

January 12, 2012

Members of the California State Assembly
State Capitol
Sacramento, California 95814

Re: AB 1208 (Calderon) – OPPOSE
UPDATED to reflect additional signatory

Dear Assembly Members:

We join together in this letter to you to express our opposition to AB 1208 (Calderon), which proposes to take a giant leap into fundamental issues of judicial branch governance which are more properly left to the judiciary itself. It would be as if the judicial branch were to delve into issues of legislative branch governance. We would not think this appropriate, and hope you agree.

Over the past 15 years, the judicial branch has undergone a significant and vital restructuring. We have changed from a “system” of loosely connected courts, to a single statewide branch of government. The goal of a statewide administration of justice was 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 and responsibility of superior courts to manage their day-to-day operations and provide for a decentralized system of trial court management. We are presiding judges of the courts in our respective counties, but we do not believe each court should operate in sealed off silos without consideration for the quality of justice delivered throughout the state. Lawyers practice statewide; litigants may have cases in multiple counties; parents move during the 18 years a child custody case may be in existence. There are fundamental decisions that must be made for the benefit of all Californians and all California courts. AB 1208 moves us away from those benefits of a statewide system. It threatens the uniformity and efficiencies of a statewide system that have improved the public’s access to justice.

Interestingly, AB 1208 is premised on the notion that the Judicial Council is “undemocratic,” and broader participation is needed in the decision making process of how to allocate crucial judicial branch funds. But AB 1208 takes decision making authority for funding key statewide technology and administrative infrastructure projects away from the Judicial Council, and puts it in the hands of as few as 2 or 3 courts. Even if the vast majority of courts wanted the council to direct funds to essential technology projects, like supporting, maintaining or updating the Phoenix Financial or Phoenix Human Resources systems, or fund the interim case management system that supports 15 smaller courts, 2 or 3 courts could simply veto it. That hardly seems like democratizing the process. This concept, and the language of the proposed statute itself, is unworkable and raises a myriad of complications:

Government Code section 77202(b)(3). [T]he Judicial Council, or its designee, shall not withhold or expend any portion of the total funds appropriated for trial court operations by the Legislature for any statewide information technology or administrative infrastructure program, including the California Case Management System, that was not identified in the annual Budget Act, unless the Judicial Council, or its designee, first obtains the written approval of 66 ⅔ percent of a proportional representation of all local trial courts. For purposes of this paragraph, proportional representation shall be calculated according to the number of judges in the superior court of each county as a percentage of the total number of judges authorized by Section 4 of Article VI of the California Constitution in all county superior courts statewide.

Furthermore, the Judicial Council currently has the authority to direct increased allocations, or mitigate the impact of budget reductions, to underresourced courts or courts with fiscal emergencies. The authority to address fiscal emergencies or provide additional support to courts that are historically underresourced is essential. This bill completely eliminates that option.

Please understand, we are not saying that there are no governance issues in the judiciary that need to be tackled. To the contrary, we feel strongly that there are issues that need to be addressed. We feel equally strongly, however, that the new Chief Justice has taken incredible strides to understand and to begin to address these issues, and that we, the judicial branch of California, must continue to be permitted to discuss and resolve them internally. Basic principles of comity between the three branches of government demand no less.

We thank you for your consideration of this letter, and urge you to vote NO on AB 1208.

Sincerely,

David L. DeVore
Presiding Judge
Superior Court of Alpine County

Stephen E. Benson
Presiding Judge
Superior Court of Butte County

Susan C. Harlan
Presiding Judge
Superior Court of Amador County

Jeffrey A. Thompson
Presiding Judge
Superior Court of Colusa County

Diana Becton
Presiding Judge
Superior Court of Contra Costa County

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Superior Court of Lassen County

William H. Follett
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Richard James Henderson
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William D. Lehman
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Superior Court of Modoc County

Dean Stout
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Stanley L. Eller
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Superior Court of Mono County

David W. Herrick
Presiding Judge
Superior Court of Lake County

Timothy P. Roberts
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Diane M. Price
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Christopher R. Chandler
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Vincent J. O'Neill, Jr.
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Superior Court of Ventura County

Richard Scheuler
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Superior Court of Tehama County

David Rosenberg
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Superior Court of Yolo County

Anthony C. Edwards
Presiding Judge
Superior Court of Trinity County

Debra L. Givens
Presiding Judge
Superior Court of Yuba County

*The Presiding Judge of this court is a member of the Chief Justice's Strategic Evaluation Committee, and in the interest of remaining impartial on issues of judicial branch governance, deferred the decision of whether to sign on to this letter to the Assistant Presiding Judge.