is a complex matter that requires the attention of all three branches of government to implement a long-term solution. In May 2015, Senator Kevin de León, President pro Tempore of the Senate, sent a letter to the Administrative Director requesting assistance in addressing this issue. In addition, Senator de León introduced Senate Bill 404, which, as amended, states the “intent of the Legislature to enact legislation to provide a durable solution to address the issues of equity and efficacy of penalty assessments associated with criminal and traffic base fines.”⁵

In June 2015, the council unanimously adopted California Rules of Court, rule 4.105, which directs courts to allow people who have traffic tickets to appear for arraignment and trial without deposit of bail, unless certain specified exceptions apply.

In 2016, council advisory committees proposed several additional rules. The proposed rules have been out for public comment. The comments are now being reviewed by the advisory committees and, if recommended, will be considered by the Judicial Council in December.

A traffic amnesty program was also enacted as part of the 2015–2016 budget bill.⁶ An 18-month traffic and nontraffic infraction violation amnesty program that discounts delinquent court-ordered debt and restores suspended driver’s licenses for qualified participants commenced October 1, 2015, and continues through March 31, 2017. The program provides

³ Assem. Bill 1900 (Jones-Sawyer; Stats. 2016, ch. 510).

⁴ See Attachment B for a list of efficiency/cost-recovery measures approved and rejected by the Legislature.

⁵ See http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB404.

⁶ Sen. Bill 85 (Stats. 2015, ch. 26), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB85.

discounts of 50 percent and 80 percent to qualifying debtors, as specified. The council and staff also worked diligently with the Legislature and the counties to adopt the guidelines for the traffic amnesty program.

Senate Bill 405 (Hertzberg; Stats. 2015, ch. 385) provides that the ability of a defendant to post bail or to pay a fine or civil assessment is not a prerequisite to filing a request that the court vacate the assessment. Additionally, it provides that the imposition or collection of bail or a civil assessment does not preclude a defendant from scheduling a court hearing on the underlying charge. SB 405 also made some technical changes to the traffic amnesty program.

Senate Bill 881 (Hertzberg; Stats. 2016, ch. 779) initially attempted to eliminate suspension of driver's licenses as a means of collecting court-ordered debt associated with nonsafety traffic offenses.⁷ However, as chaptered, the bill only made technical changes to the existing traffic amnesty program.

Delegation of authority

California Rules of Court, rule 10.12(a),⁸ authorizes PCLC to act for the council by:

“(1) Taking a position on behalf of the council on pending legislative bills, after evaluating input from the council advisory bodies and Judicial Council staff, and any other input received from the courts, provided that the position is consistent with the council's established policies and precedents;

(2) Making recommendations to the council on all proposals for council-sponsored legislation and on an annual legislative agenda after evaluating input from council advisory bodies and Judicial Council staff, and any other input received from the courts; and

(3) Representing the council's position before the Legislature and other bodies or agencies and acting as liaison with other governmental entities, the bar, the media, the judiciary, and the public regarding council-sponsored legislation, pending legislative bills, and the council's legislative positions and agendas.”

Rationale for Recommendation

The mission of the Judicial Council includes providing leadership for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice. Among the guiding principles underlying this mission is a commitment to meet the needs of the public, which includes reinvestment in our justice system to avoid further reductions and to preserve access to justice, which Californians expect and deserve.

⁷ See http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB881.

⁸ See www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_12.

Further, the Chief Justice has proposed a framework to increase public access to the courts. Her vision, entitled Access 3D, combines strategies from the courts—actions that will ensure greater public access—with a reasonable reliance on reinvested funds to the judicial branch. Access 3D is a multidimensional approach to ensuring that Californians have access to the justice system they demand and deserve. The three dimensions of access are:

- Improved physical access, by keeping courts open and operating during hours that benefit the public;
- Increased remote access, by increasing the ability of court users to conduct branch business online; and
- Enhanced equal access, by serving people of all languages, abilities, and needs, reflecting California’s diversity.

The proposed 2017 legislative priorities continue to support the goals of Access 3D.

Budget

State General Fund support for the judicial branch has been reduced significantly, providing a high of 56 percent of the total branch budget in FY 2008–2009 and only 47 percent in the current year (FY 2016–2017). Over this same period, to prevent debilitating impacts on public access to justice, user fees and fines were increased; local court fund balances were swept; and statewide project funds, as well as \$1.4 billion in courthouse construction funds, were diverted to court operations or to the General Fund. The council has spent considerable time over the past several years addressing the impacts of budget cuts on the branch, redirecting resources to provide much needed support to trial court operations, advocating for new revenues and other permanent solutions, and looking inward at cost savings and efficiencies that could be implemented to allow the courts to serve the public effectively with fewer resources.

Judgeships and SJO conversions

The council has consistently sponsored legislation in recent years to secure the 150 most critically needed judgeships. To be most effective, PCLC recommends that the council commit to working with the administration and the Legislature to address the concerns raised in the Governor’s veto message of the judgeship bill (Sen. Bill 229 [Roth]), to advocate for funding of new judgeships, and to ratify the authority of the council to convert vacant subordinate judicial officer positions to judgeships in eligible courts.

Fines, fees, penalties, and assessments

All three branches of government took action to address the issue of state penalty assessments; however, a long-term solution has not been implemented. This issue needs to be addressed to ensure the fairness and efficiency of the penalty assessment structure. Commitment from each branch is necessary to address this complex matter in order to find a workable long-term solution.

Efficiencies and continued sponsorship

The judicial branch is working to identify measures that will save time and resources and better serve the public. As a result, courts have implemented dozens of programs, projects, efforts, and new ideas across California to make courts more efficient in a time of sharply reduced budgets. The Judicial Council will continue to seek out, sponsor, and support legislation that provides operational efficiencies and cost recovery for the judicial branch.

Courthouse construction

SB 1407 authorized up to \$5 billion in bonds to build or renovate courthouses in 32 counties. These projects are necessary to replace or improve courthouses that have the most severe problems—safety and security, structural deterioration, and overcrowding—for the protection of the public, court staff, and judicial officers, and to improve access to justice in California.

Disposition of vacant courthouses

Under existing law, disposition of a court facility requires authorizing legislation. The proposed legislation would require the proceeds of the sales to be deposited into the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, which funds the most critical judicial branch facilities projects.

Delegation of authority

The council has delegated to PCLC the authority to act on already introduced legislation. However, often administrative bodies or commissions ask for comments on legislative proposals not yet in the formal legislative process or on proposed rules and regulations that may affect the branch. PCLC is in the most appropriate position to analyze and take positions on these actions. The process for taking a position on pending legislation or a proposed regulation would be the same as for pending legislation: staff would work with the advisory bodies for feedback on a recommended position and then bring the proposal to PCLC for a final determination. Delegating this authority will allow PCLC to be nimble in responding to these proposals and also ensure that the council position is presented in a timely manner.

Comments, Alternatives Considered, and Policy Implications

The council has consistently sponsored legislation in recent years to secure the most critically needed judgeships. In previous years, the council considered whether to request the needed judgeships in phases, as outlined below:

- Seek funding for 12 of the remaining 50 unfunded judgeships, assigned to the courts with the greatest need based on the most recently approved Judicial Needs Assessment.
- Consider not pursuing funding for this year. The lack of judicial resources, however, is continuing to significantly impair the ability to deliver justice, and failure to move forward will only further deny Californians access to justice.
- Continue recent requests and pursue funding for the 50 judgeships already authorized. This

is the highest-cost option and has not been successful with the Legislature or the Governor.

- Request funding over multiple years.
 - Request the funding of new judgeships over two years, with 25 judgeships being funded each year.
 - Request the funding over three years, with 10 the first year, 15 the second year, and 25 the third year. This is the recommended option.
 - Request the funding over five years, with 10 judgeships funded each year.

In addition to the phased approach above, in 2016 the Judicial Council sponsored AB 2341 (Obernolte) for the Legislature to reallocate up to five vacant judgeships from courts with more authorized judgeships than their assessed judicial need to courts with fewer judgeships than their assessed judicial need. This legislation was held in the Senate Appropriations Committee.

No alternatives were considered for the remaining recommendations.

Implementation Requirements, Costs, and Operational Impacts

The public expects and deserves access to California's courts. Providing timely access to high-quality justice is the cornerstone of Access 3D. The key to the success of Access 3D is a robust reinvestment in the courts. Adoption of the proposed legislative priorities will allow Judicial Council staff to support the goals of Access 3D.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendations support many of the council's strategic plan goals, including Goal I, Access, Fairness, and Diversity, by seeking to secure funding to provide access to the courts for all Californians; Goal II, Independence and Accountability, by seeking to secure sufficient judicial branch resources to ensure accessible, safe, efficient, and effective services to the public; and Goal IV, Quality of Justice and Service to the Public, by seeking funding to continue critical programs to meet the needs of court users.

Attachments and Links

1. Attachment A: Amendments to Assembly Bill 2341 (held in the Senate Appropriations Committee) for Suspension of Vacant Judgeships
2. Attachment B: Efficiencies and Cost-Recovery Proposals Approved/Rejected by the Legislature

Amendments to Assembly Bill 2341 (held in the Senate Appropriations Committee)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature that this act shall not be construed to limit any of the following:

(a) The authority of the Legislature to create and fund new judgeships pursuant to Section 4 of Article VI of the California Constitution.

(b) The authority of the Governor to appoint a person to fill a vacancy pursuant to subdivision (c) of Section 16 of Article VI of the California Constitution.

(c) The authority of the Chief Justice of California to assign judges pursuant to subdivision (e) of Section 6 of Article VI of the California Constitution.

SEC. 2. Section 69614.5 is added to the Government Code, to read:

69614.5. (a) To provide for a more equitable distribution of judgeships, and pursuant to the requirements described in subdivision (d), both of the following actions shall occur:

(1) Four vacant judgeships shall be suspended in superior courts with more authorized judgeships than their assessed judicial need pursuant to subdivision (c).

(2) Four judgeships shall be allocated to superior courts with fewer authorized judgeships than their assessed judicial need pursuant to subdivision (c). The four judgeships shall be funded using existing appropriations for the compensation of superior court judges.

(b) The suspension of vacant judgeships pursuant to subdivision (a) shall be in accordance with a methodology approved by the Judicial Council after solicitation of public comments.

(c) The determination of a superior court's assessed judicial need shall be in accordance with the uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on the criteria set forth in subdivision (b) of Section 69614.

(d) If a judgeship in a superior court becomes vacant, the Judicial Council shall determine whether the judgeship is eligible for suspension under the methodology, standards, and criteria described in subdivisions (b) and (c). If the judgeship is eligible for suspension, the Judicial Council shall promptly notify the applicable courts, the Legislature, and the Governor that the vacant judgeship shall be suspended, subject to approval by the Governor in compliance with subdivision (c) of Section 16 of Article VI of the California Constitution.

(e) (1) For purposes of this section only, a judgeship shall become “vacant” when an incumbent judge relinquishes the office through resignation, retirement, death, removal, or confirmation to an appellate court judgeship during either of the following:

(A) At any time before the deadline to file a declaration of intention to become a candidate for a judicial office pursuant to Section 8023 of the Elections Code.

(B) After the deadline to file a declaration of intention to become a candidate for a judicial office pursuant to Section 8023 of the Elections Code if no candidate submits qualifying nomination papers by the deadline pursuant to Section 8020 of the Elections Code.

(2) For purposes of this section, a judgeship shall not become “vacant” when an incumbent judge relinquishes the office as a result of being defeated in an election for that office.

(f) For purposes of this section only, the “suspension” of a vacant judgeship means that the vacant judgeship may not be filled by appointment or election, notwithstanding any other law, unless an appropriation by the Legislature is made for the judgeship.

(g) A court in which a vacant judgeship is suspended shall not have the court’s funding allocation reduced or any of its funding shifted or transferred as a result of, or in connection with, the suspension of a vacant judgeship pursuant to this section.

EFFICIENCIES AND COST-RECOVERY PROPOSALS APPROVED BY THE LEGISLATURE

Senate Bill 75 (Stats. 2013, ch. 31), a trailer bill of the Budget Act of 2013, approves the following efficiency/cost-recovery proposals:

- Increase the statutory fee from \$10 to \$15 for a clerk mailing service of a claim and order on a defendant in small claims actions.
- Prohibit the Franchise Tax Board (FTB) and the State Controller from conditioning submission of court-ordered debt to the Tax Intercept Program on the court's or county's providing the defendant's social security number, while still allowing the social security number to be released if FTB believes it would be necessary to provide accurate information.
- Increase the fee from \$20 to \$50 for exemplification of a record or other paper on file with the court.
- Modify the process for evaluating the ability of a parent or guardian to reimburse the court for the cost of court-appointed counsel in dependency matters.

Assembly Bill 619 (Stats. 2013, ch. 452) revises the formula for assessing interest and penalties for delinquent payments to the State Court Facilities Construction Fund to conform to the existing statute governing interest and penalties for late payments to the Trial Court Trust Fund by using the Local Agency Investment Fund rate.

Assembly Bill 648 (Stats. 2013, ch. 454) clarifies language from the prior year that created a new \$30 fee for court reporters in civil proceedings lasting one hour or less.

Assembly Bill 1004 (Stats. 2013, ch. 460) allows magistrates' signatures on arrest warrants to be in the form of digital signatures.

Assembly Bill 1293 (Stats. 2013, ch. 382) establishes a new \$40 probate fee for filing a request for special notice in certain proceedings.

Assembly Bill 1352 (Stats. 2013, ch. 274) streamlines court records retention provisions.

Senate Bill 378 (Stats. 2013, ch. 150) provides that an electronically digitized copy of an official record of conviction is admissible to prove a prior criminal act.

Senate Bill 843 (Stats. 2016, ch. 33), commencing January 1, 2017, and until January 1, 2021, grants a defendant six peremptory challenges in a criminal case if the offense charged is punishable with a maximum term of imprisonment of one year or less, and reduces the number of peremptory challenges that may be exercised separately by a defendant who is jointly tried from four to two in cases in which the maximum term of imprisonment is one

year or less. Requires the Judicial Council to conduct a study and, on or before January 1, 2020, submit a report to the Legislature on the reduction in the number of peremptory challenges.

Assembly Bill 2232 (Stats. 2016, ch. 74) corrects drafting errors in the rules governing retention of court files regarding certain misdemeanor traffic offenses.

EFFICIENCIES AND COST-RECOVERY PROPOSALS REJECTED BY THE LEGISLATURE

- **Administrative assessment for maintaining records of convictions under the Vehicle Code:** Clarify that courts are required to impose the \$10 administrative assessment for each conviction of a violation of the Vehicle Code, not just upon a “subsequent” violation.
- **Audits:** Defer 2011 required audit until trial courts and the Judicial Council receive specified funding to cover the cost of the audits.
- **Bail bond reinstatement:** Authorize courts to charge a \$65 administrative fee to reinstate a bail bond after it has been revoked.
- **Collections:** Allow courts to retain and distribute collections rather than transferring collected funds to county treasuries with distribution instructions.
- **Court costs for deferred entry of judgment:** Clarify that the court can recoup its costs in processing a request or application for diversion or deferred entry of judgment.
- **Court reporter requirement in nonmandated case types (Sen. Bill 1313; 2014 [Nielsen]):** Repeal Government Code sections 70045.1, 70045.2, 70045.4, 70045.6, 70045.75, 70045.77, 70045.8, 70045.10, 70046.4, 70050.6, 70056.7, 70059.8, 70059.9, and 70063 to eliminate the unfunded mandate that the enumerated courts (Butte, El Dorado, Lake, Mendocino, Merced, Modoc, Mono, Monterey, Merced, Kern, Nevada, San Luis Obispo, Solano, Tehama, Trinity, and Tuolumne Counties) use court reporters in specified nonmandated case types.
- **Destruction of records relating to possession or transportation of marijuana:** Eliminate the requirement that courts destroy infraction records relating to possession or transport of marijuana.
- **File search fee for commercial purposes:** Allow courts to charge a \$10 fee to commercial enterprises, except media outlets that use the information for media purposes, for any file, name, or information search request.
- **Marijuana possession infractions:** Amend Penal Code section 1000(a) to exclude marijuana possession, per Health and Safety Code section 11357(b), from eligibility for deferred entry of judgment.
- **Notice of mediation:** Amend Family Code section 3176 to eliminate the requirement for service by certified, return-receipt-requested, postage-prepaid mail for notice of mediation, and clarify that the court is responsible for sending the notice.
- **Notice of subsequent DUI:** Repeal Vehicle Code section 23622(c) to eliminate the court’s responsibility to provide notification of a subsequent DUI to courts that previously convicted the defendant of a DUI.

- **Penalty assessments:** Revise and redirect the \$7 penalty assessment from court construction funds to the State Court Facilities Trust Fund.
- **Preliminary hearing transcripts:** Clarify that preliminary hearing transcripts must be produced only when a defendant is held to answer the charge of homicide.
- **Sentencing report deadlines (AB 1214; 2015 [Achadjian]/AB 2129; 2016 [Lackey]):** Amend Penal Code section 1203 to require courts to find good cause before continuing a sentencing hearing for failure by the probation department to provide a sentencing report by the required deadlines.
- **Trial by written declaration (AB 2781; 2016 [Oberholte]):** Eliminate the trial de novo option when the defendant in a Vehicle Code violation has not prevailed on his or her trial by written declaration.
- **Monetary sanctions against jurors (AB 2101; 2016 [Gordon]):** Amend Code of Civil Procedure section 177.5 to add jurors to the list of persons subject to sanctions.