

SIX REASONS TO OPPOSE AB 1208

At its meeting on December 13, 2011, the Judicial Council voted unanimously (one abstention) to oppose Assembly Bill 1208 (Calderon) – Trial Court Administration. Here's why:

- 1) AB 1208 is an inappropriate intrusion into the fundamental governance of the judicial branch.
 - This bill goes far beyond basic judicial branch funding issues, which are squarely within the purview of the Legislature, and dictates how the branch should govern itself.

- 2) AB 1208 is a significant retreat from the restructuring of the judicial branch into a statewide judiciary that has occurred in the last fifteen years.
 - The bill threatens the uniformity and efficiencies of a statewide system that has improved the public's access to justice, including:
 - Increased assistance for unrepresented litigants, particularly in family law matters with self-help centers in every county;
 - One-day or one-trial jury reforms that significantly reduced the burden of jury service for prospective jurors;
 - Simplified plain English civil and criminal jury instructions;
 - Expanded Alternative Dispute Resolution programs, dedicated complex litigation courts, domestic violence, drug, homeless, and mental health courts to better address causes, decrease repeat offenses, and save the state millions each year;
 - Statewide protective order registry for domestic violence
 - California Courts website, a statewide resource for attorneys and the public that features easy online access to legal forms (7 million forms downloaded each year) and a self-help section in several languages;
 - More and better prepared court interpreters;
 - Safer and more accessible courthouses.

 - The goal of a statewide administration of justice is to bring uniformity in administrative rules and processes, avoid waste, create transparency in financial accountability, and ensure equal access to justice for all Californians, while at the same time recognizing the authority of superior courts to manage their day-to-day operations. AB 1208 moves in the opposite direction. Statewide branch governance structures have benefitted the public and the courts:
 - No more reliance on highly variable and inconsistent county resources: Twice the amount of trial court funding for the courts than in 1998 — from \$1.5 to \$3.1 billion;
 - Increased funding for smaller courts to protect access to justice in rural communities;
 - Focus on improving retention of experienced judges;
 - Centralized operational services including legal and contracting assistance, accounting and financial services, a centralized treasury system and trust accounting.
 - Improved training for new judicial officers, and for judicial officers entering new assignments;

- Reallocation of funds used for duplicative services in municipal and superior courts before unification;
 - A greater voice for court leaders in setting statewide policy and adopting rules: more than 400 judges and justices participate every year in Judicial Council Advisory Committees and Task Forces; pending proposals are widely distributed for comment;
 - Strategic long-term planning for the branch;
 - Statewide studies, rules changes, and recommendations aimed at ensuring courts can continue to operate impartially, independently, and effectively;
 - Statewide communications to keep courts and judges apprised of current developments in the branch.
- By striking references to the goals that are to inform council decisions on allocating funding, the bill dismantles the goals of a statewide judicial branch, instead making the paramount consideration each court's individual needs and interests, without regard to uniformity for court users or to ensuring equal access to justice statewide.
- 3) AB 1208 eliminates the authority of the Judicial Council to transfer funding to finance specific trial court projects or assist courts confronting unanticipated budget shortfalls or other urgent fiscal needs.
- Already this year, two courts, the Superior Courts of San Francisco and San Joaquin, have required emergency assistance from the Judicial Council. AB 1208 would prevent the council from being able to provide such assistance.
- 4) The bill removes decision-making authority for funding key statewide projects from the Judicial Council and puts it in the hands of as few as two to three courts.
- The bill could endanger funding for essential technology projects, even if the vast majority of courts wanted the council to direct funds to these critical projects.
 - Failure to continue to fund statewide projects such as new statewide case management technology, the Phoenix Financial or Phoenix HR systems, or the interim case management system that supports 15 smaller courts would have significant policy and fiscal implications. A move away from statewide technology systems would lead to reduced transparency and accountability and would require individual courts to implement their own systems that may not meet the needs of the courts and the public.
- 5) The bill authorizes trial courts to transfer any funds, once allocated, between functions, line items, or programs, without any oversight or reporting.
- AB 1208 creates the very real possibility of impacting funding for statewide programs the Legislature has directed, authorized, or otherwise expressed a special interest in the judicial branch pursuing.

- The bill would permit a court to transfer funds intended for self-help centers, complex civil litigation, or the domestic violence family law interpreter program, to name just a few, for other purposes, contrary to the efforts toward statewide uniformity and ensuring access to justice for all litigants.
 - Funds for dependency counsel could be transferred for other purposes hampering the Judicial Council's and Legislature's priorities for improving outcomes for children.
 - The bill is in direct conflict with a recent law that directs certain fee revenue to support a civil legal representation pilot project. That revenue would instead be directed to all courts, not to the pilot projects, and could be used for any purpose, despite the Legislature's intention in raising fees expressly for this purpose.
- 6) This bill was introduced without giving the new Chief Justice an opportunity to evaluate and improve the governance of the judicial branch internally, an opportunity which she has embraced.
- The judiciary needs to be given the respect and the opportunity to determine if its governing structure is operating in the most efficient and effective manner, if it has acted in a manner that is consistent with the needs of superior courts, or if branch resources are allocated in the best manner to carry out the mission of the judiciary and effectively ensure equal access to justice to all Californians.
 - The Chief Justice has committed to do just that. In her first year of service, she has initiated many efforts to evaluate and improve branch governance:
 - Appointed five new members to the council and changed the format of the meetings to allow more comment and discussion;
 - Ordered every council meeting to be open to the public, audiocast live, and archived on the California Courts website;
 - Appointed a Strategic Evaluation Committee to conduct a review of the Administrative Office of the Courts with an emphasis on accountability, transparency, and efficiency.
 - Appointed a standing committee of the council to ensure effective oversight of the Court Case Management System (CCMS);
 - Appointed the Court Facilities Working Group to set priorities and cost controls for the state's court construction and renovation projects. To date, the working group has cancelled two construction projects and reprioritized others to contain costs.

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