



## Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

[www.courts.ca.gov](http://www.courts.ca.gov)

---

# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 12, 2011

---

Title	Agenda Item Type
Judicial Council Legislative Priorities: 2012	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	December 12, 2011
Recommended by	Date of Report
Policy Coordination and Liaison Committee	November 2, 2011
Hon. Marvin R. Baxter, Chair	
Administrative Office of the Courts (AOC)	Contact
Office of Governmental Affairs	Curtis L. Child, 916-323-3121
Curtis L. Child, Director	<a href="mailto:curtis.child@jud.ca.gov">curtis.child@jud.ca.gov</a>

---

### Executive Summary

The Policy Coordination and Liaison Committee (PCLC) recommends that, consistent with the approach adopted for 2011, in which Judicial Council priorities focused primarily on budget and budget-related matters, that the Judicial Council adopt the legislative priorities for 2012 in the following order of priority: (1) budget, including advocating for a combination of solutions to restore a portion of previously reduced funding to the judicial branch and improve the ability of the branch to more effectively serve the public; (2) continuing to advocate opposition of Assembly Bill 1208, which seeks to significantly reduce the Judicial Council's authority and role in judicial branch governance; and (3) the continuing priority of securing new judgeships and ratifying the authority of the council to convert vacant subordinate judicial officer positions to judgeships in eligible courts.

### Recommendation

The PCLC recommends that the Judicial Council adopt the following legislative priorities for 2012, in the following order of priority:

1. Advocate for a combination of solutions to restore some of the funding eliminated from the branch budget in recent years, including General Fund restoration, legislation to implement cost savings and efficiencies, new revenue, and the use of existing revenue, including trial court fund balances, to restore services to the public and keep courts open. Delegate to the PCLC the responsibility for evaluating sponsorship of legislative proposals to advance judicial branch cost savings, new revenue, and operational efficiencies.
2. Continue opposition to AB 1208 (Calderon) and similar efforts to legislate fundamental judicial branch governance, lessen the role of the Judicial Council in determining the allocation of funds to trial courts, or reduce the council's role in ensuring the stability of and providing oversight over trial court operations.
3. Move forward with Assembly Bill 1405, legislation sponsored in 2011 (the first year of the current two-year legislative session), to create the third set of 50 new judgeships to be allocated consistent with the council's most recent Judicial Needs Assessment.
4. Advocate for the annual legislative ratification of the Judicial Council's authority to convert 16 subordinate judicial officer (SJO) positions in eligible courts to judgeships and sponsor legislation, similar to Senate Bill 405 in 2011 (Stats. 2011, ch. 705), for legislative ratification of the council's authority to convert up to 10 additional SJO positions to judgeships.

### **Previous Council Action**

Each year, the Judicial Council sponsors legislation to further key council objectives and set its priorities for the upcoming legislative year. For 2011, the council's legislative priorities focused mostly on budget and budget-related items. The council has taken a variety of actions over the past several years related to each of the above recommendations. Recent key actions in these areas include the following:

**Budget:** In December 2009 and December 2010, the council adopted as a key legislative priority for the following year, advocating to secure sufficient funding for the branch to allow the courts to meet their constitutional and statutory obligations and provide appropriate and necessary services to the public.

### **Judgeships and SJO conversions**

The council has acted repeatedly in recent years to authorize the sponsorship of legislation to secure the 150 most critically needed judgeships. The most recent action was taken by the council in December 2010, which led to the introduction of Assembly Bill 1405 (Judiciary Committee), which is still pending in the Legislature. The council also annually directs staff to take action to secure legislative ratification of 16 SJO conversions to judgeships, as authorized by Government Code section 69615. In December 2010, the council additionally directed staff to pursue legislation to secure ratification of the authority to convert 10 additional vacant SJO

positions to judgeships; such legislation, similar to the efforts for the 16 conversions, must be pursued annually.

### **AB 1208**

In 2010, the PCLC acted on behalf of the Judicial Council, as authorized by rule 10.12 of the California Rules of Court, to oppose AB 1208.

### **Rationale for Recommendation**

The mission of the Judicial Council includes providing the leadership for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice. Among the guiding principles underlying this goal is a commitment to meet 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 maintaining accountability to the public.

### **Budget**

The council has spent considerable time over the past several years discussing the impacts of budget cuts on the branch, redirecting resources to provide much needed support for trial court operations, advocating for new revenues and other permanent solutions, and looking for cost savings and operational efficiencies that would allow the courts to serve the public effectively with fewer resources. In July 2011, the council reviewed the 2011–2012 budget reductions to the branch, and made difficult decisions on how to allocate fiscal year 2011–2012 budget reductions throughout the branch and what resources could be used to lessen the impact of the \$350 million in ongoing reductions imposed by the enacted budget. As the July report to the council detailed, as a result of some of the one-time redirections and short term solutions, unless some funding is restored, the impacts of the reductions will be more severe in fiscal year 2012–2013.

Through several actions and requests, trial court presiding judges and court executive officers have submitted a variety of proposals for legislation that would result in cost savings, new revenues, and operational efficiencies. Along with restoration of some general fund reductions, these proposals need to be evaluated for their viability and ability to assist in reducing the impact of the budget reductions. The PCLC recommends that the council delegate to PCLC the responsibility for evaluating cost savings, revenue, and operational efficiency proposals for council sponsorship once staff has had an opportunity to review the many ideas submitted.

Additionally, the council should determine a mix of judicial branch funds that can be used to help offset the reductions while new revenues ramp up, General Fund restorations grow, efficiencies are implemented and begin to bear fruit, and the branch operationalizes whatever ongoing reductions remain. This must include statewide funds as well as trial court fund balances.

## **AB 1208**

In 2011, the Judicial Council, through the PCLC, opposed AB 1208 (Calderon), arguing that the bill would remove from the Judicial Council its responsibility and authority to allocate funds to trial courts in a manner that supports implementation of statewide policies and initiatives. The council further stated that AB 1208 removes the council's role of ensuring the stability of trial court operations and providing management or oversight over trial court budget and that it is an inappropriate intrusion into the fundamental governance of the judicial branch. The council recognized that the Legislature has authority relating to oversight of the judiciary but argued that AB 1208 went far beyond that role, instead dictating how the branch is to govern and manage itself. AB 1208 is a two-year bill, and the author is permitted to take the bill up on the Assembly floor in January. PCLC recommends that the Judicial Council continue its opposition to AB 1208 if brought forward in its current form or in a form that similarly affects the role of the Judicial Council and the governance of the branch, whether in AB 1208 itself, or another vehicle.

## **Judgeships and SJO conversions**

As part of its 2011 legislative priorities, the Judicial Council directed staff to seek legislation to secure the third set of 50 new judgeships. That legislation, AB 1405, was introduced by the Assembly Judiciary Committee, but because of the legislative and budget climate, was not moved forward. On October 29, 2010, the council received the 2010 Update of the Judicial Needs Assessment, which concluded that California has a shortage of 380 judgeships, a 16.2 percent shortfall of the total judicial need. Although the state's fiscal condition remains dire and funding for the branch must be the key priority, PCLC recommends that the council continue to pursue authorization for the third set of 50 judgeships.

Existing law allows the Judicial Council to convert a total of 162 subordinate judicial officer positions, upon vacancy, to judgeships. The statute caps at 16 the number that may be converted each year and requires the council to seek legislative ratification to exercise its authority to convert positions in any given year. For the past four years, the legislative ratification took the form of language included in the annual Budget Act. The council converted the maximum 16 positions in 2007–2008, 2008–2009, 2009–2010, and 2010–2011 and is on track to convert the full 16 in 2011–2012 as well. PCLC recommends that the council approve seeking legislative ratification for conversion of 16 subordinate judicial officer positions, on vacancy, in fiscal year 2012–2013. Additionally, in 2011, the council sponsored SB 405 (Stats. 2011, ch. 705) to secure legislative ratification of up to 10 additional SJO conversions, as authorized by Assembly Bill 2763 (Stats. 2010, ch. 690). That ratification must be sought each year in legislation outside of the budget process. PCLC recommends that the council sponsor legislation to accomplish these additional conversions as well.

## **Comments, Alternatives Considered, and Policy Implications**

In light of the continuing fiscal climate facing the state and the importance of focusing branch efforts almost singularly on the budget, staff considered not recommending seeking the third set of judgeships. The lack of judicial resources, however, is continuing to significantly impair the ability to deliver justice, and failure to move forward will only further deny Californians access

to justice. Although the impact has not been quantified, the lack of judicial resources and reduced access to the civil justice system is hurting California's economy, causing businesses to leave the state to find a place where their civil disputes can be addressed in a reasonable time.

### **Implementation Requirements, Costs, and Operational Impacts**

Adoption of these legislative priorities will allow AOC staff to advocate for increased funding and for a revision of existing mandates for which no funding is currently available.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The recommendations support many of the council's strategic plan goals, including Goal I, Access, Fairness, and Diversity, by seeking to secure funding to provide access to the courts for all Californians; Goal II, Independence and Accountability, by seeking to secure sufficient judicial branch resources to ensure accessible, safe, efficient, and effective services to the public and opposing efforts to interfere with the independence of the judiciary as a separate, co-equal branch of government; and Goal IV, Quality of Justice and Service to the Public, by seeking funding to continue critical programs to meet the needs of court users and ensure the continuing authority of the council to allocate resources in a manner that promotes implementation of statewide policies and guarantees equal access to courts.