

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
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**Report**

TO: Members of the Judicial Council

FROM: Policy Coordination and Liaison Committee  
Hon. Marvin R. Baxter, Chair  
Joint Trial Court Presiding Judges Advisory Committee (TCPJAC)  
and Court Executives Advisory Committee (CEAC) Legislation  
Working Group  
Hon. Hilary A. Chittick, Cochair (TCPJAC)  
Mr. Alan Slater, Cochair (CEAC)  
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DATE: October 26, 2007

SUBJECT: Local Rules: Increase Time for Filing With the Judicial Council  
From 30 to 45 Days (Gov. Code, § 68071) (Action Required)

Issue Statement

The statutory 30-day deadline for filing local rule changes with the Judicial Council before their effective date on January 1 or July 1 is too short. Thirty days does not give Administrative Office of the Courts (AOC) staff sufficient time to review the local rules for compliance with the formatting requirements of rule 10.613 of the California Rules of Court, to receive needed corrections from the trial courts, send the updates to local rule publishers, and allow the local rule publishers sufficient time to analyze and publish updates before the local rules' effective dates. As a result, under the current schedule, publishers, the courts, and the AOC are not able to prepare and make local rules available to the public in a timely manner.

Recommendation

The Policy Coordination and Liaison Committee (PCLC) and the Joint Trial Court Presiding Judges Advisory Committee (TCPJAC) and Court Executives Advisory Committee (CEAC) Legislation Working Group recommend that the Judicial Council sponsor legislation to amend Government Code section 68071 to extend the time period for Judicial Council review and processing of local court rule

amendments from 30 days to 45 days before their January 1 or July 1 effective date.

The text of the proposed legislation is attached at page 5.

#### Rationale for Recommendation

AOC staff typically processes about 30 courts' local rule amendments two times per year. Staff reviews each submission for compliance with the form and formatting requirements of rule 10.613 of the California Rules of Court. Usually, AOC staff needs to make telephone contacts with about three-quarters of the courts submitting local rules to discuss needed corrections. After corrections are made and AOC staff performs a second review, the final local rules are posted on a special File Transfer Protocol (FTP) Web site and notice is given by electronic mail to local rule publishers that the rules are ready to be downloaded onto their Web sites. AOC staff also provides the courts with technical computer support on formatting issues and on sending large local rule files by electronic mail.

Currently, trial courts are required to submit rule amendments to the Judicial Council 30 days before their effective date. The process of review, correction, and handling described above usually takes about three weeks, leaving only one week for publishers to analyze and publish the updates before the effective date of the rules. In the fourth week, AOC staff updates the California Courts Web site's local rules page with the latest effective date for each court's local rules and provides a link to each superior court's local rules Web page. Via *Court News Update* notice is given to courts of local rule changes and of each court's duty to provide the public with access to all courts' local rules. Courts that do not provide the public with computer access and assistance are sent paper copies of the amended local rules so that each court can meet the access requirements of rule 10.613. Adding 15 days to this 30-day time period will give AOC staff sufficient time to review and process the courts' local rule amendments.

Because there is also a 45-day circulation-for-comment period required under rule 10.613(g), under this proposal courts would be required to circulate local rule amendments no later than 90 days before the local rules are adopted by the court (45 plus 45 days) instead of the current 75 days (45 plus 30 days). Should a court require shortened time for filing a local rule amendment, rule 10.613(i) provides a procedure authorizing the Chief Justice to issue an order for good cause shown. These requests are generally processed within 10 days of receipt.

If the proposed legislation is enacted, conforming amendments and several additional amendments would be made to rule 10.613 to streamline the process and to coincide with the effective date of the legislation. Proposals to amend the rule would be circulated statewide to the courts and the public for comment.

### Alternative Actions Considered

The current statutory timeline for processing local rule amendments could be left unchanged. However, the PCLC and Joint Legislation Working Group considered it preferable to add 15 days to the schedule to give the courts, local rule publishers, and staff adequate time to prepare and make the rules available to the public in a timely manner.

The invitation to comment that circulated statewide proposed extending the period for review and processing of rule amendments from 30 to 60 days before their effective date to give the AOC, the courts, and publishers even more time to review, make corrections, and publish the amended local rules before their effective date. In response to comments received, the period for review and processing is recommended to be extended to 45 days instead of 60 days. The additional 15 days will give AOC staff sufficient time to review and process the courts' local rule amendments.

### Comments From Interested Parties

This proposal was circulated for statewide public comment in spring 2007. Seven comments were received from two courts, two court executive officers, an attorney, and two local rule publishers. Five commentators agreed with the proposal as drafted, and two commentators agreed with the proposal if modifications were made.

Two local rule publishers who support the proposal as drafted noted that publishers need time to get the rules "in the hands of the attorneys/public affected." One mentioned that at times the legal publishers have been given notice of local rule amendments as few as four business days before the rules' effective date. The publisher also commented that 60 days is in line with other states' deadlines, such as Washington State, which also requires submission of rules for approval 60 days before the effective date.

Representatives from two courts made a compelling argument to modestly increase the Judicial Council processing time by 15 days instead of the 30 days originally proposed. Although courts need lead time to amend their local rules, too much lead time "makes the system slower to respond to changes." One court noted that when the court is considering a change in its local rules, subject matter committees consult with bench-bar liaison committees and often have multiple meetings that begin several months before the target effective date of the proposed rule changes. This court also suggested reducing the 60-day posting period to 45 days so the local courts' review processes are not compromised. AOC staff believes that an additional 15 days is sufficient to process the local rules and also submit them to local rule publishers in a timely manner.

A chart of the comments and the Joint TCPJAC and CEAC Legislation Working Group responses is attached at pages 6–10.

Implementation Requirements and Costs

The proposed legislation will require earlier preparation of local court rules. However, no additional implementation requirements or costs are anticipated.

Attachments

Government Code section 68071 would be amended to read:

1    **§ 68071.**

2    No rule adopted by a superior court shall take effect until January 1, or July 1,  
3    whichever comes first, following the ~~30<sup>th</sup>~~ 45<sup>th</sup> day after it has been filed with the  
4    Judicial Council and the clerk of the court, and made immediately available for  
5    public examination. The Judicial Council may establish, by rule, a procedure for  
6    exceptions to these effective dates.

**LEG07-04**

**Local Rules: Increase Time for Filing With the Judicial Council From 30 to 60 Days (Gov. Code, § 68071)**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Stephen Bouch Executive Officer Superior Court of Napa County	AM	N	Two additional weeks should provide enough time. Don't double the time when not necessary. It only makes the system slower to respond to changes. If it must be changed why not 45 days rather than 60.	Agree. 45 days should provide sufficient time for processing local rule amendments.
2.	Joseph L. Chairez President Orange County Bar Association	A	N	No specific comments.	No response required.
3.	Superior Court of Los Angeles County	A	Y	No specific comments.	No response required.
4.	Alexander Manners Vice President, Legal Rules Products CompuLaw LLC Los Angeles	A	Y	<p>We agree with the proposed amendment to Government Code section 68071. The proposed change would provide a far more reasonable period of time for publishers to review, update, and distribute the amended rules prior to their effective date. The current time period for superior courts to submit local rule amendments to the Judicial Council has meant that in the past, legal publishers have been given as few as 4 business days' notice of the rule amendments prior to their effective date.</p> <p>We do not believe this change would be a burden on the superior courts, as during the course of the year we speak with all the California superior courts, and they are almost always aware of pending rule amendments at least 6 months before the</p>	No response required.

**LEG07-04**

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				effective date. We believe 60 days to be an appropriate period of time and is in line with other states' deadlines for the procedure, i.e., Washington state requires a 60-day submission for approval before the effective date.	
5.	Hon. Yolanda Neill Northridge Acting Presiding Judge Superior Court of Alameda County	AM	Y	<p>The Superior Court of Alameda County submits these comments regarding LEG07-04 opposing the proposed extension of AOC review of local rules from 30 to 60 days unless modified.</p> <p>Government Code section 68071 now provides a 30-day period for review of local rules by AOC staff before their effective date. This 30-day period follows the mandatory 45-day circulation for comment period required by rule 10.613(g) of the California Rules of Court. The AOC has invited comments on a proposal to extend the 30-day period to a 60-day one.</p> <p>The current set of review periods set out in the code and in the California Rules of Court follow internal review periods and processes for local courts. The present set of review periods requires the Alameda County Superior Court's Executive Committee, which meets monthly, to act on proposals to revise local rules at a meeting</p>	

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				<p>that provides sufficient time for staff to make revisions the committee directs. This effectively means the Executive Committee must act on proposals to revise local rules about three and a half months before the target effective date.</p> <p>In most instances, proposals to revise this court's local rules are made by one of the court's subject area committees, such as the Civil Committee, Criminal Committee, or Family Law Committee. Like the Executive Committee, these committees generally meet once a month. In addition, most of these committees have active bench-bar liaison committees that are consulted when the court is considering a change in its local rules. In actual practice, it is not uncommon for subject matter committees to have two meetings at which proposals to revise local rules are discussed. This means that subject area committees and their bench-bar associations begin meeting five and a half or six months before the target effective date of proposed rules.</p> <p>The balancing at issue with the proposal made in LEG07-04 is the need to provide a process that facilitates prompt revision to local rules, and that also involves broad local input from affected bench officers,</p>	

**LEG07-04**

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				<p>attorneys, and other interested parties when revisions are mandatory or advisable and the desire to provide publishers and staff an additional 30 days to perform the essential review they must accomplish.</p> <p>The Superior Court of Alameda County encourages the Judicial Council to adopt a final review period that does not compromise local courts' review processes and inclusion of interested parties as significantly as the proposed amendment to Government Code section 68071 would. One option the court suggests that the council consider is to reduce the 45-day posting period modestly and add those days to the AOC staff review period.</p>	Agree. See response to commentator #1 above.
6.	Michael M. Roddy Executive Officer Superior Court of San Diego County	A	Y	No specific comments.	No response required.
7.	Terry Yoshikawa Court Rules Clerk Daily Journal Corporation Los Angeles	A	Y	Giving publishers more time to process these rule changes will guarantee that the rules end up in the hands of the attorneys/public affected by these amendments in a timely fashion. This extra time will assure that all changes will be familiar to the public by the effective date and consequently all amendments will be	No response required.

**LEG07-04**

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				followed. I'm sure the clerks would appreciate not having to explain why a paper was refused.	