



Judicial Council of California · Administrative Office of the Courts

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

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 13, 2013

Title

Judicial Workload Assessment: Updated
Workload Data and Allocation of New
Judgeships

Agenda Item Type

Action Required

Effective Date

December 13, 2013

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

November 15, 2013

Recommended by

Senate Bill 56 Working Group
Hon. Lorna Alksne, Chair

Contact

Leah Rose-Goodwin, 415-865-7708
leah.rose-goodwin@jud.ca.gov

Executive Summary

The Senate Bill 56 Working Group recommends that the Judicial Council review this report and consider the three options presented for allocating the next 50 judgeships to the trial courts. The chairs of the Executive and Planning Committee and the Policy Coordination and Liaison Committee requested that the SB 56 Working Group provide the Judicial Council with information on how the most recent judicial needs assessment, prepared in 2012, would change the allocation of judgeships compared to what was approved by the Judicial Council in 2007. The judgeships in question are commonly referred to as the “second 50” judgeships that were authorized, but not funded, through Assembly Bill 159 (Stats. 2007, ch. 722). Since the workload assessment and priority ranking list are also used for facilities planning, this report includes a discussion of the impact of using the most recent judicial needs assessment on upcoming facilities projects in the affected courts.

Recommendation

The SB 56 Working Group recommends that the Judicial Council review the information provided and consider adopting one of the three alternatives presented below for allocating the “second 50” judgeships:

1. *Alternative 1:* Adopt the allocation list based on the 2012 workload assessment;
2. *Alternative 2:* Give the Superior Court of Contra Costa County 1 of the second 50 judgeships and allocate the remaining 49 judgeships in the second 50 according to the 2012 workload assessment; or
3. *Alternative 3:* Retain the 2007 allocation list as the basis for allocating the second 50 judgeships.

Should Alternative 1 or 2 be adopted, the Judicial Council should request the Court Facilities Advisory Committee to make recommendations to the Judicial Council addressing how adoption of the new allocation affects the scope of capital outlay projects.

Previous Council Action

The judicial workload assessment methodology adopted by the Judicial Council has two primary components: determining the need for new judgeships in each court (assessed judicial need, or AJN) and developing a statewide prioritized or ranked list of new judgeships for allocation purposes.

The Judicial Council approved the judicial workload assessment methodology in August 2001 for determining the AJN in each court.¹ The ranking methodology was adopted by the Judicial Council in October 2001.

In August 2004, the Judicial Council approved a refinement of the model to use a three-year average of filings data to generate the AJN. Use of a three-year average stabilizes the model by smoothing out year-to-year fluctuations in the filings data. The same council report also laid out an allocation scenario for 150 judgeships that was used to allocate the 50 judgeships that were authorized and funded under SB 56 (Stats. 2006, ch. 390). These are generally referred to as the “first 50.”²

In February 2007, the Judicial Council approved a recommendation to update the 2004 allocation plan with new filings data in order to allocate the 50 judgeships (the “second 50”) that were

¹ <http://www.courts.ca.gov/documents/judneedsreview.pdf>

² <http://www.courts.ca.gov/documents/0804item6.pdf>

ultimately authorized (but that still have not been funded) by AB 159.³ A deviation was made to the allocation formula for the 2007 update to factor in the already approved long-range capital plans for construction of the Antioch courthouse (Contra Costa). Since those plans had moved forward with the site selection process and with approvals by the Legislature and the Governor's Office, the numbers for the Superior Court of Contra Costa County were fixed at the number established in the 2004 report. If the 2007 update had been used, the Contra Costa court would not have qualified for a new judgeship because their workload need had dropped.

Government Code section 69614(c) required that the Judicial Council start reporting biennially on the need for new judgeships in the superior courts, commencing with 2008.⁴ In its review of the 2008 report to the Legislature, the Judicial Council confirmed "the need for the Legislature to create the remaining third 50 judgeships on the priority list approved by the Judicial Council in 2007[,] approve[d] an updated priority ranking for 100 new judgeships beyond the 150 originally proposed by the Judicial Council, and direct[ed] staff to seek legislation and funding authoriz[ation] for these new positions."

That was the last time that a priority list was created. In 2010 and 2012, when the judicial needs assessment was updated per Government Code section 69614.1(c), the total statewide judicial need was calculated, but the priority list was not run.

The most recent judicial needs assessment was performed in 2012 and presented to the Judicial Council in October 2012. That assessment showed a statewide need for 314 judgeships (which includes the 50 authorized by AB 159).⁵ The needs assessment was based on filings from fiscal years 2008–2009 through 2010–2011.

Rationale for Recommendation

Methodology and process

The judicial needs assessment methodology uses filings data to determine assessed judicial need (AJN) and compares that to authorized judicial positions (AJP) to determine the need for new judgeships statewide and in each court. A ranking methodology is used to develop a prioritized list of courts with the greatest absolute and relative need.⁶

When the AB 159 judgeships were authorized by the Legislature, statute provided that they were to be allocated according to the Judicial Council–approved allocation list from February 2007 (based on filings data from fiscal years 2002–2003 through 2004–2005) (see Gov. Code, § 69614.2). While the allocation list was effectively codified in statute under the assumption that the judgeships would be funded immediately, the funding was never provided, and thus the

³<http://www.courts.ca.gov/documents/022307item9.pdf>.

⁴<http://www.courts.ca.gov/documents/100808item1.pdf>

⁵<http://www.courts.ca.gov/documents/jc-20121026-item2.pdf>

⁶ See: <http://www.courts.ca.gov/documents/stateassess.pdf>, particularly page 5.

judgeships could not be filled. Since then, growth or decline in filings and application of new caseweights approved by the Judicial Council in December 2011 to measure judge need have changed the apparent workload needs of the courts. Using the new calculations, some courts that would have received judgeships using the 2007 data would no longer be eligible if more recent data are used.

The table shown in Attachment A compares the 2007 and 2012 Judicial Needs Assessments to AJP in each court. Negative numbers in the “difference” columns indicate a court that needs judicial resources. Comparing the two difference columns demonstrates how measured workload need has changed over time for each court.

The ranking methodology used to prioritize courts in need of judgeships first evaluates whether courts show a need for judicial officers (those with a negative number in the “difference” column in the table in Attachment A). Next, the methodology ranks the courts based on both absolute need (total need) and relative need.⁷

Summary of findings

Attachment B compares the outcomes if the second 50 judgeships were allocated according to the schedule referenced in Government Code section 69614.2 or according to an updated ranking list using the 2012 Judicial Needs Assessment. The outcomes are compared to each court’s current judge need, or the difference between a court’s authorized positions (without the AB 159 judges) and its assessed judge need from the 2012 Judicial Needs Assessment. The courts that are shown in the table are those that would receive at least one judgeship under one of the two allocation scenarios.

Using an updated ranking list based on the most recent workload information would change the courts that would be slated to receive judgeships and, in some cases, the number of judgeships allocated to a particular court. Changing the ranking list for the second 50 judgeships also impacts court facilities projects that used the information in the February 2007 priority list referenced in Government Code section 69614.2.

Attachment B shows that if the ranking list were updated with more current data, the courts slated to receive judgeships would change in the following ways:

- Three courts would receive fewer judgeships because their workload has declined absolutely and/or relative to that of other courts (Fresno, Sacramento, and Tulare).
- Six courts that were slated to get judgeships under AB 159 would no longer receive one of those judgeships (Butte, Contra Costa, Del Norte, Madera, Monterey, and Yolo). If the 2012 Judicial Needs Assessment were used to generate a priority list for a third group of 50

⁷ See footnote 1 for a link to a more detailed explanation of the methodology.

judgeships, all of those courts, except for Contra Costa and Yolo, would receive one of those third 50 judgeships.

- Eight courts' allocations would remain the same.
- Five courts that were slated to get judgeships under AB 159 would receive more judgeships (+1 or +2) if the updated judicial needs assessment were used (Los Angeles, Orange, Riverside, San Bernardino, and Stanislaus).
- Four additional courts would get judgeships if the updated judicial needs assessment were implemented (Humboldt, Imperial, Sutter, and Ventura).

The judicial needs assessment is also used by the Judicial Branch Capital Program Office for facilities planning, and that office has prepared a memo summarizing the impact of using the 2012 Judicial Needs Assessment on pending facilities projects (Attachments C and D). Although the Department of Finance allowed the AOC to forecast needed space for new judgeships from both the authorized and unfunded second 50 and the not authorized and unfunded "third 50," the scope of the facilities impact in this report is limited to the second 50 judgeships to conform with the request of the Executive and Planning Committee and the Policy Coordination and Liaison Committee. It should be noted that some of the courts that would no longer be eligible to receive a new judgeship in the second 50 allocation if the 2012 needs assessment were used may be eligible to receive one in a future allocation.

Comments, Alternatives Considered, and Policy Implications

This report was prepared at the direction of the Executive and Planning Committee and the Policy Coordination and Liaison Committee and was not circulated for public comment.

The direction given by the Judicial Council was for the SB 56 Working Group to report on how the allocation list would change if the 2012 Judicial Workload Assessment were used, compared to what was approved by the Judicial Council in 2007. Within that framework, the Judicial Council can consider three alternatives:

Alternative 1: Adopt the allocation list based on the 2012 workload assessment. Alternative 1 would best reflect current workload need for judicial officers. The courts that would receive judgeships, and the number of judgeships received, are shown in the third column of table 2 (Attachment B). If this alternative is selected, the Judicial Council would need to seek legislation to amend Government Code section 69614.2 (see Attachment E) to reference using an allocation list based on the most recent judicial needs assessment.

Alternative 2: Give Contra Costa 1 of the second 50 judgeships and allocate the remaining 49 judgeships in the second 50 according to the 2012 needs assessment.

The Superior Court of Contra Costa County was grandfathered in to receive one of the second 50 judgeships in 2007 because it had a facilities project in process at the time. However, Contra

Costa's workload need no longer supports the need for a new judgeship. If Contra Costa received one of the second 50 judgeships, then the Superior Court of Riverside County would be allocated one fewer judgeship (eight instead of nine); the status of all other courts on the list would remain unchanged. If this alternative is selected, the Judicial Council would need to seek legislation to modify Government Code section 69614.2 (see Attachment E) to reference using an allocation list based on the most recent judicial needs assessment.

Alternative 3: Retain the 2007 allocation list as the basis for allocating the second 50 judgeships. This action would be consistent with Government Code section 69614.2. However, workload need in the courts has changed since the allocation list referenced in that code section was created, and using that list would mean that some courts that no longer need judgeships would be getting resources, whereas courts that need judgeships due to increased workload would not get needed resources.

When the working group met in October 2013 to discuss this item, it was suggested that if the council elected to pursue legislation to modify Government Code section 61614.2, the amendment should not tie to a specific date or specific allocation, but rather should refer only to an allocation based on the most recent judicial needs assessment.

Implementation Requirements, Costs, and Operational Impacts

If alternative 1 or alternative 2 were selected, the Judicial Council would need to amend Government Code section 69614.2, which currently references the judicial allocation list updated and approved by the Judicial Council in February 2007. And choosing one of these alternatives could impact some facilities projects in process if the projects are modified as a result of the new allocation schedule. For example, the allocation schedule in alternatives 1 and 2 would give a new judgeship to the Superior Court of Stanislaus County, and a courtroom would need to be added to the new Modesto courthouse, currently in acquisition, to accommodate the additional judgeship. The fifth column of table 3 (Attachment D) describes the facilities impacts in the affected courts should alternative 1 or 2 be selected.

Since alternative 3 would be choosing the status quo allocation list, there are no associated implementation costs. However, since some of the courts on the 2007 allocation list no longer have a need for a judge or need fewer judges, choosing alternative 3 would mean that some courts with greater judicial need based on more recent workload data would not get the resources they require.

Attachments

1. Attachment A: Table 1: Assessed Judgeship Need (2007 and 2012) Compared to Authorized Positions

2. Attachment B: Table 2: Comparison of Judgeships Allocated Using 2007 and Current Data
3. Attachment C: Memo to Judicial Council from Judicial Branch Capital Program Office
4. Attachment D: Table 3: Facilities Impact if 2012 Needs Assessment Used
5. Attachment E: Government Code Section 69614.2

Table 1: Assessed Judgeship Need (2007 and 2012) Compared to Authorized Positions

County	A Authorized Judicial Positions, no AB 159 judgeships*	B Assessed Judge Need 2007	C Assessed Judge Need 2012	D Difference (A-B)	E Difference (A-C)
Statewide	1,972.1	2,332.3	2,286.1	-360.2	-314.0
Alameda	85.0	83.5 ¹	80.0	1.5 ¹	5.0 ¹
Alpine	2.3	0.3 ¹	0.2	2.0 ¹	2.1 ¹
Amador	2.3	2.9 ¹	2.6	-0.6 ¹	-0.3 ¹
Butte	13.0	16.6 ¹	14.7	-3.6 ¹	-1.7 ¹
Calaveras	2.3	3.0 ¹	2.9	-0.7 ¹	-0.6 ¹
Colusa	2.3	1.8 ¹	1.6	0.5 ¹	0.7 ¹
Contra Costa	46.0	47.2 ¹	46.1	-1.2 ¹	-0.1 ¹
Del Norte	2.8	5.0 ¹	3.8	-2.2 ¹	-1.0 ¹
El Dorado	9.0	10.7 ¹	10.6	-1.7 ¹	-1.6 ¹
Fresno	49.0	74.7 ¹	61.6	-25.7 ¹	-12.6 ¹
Glenn	2.3	2.4 ¹	2.1	-0.1 ¹	0.2 ¹
Humboldt	8.0	9.8 ¹	10.2	-1.8 ¹	-2.2 ¹
Imperial	11.4	11.7 ¹	14.8	-0.3 ¹	-3.4 ¹
Inyo	2.3	1.9 ¹	1.7	0.4 ¹	0.6 ¹
Kern	43.0	59.6 ¹	57.8	-16.6 ¹	-14.8 ¹
Kings	8.5	11.4 ¹	11.7	-2.9 ¹	-3.2 ¹
Lake	4.8	5.9 ¹	5.2	-1.1 ¹	-0.4 ¹
Lassen	2.3	3.2 ¹	3.4	-0.9 ¹	-1.1 ¹
Los Angeles	585.3	609.7 ¹	626.4	-24.4 ¹	-41.1 ¹
Madera	9.3	12.6 ¹	11.4	-3.3 ¹	-2.1 ¹
Marin	14.5	12.0 ¹	11.7	2.5 ¹	2.8 ¹
Mariposa	2.3	1.1 ¹	1.6	1.2 ¹	0.7 ¹
Mendocino	8.4	6.9 ¹	7.7	1.5 ¹	0.7 ¹
Merced	12.0	20.2 ¹	19.0	-8.2 ¹	-7.0 ¹
Modoc	2.3	1.8 ¹	0.8	0.5 ¹	1.5 ¹
Mono	2.3	1.1 ¹	1.1	1.2 ¹	1.2 ¹
Monterey	21.0	26.5 ¹	23.6	-5.5 ¹	-2.6 ¹
Napa	8.0	8.4 ¹	8.9	-0.4 ¹	-0.9 ¹
Nevada	7.6	6.1 ¹	5.7	1.5 ¹	1.9 ¹
Orange	144.0	158.5 ¹	166.5	-14.5 ¹	-22.5 ¹
Placer	14.5	25.3 ¹	20.4	-10.8 ¹	-5.9 ¹
Plumas	2.3	1.9 ¹	1.6	0.4 ¹	0.7 ¹
Riverside	76.0	133.3 ¹	137.8	-57.3 ¹	-61.8 ¹
Sacramento	72.5	115.7 ¹	93.6	-43.2 ¹	-21.1 ¹
San Benito	2.5	3.4 ¹	3.4	-0.9 ¹	-0.9 ¹
San Bernardino	84.0	145.2 ¹	156.1	-61.2 ¹	-72.1 ¹
San Diego	154.0	159.4 ¹	158.9	-5.4 ¹	-4.9 ¹
San Francisco	65.0	64.7 ¹	59.4	0.3 ¹	5.6 ¹
San Joaquin	33.5	52.5 ¹	47.5	-19.0 ¹	-14.0 ¹
San Luis Obispo	15.0	17.5 ¹	17.1	-2.5 ¹	-2.1 ¹
San Mateo	33.0	33.1 ¹	33.8	-0.1 ¹	-0.8 ¹
Santa Barbara	24.0	25.3 ¹	24.8	-1.3 ¹	-0.8 ¹
Santa Clara	89.0	90.8 ¹	78.9	-1.8 ¹	10.1 ¹
Santa Cruz	13.5	15.6 ¹	14.7	-2.1 ¹	-1.2 ¹
Shasta	12.0	17.2 ¹	16.6	-5.2 ¹	-4.6 ¹
Sierra	2.3	0.4 ¹	0.3	1.9 ¹	2.0 ¹
Siskiyou	5.0	4.3 ¹	3.7	0.7 ¹	1.3 ¹
Solano	23.0	31.3 ¹	28.6	-8.3 ¹	-5.6 ¹
Sonoma	23.0	28.6 ¹	28.3	-5.6 ¹	-5.3 ¹
Stanislaus	24.0	36.5 ¹	36.1	-12.5 ¹	-12.1 ¹
Sutter	5.3	7.1 ¹	7.3	-1.8 ¹	-2.0 ¹
Tehama	4.3	5.8 ¹	5.8	-1.5 ¹	-1.5 ¹
Trinity	2.3	1.2 ¹	1.6	1.1 ¹	0.7 ¹
Tulare	23.0	34.6 ¹	28.4	-11.6 ¹	-5.4 ¹
Tuolumne	4.8	5.2 ¹	4.5	-0.4 ¹	0.3 ¹
Ventura	33.0	37.1 ¹	43.7	-4.1 ¹	-10.7 ¹
Yolo	12.4	15.9 ¹	12.3	-3.5 ¹	0.1 ¹
Yuba	5.3	6.8 ¹	5.4	-1.5 ¹	-0.1 ¹

* Has stayed unchanged since FY 2006-07.

Table 2: Comparison of Judgeships Allocated Using 2007 and Current Data

County	Total judgeships received if AB 159 authorized judgeships allocated	Total judgeships received if allocation schedule updated with 2012 Needs Assessment	Difference
Butte	1	0	-1
Contra Costa*	1	0	-1
Del Norte	1	0	-1
Fresno	4	2	-2
Humboldt	0	1	+1
Imperial	0	1	+1
Kern	3	3	0
Kings	1	1	0
Los Angeles	1	2	+1
Madera	1	0	-1
Merced	2	2	0
Monterey	1	0	-1
Orange	1	2	+1
Placer	2	2	0
Riverside	7	9	+2
Sacramento	6	3	-3
San Bernardino	7	9	+2
San Joaquin	3	3	0
Shasta	1	1	0
Solano	1	1	0
Sonoma	1	1	0
Stanislaus	2	3	+1
Sutter	0	1	+1
Tulare	2	1	-1
Ventura	0	2	+2
Yolo	1	0	-1
Total	50	50	

*Contra Costa was grandfathered in to receive one of the AB 159 judgeships for facilities planning purposes.



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS
JUDICIAL AND COURT OPERATIONS SERVICES DIVISION
455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date	Action Requested
November 12, 2013	For your review
To	Deadline
Members of the Judicial Council	N/A
From	Contact
Judicial Branch Capital Program Office	William J. Guerin, Director Judicial Branch Capital Program Office (415) 865-7510 william.guerin@jud.ca.gov
Subject	
Impact of Using the 2012 Judicial Needs Assessment on Pending Facilities Projects	

The Department of Finance (DOF) allowed the AOC to include space for new judgeships from the authorized and unfunded AB 159 and the unauthorized and unfunded next group of 50 needed judgeships in funding requests for proposed capital outlay projects. Space for new judgeships is the only growth planned for within the SB 1732 and SB 1407 capital projects. Staff studied the impact of using the 2012 allocation in lieu of the 2007 allocation and the key findings are provided below.

A total of six capital projects are affected by a change from the 2007 allocation to the 2012 allocation. The impacted projects are:

1. Butte—New North Butte County Courthouse (Chico): The new judgeship allocated in AB 159 would be eliminated in the 2012 allocation.

If the 2012 allocation is used, the new five courtroom courthouse in Chico may have an underutilized courtroom. This project is currently in the construction phase.

2. Imperial—New El Centro Courthouse: The Imperial court did not receive a new judgeship in the 2007 allocation but one new judgeship would be provided to the court in the 2012 allocation.

If the 2012 allocation is used, the scope of the four courtroom El Centro Courthouse will need to be changed to include one courtroom for the new judgeship. This project is currently in the schematic design phase.

3. Madera—New Madera Courthouse: The new judgeship allocated in 2007 would be eliminated in the 2012 allocation.

If the 2012 allocation is used, the 10 courtroom Madera Courthouse may have an underutilized courtroom. This project is currently in the construction phase.

4. Stanislaus—New Modesto Courthouse: The 2007 allocation for this court is two new judgeships; this would be increased to three new judgeships in the 2012 allocation.

If the 2012 allocation is used, the scope of the 26 courtroom Modesto Courthouse will need to be changed to include one additional courtroom for the additional new judgeship. This project is currently in the acquisition phase.

5. Sutter—New Yuba City Courthouse: The Sutter court did not receive a new judgeship in the AB 159 allocation, but one new judgeship would be provided to the court in the 2012 allocation.

The planning for this project, now under construction, included a courtroom for a new judgeship in the next group of unfunded 50 new judgeships. As a cost reduction directive by the Court Facilities Advisory Committee's Courthouse Cost Reduction Subcommittee, the tenant improvements for the new courtset for the new judgeship from the next group of unfunded new judgeships were removed from the project scope and the space will be left unfinished until funding is provided for a new judgeship.

If the 2012 allocation is used, Sutter would become eligible to receive a new judgeship, and a change order will be needed to add the tenant improvements for the unfinished courtset to the current project scope. This project is currently in the construction phase.

6. Yolo—New Woodland Courthouse: The new Woodland courthouse was designed to provide space for one new judgeship based on the 2007 allocation. In the 2012 allocation, the court would not receive any new judgeships.

If the 2012 allocation is used, the Woodland courthouse—the only courthouse in the county— may have an underutilized courtroom. This project is currently is in the construction phase.

Table 3: Facilities Impact if 2012 Needs Assessment Used

Court	Total judgeships received if AB 159 authorized, judgeships allocated	Total judgeships received if 2012 Needs Assessment used	Difference	Facilities Impact
Butte	1	0	-1	Project currently under construction; use of 2012 allocation would result in one extra courtroom in new Chico courthouse.
Contra Costa	1	0*	-1	No impact; plan had been to use existing vacant courtroom.
Del Norte	1	0	-1	No impact, plan is to use existing vacant courtrooms.
Fresno	4	2	-2	No impact, plan is to use existing vacant courtrooms.
Humboldt	0	1	+1	Need to find space in a modular or lease. Would need to change scope of new El Centro Courthouse to add a courtset; project is currently in schematic design.
Imperial	0	1	+1	
Kern	3	3	No change	
Kings	1	1	No change	
Los Angeles	1	2	+1	No impact, plan is to locate NJ in new Long Beach Courthouse or one of the many closed courtrooms in LA system.
Madera	1	0	-1	Use of 2012 allocation would result in one extra courtroom in new Madera courthouse; project is currently under construction.
Merced	2	2	No change	
Monterey	1	0	-1	No impact
Orange	1	2	+1	No impact, plan is to use closed Harbor Justice Center, Laguna Hills
Placer	2	2	No change	
Riverside	7	9	+2	No impact, plan is to locate at new Indio or new Hemet, or locate in an existing vacant courtroom.
Sacramento	6	3	-3	No impact, plan is to lease space so space need would be reduced.
San Bernardino	7	9	+2	No impact, plan is to locate at new San Bernardino or locate in an existing vacant courtroom.
San Joaquin	3	3	No change	
Shasta	1	1	No change	
Solano	1	1	No change	
Sonoma	1	1	No change	
Stanislaus	2	3	+1	Would need to change scope of new Modesto Courthouse to add a courthouse; project is currently in acquisition.
Sutter	0	1	+1	Would need to submit change order to add tenant improvements to shelled courtroom; project is currently under construction.
Tulare	2	1	-1	Use of 2012 allocation would result in one extra courtroom in new Porterville courthouse.
Ventura	0	2	+2	No impact, plan is to use existing vacant courtrooms.
Yolo	1	0	-1	There would be one extra courtroom in new Woodland courthouse; project is currently under construction.

* If the Judicial Council opted to grandfather in Contra Costa for one of the second fifty judgeships, this column would have a "1" and the difference column would show "0."

Attachment E

Government Code section 69614.2. Upon appropriation by the Legislature in the 2007-08 fiscal year, there shall be 50 additional judges allocated to the various county superior courts, pursuant to the uniform criteria described in subdivision (b) of Section 69614, as updated and approved by the Judicial Council on February 23, 2007.