

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

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Policy Coordination and Liaison Committee
Hon. Marvin R. Baxter, Chair
Curtis L. Child, Director, Office of Governmental Affairs,
916-323-3121, curtis.child@jud.ca.gov
Donna Hershkowitz, Assistant Director, Office of Governmental Affairs,
916-323-3121, donna.hershkowitz@jud.ca.gov

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SUBJECT: 2010 Judicial Council Legislative Priorities (Action Required)

Issue Statement

The mission of the Judicial Council is to set the direction and provide the leadership for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice. Among the guiding principles underlying the council's mission is a commitment to meeting the needs of the public, which includes ensuring equal and timely justice, advocating for sufficient and stable resources necessary for the branch to fulfill its mission, expecting high quality throughout the branch, and ensuring accountability to the public.

Each year the Judicial Council sponsors legislation in furtherance of key council objectives. Typically, the council's critical legislative proposals have included ongoing, multiyear priorities that the council previously approved and that support the council's commitment to improving the delivery of justice. Because of the budget constraints facing the state and although the council remains committed to key priorities of past years, this report suggests only two legislative priorities for 2010, one of which is directly related to advocacy on the judicial branch budget.

It is anticipated that much of the council's legislative activity will revolve around the budget and budget trailer bill issues. As a result, it will be necessary to establish a formal procedure that will allow the council to act quickly to sponsor proposals that arise during the legislative process and require council input.

Recommendation

The Policy Coordination and Liaison Committee (PCLC) recommends that the Judicial Council take the following actions:

1. Advocate to secure a budget that permits courts to be open and operating every court day;
2. Continue to sponsor legislation to create the third set of 50 new judgeships to be allocated consistent with the council's 2008 Judicial Needs Assessment; and
3. Delegate to the PCLC the authority to take positions to sponsor legislative proposals on behalf of the Judicial Council when prompt action is required, require the PCLC to notify the chairs of the Executive and Planning Committee (E&P) and the Rules and Projects Committee (RUPRO) of any PCLC meeting in which such actions will be considered so that they may participate if available, and require the PCLC, after acting under this delegation, to notify the Judicial Council of all such action.

Rationale for Recommendation

Budget priority

In fiscal year (FY) 2009–2010 the judicial branch budget was reduced by \$414 million. To absorb this reduction and continue to provide the greatest access possible on days of operation, the judicial branch was forced to take the unprecedented move of closing courts one day per month. In addition, approximately \$160 million was diverted from planned programs and activities to assist the trial courts in meeting their operational needs. Among other things, \$105 million was diverted from the California Court Case Management System, resulting in a significant slowdown in deployment of the system to courts where it is critically needed. These solutions, however, are one time in nature and cannot support ongoing reductions.

When it mandated statewide court closures at its July 28, 2009, meeting, the Judicial Council directed Administrative Office of the Courts (AOC) staff to report to the council in January 2010 so that the council could consider the impacts of court closures on courts, court employees, court users, and justice system partners. The council will also be examining the monetary savings obtained from court closures and the fiscal outlook for the remainder of the fiscal year.

The decision to close courts one day a month may have been among the most difficult the council has had to make in recent years. The council determined that closures were needed to absorb the reductions and ironically allowed the courts to provide the greatest access to users for the rest of the days of the month the court was open. However, the decision was not without some costs, including significant impacts on justice system partners. The Judicial Council must advocate strongly for a 2010–2011 budget that

provides sufficient resources to keep courthouse doors open every court day of the month.

New judgeships

In 2005, the Judicial Council sponsored Senate Bill 56 (Dunn; Stats. 2006, ch. 390), which authorized the first 50 of the most critically needed 150 judgeships. One month of funding was provided in the 2006 Budget Act, and full funding was provided in the 2007 Budget Act. The Governor has appointed judges to 49 of the 50 judgeships created by SB 56.

In February 2007, the AOC Office of Court Research presented the council with an updated analysis of judicial need. Based on that analysis, in 2007 the council sought and secured the second set of 50 new judgeships authorized by Assembly 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. Because of budget concerns, the funding was delayed 13 months, until July 2009. This allowed the state to move the fiscal impact from FY 2007–2008 to FY 2009–2010. The Governor did include 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 to be “pulled” and the funding for the new judgeships and the various other items made contingent on the trigger would be provided, if it were determined by April 1, 2009, that approximately \$10 million in federal stimulus dollars that would offset General Fund costs would be delivered to the state by June 30, 2010. It was determined that this threshold would not be met, and thus the funding for the second set of judgeships was not provided.

In 2008, the council sponsored SB 1150 (Corbett) to secure 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 25, 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 therefore sponsored SB 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.

Although the state’s fiscal condition remains dire and funding has not yet been provided for the second set of judgeships, the PCLC recommends that the council continue to pursue authorization for the third set of 50 judgeships.

Delegation of authority to sponsor legislative proposals on behalf of the council

The Judicial Council has a well-established process for the development of legislative proposals and their submission for council sponsorship. The majority of proposals for council sponsorship are brought to the PCLC in October for its recommendation. PCLC's recommendations are brought to the full council at the December meeting. In recent years securing council sponsorship of legislative proposals outside of the regular cycle has become increasingly necessary. Out of this necessity, a process has been developed for use when there is not sufficient time to bring proposals to the full council, under which process proposals for sponsorship have been brought to the PCLC and the chairs of E&P and RUPRO or their designees. The Office of Governmental Affairs anticipates that a variety of legislative proposals will arise during the negotiations of the State Budget, as well as at other times throughout the year, that will require quick council action. In many instances taking a "support" position, which by rule of court PCLC is authorized to do on behalf of the council, will be insufficient. Rather, the council may need to initiate the proposals, requiring council "sponsorship" of the proposal, not simply support or other position on the proposal. The PCLC believes that formalizing a process to allow the PCLC to act to sponsor legislative proposals when time pressures demand action before the next council meeting is essential. To ensure the necessary flexibility, PCLC recommends that the Judicial Council delegate to PCLC the authority to take such action, with immediate notice to the council after any such action is taken.

Alternative Actions Considered

The PCLC considered including modification of the Judges' Retirement System II (JRS II) among the Judicial Council's 2010 legislative priorities. This remains a critical priority of the council and has been on the council's legislative agenda for several consecutive years. However, the state's fiscal condition makes it unreasonable to believe that the council will be able to secure legislative support for this proposal in 2010, and therefore the PCLC did not think that including it on the council's legislative agenda was appropriate. Moreover, the council will be submitting a report to the Legislature pursuant to the requirements in SBX2 11 (Steinberg; Stats. 2009–2010, 2nd Ex. Sess., ch. 9), which, along with the discussion of supplemental judicial benefits, includes historical descriptions relating to judicial retirement. It is anticipated that the Judicial Council will submit a subsequent report next year.

Comments From Interested Parties

As noted above, the new judgeships proposal has been the subject of significant discussion during previous legislative sessions, as well as consideration by the PCLC and the Judicial Council in the course of approving sponsorship in past years.

Implementation Requirements and Costs

Funding will be required for the new judgeship proposal.