



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: November 16–17, 2017

Title	Agenda Item Type
Judicial Council: 2018 Legislative Priorities	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	November 17, 2017
Recommended by	Date of Report
Policy Coordination and Liaison Committee Hon. Kenneth K. So, Chair	October 30, 2017
	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. For the last several years, the council's legislative priorities have focused on implementation of efficiencies in the courts, investment in the judicial branch, and securing critically needed judgeships. The Policy Coordination and Liaison Committee recommends a similar approach for the 2018 legislative year to the Judicial Council.

Recommendation

The Policy Coordination and Liaison Committee (PCLC) recommends that the Judicial Council take the following actions as Judicial Council legislative priorities in 2018:

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 (1) improve physical access to the courts

by keeping courts open, (2) expand access by increasing the ability of court users to conduct branch business online, and (3) restore programs and services 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) 2012–13 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.
 - 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.
 - Seek funding for two additional justices in Division Two of the Fourth Appellate District (Inyo, Riverside, and San Bernardino Counties), one in FY 2017–18 and the second in FY 2018–19.
 - 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.
 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 West Los Angeles courthouse as previously authorized by the Judicial Council and any remaining properties subsequently approved by the council in 2018 in a fair market value transaction, with the proceeds to be directed to the Immediate Critical Needs Account of the State Court Facilities Construction Fund established by Senate Bill 1407 (Perata; Stats. 2008, ch. 311) or any other Judicial Council facilities fund authorized by the Legislature.

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

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. Work to ensure that any solutions include sufficient revenue backfill for the branch.
7. Advocate for legislation to implement the recommendations of the Commission the Future of California's Court System as recommended by the Judicial Council and its advisory bodies.
 - ***Civil adjudication of minor traffic infractions.*** The Chief Justice appointed the Futures Traffic Working Group to collaborate with the Judicial Council's Traffic Advisory Committee, the Civil and Small Claims Advisory Committee, the Advisory Committee on Providing Access and Fairness, and the Criminal Law Advisory Committee, to develop for Judicial Council consideration a proposal to implement and evaluate a civil model for adjudication of minor vehicle infractions.
 - ***Revision of civil case tiers and streamlined civil procedures.*** The Judicial Council's Civil and Small Claims Advisory Committee is directed to assess and make recommendations to the Judicial Council on advancing a legislative proposal for increasing the maximum jurisdictional dollar amounts for limited civil cases to \$50,000, creating a new intermediate civil case track with a maximum jurisdictional dollar amount of \$250,000, and streamlining methods for litigating and managing all types of civil cases.
 - ***Assistance for self-represented litigants.*** The Judicial Council's Advisory Committee on Providing Access and Fairness is directed to develop a proposal for Judicial Council consideration of the structure, content, and resource requirements for an education program to aid the growing number of self-represented litigants (SRLs) in small claims and civil cases where SRLs are most common.
 - ***Expansion of technology in the courts.*** The Judicial Council's Information Technology Advisory Committee is directed to consider, for presentation to the Judicial Council, the feasibility of and resource requirements for developing and implementing a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings. Further, the committee is directed to explore available technologies and make recommendations to the Judicial Council on the potential for a pilot project using voice-to-text language interpretation services at court filing and service counters and in self-help centers. Finally, the committee is directed to explore and make recommendations to the council on the potential for a pilot project using intelligent chat technology to provide information and self-help services.

8. Advocate for legislation to implement the recommendations of the Pretrial Detention Reform Work Group.
9. 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.

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 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 2012–13, 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 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 SB 1021 fees.

SB 1021 Fee Increases with a July 1, 2018 Sunset Date						
Code Section	2012-13 Increased Revenues	2013-14 Increased Revenues	2014-15 Increased Revenues	2015-16 Increased Revenues	2016-17 Increased Revenues	2017-18 Projected (10R for Gov's Jan. Bud.)
Motion Fees (\$20 increase)						
GC 70617(a)	\$ 5,157,924	\$ 4,850,736	\$ 4,746,660	\$ 4,869,007	\$ 4,847,994	\$ 4,827,072
GC 70657(a)	\$ 294,134	\$ 285,277	\$ 287,300	\$ 275,148	\$ 263,714	\$ 256,967
GC 70677(a)	\$ 2,189,512	\$ 2,196,637	\$ 2,158,320	\$ 2,032,027	\$ 1,940,802	\$ 1,862,619
Total	\$ 7,641,569	\$ 7,332,651	\$ 7,192,280	\$ 7,176,182	\$ 7,052,511	\$ 6,946,658
Complex Case Fees (\$450 increase)						
GC 70616(a)	\$ 2,658,915	\$ 1,964,445	\$ 1,819,350	\$ 2,051,964	\$ 1,850,916	\$ 1,823,779
GC 70616(b)	\$ 8,594,540	\$ 9,865,772	\$ 7,362,000	\$ 6,159,897	\$ 5,633,125	\$ 4,689,417
Total	\$11,253,455	\$11,830,217	\$ 9,181,350	\$ 8,211,861	\$ 7,484,041	\$ 6,513,196
First Paper Fees (\$40 increase)						
GC 70611, 70602.5, 70602.6	\$ 5,194,269	\$ 5,590,697	\$ 5,236,903	\$ 5,428,452	\$ 5,737,166	\$ 5,794,851
GC 70612, 70602.5, 70602.6	\$ 6,982,678	\$ 7,055,269	\$ 6,680,221	\$ 6,772,492	\$ 6,874,858	\$ 6,819,330
GC 70650(a), 70602.5, 70602.6	\$ 573,623	\$ 656,389	\$ 676,505	\$ 663,527	\$ 589,245	\$ 569,508
GC 70650(b), (c), 70602.5, 70602.6	\$ 247,310	\$ 414,176	\$ 439,315	\$ 369,029	\$ 243,319	\$ 207,637
GC 70651, 70602.5, 70602.6	\$ 53,570	\$ 70,275	\$ 78,208	\$ 92,484	\$ 63,071	\$ 62,596
GC 70652, 70602.5, 70602.6	\$ 221,886	\$ 193,159	\$ 209,154	\$ 243,279	\$ 484,071	\$ 683,467
GC 70653, 70602.5, 70602.6	\$ 155,419	\$ 161,589	\$ 172,528	\$ 158,349	\$ 151,732	\$ 148,885
GC 70655, 70602.5, 70602.6	\$ 549,982	\$ 443,962	\$ 428,361	\$ 466,280	\$ 534,064	\$ 569,446
GC 70658, 70602.5, 70602.6	\$ 703,779	\$ 636,646	\$ 591,632	\$ 641,627	\$ 566,373	\$ 546,835
GC 70662	\$ -	\$ -	\$ -	\$ 240	\$ 2,200	\$ 1,200
GC 70670(a), 70602.5, 70602.6	\$ 535,075	\$ 552,748	\$ 547,713	\$ 465,889	\$ 427,458	\$ 393,120
GC 70670(b), 70602.5, 70602.6	\$ 3,167,833	\$ 3,159,465	\$ 3,154,114	\$ 3,227,867	\$ 3,225,576	\$ 3,248,133
GC 70670(c), 70602.5, 70602.6	\$ 290,231	\$ 291,844	\$ 303,395	\$ 275,547	\$ 271,168	\$ 265,012
GC 70670(d), 70602.5, 70602.6	\$ 1,130,771	\$ 1,138,366	\$ 1,159,943	\$ 1,160,587	\$ 1,160,303	\$ 1,167,755
Lab. 98.2; cross-ref. GC 70611, 70602.5, 70602.6	\$ 8,312	\$ 9,260	\$ 14,269	\$ 9,050	\$ 6,700	\$ 6,511
Total	\$19,814,738	\$20,373,844	\$19,692,261	\$19,974,460	\$20,335,103	\$ 20,484,285

Judgeships and SJO conversions

The Judicial Council has sponsored numerous bills to authorize and fund additional judgeships. In 2005, the council sponsored Senate Bill 56 (Dunn; Stats. 2006, ch. 390), which authorized the first 50 of the 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 (Assem. Bill 159 [Jones]; Stats. 2007, ch. 722.), with funding to have allowed appointments to begin in June 2008. However, because of budget constraints, the funding was delayed until July 2009, allowing the state to move the fiscal impact from FY 2007–08 to FY 2009–10. 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.

Almost every year since then, the Judicial Council has sponsored one or more bills to authorize funding for new judgeships (see table 2).

Table 2: Judicial Council-Sponsored Legislation to Authorize or Fund Additional Judgeships

Year	Bill No.	Author	Purpose	Result
2008	SB 1150	Corbett	Authorize third set of new judgeships	Held in Senate Appropriations Committee
2009	SB 377	Corbett	Authorize third set of new judgeships	Held in Senate Appropriations Committee
2011, 2012	AB 1405	Committee on Judiciary	Authorize third set of new judgeships	Did not move forward
2014	SB 1190	Jackson	Authorize third set of new judgeships*	Held in Senate Appropriations Committee
2015	SB 229	Roth	Fund 12 of 50 previously authorized judgeships [†]	Vetoed by Governor Brown
2016	SB 1023	Committee on Judiciary	Fund 12 of 50 previously authorized judgeships [†]	Held in Senate Appropriations Committee
2016	AB 2341	Oberholte	Reallocate judgeships [‡]	Held in Senate Appropriations Committee
2017	SB 39	Roth	Reallocate judgeships	Stalled in legislative process
2017	AB 414	Medina	Reallocate judgeships	Stalled in legislative process

* SB 1190 also sought to secure funding for the second set of 50 new judgeships approved in 2007 but not yet funded.

[†] SB 229 sought to appropriate \$5 million for the funding.

[‡] Specifically, AB 2341 sought 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. The allocation of the vacant judgeships would be based on a methodology approved by the council and under criteria contained in Government Code section 69614(b).

Table 3: Judgeship Costs (With 8.87 Full-Time Equivalents (FTE) Staff Complement)*

Cost Component	Statewide Average Ongoing	Average One-time	Total Ongoing & One-Time	Total Ongoing Salary & OE&E
Judge Salary/Benefits (excludes retirement)†	251,783		251,783	251,783
Judge OE&E	24,633	12,882	37,515	24,633
WAFM Staff Salary/Benefits & OE&E (8.87 FTE)‡, §	1,064,595		1,064,595	1,064,595
Security (1.35 FTE)	196,134		196,134	196,134
Interpreter (.42 FTE)	59,520		59,520	59,520
Estimated Total Per Judgeship	1,596,665	12,882	1,609,547	1,596,665

* Staff complement that is needed to support a new judgeship using the Resource Allocation Study model. That model suggests that 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 only 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 \$1.671 million.

‡ Salaries based on statewide average salaries from courts' FY 2016–17 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 2016–17 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 2007–08, 2008–09, 2009–10, 2010–11, and 2011–12; 13 in 2012–13; and 11 in 2013–14. In FY 2014–15, 9 SJO positions were converted. In FY 2015–16, 11 SJO positions were converted. In FY 2016–17, 6 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 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); Assembly Bill 2882 (Stats. 2016, ch. 474); and Assembly Bill 1672 (2017). In total, 134 SJO positions have been converted, leaving only 28 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. 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 underway 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

In December 2015, the Judicial Council approved sponsorship of a proposal to authorize the disposition of the San Pedro Courthouse as nonsurplus property with proceeds of its sale to be placed in the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund.

In February 2016, the Judicial Council authorized and approved the sale of the Corning Courthouse to Tehama County and the Chico Courthouse to Butte County in fair market value transactions with proceeds from those sales treated in the same manner as in the final form of legislative authorization for disposition of the San Pedro Courthouse. The Judicial Council sponsored the legislation authorizing disposition of the San Pedro Courthouse (Assem. Bill 1900 [Jones-Sawyer]; Stats. 2016, ch. 510, codified at Gov. Code, § 70395).

In December 2016, the Judicial Council authorized and approved the sale of the Firebaugh, Reedley, and Clovis Courthouses in Fresno County, and the Avenal and Corcoran Courthouses in Kings County as nonsurplus properties with proceeds from those sales directed to the ICNA. The Judicial Council is sponsoring Assembly Bill 403 (Canella, 2017), which authorizes the sale of the Corning, Chico, Firebaugh, Reedley, Clovis, Corcoran, and Avenal Courthouses.

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 six 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,² including seeking to

² See Attachment A for a list of efficiency/cost-recovery measures approved or rejected by the Legislature.

eliminate the requirement that courts destroy infraction records relating to possession or transport of marijuana.³ With the passage of Proposition 64 in November 2016, this requirement has become increasingly burdensome on the trial courts.

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.”⁴

The Judicial Council has taken a number of steps to promote procedural fairness in infraction cases, enhance guidance for defendants and courts, improve notice to defendants, and clarify procedures regarding ability-to-pay determinations, while also minimizing the need for court appearances by providing for written petitions where possible:

1. Amended rule [4.105](#) of the California Rules of Court to require that trial court websites include a link to the statewide traffic self-help information posted on the California Courts website;
2. Adopted rule [4.106](#) of the California Rules of Court to establish uniform procedures in infraction offenses for which the defendant has received a written notice to appear and has failed to appear or failed to pay;
3. Adopted rule [4.107](#) of the California Rules of Court to require that trial courts send reminder notices to traffic defendants before their initial appearance and specify what information must be provided in those notices; and
4. Adopted rule [4.335](#) of the California Rules of Court to standardize and improve court procedures and notice to infraction defendants related to ability-to-pay determinations.

Also, at an emergency meeting in June 2015, the Judicial Council unanimously adopted a new rule that directs courts to allow defendants who have outstanding traffic tickets to appear for arraignment and trial without deposit of bail.

5. Adopted rule [4.105](#) of the California Rules of Court to allow defendants to appear for arraignment and trial without deposit of bail, unless certain statutory exceptions apply.

³ Health & Saf. Code, § 11361.5.

⁴ See http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB404.

The rule also states that courts must notify traffic defendants of this option in any instructions or other materials provided by the court to the public.

Recommendations of the Commission on the Future of the California Court System

In July 2014, Chief Justice Tani G. Cantil-Sakauye established the Commission on the Future of the California Court System (commission). The commission was tasked with making recommendations about how court operations could be improved and streamlined. The commission released their final recommendations on April 26, 2017. In May 2017, Chief Justice Cantil-Sakauye directed immediate Judicial Council action on several of the recommendations:

- ***Civil adjudication of minor traffic infractions.*** The Chief Justice appointed the Futures Traffic Working Group to collaborate with the Judicial Council’s Traffic Advisory Committee, the Civil and Small Claims Advisory Committee, the Advisory Committee on Providing Access and Fairness, and the Criminal Law Advisory Committee, to develop for Judicial Council consideration a proposal to implement and evaluate a civil model for adjudication of minor vehicle infractions.
- ***Revision of civil case tiers and streamlined civil procedures.*** The Judicial Council’s Civil and Small Claims Advisory Committee is directed to assess and make recommendations to the Judicial Council on advancing a legislative proposal for increasing the maximum jurisdictional dollar amounts for limited civil cases to \$50,000, creating a new intermediate civil case track with a maximum jurisdictional dollar amount of \$250,000, and streamlining methods for litigating and managing all types of civil cases.
- ***Assistance for self-represented litigants.*** The Judicial Council’s Advisory Committee on Providing Access and Fairness is directed to develop a proposal for Judicial Council consideration of the structure, content, and resource requirements for an education program to aid the growing number of self-represented litigants (SRLs) in small claims and civil cases where SRLs are most common.
- ***Expansion of technology in the courts.*** The Judicial Council’s Information Technology Advisory Committee is directed to consider, for presentation to the Judicial Council, the feasibility of and resource requirements for developing and implementing a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings. Further, the committee is directed to explore available technologies and make recommendations to the Judicial Council on the potential for a pilot project using voice-to-text language interpretation services at court filing and service counters and in self-help centers. Finally, the committee is directed to explore and make recommendations to the council on the potential for a pilot project using intelligent chat technology to provide information and self-help services.

Recommendations of the Pretrial Detention Reform Workgroup

The Pretrial Detention Reform Workgroup began its work in December 2016 and is expected to conclude December 2017. The recommendations will be presented to the Chief Justice for her consideration and will later be shared with Judicial Council advisory committees, as appropriate.

Delegation of authority

California Rules of Court, rule 10.12(a),⁵ 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.

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

⁵ See www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_12.

- 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 2008–09 and 46 percent in the current year (FY 2017–18). 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 advocating for funding of new judgeships, and to ratifying the authority of the council to convert vacant subordinate judicial officer positions to judgeships in eligible courts.

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.

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.

Fines, fees, penalties, and assessments

While all three branches of government have taken some action to address the issue of state penalty assessments, 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.

Recommendations of the Commission on the Future of the California Court System

On May 17, 2017, the Chief Justice directed the Judicial Council to take immediate action on the listed recommendations by the commission. Pending the final evaluation and review from the assigned advisory bodies, the Judicial Council should be prepared to quickly bring any necessary statutory amendments to the Legislature to effectively implement the recommendations.

Recommendations of the Pretrial Detention Reform Work Group

As noted, the Pretrial Detention Reform Work Group recommendations are expected to be released in late 2018. Pending action from the Chief Justice, the Judicial Council should be prepared to quickly bring any necessary statutory amendments to the Legislature to effectively implement the recommendations.

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 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.

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

1. Attachment A: Efficiencies and Cost-Recovery Proposals Approved or Rejected by the Legislature

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, included 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 courts or counties 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) revised 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) clarified 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) allowed magistrates' signatures on arrest warrants to be in the form of digital signatures.

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

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

Senate Bill 378 (Stats. 2013, ch. 150) provided 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) corrected 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 required audits 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.