



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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Director, Office of Governmental Affairs

January 10, 2012

Members of the Assembly
State Capitol
Sacramento, California 95814

Subject: Assembly Bill 1208 (Calderon), as amended May 18, 2011 - Oppose

Dear Assembly Member:

The Judicial Council is strongly opposed to AB 1208 (Calderon), which seeks to fundamentally alter how the judicial branch is funded and governed. As the Legislature has recognized repeatedly, California's judicial branch is a separate, co-equal, and independent branch of government. The Judicial Council is the policymaking body of the California courts, and under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice.

The Judicial Council is guided in its leadership role by the following principles:

- Meeting the needs of the public is the core function. To that end, the Judicial Council is committed to equal and timely justice and public access to an independent forum for the resolution of disputes.
- Protecting the independence of the branch is crucial in a democracy. Decisions of the Judicial Council are designed to strengthen the branch.
- High quality is an expectation throughout the branch. Judicial Council decisions are guided by the desire to facilitate improvement, effectiveness, and efficiency in the branch to maintain a competent, responsive, and ethical judicial branch.
- Accountability is a duty of public service. The Judicial Council continually monitors the use of public funds and evaluates branch performance to identify needed improvements.

AB 1208 is an inappropriate intrusion into the fundamental governance of the judicial branch. This bill goes beyond basic judicial branch funding issues, which are within the purview of the Legislature, and instead dictates how the branch should govern itself. The constitutional structure of California government and interbranch relations must be respected.

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. 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. 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.

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.

AB 1208 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 existing 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.

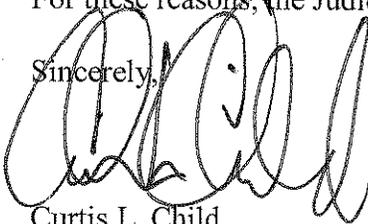
AB 1208 creates the very real possibility of impacting funding for statewide programs the Legislature has directed, authorized, or otherwise expressed a special interest in the judicial branch pursuing. The bill authorizes trial courts to transfer any funds, once allocated, between functions, line items, or programs, without any oversight or reporting. Therefore, 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. Additionally, funds for dependency counsel could be transferred for other purposes, hampering the Judicial Council's and Legislature's priorities for improving outcomes for children. Also, 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.

Finally, AB 1208 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. And 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, including the creation a Strategic Evaluation Committee to conduct a review of the Administrative Office of the Courts. She is committed to continuing these and similar efforts to ensure the effective and appropriate governance of the judicial branch. The Legislature must give the Chief Justice the opportunity, as the leader of California's judicial branch, to work within the judiciary to determine how it can best govern itself.

For these reasons, the Judicial Council opposes AB 1208.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis L. Child". The signature is stylized and cursive, with a large initial "C" and "L".

Curtis L. Child
Director

CLC/NS/lp

cc: Mr. Drew Liebert, Chief Counsel, Assembly Judiciary Committee
Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Mark Redmond, Consultant, Assembly Republican Office of Policy