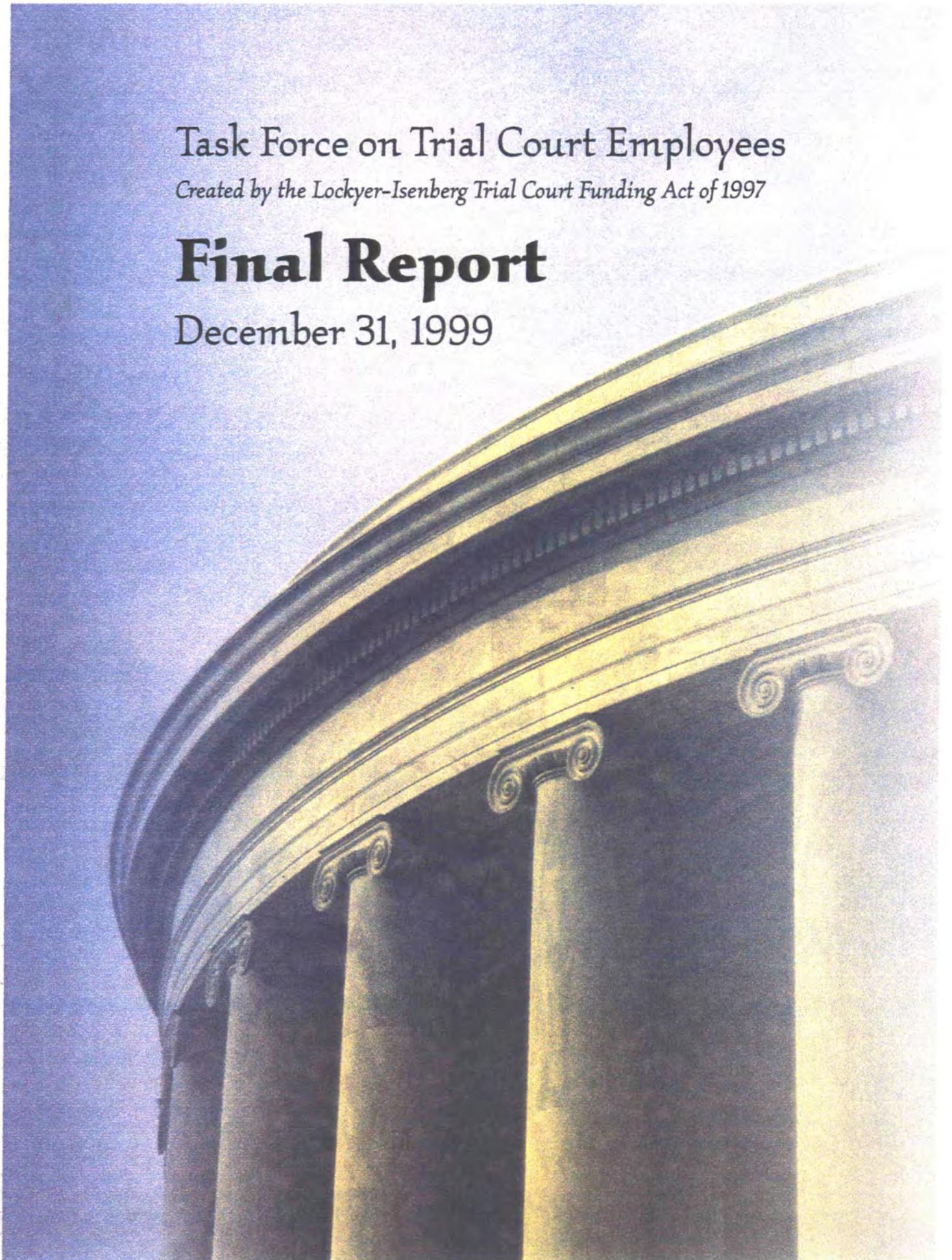


Task Force on Trial Court Employees

Created by the Lockyer-Isenberg Trial Court Funding Act of 1997

Final Report

December 31, 1999



**TASK FORCE ON TRIAL COURT
EMPLOYEES**

FINAL REPORT

December 31, 1999

TASK FORCE ON TRIAL COURT EMPLOYEES ROSTER

HON. JAMES A. ARDAIZ, Chair
Presiding Justice of the Court of Appeal
Fifth Appellate District

MS. PAMELA AGUILAR
Political and Field Legislative Director
American Federation of State, County and
Municipal Employees (AFSCME)

MS. BARBARA J. BARE
Deputy Marshal
San Diego County Marshal's Office

HON. AVIVA K. BOBB
Judge of the Superior Court of California
County of Los Angeles

MR. GARY CRAMER
Court Reporter
Los Angeles County Superior Court

HON. CHARLES D. FIELD
Judge of the Superior Court of California
County of Riverside

MS. KARLEEN A. GEORGE
American Federation of State, County
and Municipal Employees (AFSCME),
Council 36

MS. DIANE GIVENS
Judicial Clerk
Superior Court of California
County of San Francisco

MS. MARY LOUISE LEE
Service Employee International Union (SEIU)
Local 715

MR. RONALD G. OVERHOLT
Executive Officer
Superior Court of California
County of Alameda

MS. CHRISTINE PATTON
Executive Officer
Superior Court of California
County of Santa Cruz

MR. STEVE PEREZ
Board of Supervisors
Kern County

MR. CHARLES PLUMMER
Sheriff-Coroner
Alameda County

MR. JOHN SANSONE
County Counsel
San Diego County

MR. LARRY SPIKES
County Administrative Officer
Kings County

MR. ROBERT STRAIGHT
Program Budget Manager
Employee Compensation and Collective Bargaining
Department of Finance

MR. MIKE VARGAS
Program Manager
Classification and Compensation Division
Department of Personnel Administration

MR. ROBERT D. WALTON
Assistant Executive Officer
Governmental Affairs
Planning and Research
California Public Employees Retirement System

Administrative Office of the Courts Staff

MS. JUDITH A. MYERS
Principal Staff, Director, Human Resources Bureau

MS. EMMA ADARLO
Executive Secretary, Human Resources Bureau

MR. NATHAN BITTING
Administrative Coordinator, Human Resources Bureau

MS. DEBORAH BROWN
Attorney, Council and Legal Services Division

MR. RYAN GRIFFITHS
Administrative Coordinator, Human Resources Bureau

MR. PETER KIEFER
Manager, Court Program Services
Trial Court Services Division

MS. JACQUELINE L. MURPHY
Human Resources Analyst

TASK FORCE ON TRIAL COURT EMPLOYEES ROSTER

MS. NOEMA OLIVAS
Secretary, Human Resources Bureau

MS. CYNTHIA PASSON
Human Resources Analyst

MS. HAZEL ANN REIMCHE
Supervising Human Resources Analyst

MS. ELIZABETH SCHIFF
Senior Human Resources Analyst
Meeting Facilitator

MS. SHARON SMITH
Staff Analyst, Human Resources Bureau

MS. LINDA THEURIET
Supervising Court Services Analyst
Trial Court Services Division

Other Staff

MR. PETER KUTRAS, JR.
Deputy County Executive
County of Santa Clara

Consultant to Task Force

MR. DREW JAMES
William M. Mercer, Inc.

TABLE OF CONTENTS

	Page
Executive Summary	1
Part I	
Background and Introduction	6
Background and Statutory Mandate	6
Task Force Membership	7
Task Force Duties	7
Judicial Council Duties	8
General Assumptions	9
Timeline and Schedule	10
Part II	
Process for Development of Recommendations	12
Part III	
Definition of Trial Court Employee	16
Part IV	
Definitions of Employment Status Options: State, County, Court, and Other	21
Part V	
Employment Status and Governance Model	24
Part VI	
Components of a Personnel System:	31
The Recommended Models	
A. Classification and Salary	33
B. Meet and Confer	35
C. Employment Protection System	38
D. Employment, Selection, and Advancement System	44
E. Personnel File Access	46
F. Defined-Benefit Retirement Plan	47
G. Accrued Leave Benefits	48
H. Benefits	49
I. Retiree Group Insurance Benefits	52
J. Federally Regulated Benefits	55
K. Deferred Compensation Plan Benefits	57
L. Transition	60

Part VII	Development and Explanation of Trial Court Employee Personnel Structure	63
	A. Classification and Salary	65
	B. Meet and Confer	74
	C. Employment Protection System	87
	D. Employment, Selection, and Advancement System	108
	E. Personnel File Access	116
	F. Defined-Benefit Retirement Plan	119
	G. Accrued Leave Benefits	129
	H. Benefits	136
	I. Retiree Group Insurance Benefits	151
	J. Federally Regulated Benefits	164
	K. Deferred Compensation Plan Benefits	177
	L. Transition	191
Part VIII	Advisory Vote and Public Entity Poll	202
Part IX	Trial Court Employee Survey and Documentation	206
Part X	Ongoing Work of the Task Force	211
Appendix		

Executive Summary

EXECUTIVE SUMMARY

The Task Force on Trial Court Employees (the task force) was statutorily created by the Lockyer-Isenberg Trial Court Funding Act of 1997 (the Act) to make recommendations to the State Legislature for the establishment of a personnel system for the trial court employees of California. This report discusses the development of and the considerations behind the task force's recommendations for the various components of a personnel system for trial court employees that has "uniform statewide applicability."¹

Definition of Trial Court Employee

Although the Act (also commonly referred to as AB233) mandates that the task force design a new personnel system for trial court employees, nowhere in the statute is the term *trial court employee* defined. One of the first undertakings of the task force, therefore, was to establish a working definition of *trial court employee*. The task force's definition of this term can be found in **Part III** of this report, following the introduction (**Part I**) and information regarding the process the task force used in developing its recommendations (**Part II**).

Employment Status Definitions and Recommendations

The Act also requires that the task force recommend an employment status for trial court employees: state, county, court, or other. Just as the statute does not define *trial court employee*, it does not define any of these four employment status options. Thus, the task force created working definitions of the various employment status options.

In defining the employment status options, the task force assumed that any trial court structure would have to be consistent with the judicial branch of government and independent of the executive and legislative branches. Likewise, the task force assumed that state employment would be something different from trial court employment, which, in turn, would be different from county employment. Consistent with the legislation, all of the status options emphasized local trial court management and assumed a financing structure with the state as the principal financial source. The various employment status options as defined and considered by the task force are discussed in **Part IV**.

After considering all the employment status options and weighing their impact upon the various components of the recommended personnel structure, the task force unanimously recommends that trial court employees be court employees and have court employment status except for certain benefits, where they are

¹ Lockyer-Isenberg Trial Court Funding Act of 1997, § 77605(b).

specified and designated as county employees. A more complete discussion of the task force's recommendations regarding employment status can be found in **Part V** of this report.

Personnel System Components

Every government personnel system includes basic components such as classifications to describe job duties and minimum qualifications, salary guidelines to accompany those classifications, descriptions of employee protection policies (for example, at will, cause, and so on), benefit descriptions, and provisions for employee representation. The task force was charged with studying and making recommendations for these key personnel structure components. In making its recommendations, the task force concluded that broad directives were most appropriate, as detailed recommendations would involve policy decisions outside the purview of the task force.

The task force has written recommendations (which the task force refers to as models) for the following components of a new personnel structure for trial court employees: (1) classification, (2) salary, (3) meet and confer, (4) employment protection system, (5) employment, selection, and advancement system, (6) personnel file access, (7) defined-benefit retirement plan, (8) accrued leave benefits, (9) benefits: group insurance and other employer-provided benefits, (10) retiree group insurance benefits, (11) federally regulated benefits, (12) deferred compensation plan benefits, and (13) transition. The complete set of recommendations, which together with the employment status and governance model combine to form the new trial court employee personnel system, can be found in **Part VI** of this report.

As mentioned earlier, in formulating its recommendations, the task force first examined the impact of each component in relation to the various employment status options. The history of the development of the task force's preliminary recommendations and supporting considerations for each of the personnel structure components can be found in **Part VII**.

Common Assumptions and Objectives

Prior to formulating its recommendations for each component of the new personnel system for trial court employees, the task force identified working assumptions and objectives to serve as guidelines. Several of these assumptions and objectives are common to all of the recommended personnel component models.

Common assumptions include:

- State funding levels will not significantly change as a result of the new personnel structure;
- The new trial court employee personnel system will not result in changes to federal law; and
- Existing state law may require changes as a result of implementation of the trial court personnel system.

Common objectives include:

- Do not reduce the level of benefits of trial court employees as a result of the implementation of the trial court personnel system;
- Achieve a system with local flexibility; and
- Achieve a system with statewide applicability.

Advisory Vote

The Act requires the task force to “prepare a method for submitting the issue of employment status to an advisory vote of trial court employees in each county”² to determine employees’ preferences in relation to the different employment status options of state, court, and county. The task force originally planned to conduct the employee advisory vote before issuing its final report. However, because of the volume and complexity of issues that needed to be resolved prior to the final report, the task force realized it could not finalize its decisions on these issues in time to complete the vote in advance of the final report scheduled for release in December 1999. In keeping with its legislative mandate, the task force is recommending to the Legislature a method for conducting the employee advisory vote. More detailed information regarding the task force’s recommendations for the employee advisory vote can be found in **Part VIII**.

Trial Court Employee Survey and Related Documentation

To make informed recommendations regarding the most appropriate personnel structure for trial court employees, the Act requires the task force to conduct a survey of personnel and benefits systems currently in place in the trial courts. The survey had to obtain information on current trial court employees’ classifications, salaries, retirement benefits, health benefits, labor agreements, and other related data. **Part IX** of this report contains more specific information regarding the trial court employee survey. **Part IX** also discusses the task force’s duty to document existing statutory, constitutional, and other provisions related to classification,

² *Ibid*, § 77603(h).

compensation, and benefits of trial court employees (see **Appendix** for more specific information on these provisions).

Ongoing Work of the Task Force

While this report represents the final recommendations of the task force, two areas remain where the work of the task force will continue. These two areas are (1) drafting legislation and (2) education. The task force will continue to meet the first three months of 2000 to focus on these two issues. See **Part X** for more detailed information on the ongoing work of the task force.

General Conclusions

While it is important to read each section of this report to fully understand the task force's recommendations, some general assessments can be made regarding the task force's recommendations as a whole. In general, the task force recommends a new personnel system that:

- Achieves a system with local flexibility yet statewide applicability;
- Creates a system where state funding levels will not significantly change as a result of the new personnel structure;
- Designates trial court employees as court employees with court employment status, except for certain benefits where trial court employees are specified and designated as county employees;
- Maintains employees' current classifications and salaries upon implementation;
- Does not reduce the level of benefits of trial court employees as a result of the implementation of the trial court personnel system;
- Maintains local court control over budget and personnel decisions;
- Includes discipline for cause, progressive discipline, and specified evidentiary due process hearing procedures as part of all trial court employees' employment protection system, with certain exceptions (see Part VI.C, "Employment Protection System," for more detail);
- Includes an employment, selection, and advancement system based on merit as part of the new personnel system, with certain exceptions (see Part VI.D, "Employment, Selection, and Advancement System," for more detail);
- Provides for a preliminary procedure for relief on labor relations issues before petitioning the Court of Appeal;
- Does not alter the means by which memoranda of understanding or personnel policies, procedures, and plans related to trial court employees are modified; and

- Allows sufficient transition periods to implement the new system as smoothly as possible.

In summary, this report intends to inform the various interested individuals and entities as to the task force's recommendations for a new trial court employee personnel system. This report also discusses the considerations behind the task force's recommendations for a personnel system with uniform statewide applicability.

Part I. Background
and Introduction

PART I

BACKGROUND AND INTRODUCTION

This report contains the findings and recommendations of the Task Force on Trial Court Employees with respect to the issues listed in Government Code section 77603. This report outlines the framework of the recommended trial court employee personnel structure and provides information about how the task force developed its recommendations. This report is being distributed to the Governor, the Legislature, local and state employee organizations, the counties, and the judiciary.

Background and Statutory Mandate

For many years prior to 1997, trial courts sought an effective and stable financing system that would provide equal access to justice for all California citizens, regardless of the financial health of individual counties. On September 13, 1997, the California Legislature passed the Lockyer-Isenberg Trial Court Funding Act of 1997 (the Act) and established the state's primary responsibility for funding trial court operations. The Governor signed the bill into law on October 13, 1997.

The Act established a Task Force on Trial Court Employees to lay the foundation for a personnel structure for all trial courts of California. The task force is charged in the Act with "recommending an appropriate system of employment and governance for trial court employees."³ To recommend a personnel structure for trial court employees, the task force was responsible for studying key personnel components, including such issues as employment status; classification; salary; health, retirement, and other benefits; bargaining procedures; and functions performed by counties for the courts.

The Legislature stated its intent to adopt a plan to transition all existing court employees to an appropriate employment status, recognizing the state's assumption of trial court costs.⁴ Under the new funding structure, trial court employees' employment status is not clearly defined. Many employees think they are county employees, many think they are court employees, and still others think they have become state employees.

The Act mandates the task force, "[t]o consider providing courts in each county the option for employees to transition to the status of employees of the state, the local court or, with the concurrence of the county, continuation of the status as

³ Gov. Code, § 77600.

⁴ Lockyer-Isenberg Trial Court Funding Act of 1997, § 3(g), (2).

county employees. . . .”⁵ Thus, a key element of the task force’s charge is to recommend to the Legislature an employment status for trial court employees, whether it be state, court, county, or other. The task force unanimously recommends that trial court employees be court employees and have court employment status except for certain benefits where they are specified and designated as county employees.

Task Force Membership

The Act created an 18-member task force and specified the terms of its membership. As indicated specifically by the Act,⁶ the membership is as follows:

- Four representatives of the trial courts, appointed by the Chief Justice, representing two urban, one suburban, and one rural court;
- Four representatives of counties, appointed by the Governor from a list of nominees submitted by the California State Association of Counties;
- Three representatives appointed by the Senate, of which two represent trial court employee organizations;
- Three representatives appointed by the Speaker of the Assembly, of which two represent trial court employee organizations;
- The Director of the Department of Personnel Administration, or a designee;
- The Chief Executive Officer of CalPERS, or a designee;
- The Director of Finance, or a designee; and
- An appellate court justice to serve as a nonvoting chair.

The Judicial Council of California, Administrative Office of the Courts (AOC), is designated in the Act to provide staff support to the task force.⁷ The Judicial Council of California, chaired by the Chief Justice, is a constitutionally created body that provides policy direction to the courts. The Judicial Council also acts in conjunction with the Governor and state Legislature on legislation regarding court practices, administration, and procedures. The AOC is the staff agency for the Judicial Council and provides staff support to the task force. The California State Association of Counties and the Legislative Analyst have provided additional staff support to the task force.⁸

Task Force Duties

The Act mandates that the task force perform the following duties:⁹

⁵ Gov. Code, § 3 (g) (3).

⁶ Gov. Code, §§ 77601(a), (h).

⁷ Gov. Code, § 77602.

⁸ *Ibid.*

⁹ Gov. Code, §§ 77603(a), (i).

- Complete a survey of trial court employee status, classification, and salary;
- Document local retirement systems and identify future retirement options;
- Determine the costs of changes in retirement benefits, including the impact of change on pension obligation bonds, unfunded liabilities, actuarial assumptions, and costs to counties;
- Document existing contractual agreements and bargaining agents;
- Document existing constitutional, statutory, and other provisions relating to the classification, compensation, and benefits of court employees;
- Identify functions relating to trial courts that are provided by county employees;¹⁰
- Examine and outline issues relating to various options for employment status (county, court, state, and other);
- Prepare a method for submitting the issue of employment status to an advisory vote of trial court employees; and
- Recommend a personnel structure for trial court employees.

To fulfill its charge, the task force considered the variation in and diversity of personnel systems in California trial court systems, including differences in retirement systems, benefits, status, and local personnel issues. In making its recommendations, the task force took into consideration the needs of the entire court system, including 226 municipal court judges, 1,254 superior court judges, and approximately 18,000 court employees in 98 courts in 58 counties, each court system having a different classification system, different salaries, different benefits, different retirement systems, and different memoranda of understanding.

A major objective of the task force was to minimize the disruption of the trial court workforce and protect rights accrued by employees under their current systems. The legislative intent that no provision of the Act should reduce the salaries or benefits of trial court employees was a guiding principle in shaping the recommendations of the task force.¹¹

Judicial Council Duties

The Act specifies that the Judicial Council, after giving consideration and due weight to the report of the task force, submit findings and recommendations to establish a system of uniform court employee classifications, which may provide for local flexibility.¹² After considering the recommendations of the task force, the Judicial Council will create broad classifications that provide courts and employees with maximum flexibility.

¹⁰ The task force interprets the Act to mean county employees who are not court employees.

¹¹ Lockyer-Isenberg Trial Court Funding Act of 1997, §§ 3(g), (1).

¹² Gov. Code, § 77605(a).

General Assumptions

The task force has interpreted the Act to mean that it must create a broad policy framework for the trial court personnel system, while refraining from entering into local administrative decisions, state budgetary decisions, and recommendations regarding individual employees. Although not specified in the Act, the task force operated under the following general assumptions:

- Task force actions and recommendations apply only to employees who meet the task force definition of trial court employee. It is not within the purview of the task force to submit recommendations regarding non-trial court employees.
- The survey of trial court employees should collect data about benefits because benefits are a basic tenet of any personnel structure. The Act specifies the intent that trial court employees' salaries and benefits should not be reduced as a result of the Act;¹³ therefore, an accounting of current benefits must be completed and analyzed.
- State funding contribution levels should not significantly increase as a result of the trial court personnel structure.
- The State of California will not delegate its authority to set budgetary levels for the courts. The task force agreed that any budgetary increases must be approved through the state budget process, and such matters are not within the scope of the task force's mandate.
- It is not within the legislative mandate of the task force to make recommendations regarding items that involve specific state budgetary actions, including the number of employees needed.
- Counties are not obligated to cover court operating costs under the Lockyer-Isenberg Trial Court Funding Act of 1997. County funding obligations (County General Fund Base Amount) for trial court operations are capped at fiscal year 1994–1995 levels, reduced, or no longer required.¹⁴
- The judicial branch is independent from the personnel systems governing employees of the executive and legislative branches of state and local government. When forming recommendations for the development of a trial court employee personnel structure, task force discussions were conducted within the context of the separation of powers doctrine.
- The implementation of the trial court employee personnel system shall not reduce the retirement or other benefits, or contribution levels, of current trial court employees.
- The trial courts will operate under a decentralized system of trial court management, which ensures local authority and responsibility of trial courts to

¹³ *Ibid.*

¹⁴ Gov. Code, §§ 77200–77201.

manage day-to-day operations.¹⁵ The task force developed its policy recommendations consistent with the concept in the Act that trial courts will retain local management and operational control.

- Current personnel systems vary substantially among trial courts; these variations can continue to exist under the new system. The task force determined that a “one size fits all” structure would not be effective and instead fashioned uniform broad policies that trial courts can operate within.
- Statutory changes will be required as a result of the implementation of the trial court personnel system; federal and constitutional changes are not anticipated.

Timeline and Schedule

The Act specified the time frame for the work of the task force.¹⁶ Although the Act legislated that the task force members be appointed by October 1, 1997, and begin their work prior to January 1, 1998, all appointments were not completed until May 1998. The task force therefore held its first meeting in June 1998.

The task force staff requested from the President Pro Tempore of the Senate and the Speaker of the Assembly a revised schedule for the completion of the interim and final reports. This revised schedule projected that the task force would submit its final report by September 3, 1999, and that the Judicial Council would submit its classification findings and recommendations to the Legislature by January 1, 2000.¹⁷

The task force’s first interim report, issued in May 1999, reflected the work of the task force up to that date. By May 1999, however, the task force had not yet completed its draft recommendations for several components of the new personnel system. Many of those who commented on the first report stated that they would like an opportunity to comment on the *entire* set of recommendations. Therefore, the task force decided to distribute a second interim report prior to issuing its final recommendations. The decision to publish a second interim report triggered a third extension to the task force’s timeline. During the first quarter of 2000, the task force will meet as needed to review draft legislation prior to its submission to the Legislature. The timeline ultimately used by the task force is presented here.

¹⁵ Gov. Code, § 77001(a).

¹⁶ Gov. Code, §§ 77604(c), (d), and 77605(a), (b).

¹⁷ Gov. Code, § 77005(a). “These classifications shall include duty statements, minimum qualifications, and salary ranges.”

Revised Timeline

05-07-98	Task Force Appointed
06-04-98	Task Force Met and Established Operating Procedures
05-07-99	Task Force Submitted Interim Report
10-31-99	Task Force Submitted Second Interim Report
12-31-99	Task Force Submitted Final Report
01-31-00	Judicial Council Will Submit Classification Findings and Recommendations to the Legislature
01-01-00 through 03-15-00	Task Force Continues to Meet to Review Draft Legislation

PART II

PROCESS FOR DEVELOPMENT OF RECOMMENDATIONS

Background

As specified by the statute, the Task Force on Trial Court Employees is composed of members from across the state who represent the interests of key stakeholder groups. As indicated earlier, this diverse group includes representatives from the trial courts (judges, administrators, and labor representatives), the counties, the Department of Finance, the Department of Personnel Administration, and the Public Employees Retirement System.

Given the varying interests represented by the task force members, the group needed to establish a meeting structure that allowed all members an opportunity to voice their different perspectives. The meeting structure also needed to ensure that no one faction dominated the outcome of group decisions. Additionally, it was important that the wide range of constituents represented by task force members be kept apprised of the group's ongoing work. To this end, the task force established several channels of communication to give constituents as much information and access to the task force's work as possible.

Based on meeting discussions and consideration of input from its public constituencies, the task force developed its recommendations for a new trial court employee personnel system. Detailed descriptions of the task force's meeting and decision-making processes, methods of communicating with its public, and process used in developing its recommendations are presented here.

Meeting Process and Decision Making

To accomplish its charge, the task force held monthly meetings. As mentioned, the group required a meeting process that ensured that the various needs of the diverse representatives were taken into account. To meet these needs, the task force adopted several consensus-based governance procedures. Most notable are two key decision-making processes, described here.

Decision Making During Meetings

As the need to reach a decision arose during a task force meeting, the group followed the process outlined here:

- First, determine whether there is consensus on the issue.
- If there is not full consensus among group members, discussion continues until the group:
 - Reaches consensus; or

- Concludes that further discussion will not produce consensus.
- The group may decide that further research is needed before members can reach a decision on that particular issue. Following further research, the new information is shared with the group, and once again there is an attempt to reach consensus.
- If, after further discussion, still no consensus can be reached, the default process is majority vote.

Decision Making Outside of the Meetings

Occasionally, logistics required that the task force move forward with certain decisions in between monthly meetings. To ensure that a consensus-based approach was maintained outside of the meetings, the following model was adopted by the group:

- Members are notified of a proposed decision or course of action.
- Members are then asked to respond by a specific date.
- If there are no objections or counterproposals, the decision is made or the action is taken.
- Minor changes are incorporated as appropriate, but major objections are brought to the entire group.

Communication with the Public

From the beginning, the members of the task force were extremely cognizant of the fact that their actions and final decisions will have an impact on many constituent groups, especially the approximately 18,000 trial court employees. To establish ongoing communication with its audience, the task force established several channels of communication, described here.

Public Comment and Observation

Each month, the task force held public meetings in a different location around the state to allow interested parties from a wide geographic range an opportunity to present their perspectives to the task force. At the beginning of each monthly meeting, 30 minutes were dedicated to public comment. Any interested party who wanted to address the task force could do so. If this designated time slot was not convenient, a member of the public could request an alternative time by contacting task force staff prior to the upcoming meeting. Members of the public were welcome to observe the task force's monthly public meeting.

Court and County Visits by the Chair and Staff Project Leader

Upon request, the chair of the task force, Justice James A. Ardaiz, and the staff project leader of the task force, Ms. Judith A. Myers, met with specific courts or groups of court employees to address questions regarding the work of the task

force. Justice Ardaiz and Ms. Myers met with numerous groups of court employees, court administrators, and presiding judges across the state. They also made presentations to the Task Force on Trial Court Facilities, the Mid-Level Court Management Conference, the California Judicial Administration Conference, and other interested groups.

Web Site

Since August 1998, the task force has maintained a Web site designed for public access. Upon its creation, an announcement about the Web site was sent to all court administrators, encouraging them to distribute the announcement to their employees. The task force Web site contains general background information about the task force. The Web site also includes meeting minutes and draft working documents approved by the task force. The Web site address is <http://www2.courtinfo.ca.gov/tcemployees>.

E-Mail

Members of the public were welcome to address questions and comments to the task force via e-mail. Task force staff distributed these questions and comments to all members of the task force. Although individual responses from the task force were not logistically feasible, the staff posted typical responses to frequently asked questions on the Web site. The e-mail address is tcemployees@courtinfo.ca.gov.

Development of Recommendations

The Act charged the Task Force on Trial Court Employees with recommending a personnel structure for trial court employees. The task force developed sets of recommendations, referred to as models, for each component of the new trial court employee personnel structure.

In developing each model, the task force followed a similar procedure, which consisted of the following process. Before beginning work on the model, the task force established working definitions of important terms to ensure that the meaning and scope of the item was clear to all members. The task force then identified and discussed any issues relating to the topic. The task force also often received education about the specific topic. Next, the task force identified assumptions or principles underlying the topic that might guide the model development. The task force articulated its objectives or basic approaches in designing the model before creating the model.

Each model required an average of three months to complete, from definition and issue identification to final adoption of the model. Once each model was adopted, it was posted on the Web site. The task force then tested the models against the various definitions of working status options (state, county, and court) to identify

any issues that needed further examination and to consider the impact of the models under each employment status option.

Process Conclusions

The processes used by the task force in its meeting structure, decision making, communication with the public, and model development represent a significant investment of time and effort by the task force. While time consuming, these methods enabled the task force to reach its objectives in a manner that met the concerns of its diverse constituency. Over the course of close to 20 meetings and many decisions, the task force consistently managed to reach consensus on almost all issues. In fact, all of the task force's final trial court employee personnel system recommendations were unanimously adopted without dissent.

Part III. Definition of
Trial Court Employee

PART III

DEFINITION OF TRIAL COURT EMPLOYEE

Background

Early in the process, the Task Force on Trial Court Employees determined that it would need to develop a definition of a trial court employee to clarify to whom the new personnel system recommended by the task force would apply. Specifically, the task force needed to determine:

- Who are the employees of the trial court who will be included in the classification, benefit, and salary systems established by the Legislature?
- When a decision is made regarding the status of trial court employees, who will that decision affect?

The task force also recognized that a definition would be necessary both to assist the courts and counties in identifying who should be included in the survey of trial court employees and to identify who should participate in an advisory vote of trial court employees.

The task force first received education on the legal definitions of an employment relationship and the control tests used by various agencies to differentiate between employees and independent contractors.

The task force decided that it should not identify court employees by the function performed because a function performed in one court by a court employee might, in another court, be performed by a county employee and, in another, by an independent contractor. The task force does not intend to change the status of any individual performing a function or service for the court. Only those employees who meet the definition of a trial court employee will be covered by the new personnel system. The definition of a trial court employee adopted by the task force focuses on individuals who meet two specific tests of an employment relationship: (1) those individuals who are included in the court's budget, and (2) those individuals whose manner and means of work are within the control of the court.

Survey Definition of Trial Court Employee

The task force initially developed a definition of a trial court employee for the purposes of the survey to be conducted of all trial court employees. The definition was needed to inform the courts and counties completing the survey about whom they should provide data. The task force decided to be more inclusive than might ultimately be necessary to ensure that the survey collected the necessary data without the need to return to seek more information from the courts and counties. The definition used for the purposes of the survey is presented here.

Survey Definition of Trial Court Employee**Definition:**

If questions (A) and (B) are both answered yes, the individual is a court employee for the purposes of this survey. If either question (A) or (B) is answered no, the individual is not a court employee for the purposes of this survey.

- A. Is the individual paid from the court's budget,¹⁸ regardless of funding source?
- B. Does the court¹⁹ have the right to control the manner and means of the individual's work?

For purposes of this survey, the court's right to control the manner and means of the individual's work means that the court has the authority to hire, supervise,²⁰ discipline,²¹ and terminate the individual. The court's authority to hire, supervise, discipline, and terminate the individual need not be exclusive and may be shared with other entities, including county personnel offices and agencies with statutory or licensing authority.

This definition excludes (a) temporary employees hired through agencies; (b) jurors; (c) individuals hired by the court pursuant to an independent contractor agreement; (d) individuals for whom the county or court reports income to the Internal Revenue Service on a Form 1099 (rather than a Form W-2) and therefore does not withhold employment taxes; and (e) judges, either elected or appointed.

This definition includes subordinate judicial officers (for example, pro tem judges, commissioners, and referees, including referees appointed pursuant to California Code of Civil Procedure sections 638 and 639).

¹⁸ For purposes of this survey, *court's budget* is defined as funds from which the presiding judge of the court, or his or her designee, authorizes and directs expenditures. Funds include local revenue, all grants, and trial court operations funds (Trial Court Funding Act, AB 233, Gov. Code, § 77009(b)).

¹⁹ For purposes of this survey, *court* includes judges in their individual or collective capacity, or their appointees, who are vested with the authority to hire, supervise, discipline, and terminate.

²⁰ For purposes of this survey, *supervise* is defined as the authority to plan, direct, control, and evaluate the work of an employee.

²¹ For purposes of this survey, *discipline* is defined as a procedure such as reprimand, demotion, suspension, or reduction in pay that corrects or punishes a subordinate's behavior, such as behavior that results in poor work performance, low productivity, or violation of agency rules or regulations.

If the preceding definition excluded the following functions or groups, the survey collected available information from the court administrator on titles, duties, rate of pay, qualifications, and group insurance benefits:

- Court security officers (the survey also collected retirement information on this group);
- Court interpreters;
- Court reporters; and
- Electronic recording monitors.

Development of Final Definition of Trial Court Employee

The preliminary definition was developed for use only in the survey. The survey requested data on individuals performing certain functions for the court to provide the task force with as much information as possible about traditional court functions such as court reporting and court security. However, some of the individuals included in the survey did not meet the control test that defines an employment relationship because they are independent contractors or employees of another entity. Therefore, the task force reviewed and narrowed the definition of trial court employees to include only those individuals who are truly employees of the court and not independent contractors or employees of another entity. Only individuals who meet the definition of a trial court employee will participate in any advisory vote that may be taken in the future (see Part VIII). The new personnel system adopted by the Legislature will apply only to employees described by this definition. The final definition of a trial court employee is presented here.

Final Definition of Trial Court Employee**Definition:**

An individual is a trial court employee if:

- A. The individual is paid from the court's budget, regardless of the funding source; and
- B. The court has the right to control the manner and means of the individual's work, which means that the court has the authority to hire, supervise, discipline, and terminate the individual.²²

If both (A) and (B) are true, the individual is a trial court employee regardless of classification or whether or not the function performed is identified in rule 810 of the California Rules of Court. If either statement (A) or (B) is not true, the individual is not a trial court employee.

Specific Inclusions and Exclusions:

This definition includes those subordinate judicial officers, that is, commissioners and referees, who meet this definition.

This definition excludes (a) temporary employees hired through agencies; (b) jurors; (c) individuals hired by the court pursuant to an independent contractor agreement; (d) individuals for whom the county or court reports income to the Internal Revenue Service on a Form 1099 (rather than a Form W-2) and therefore does not withhold employment taxes; and (e) judges, either elected or appointed.

Definitions of Terms:

- *Court's budget* is defined as funds from which the presiding judge of the court, or his or her designee, authorizes and directs expenditures. These funds include local revenues, all grants, and trial court operations funds (Lockyer-Isenberg Trial Court Funding Act of 1997, Government Code section 77009(b)).
- *Court* is defined as judges, or their appointees, who are vested with or delegated the authority to hire, supervise, discipline, and terminate.
- *Supervise* is defined as the authority to plan, direct, control, and evaluate the work of an employee.
- *Discipline* is defined as a procedure such as a reprimand, demotion, suspension, reduction in pay, or termination that corrects or punishes a subordinate's behavior, such as behavior that results in poor work performance, low productivity, or violation of agency rules or regulations.

²² The court's process and procedure for hiring, supervising, disciplining, and terminating the individual may have involved other entities, including county personnel offices and agencies with statutory or licensing authority.

Considerations: Final Definition of Trial Court Employee

Since the task force is defining court employees not based on function performed but by employment relationship, there are classes of individuals who perform services for the court who may or may not be court employees under this definition. For example, in some courts, court reporters or court interpreters may be court employees; in others, they may be independent contractors. The task force recognizes that employment relationships may change, and that functions currently performed by independent contractors may be performed by employees in the future. The task force is neither recommending nor precluding future changes in employment relationships.

Part IV. Definitions of
Employment Status Options

PART IV

DEFINITIONS OF EMPLOYMENT STATUS OPTIONS: STATE, COUNTY, COURT, AND OTHER

Background

The Act specified that the duties of the Task Force on Trial Court Employees include the examination and outlining of issues relating to the establishment of a local personnel structure for trial court employees under:

- Court employment;
- County employment, with the concurrence of the county and the courts in the county;
- State employment, with the concurrence of the state and the courts in the county; or
- Other options identified by the task force.²³

The Act did not define these status options. For example, it did not define whether court employment meant a single trial court employer or 58 independent trial court employers. It did not define whether state employment meant state judicial branch employment or some other form of state employment, such as employment in the executive branch, the California State University system, or the University of California system.

Since the legislation specified that the task force could consider state, county, and court status options, the task force concluded that these status options should be defined and should be clearly different from each other.

Employment Status Definitions

The task force developed working definitions of the state, county, and court employment status options to use in designing personnel system models that would apply under each status option. These employment status definitions describe the employment status, hire and fire authority, and meet and confer processes, as well as the final authority for determination of economic and noneconomic benefits under the state, county, and court employment options. Under each employment status definition, the term *state-supported* means financially supported by the state. The task force also used these definitions to identify and consider issues under each employment status option in making its final recommendations to the Legislature.

²³ Gov. Code, § 77603(g).

State employment was defined by the task force as state judicial branch employment as opposed to some other type of state employment, since the trial courts are part of the judicial branch of government and subject to the California Rules of Court adopted by the Judicial Council. This employment status definition is not part of the existing state judicial branch but rather describes a separate state trial court system, with independent local management and local labor relations.

County employment was defined as employment in a state-supported county personnel structure in which employees are part of the county personnel system. This employment status may have existed in some courts prior to the passage of the Act, with the exception of the change to state responsibility for the financing of court operations. The county employment status option does not necessarily include all elements of what is normally considered county employment status. This is because such a county model would conflict with the Trial Court Funding Act's emphasis on local court financial control and local court management as well as trial court labor relations laws and rules.

Court employment was defined as employment in an independent court structure separate from the state and the county. This employment status definition results in an independent court that is responsible for developing its own personnel policies and procedures but that has the option to establish policy, salary, and benefit structures comparable to its county's system, subject to meet and confer, where applicable.

The task force did not identify an "other" status option.

The task force developed a matrix to display its working definition of each employment status option. (See Exhibit IV-1, which follows.)

After examining and outlining issues relating to the establishment of a local personnel structure for trial court employees under each of these employment status options, the task force concluded that the court employment status option was the most appropriate employment status option and best met the criteria set forth in the Trial Court Funding Act of 1997. Therefore, it is recommending establishment of a trial court employment status and governance structure that is described in detail in Part V of this report.

**Exhibit IV-1:
Working Employment Status Definitions**

The charge of the task force as outlined in Assembly Bill 233, article 1, section 77603(g), is to examine and outline issues relating to the establishment of a local personnel structure for trial court employees under:

- (1) Court employment;
- (2) County employment, with the concurrence of the county and the courts in the county;
- (3) State employment, with the concurrence of the state and the courts in the county; or
- (4) Other options identified by the task force.

	State	Court	County
	A state-supported court personnel structure with local trial court administration	A state-supported trial court personnel structure with local trial court administration (baseline)	A state-supported county personnel structure with local trial court administration
Employment Status	Employees working for the trial court are state judicial branch employees.	Employees working for the trial court are trial court employees.	Employees working for the trial court are county employees.
Hire/Fire Authority	The courts have hire/fire authority, subject to statewide judicial branch and local trial court personnel rules and memoranda of understanding, as applicable.	The courts have hire/fire authority, subject to local trial court personnel rules and memoranda of understanding, as applicable.	The courts have hire/fire authority, subject to county and local trial court personnel rules and memoranda of understanding, as applicable.
Meet and Confer	Employees negotiate with the local trial court administration with the involvement of the state judicial branch (the state determines the state funding level).	Employees negotiate with the local trial court administration (the state determines the state funding level).	Employees negotiate with the county and local trial court administration (the state determines the state funding level).
Final Authority for Determination of Economic/Noneconomic Benefits	The court, with the involvement of the state judicial branch, determines the economic and noneconomic benefits.	The court determines the economic and noneconomic benefits.	The board of supervisors and the court jointly determine the economic and noneconomic benefits.

Part V. Employment Status and
Governance Model

PART V

EMPLOYMENT STATUS AND GOVERNANCE MODEL

Background

The Trial Court Funding Act of 1997 charged the Task Force on Trial Court Employees with recommending an appropriate system of employment and governance for trial court employees. The task force was asked to examine and outline issues relating to the establishment of a local personnel structure for trial court employees under three status options (court, county, and state) and any other status option identified by the task force. The legislation required the task force, in recommending options for employee status, to consider the complexity of interests of employees and various governmental entities and, to the greatest extent possible, recognize the need for achieving the concurrence of the affected parties. The legislation specified that consideration must be given to contractual obligations, minimizing disruption of the trial court workforce, and protecting the rights accrued by employees under their current systems as well as ensuring that court employee salary and benefits are not reduced as a result of implementation of the new personnel system. The legislation acknowledged the authority and responsibility of the trial courts to manage local personnel systems. The Legislature also declared its intent to enact a personnel system for trial court employees that recognizes the state assumption of trial court costs, has uniform statewide applicability, and promotes organizational and operational flexibility.

Assumptions and Objectives: Status and Governance

The task force developed assumptions and objectives as follows:

Assumptions:

1. State funding levels will not significantly increase as a result of the implementation of the trial court employee personnel system.
2. The model assumes no changes in current federal law.
3. The State will assume trial court costs.
4. Trial courts have local authority and responsibility to manage their local personnel systems.
5. A personnel system will be recommended that shall have uniform statewide applicability and promote organizational and operational flexibility.
6. The task force duties include examining and outlining issues relating to the establishment of a local personnel structure for trial court employees under the employment status options of court, county, and state, or other options identified by the task force, and recommending a personnel structure for trial court employees.

Objectives:

- A. The employment status will effectively support the implementation of the trial court employee personnel system recommended by the task force.
- B. The employment status will:
 - Recognize state assumption of trial court costs;
 - Ensure that employee salary and benefits are not reduced;
 - Recognize local authority and responsibility of trial courts to manage local personnel systems;
 - Consider the complexity of interests of employees and governmental entities;
 - Recognize the need for achieving concurrence of the affected parties;
 - Give consideration to contractual obligations, minimizing disruption of the trial court workforce, and protecting the rights accrued by employees under their current systems; and
 - Have uniform statewide applicability and promote organizational and operational flexibility.

Recommended Court Employment Status and Governance Model

Upon implementation of the trial court employee personnel system:

- I. The governance structure shall ensure local governance by the trial courts over personnel and budget matters. The court's budget shall not be subject to county approval.
- II. Trial court employees shall be court employees and have court employment status except for certain benefits where they are specified and designated as county employees.
- III. Employees shall be entitled to certain benefits that the county provides to its employees. These entitlements shall be set forth in statutes that will incorporate the task force's final recommendations.
- IV. The court has authority over personnel issues subject to meet and confer as applicable and shall not be subject to county personnel rules. Representatives of recognized employee organizations shall meet and confer with representatives of court administration over matters within the scope of representation.
- V. The models recommended by the task force shall become the sole trial court employee personnel system. This trial court employee personnel system shall replace any aspects of county personnel systems, including county employment, selection, advancement, and employment protection systems applying to trial court employees prior to the implementation date except as specified in the task force models.

Considerations: Trial Court Employment Status and Governance

In proceeding with its charge to recommend a new personnel system and an employment status for trial court employees, the task force identified the components of a personnel system and developed models that describe these components under each of the specific employment status options specified in the legislation (court, county, and state). In developing the models, the task force set forth assumptions with respect to each model, established the objectives it sought to accomplish, and designed models to accomplish those objectives under each of the three specified status options consistent with the assumptions. (For a detailed explanation of the development of the assumptions, objectives, and models, refer to Part VII.)

After completing all of the models, the task force proceeded to determine which employment status would best accomplish the objectives it had established and accommodate all of the models. The task force also considered which status best met the objectives of the statute. Therefore, the task force reviewed all of the models as they would apply under each employment status and discussed which status best accommodated the following considerations:

- State assumption of trial court costs;
- Local court governance and control;
- Employment protection concerns;
- The needs of large, medium, and small courts and their employees;
- Achieving concurrence of the affected parties;
- Minimizing disruption of the trial court workforce;
- The rights accrued by employees under their current systems;
- The complexity of interests of employees and governmental entities;
- Current contractual obligations; and
- The need to ensure no reduction in employee salary and benefits.

The application of the models to the employment status options resulted in the following observations that affected the employment status recommendation of the task force:

- *Salary:*
The state and court options provide more local court management through the court's independent ability to establish salaries separately from the county.
- *Classification:*
The state and court options provide more local court management through the court's approval of its classification plan separately from the county.

- *Meet and Confer:*
Employees negotiate with the local court under all status options, but the state or the county would be involved under the state and county options, respectively.
- *Employment Protection:*
All options provide employment protection, but the state and court options allow development of an employment protection system that applies to all courts; the county option would maintain different employment protection systems in each county and between county employees in general and those who work for the court.
- *Benefits:*
The state and court options provide more local court management through the court's independent ability to determine benefit levels.
- *Federally Regulated Benefits:*
The state and court options provide more opportunity for independent court flexibility than any existing county system, but would require transition from existing county systems.
- *Deferred Compensation:*
The state option provides both 401(k) and 457 plan opportunities to all court employees; the court status option provides opportunities to offer deferred compensation plans to court employees who do not currently have them; under the state and court options, the state or court would be probable successor employers to the county in order to maintain current county plans; and the county option maintains the status quo regarding the availability of deferred compensation plans.
- *Defined-Benefit Retirement:*
The state option requires all court employees to pay social security but also provides the opportunity to enhance retirement benefits. According to legal advice, the court option maintains individual county social security arrangements and the county option maintains the status quo regarding social security payment status.
- *Governance:*
The state and court options allow the court to control budgeting and personnel decisions; the county option allows the county to control budgeting and personnel decisions affecting the court.

Of particular concern under the state status option was the requirement that all court employees must contribute to social security, including those who do not currently contribute. This issue was seen as a reduction in some employees' salary and benefits. State employment also had the potential for affecting local employee representation and negotiations. Of particular concern under the county status option was its incompatibility with the local court management mandated by the

Trial Court Funding Act of 1997. Further, it did not conform to the legislative intent that the recommended employment status recognize the state assumption of trial court costs. In addition, county employment status would not recognize the interests of the counties that have no interest in continued administrative responsibility for trial courts that are being funded by the state.

After reviewing these considerations, the task force decided that, under the models developed, the court status option was the most appropriate status option and best met the objectives of the task force as well as the objectives set forth in statute. The court status option: recognizes that the counties were no longer assuming trial court costs; provides more local court governance and control; offers more opportunities for employment protection; addresses the needs of large, medium, and small courts and their employees; has the potential to achieve concurrence from affected parties; requires some transition, but minimizes disruption of the trial court workforce; offers opportunities to protect rights accrued by employees under their existing systems; considers the interests of employees and governmental entities; considers existing contractual obligations; and requires no reduction in employee salary and benefits.

The recommended court employment, status and governance model adopted by the task force reflects the court employment status. It clarifies that the courts will have local governance over personnel and budget matters and that no court's budget will be subject to county approval. The model specifies that trial court employees will be court employees, not county or state employees, except where they are specified and designated as county employees for the maintenance of certain benefits in the models and in statutes that incorporate the recommendations of the task force. The model also ensures that personnel matters, including the meet and confer process, are entirely within the authority of the court and not the county.

The task force recommends that the models proposed by the task force in its final report serve as the sole trial court employee personnel system. This recommended trial court employee personnel system replaces any aspects of county personnel systems, including county employment, selection, advancement, and employment protection systems, applying to trial court employees prior to the implementation date of the new personnel system except as specified in the task force models.

Impact: Trial Court Employment Status and Governance

The trial court employment status and governance model establishes a uniform employment system and status for all trial court employees. This status also establishes an employment, selection, advancement, and employment protection system, as described in the employment, selection, and advancement system model and the employment protection system model, equivalent to levels of protection

currently provided to some court employees and improves the level of protection of many court employees. The court status ensures local management and control in each of the trial courts over personnel matters, including classification, salary, and benefits. It also ensures that court employee salaries and benefits are not reduced as a result of implementation of the new personnel system.

Implementation of the trial court employment status and governance model requires trial courts to develop and administer their own personnel systems, subject to meet and confer, on matters within the scope of representation, as applicable. However, the courts have options to seek assistance from vendors or the counties and may consider pooling resources on a regional or statewide basis.

In summary, this recommendation and all of the models presented in this report meet the objectives of the task force as well as the criteria for the new trial court employment status and personnel structure set forth in the Trial Court Funding Act of 1997.

PART VI

COMPONENTS OF A PERSONNEL SYSTEM: THE RECOMMENDED MODELS

General Background of Recommended Models

The Act charged the Task Force on Trial Court Employees with recommending a personnel structure for trial court employees. However, it did not define the term *personnel structure* (also referred to as a personnel system), leaving the task force to determine what might be included within that term.

In defining what the Legislature intended by the term *personnel structure*, the task force considered the duties assigned to it by the Act. The Act specifies that the task force is to survey and document seven components of a personnel structure: court employment status, classification, salary, retirement systems, benefits, terms and conditions of employment, and labor relations.²⁴ The task force developed a set of recommendations for each of these personnel system components. Each set of recommendations is referred to as a model. In some cases, the task force broke these components into subcomponents, particularly for complex topics. For example, the task force divided retirement systems into defined-benefit retirement, deferred compensation plan benefits, and retiree group insurance benefits.

The court employment status and the final models listed here were unanimously adopted and recommended by the task force. Together with the employment status and governance model, these models combine to form the entire trial court employee personnel system.

- A. Classification and salary;
- B. Meet and confer;
- C. Employment protection system;
- D. Employment, selection, and advancement system;
- E. Personnel file access;
- F. Defined-benefit retirement plan;
- G. Accrued leave benefits;
- H. Benefits: group insurance and other employer-provided benefits;
- I. Retiree group insurance benefits;
- J. Federally regulated benefits;
- K. Deferred compensation plan benefits; and
- L. Transition.

²⁴ Gov. Code, § 77603.

All models apply to both represented and unrepresented employees, unless specified otherwise. If a model uses the phrase, "meet and confer, as applicable," this means the court has the obligation to meet and confer with representatives of recognized employee organizations on matters within the scope of representation. The court does not have the obligation to meet and confer with unrepresented employees.

The task force's recommendations for each personnel component is contained in this part of the final report to provide an overview of the trial court employee personnel system. However, given the complexity of these recommendations, a detailed description of the development and impact of each personnel component is contained in Part VII of this report, "Development and Explanation of the Trial Court Employee Personnel Structure."

Recommended Classification Model

The task force recommends that the Judicial Council:

- I. Create a uniform statewide trial court classification system (uniform classification system) of broad classifications that covers all jobs performed in courts, using the *Trial Court Model Classification Manual* as a starting point and avoiding "other" as a classification.
- II. Establish the uniform classification system as a common classification language for all trial courts to use that allows each court to:
 - A. Continue to use its own existing classification titles;
 - B. Determine the appropriate classification for each local court position within the uniform classification system; and
 - C. Establish new local classification titles.
- III. Require that the assignment of a position to a uniform classification by the court be based on duties performed.
- IV. Provide descriptions of:
 - A. Overall general principles and guidelines for establishing minimum qualifications for all classifications by individual courts; and
 - B. Commonly recognized minimum qualifications for individual broad classifications.
- V. Establish a process for maintaining, periodically reviewing, updating, and creating additional broad classifications within the uniform classification system to reflect changes in local court classification plans.

Recommended Salary Model

The task force recommends that the Judicial Council:

- I. Establish a salary system that allows individual trial courts to establish their own salary ranges based on the local market and other local compensation-related issues, such as difficulty of recruitment or retention.
- II. Document existing local salary ranges contained in each uniform classification to create a broad salary register for each uniform statewide trial court classification. The minimum and maximum of the salary register for each uniform classification will be the minimum of the lowest local salary range and the maximum of the highest local salary range. The salary register for each uniform classification reflects actual salaries and does not set them.
- III. Document the local salary ranges that exist at the time of transition to the new trial court personnel system; future local salary range adjustments are subject to local personnel policies, procedures, and plans, or meet and confer, where applicable.
- IV. Establish a process for maintaining, reviewing, and updating the broad salary registers to reflect changes in local salary ranges.

VIB

Recommended Meet and Confer²⁵ Model

- I. The existing labor relations statutes regarding court employees (Government Code sections 68650 through 68655) remain in place except for changes related to the enforcement of the existing Court Employee Labor Relations Rules of Court.
- II. The Court Employee Labor Relations Rules of Court shall be codified; Meyers Milias Brown Act (MMBA) section references in the codification shall be replaced with specific language from the particular section of the MMBA referenced as the MMBA read on April 23, 1997, and any references to the MMBA itself shall be deleted.
- III. Trial courts and court employees will not be covered by the MMBA or any subsequent changes to the MMBA.
- IV. The meet and confer process for each court will be conducted on a local level.
- V. This meet and confer model does not apply to unrepresented employees.
- VI. The court's representatives and representatives of recognized employee organizations shall meet and confer and be authorized to reach tentative agreement regarding all subjects within the scope of representation on behalf of their respective principals. Nothing in this model is intended to preclude joint county and court negotiations with recognized employee organizations, subject to mutual agreement between the court and the county.
- VII. Unless otherwise agreed, the court and representatives of recognized employee organizations shall negotiate a single agreement for each bargaining unit.

²⁵ As used in this model and other assumptions, objectives, and models of the task force, the term *meet and confer* is as defined in rule 2202(3) of the California Rules of Court. Rule 2202(3) states, "Meet and confer in good faith means that a court or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in this division, local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent."

- VIII. The Labor Relations Statute, Government Code sections 68650 through 68655, will be amended to provide that:
- A. Each trial court shall adopt a procedure, such as mediation, arbitration, or a proceeding before an administrative tribunal such as that used for review of the decision of the hearing officer in evidentiary due process hearings as described in the employment protection system model, subject to meet and confer as applicable, as a preliminary step to be taken before petitioning the Court of Appeal for relief pursuant to Government Code section 68654. In those courts with 10 or more judges, in the event that the parties reach impasse regarding this procedure, the court may select only nonbinding arbitration or a proceeding before the administrative tribunal used for review of the decision of the hearing officer in evidentiary due process hearings. A complete alternative to petitioning the Court of Appeal for relief pursuant to Government Code section 68654 may be provided for by mutual agreement between the court and representatives of recognized employee organizations;
 - B. If a party petitions the Court of Appeal for relief as provided in Government Code section 68654 and the Court of Appeal orders a reference to make findings of facts, the Court of Appeal may not appoint as a referee a judge or employee from the affected court; and
 - C. The Judicial Council shall adopt a Rule of Court to provide a process for the Court of Appeal to use to select such a referee to take evidence and report findings on disputed questions of fact.
- IX. The codified Court Employee Labor Relations Rules will be amended to provide that a 30 percent showing of interest by means of a petition triggers an election and 50 percent plus one of those voting secures an agency shop arrangement only if the legislature passes and the Governor signs such legislation modifying the MMBA, as long as the codified Court Employee Labor Relations Rules are further modified to include a provision that, with respect to any particular court, the amendment will be effective only if the court and representatives of the recognized employee organizations, through the meet and confer process, establish a provision that the employee organization shall hold harmless the court and defend and indemnify the court regarding the application of any agency shop requirements or provisions, including but not limited to, improper deduction of fees, maintenance of records, and improper reporting. To avoid unconstitutionally impairing contracts, this amendment shall go into effect if the above-referenced conditions are satisfied on the latest of the following: (1) the effective date of the legislation that enacts a personnel

system for trial court employees; (2) 90 days from the date that such legislation is chaptered; or (3) in the event that a memorandum of understanding between the court and an employee organization is in effect on the later of either of the dates referenced in (1) or (2), or if the MMBA and the codified Court Employee Labor Relations Rules are modified as specified above after the 2000–2001 legislative session, as to such employees covered by such memorandum of understanding, the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding. The court and representatives of recognized employee organizations may mutually agree to a different effective date.

VIC

Recommended Employment Protection System Model

- I. An employment protection system is legally available to the extent it is not excluded by the Constitution. To the extent that the particular employment protection system proposed by the task force is precluded by existing statutes, statutory amendments are required and shall be proposed to ensure that the trial court employment protection system becomes the minimum employment protection system for all trial courts.
- II. The trial court employment protection system shall become the minimum employment protection system for all trial court employees as of the implementation date and shall become part of the sole trial court employee personnel system. This trial court employment protection system shall replace county employment protection systems applying to trial court employees prior to the implementation date except as specified herein.
- III. Each local system shall include, but not be limited to, the following elements:
 - A. Employees may be laid off based on the organizational necessity²⁶ of the court. The local trial court shall develop personnel rules regarding procedures for layoffs. The development of these rules shall be subject to meet and confer, as applicable.
 - B. Except for layoffs for organizational necessity, discipline up to and including termination of employees shall be for cause.²⁷
 - C. The employee protection system shall include progressive discipline, as defined by local trial court personnel policies, procedures or plans, subject to meet and confer, as applicable.
 - D. *Employees*, as used in item III of this model, means all employees other than:
 1. Subordinate judicial officers (for example, pro tem judges, commissioners, and referees, including referees appointed pursuant to California Code of Civil Procedure sections 638 and 639); and
 2. Managerial, confidential, temporary, limited term, and probationary²⁸ employees who may be excluded from this employment protection system in accordance with local trial

²⁶ A layoff for organizational necessity means a termination based on the needs or resources of the court, including, but not limited to, a reorganization or reduction in force or lack of funds.

²⁷ A generally accepted definition for *cause* is "A fair and honest cause or reason, regulated by good faith on the part of the party exercising the power." (*Pugh v. Sees Candies*, 116 Cal. App. 3d 311, 330 (1981).)

²⁸ Probationary employees sometimes are referred to as introductory employees.

court personnel policies, procedures, or plans, subject to meet and confer, as applicable.

- E. This employment protection system shall not alter the fact that court employment is authorized and established by statute, and the termination of such employment shall not be construed to provide, either explicitly or implicitly, a civil cause of action for breach of contract, either implied or express.
- F. Unless modified through meet and confer or local trial court personnel policies, procedures, or plans, the procedure for any employee seeking a remedy who believes that the employing court has not complied with this employment protection system or who challenges the disciplinary decision shall be to first exhaust available administrative remedies provided by the employing court. In providing such administrative remedies, the employing court shall establish a lawful due process procedure to review disciplinary decisions that by law require a due process procedure. The lawful due process procedure shall be defined by local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable.²⁹ Any impartial hearing officer required by the lawful due process procedure in an evidentiary due process hearing shall be appointed under procedures adopted through the meet and confer process, as applicable.³⁰ At a minimum, any such impartial hearing officer shall not be an employee or judge of the employing court.

²⁹ Under the state and federal Constitutions, a public employee who has a property interest in his or her employment may not be deprived of this property interest unless the employer complies with procedural due process requirements. (See *Board of Regents v. Roth* (1972) 408 U.S. 564, 576-77; Cal. Const., art. I, § 7.) In *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, 215, the California Supreme Court held that at a minimum, if an employer intends to remove an employee prior to providing an evidentiary due process hearing, preremoval safeguards must include: (1) notice of the proposed action; (2) the reasons therefore; (3) a copy of the charges and materials on which the action is based; and (4) the right to respond, either orally or in writing, to the authority initially imposing discipline. The employee is entitled to an evidentiary due process hearing, which can be given before or after the discipline or discharge is imposed. (See *Cleveland Bd. of Educ. v. Loudermill* (1985) 470 U.S. 532, 545-47.) In general, the following elements are typical in an evidentiary due process hearing: (1) the hearing should be at a meaningful time before an impartial hearing officer/decision maker; (2) during the hearing, the employee has the right to present favorable evidence, confront and cross-examine adverse witnesses, and be represented by counsel; and (3) the hearing results in findings of fact and conclusions that reference the evidence.

³⁰ Options for selection that the parties may consider include, but are not limited to, a mutual strike-out system or a mutual selection system. Consideration shall be given to using an outside organization such as the American Arbitration Association or the State Mediation and Conciliation Service for submission of names of potential impartial hearing officers.

- G. The evidentiary due process hearing required by the lawful due process procedure³¹ shall take place under state and federal standards and shall include at a minimum the following elements:
1. The hearing shall result in an appropriate record with a written report that has findings of fact and conclusions that reference the evidence.
 2. The employee and employer shall have the right to call witnesses and present favorable evidence. The employer shall be required to release employees to testify at the hearing.
 3. The hearing officer shall have the authority to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence as provided in California Code of Civil Procedure section 1282.6.
 4. The employee has the right to representation, including legal counsel, if provided by the employee.
 5. If the hearing officer disagrees with the court's disciplinary decision, the local trial court shall furnish a copy of the record of proceedings before the hearing officer to the employee or, if the employee is represented by a union or counsel, to the employee's bargaining representative or counsel, without cost.
- H. The standard of review by the trial court of the hearing officer's report and recommendation shall be as follows:
1. The court shall be bound by the factual findings of the hearing officer except factual findings that are not supported by substantial evidence.
 2. With respect to the acceptance or rejection of the hearing officer's report and recommendation, the court shall give substantial deference to the recommended disposition of the hearing officer and may not reject or modify the recommendation except pursuant to a written statement specifying the reason or reasons why the recommended disposition is rejected. Such statement of reasons shall have direct reference to the facts found and shall specify whether they are supported by substantial evidence. The court may reject the recommendation of the hearing officer if the material factual findings are not supported by substantial evidence or for the following reasons or reasons of

³¹ The evidentiary due process hearing required by a lawful due process procedure is sometimes referred to as a post deprivation due process hearing and may be given before or after the discipline or discharge is imposed.

substantially similar gravity or significance: (1) the recommendation places an employee or the public at an unacceptable risk of physical harm from an objective point of view; (2) the recommendation requires an act contrary to law; (3) the recommendation obstructs the court from performing its constitutional or statutory function from an objective point of view; (4) the recommendation disagrees with the court's penalty determination, but the hearing officer has not identified material, substantial evidence in the record that provides the basis for that disagreement; (5) the recommendation is contrary to past practices in similar situations presented to the hearing officer that the hearing officer has failed to consider and/or distinguish; or (6) the recommendation, from an objective point of view and applied by the court in a good faith manner, exposes the court to present or future legal liability other than the financial liability of the actual remedy proposed by the hearing officer.

- I. The trial court's process of review of the hearing officer's report and recommendation shall be as follows: Subject to meet and confer, as applicable, trial courts shall establish in local personnel rules a process for the trial court to review the hearing officer's report and recommendation that provides at a minimum that the decision of the hearing officer shall be subject to review as described in item III.H above, save and except that such review that results in rejection or substantial modification of the recommendation of the hearing officer shall be conducted by an individual other than the disciplining officer. If such disciplining officer is a judge of the court, it shall be made by another judge of the court, a judicial committee, an individual, or a panel as specified in local personnel rules.
 1. In a court with two or fewer judges, if the court or the county has no other judge than the disciplining judge or judges, such judge or judges may conduct the review.
 2. As a minimum requirement, in those courts with ten or more judges, the review shall be by a panel of three judges whose decision shall be by a majority vote. One judge shall be selected by the presiding judge or his or her designee. One judge shall be selected by the employee or, if the employee is represented, by his or her bargaining representative. The two appointed judges shall select the third judge. No judge may be selected to serve without his or her consent. The term of office of the panel shall be defined by local personnel

policies, procedures, or plans, subject to meet and confer, as applicable. No judge shall serve on the panel in a case in which he or she has imposed discipline.

- J. The time for the trial court to review the hearing officer's report and recommendation shall be as follows: The trial court shall have 30 calendar days from receipt of the decision of the hearing officer or from receipt of the record of the hearing, whichever is later, to accept or reject the hearing officer's report or recommendation unless the trial court and employee mutually agree to a different time frame.
- K. The denial of due process or disciplinary decisions that by law require a due process procedure may be challenged by a petition for a writ of mandate.
- L. If the disciplined employee challenges the decision of the disciplining court rejecting or modifying the hearing officer's recommendation, the employee may file a writ of administrative mandamus under Code of Civil Procedure section 1094.5 in the appropriate court, and such review by that court shall be based on the entire record. If required by the writ procedure, and if not previously provided to the disciplined employee, the disciplining court shall furnish a certified copy of the record of the proceeding before the hearing officer to the disciplined employee or, if the employee is represented, to the bargaining representative without charge. In reviewing the disciplining court's rejection or modification of the hearing officer's recommendation, the reviewing court shall be bound by the hearing officer's material factual findings that are supported by substantial evidence.
- M. In a county of the first class as defined in Government Code section 28022 as of January 1, 2000, to the extent that a court employee was a member of a county civil service system at the time of implementation of a personnel system for trial court employees, that employee will have the right to elect, as an alternative to the above described evidentiary due process hearing, to have an evidentiary due process hearing before the county civil service commission. The election to remain in the county civil service system for this purpose only shall be made not later than one year after the implementation date. Failure to elect to remain in the county civil service system for this purpose only shall result in the employee automatically being subject to the trial court employment protection system for all purposes. A court employee may not make this election after receiving notice of intended discipline until after the disciplinary action has been finally resolved and the employee has exhausted all

remedies related to that action. The election to be subject to the trial court employment protection system may not be reversed. Court employees who initially elect to remain in the county civil service system for this purpose may elect at any time to be subject to the trial court employment protection system except after receiving notice of intended discipline as described above. Court employees who initially elect to remain in the county civil service system for this purpose who later promote or transfer into a position that is comparable to a position that is classified as exempt from the county civil service system shall be subject to the trial court employment protection system for all purposes. Court employees in the county of the first class eligible for this option shall be deemed county employees for purposes of remaining eligible for evidentiary due process hearings before the county civil service commission as described herein.

- IV. Nothing herein shall preclude the provision of enhanced employment protection systems through meet and confer or local trial court personnel policies, procedures, or plans.
- V. The implementation date on which the system in each court shall go into effect is the latest date of the following: (1) the effective date of the legislation that enacts a personnel system for trial court employees, or (2) 90 days from the date that such legislation is chaptered. Representatives of the court and representatives of recognized employee organizations may mutually agree to a different effective date. If, however, the provisions of this model are governed by an existing memorandum of understanding covering court employees, as to such provisions the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.

/ VID \

Recommended Employment, Selection, and Advancement System Model

- I. Hiring and promotion within the trial courts shall be done in a nondiscriminatory manner based on job-related factors.
- II. Trial courts shall develop personnel rules regarding hiring, promotion, transfer, and the impact of reclassification, subject to meet and confer, as applicable, on those rules that cover matters within the scope of representation.³²
- III. Trial courts shall develop personnel rules and procedures that meet the following minimum standards:
 - A. Recruiting, selecting, transferring, and advancing employees shall be on the basis of their relative ability, knowledge, and skills. Initial appointment shall be through an open, competitive process. Preference shall be given to internal candidates.
 - B. Formal job-related selection processes are required when filling positions.
 - C. Each court shall have an equal employment opportunity policy applying to all applicants and employees in accordance with applicable state and federal law.
 - D. The following positions are excluded from required competitive selection and promotion processes:
 1. Subordinate judicial officers (such as pro tem judges, commissioners, and referees).
 2. Managerial, confidential, temporary, and limited-term positions in accordance with local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable. Where managerial, confidential, temporary, and limited-term positions are currently defined for this purpose within the local trial court, that definition shall be maintained for purposes of establishing what is managerial, confidential, temporary, and limited term in the new personnel system subject to changes in personnel policies, procedures, or plans, subject to meet and confer, as applicable. In courts where managerial, confidential, temporary, and limited-term positions have not previously been defined for this purpose, any such designation shall be subject to meet and confer, as applicable. Permanent or regular employees who assume

³² This model is not intended to expand the Court Employee Labor Relations Rules definition of those matters within the scope of representation.

limited-term appointments or assignments to other positions or classes shall retain their permanent or regular status. The exclusion of managerial, confidential, temporary, and limited-term positions from required competitive selection and promotion processes shall not affect the right of employees in those positions to representation.

- IV. The alleged misapplication, misinterpretation, or violation of the rules governing hiring, promotion, transfer, and the impact of reclassification as set forth in this model are subject to binding arbitration.
- V. The implementation date on which the system in each court shall go into effect is the latest date of the following: (1) the effective date of the legislation that enacts a personnel system for trial court employees, or (2) 90 days from the date that such legislation is chaptered. The employer and representatives of recognized employee organizations may mutually agree to a different effective date. If, however, the provisions of this model are governed by an existing memorandum of understanding covering court employees, as to such provisions the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.
- VI. The trial court employment, selection, and advancement system described in this model shall become the employment, selection, and advancement system for all trial court employees as of the implementation date and shall become part of the sole trial court employee personnel system. This trial court employment, selection, and advancement system shall replace any aspects of county employment, selection, and advancement systems applying to trial court employees prior to the implementation date.

V.I.B

Recommended Personnel File Access Model

The trial courts shall adopt personnel rules, subject to meet and confer, as applicable, to provide trial court employees with access to their official personnel files. The rules shall provide at a minimum that:

- I. Trial courts shall at reasonable times and at reasonable intervals, upon the request of an employee, permit the employee to inspect his or her personnel files that are used or have been used to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary actions.
- II. Trial courts shall keep a copy of each employee's official personnel file at the place where the employee reports to work, or shall make the official personnel file available at such place within a reasonable period of time after a request therefore by the employee.
- III. Records of an employee relating to the investigation of a possible criminal offense, letters of reference, and other matters protected by constitutional, statutory, or common law provisions shall be excluded from inspection.

Recommended Defined-Benefit Retirement Plan Model

- I. Trial court employees will be eligible to participate in county defined-benefit retirement systems³³ and will be subject to county defined-benefit retirement system regulations and policies. Trial court employees will have the right to continue to receive the same retirement plan benefits as county employees without the opportunity to meet and confer with the counties as to those benefits.
- II. For trial court employees who are members of a county retirement system, the same rate of contribution shall be paid by the court to the county retirement system for each employee as the rate of contribution required of the county under the county retirement system.
- III. To the extent permitted by law, social security contributions or noncontributions of trial court employees will not be modified by implementation of the trial court personnel system.
- IV. To facilitate court employee participation in county defined-benefit retirement plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- V. The model does not exclude the possibility that trial court employees may have a future option of joining a new defined-benefit retirement plan.

³³ *County retirement systems* in this model means 1937 Act, CalPERS, or independent retirement systems or plans.

Recommended Accrued Leave Benefits Model

Upon implementation of the trial court employee personnel system:

- I. The type and rate of accrued leave benefits will not be reduced as a result of the implementation of the trial court employee personnel system. Policies related to accrued leave in effect on the date of implementation remain in effect until modified pursuant to item IV.
- II. The implementation of the trial court employee personnel system will not be considered to cause a termination and rehire of employment for purposes of accrued leave. Employees will retain their accrued leave balances upon implementation of the trial court employee personnel system. Employees may not cash out their accrued leave balances solely as a result of implementation of the trial court employee personnel system.
- III. While existing memoranda of understanding remain in effect, represented employees shall continue to receive the same type and accrual rate of, as well as policies relating to, accrued leave benefits as provided in the memoranda of understanding.
- IV. The type and accrual rate of, as well as policies relating to, accrued leave benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or revision of existing personnel policies, procedures, or plans.
- V. The implementation of the trial court employee personnel system will not force either the court or the county to cash out trial court employees' accrued leave balances.

VIA /

Recommended Benefits Model

- I. As of the effective date of implementation of the trial court employee personnel system, the level of benefits provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. While existing memoranda of understanding remain in effect or for a period of 24 months, whichever is longer, represented trial court employees shall continue to receive the same level³⁴ of benefits as provided under the memoranda of understanding unless there is a mutual agreement to a change.
- III. Unrepresented employees' benefits are subject to modification upon revision of existing personnel policies, procedures, or plans, as applicable.
- IV. If there is a change in responsibility for administering³⁵ benefits, a transition period for the transfer of responsibility is provided in this model. During this transition period, the county may include trial court employees in its benefit plans, as permitted by law or vendor.
- V. The court will reimburse the county for the cost of coverage of trial court employees in county benefit plans.
- VI. Upon implementation of the trial court employee personnel system, the following provisions govern which entity will be responsible for administering the benefits:
 - A. At the time of implementation of the trial court employee personnel system, if the court administers benefits separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.
 1. At the time of implementation of the trial court employee personnel system, if the county administers benefits or the court contracts with the county to administer benefits, the court may either continue to receive benefits from the county as provided in item VI.D or administer benefits

³⁴ For the purpose of this model, *same level* means the same benefits unless they are not permitted by law or vendor, in which case *same level* means comparable level of benefits.

³⁵ For the purpose of this model, the terms *administering*, *administration of*, and *administers* mean that the entity is responsible for making available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs of these benefits.

directly through the following transition provisions:
While existing memoranda of understanding remain in effect or for a period of up to 24 months, whichever is longer, counties will administer represented trial court employees' benefits as provided in the memoranda of understanding unless notified by the trial court that it no longer needs the county to administer specified benefits, or the court and the county mutually agree that the county will no longer administer specified benefits.

2. For a transition period of up to 24 months after implementation of the trial court employee personnel system, the counties will administer unrepresented trial court employees' benefits unless notified by the court that it no longer needs the county to administer specified benefits, or the court and the county mutually agree that the county will no longer administer specified benefits. During this 24-month transition period, if the county intends to change unrepresented trial court employees' benefits, the county shall provide the court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the court can decide whether to accept the county's change or consider alternatives and arrange to provide benefits on its own.
 3. If, during the 24-month transition period, the court decides to offer particular benefits that are different from what the county is administering, then the court will be responsible for administering those particular benefits.
 4. If the court intends to give notice to the county that it no longer needs the county to administer specified benefits, the court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.
- B. The court and the county may mutually agree that the county will administer the payroll for trial court employees to facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible.
- C. The counties shall have statutory authority to provide benefits to court employees if such benefits are requested by the court and subject to county concurrence to providing such benefits. A county's agreement to provide such benefits shall not be construed as creating a meet and confer obligation between the county and any recognized court employee organization.

- D. This model does not exclude the possibility that the courts may have a future option of participating in other group insurance benefit plans that may be developed subject to meet and confer.

Recommended Retiree Group Insurance Benefits³⁶ Model

- I. This model applies to active trial court employees on the date of implementation of the trial court employee personnel system who retire after implementation of the trial court employee personnel system; this model does not apply to trial court employees who retired before the implementation of the trial court employee personnel system.
- II. As of the effective date of implementation of the trial court employee personnel system, the level of retiree group insurance benefits provided to active trial court employees through memoranda of understanding or personnel policies will not be reduced as a result of the implementation of the trial court employee personnel system.
- III. Upon implementation of the trial court employee personnel system, active trial court employees who retire shall receive the level³⁷ of retiree group insurance benefits provided under the personnel policies or memoranda of understanding, as applicable, subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- IV. If there is a change in responsibility for administering³⁸ retiree group insurance benefits, a transition period for the transfer of responsibility is provided in this model. During this transition period, the county or the court may include trial court employees in its retiree group insurance benefit plans as permitted by law or vendor.
- V. The court will reimburse the county for the cost of coverage of retired trial court employees in county retiree group insurance benefit plans. The county may charge the court for retiree group insurance benefits only the amount that the county is required to pay in excess of the retirement system funding or prefunding of the retiree group insurance benefits. The county and the court may agree to an alternative arrangement to administer and fund retiree group insurance benefits.

³⁶ *Retiree benefits* refers to benefits active trial court employees would receive upon retirement.

³⁷ *Level* means the same retiree group insurance benefits unless they are not permitted by law or vendor, in which case *level* means comparable level of retiree group insurance benefits.

³⁸ For the purposes of this model, the terms *administering*, *administration of*, and *administers* mean that the entity either contracts with a vendor or otherwise makes available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs for these benefits.

- VI. Upon implementation of the trial court employee personnel system, the following provisions govern which entity will be responsible for administering the retiree group insurance benefits:
- A. In those counties that fund retiree group insurance benefits from excess funds in their retirement systems or prefund retiree group insurance benefits, the county shall administer retiree group insurance benefits to trial court employees who retire from that county retirement system. The county and the court may agree to an alternative arrangement to administer retiree group insurance benefits.
 - B. In all counties not included in item VI.A:
 - 1. At the time of implementation of the trial court employee personnel system, if the court administers retiree group insurance benefits to trial court employees separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.
 - 2. At the time of implementation of the trial court employee personnel system, if the county administers retiree group insurance benefits, or if the court contracts with the county to administer retiree group insurance benefits to trial court employees, the court may either continue to receive retiree group insurance benefits from the county as provided in item VII or administer retiree group insurance benefits through the following transition provisions:
 - a) While existing memoranda of understanding remain in effect or for a transition period of up to 24 months, whichever is longer, counties will administer retiree group insurance benefits for represented trial court employees who retire during that period, as provided in the applicable memoranda of understanding, unless notified by the court that it no longer needs the county to administer specified benefits or the court and the county mutually agree that the county will no longer administer specified benefits.
 - b) For a transition period of up to 24 months after implementation of the trial court employee personnel system, the counties will administer retiree group insurance benefits for unrepresented trial court employees who retire during that period, unless notified by the court that it no longer needs the county to administer specified benefits or the court and the

county mutually agree that the county will no longer administer specified benefits. During this 24-month transition period, if the county intends to change unrepresented trial court employees' retiree group insurance benefits, the county shall provide the court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the court can decide whether to accept the county's change or consider alternatives and arrange to provide benefits on its own.

- c) If, during the 24-month transition period, the court decides to offer particular retiree group insurance benefits that are different from what the county is administering, then the court will be responsible for administering those particular retiree group insurance benefits.
- d) If the court intends to give notice to the county that it no longer needs the county to administer specified retiree group insurance benefits to trial court employees, the court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.

VII. The counties shall have statutory authority to provide retiree group insurance benefits to court employees if such benefits are requested by the court, subject to county concurrence to provide such benefits. A county's agreement to provide such benefits shall not be construed as creating a meet and confer obligation between the county and any recognized court employee organization.

VIII. This model does not exclude the possibility that the courts may have a future option of participating in other retiree group insurance benefit plans for trial court employees that may be developed subject to meet and confer.

Recommended Federally Regulated Benefits Model

- I. As of the effective date of implementation of the trial court employee personnel system, the level of federally regulated benefits provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. While existing memoranda of understanding remain in effect, represented trial court employees shall continue to receive the same level of federally regulated benefits as provided under the memoranda of understanding.
- III. Federally regulated benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- IV. If, upon implementation of the trial court employee personnel system, the entity that administers³⁹ the federally regulated benefit plan is not the court, then an effective date for the transfer of responsibility for administering federally regulated benefits must be determined. This effective date must be established to coincide with the first day of the applicable federally regulated benefits plan year to ensure that there is no financial impact on the employee or on either employer.
- V. Upon implementation of the trial court employee personnel system, the following provisions govern which entity will be responsible for administering the federally regulated benefits:
 - A. At the time of implementation of the trial court employee personnel system, if the court administers federally regulated benefits separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or memoranda of understanding applicable to trial court employees.
 - B. At the time of implementation of the trial court employee personnel system, if the county administers federally regulated benefits, or if the court contracts with the county to administer federally regulated benefits, the following provisions govern the transition of responsibility for administering these benefits to the court:

³⁹ For the purpose of this model, the terms administering, administration of, and administers mean that the entity either contracts with a vendor or otherwise makes available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs of these benefits.

1. Until the effective date of the transition, counties will administer represented trial court employees' federally regulated benefits as provided in the memoranda of understanding.
 2. Until the effective date of transition, counties will administer unrepresented trial court employees' federally regulated benefits as provided in personnel policies, procedures, and plans.
 3. To ensure that there is no financial impact on the employee or on either employer, during the period between implementation of the trial court employee personnel system and the effective date of the transition, both the court and the county will co-sponsor the federally regulated benefit plan. Co-sponsorship will continue as long as the trial court employees are governed by a plan not offered by the court, but in no event longer than 18 months unless the court and the county agree to continued co-sponsorship.
 4. If, during the co-sponsorship period, the court decides to offer particular benefits that are different from what the county is administering, then the court will be responsible for administering those particular benefits unless the court and county agree to an alternative.
- VI. To facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- VII. The court will reimburse the county for the cost of any coverage of trial court employees in county federally regulated benefits plans.
- VIII. This model does not exclude the possibility that the courts may have a future option of participating in other federally regulated benefit plans that may be developed subject to meet and confer.
- IX. The counties shall have statutory authority to co-sponsor federally regulated benefits with the courts to provide such benefits to court employees if such benefits are requested by the court subject to county concurrence to co-sponsor such benefits. A county's agreement to co-sponsor such benefits shall not be construed as creating a meet and confer obligation between the county and any recognized court employee organization.

Recommended Deferred Compensation Plan Benefits Model

- I. The level of deferred compensation plan benefits presently provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. Upon implementation of the trial court employee personnel system, the court shall provide trial court employees with the same or comparable deferred compensation plan benefits, to the extent permitted by law.
- III. While existing memoranda of understanding remain in effect, represented employees shall continue to receive the same level of deferred compensation plan benefits as provided under the memoranda of understanding.
- IV. If the transition to court employment status causes a change in deferred compensation plans and requires the transfer of court employees' plan balances to the court's deferred compensation plans:
 - A. Trial court employees will not suffer a financial loss due to transfer-related penalties, such as deferred sales charges; and
 - B. Any financial loss due to transfer-related penalties, such as deferred sales charges, will be borne by the court.
- V. Court employees shall continue to be eligible to receive deferred compensation plan benefits from the county or court as follows:
 - A. For purposes of 401(k) plans:
 1. If permitted by federal law and deferred compensation plan vendors, employees may continue to receive 401(k) deferred compensation plan benefits through county plans unless or until the court modifies its plan benefits pursuant to local rules, policies, and procedures, subject to meet and confer, as applicable; or
 2. The court may provide the same level of deferred compensation plan benefits developed subject to meet and confer, as applicable. In this case:
 - a) Upon transition to the new deferred compensation plan, to give the court time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which court employees may continue to receive deferred compensation plan benefits from the county; and
 - b) Upon transition to the new deferred compensation plan, counties may require that court employees leave their plan balances in the counties' deferred compensation plans or may

- transfer trial court employees' plan balances to the court's deferred compensation plan.
- B. For purposes of 457 deferred compensation plans:
1. If permitted by federal law and deferred compensation plan vendors, employees may continue to receive 457 deferred compensation plan benefits through county plans unless or until the court modifies its plan benefits pursuant to local rules, policies, and procedures, subject to meet and confer, as applicable, or
 2. The court may provide the same level of deferred compensation plan benefits developed subject to meet and confer, as applicable. In this case:
 - a) Upon transition to the new deferred compensation plan, to give the court time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which court employees may continue to receive deferred compensation plan benefits from the county.
 - b) Upon transition to the new deferred compensation plan, counties may require that court employees leave their plan balances in the counties' deferred compensation plans or may transfer trial court employees' plan balances to the court's deferred compensation plans.
- VI. Deferred compensation plan benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- VII. To facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- VIII. The court will reimburse the county for the cost of any coverage of trial court employees in county deferred compensation plans.
- IX. County 401(k) and 457 plan documents may need to be amended to achieve the objectives of the model (for example, to permit court employees to remain in county plans or permit a transfer of court employees' plan balances from county plans to the court's plans).

- X. This model does not exclude the possibility that the courts may have a future option of participating in other deferred compensation plans that may be developed subject to meet and confer.

Recommended Transition Model

In addition to the transition recommendations addressed in other models, upon implementation of the trial court employee personnel system:

- I. All court employees who meet the definition of trial court employee who work for the court will be considered court employees.
- II. The terms of any memorandum of understanding shall remain in effect until the memorandum of understanding expires, is amended, or is replaced, subject to meet and confer. Upon expiration of memoranda of understanding, the court shall meet and confer with recognized court employee organizations.
- III. An employee organization that is recognized as a representative of a group of court employees or the exclusive representative of an established bargaining unit of court employees, either by the county or the court, shall be recognized by the court as a representative, or as the exclusive representative, of the same employees.
- IV. If the court is party to any memorandum of understanding with any bargaining unit that includes court employees and that provides for an agency shop provision, the court and employee organization representing the court employees shall be obligated to honor the terms of the agency shop provision (including indemnification provisions, if any) for the duration of the memorandum of understanding. The implementation of the trial court employee personnel system shall not in and of itself cause a new agency shop election.
- V. Unrepresented employees are governed by their employer's personnel policies, procedures, and plans. The implementation of the trial court employee personnel system shall not of itself be a basis for changing the employer's personnel policies, procedures, and plans except where otherwise required by the new trial court employee personnel system (for example, if the existing policies fail to meet standards established within the new personnel system) or by law. The court retains previously existing rights with respect to revising its personnel policies, procedures, and plans.
- VI. In establishing local personnel structures for trial court employees, consideration shall be given to contractual obligations, minimizing disruption of the trial court workforce, and protecting the rights accrued by employees under their current systems. This shall not be interpreted to

mean that prior contractual obligations and rights may not be reconsidered subject to meet and confer, as applicable. Rather, it is intended to acknowledge that both parties should give consideration to past contractual obligations and rights.

- VII. Employment seniority of a court employee on the date of implementation of the trial court employee personnel system, as calculated under the predecessor system, shall be counted toward seniority with the court.
- VIII. The employment status of a court employee as a probationary, permanent, or regular employee shall remain in effect, and the employee shall continue to have that status as a court employee, so that probationary employees will not be required to serve a new probationary period but rather to complete the existing probationary period under the terms of hire, to the extent not prohibited by law.
- IX. The classification and salary rate of a court employee shall remain in effect, at the same classification and salary rate.
- X. Implementation of the trial court employee personnel system will not affect the transition provisions of Senate Bill 2139 (Government Code sections 70210 through 70219) for purposes of unification.
- XI. Disciplinary action initiated before implementation of the trial court employee personnel system shall remain in effect. Until implementation of the court's employment protection system in accordance with the employment protection system model, any employee who has received disciplinary action or proposed disciplinary action but has not yet exhausted any appeal or administrative remedies under the predecessor personnel system shall use only those appeal or administrative procedures that are available pursuant to the predecessor personnel system. The ultimate disposition of the discipline shall be pursuant to the predecessor personnel system. Any discipline of an employee after the date of implementation of the court's employment protection system, in accordance with the employment protection system model, shall be determined pursuant to the terms of the court's employment protection system, including the administrative procedures contained therein, except in a county of the first class as specified in the employment protection system model. The impact of the court's new employment protection system on past discipline shall be subject to meet and confer, as applicable, at the local level.

- XII. Subject to county agreement and unless prohibited or limited by charter provisions, the policies regarding transfer between the court and the county that are in place upon implementation of the personnel system shall be continued while existing memoranda of understanding remain in effect or for two years, whichever is longer. Any further rights of trial court employees to transfer between the court and the county shall be subject to meet and confer, as applicable, at the local level between representatives of the court and representatives of recognized employee organizations and local negotiation between the court and the county. Subject to county agreement and unless prohibited or limited by charter provisions, the policies regarding the portability of seniority, accrued leave credits, and leave accrual rates that are in effect upon implementation of the personnel system will be continued if trial court or county employees transfer between the court and the county or the county and the court while existing memoranda of understanding remain in effect or for a period of two years, whichever is longer. Any further right of trial court employees to portability is subject to meet and confer, as applicable, between representatives of the court and representatives of recognized employee organizations and local negotiation between the court and the county.
- XIII. Unless otherwise specified in individual models, the implementation date on which the system in each court shall go into effect is the latest date of the following: (a) the effective date of the legislation that enacts a personnel system for trial court employees; or (b) 90 days from the date that such legislation is chaptered. Representatives of the court and representatives of recognized employee organizations may mutually agree to a different effective date. If, however, the provisions of any model are governed by an existing memorandum of understanding covering court employees, as to such provisions the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.

Part VII. Development and
Explanation of Trial Court Employee
Personnel System

PART VII

DEVELOPMENT AND EXPLANATION OF TRIAL COURT EMPLOYEE PERSONNEL STRUCTURE

General Background

As mentioned earlier in this report, the task force developed sets of recommendations referred to as models for each component of the new trial court employee personnel structure. The following sections in this part of the final report provide an overview of the development history of each of the models and an explanation of their content.

- A. Classification and salary;
- B. Meet and confer;
- C. Employment protection system;
- D. Employment, selection, and advancement system;
- E. Personnel file access;
- F. Defined-benefit retirement plan;
- G. Accrued leave benefits;
- H. Benefits: group insurance and other employer-provided benefits;
- I. Retiree group insurance benefits;
- J. Federally regulated benefits;
- K. Deferred compensation plan benefits; and
- L. Transition.

At the time the second interim report was published, the task force had drafted 11 preliminary models. As a result of comments received on the second interim report, further deliberations by the task force, and the selection of court as the recommended employee status, the task force modified many of the original 11 models. The task force also adopted two additional models (the employment, selection, and advancement system model and the personnel file access model).

The preliminary 11 models were designed to be applicable regardless of the ultimate employment status of court employees. All models apply to both represented and unrepresented employees, unless specified otherwise. As mentioned in the introduction to Part VI, if a model uses the phrase, "meet and confer, as applicable," this means the court has the obligation to meet and confer with representatives of recognized employee organizations on matters within the scope of representation. The court does not have the obligation to meet and confer with unrepresented employees.

Part VII Development and Explanation of Trial Court Employee Personnel System

The development and substance of each model adopted by the task force, as well as the consequences of each model under each employment status option for the 11 preliminary models, are discussed in this part of the final report. For historical purposes, the 11 models that appeared in the second interim report are shown in the preliminary version printed in October 1999, followed by the recommended version adopted by the task force in November 1999 and recommended as components of the trial court personnel system. A complete set of the task force's final personnel system recommendations (minus the development history) can also be found in Part VI of this report.

VII.A Classification and Salary

A. Classification and Salary

Background

The Act charges the Judicial Council with submitting “findings and recommendations to the Legislature for the establishment of a system of uniform court employee classification, which may provide for local flexibility.”⁴⁰

Classification is the grouping of jobs sufficiently alike with respect to their duties and qualifications to justify their being covered by a single job title and salary. Job classifications are identified for the purpose of establishing salary ranges. The classifications recommended by the Judicial Council “shall include duty statements, minimum qualifications, and salary ranges. The classifications shall be broad enough so that the employees and their managers have maximum flexibility to accommodate the needs of the courts and the employees.”⁴¹

Although the task force is not specifically charged with making recommendations concerning classification or salary, its members concluded that because classification and salary are integral to any personnel system, a broad policy recommendation to the Judicial Council on these issues should be made. The task force made a recommendation to the Judicial Council on classifications and salaries and provided information collected from the Trial Court Employee Survey. The Judicial Council will use this data on trial court employees when formulating its recommendations to the Legislature for a system of uniform court employee classifications and salary ranges.

Education: Classification and Salary

Task force members were provided the following education concerning classification and salary:

- An overview of the California trial court system, describing the classification differences and similarities among the trial courts based on the size of the court.
- A presentation on basic classification and compensation concepts, including common terms used in the classification process, such as *job family*, *job series*, *job classification*, *employee*, and *position*. Information was also provided on the importance of job classification as a tool in public personnel management and its use as the foundation for other personnel processes, such as recruitment, selection, training, performance management, and discipline.
- Basic information concerning the relationship of classification to salary, including:

⁴⁰ Gov. Code, § 77605(a).

⁴¹ *Ibid.*

- Grouping similar jobs that perform similar work with nearly the same level of difficulty into job families;
 - Creating classifications, equal or comparable in value to the organization, within these job families; and
 - Grouping jobs into classifications for the purpose of establishing salary rates.
- Information on various classification and compensation policies and issues, including information about:
 - Specific classification plans;
 - Generic classification plans;
 - Market placement policies; and
 - Factors that may complicate classification and compensation policies.
 - A presentation on the personnel structure of the University of California and California State University at both the systemwide and local campus levels, including in-depth information about classification and compensation in these decentralized personnel systems.
 - A presentation on the basic personnel structure components of the executive and judicial branches of state government.
 - A presentation on the background and current use of the *Trial Court Model Classification Manual*, adopted for use by the trial courts in August 1996.

Assumptions and Objectives: Classification and Salary

The task force used the following assumptions and objectives in developing recommended models for classification and salary:

Assumptions and Objectives:

1. The state will not delegate its authority to set the budget level for the courts.
2. Counties are not obligated to cover court operating costs under the Lockyer-Isenberg Trial Court Funding Act of 1997.
3. State funding levels will not significantly change as a result of the new personnel structure.
4. Current personnel systems contain substantial variations among counties and courts. These variations may continue to exist under the new system.
5. “. . . The Judicial Council shall submit findings and recommendations to the Legislature relative to the establishment of a system of uniform court employee classifications, which may provide for local flexibility. These classifications shall include duty statements, minimum qualifications and salary ranges. The classifications shall be broad enough so that the employees and their managers have maximum flexibility to accommodate the needs of the courts and the employees.”⁴²

⁴² *Ibid.*; Cal. Rules of Court, rule 810.

Preliminary and Recommended Classification Model

The task force recommends that the Judicial Council:

- I. Create a uniform statewide trial court classification system (uniform classification system) of broad classifications that covers all jobs performed in courts, using the *Trial Court Model Classification Manual* as a starting point and avoiding "other" as a classification.
- II. Establish the uniform classification system as a common classification language for all trial courts, allowing each court to:
 - A. Continue to use its own existing classification titles;
 - B. Determine the appropriate classification for each local court position within the uniform classification system; and
 - C. Establish new local classification titles.
- III. Require that the assignment of a position to a uniform classification by the court be based on duties performed.
- IV. Provide descriptions of:
 - A. Overall general principles and guidelines for establishing minimum qualifications for all classifications by individual courts; and
 - B. Commonly recognized minimum qualifications for individual broad classifications.
- V. Establish a process for maintaining, periodically reviewing, updating, and creating additional broad classifications within the uniform classification system to reflect changes in local court classification plans.

Considerations: Classification

The task force used the classification and salary assumptions in developing its broad recommendations to the Judicial Council for the development of a statewide trial court classification system (uniform classification system). The task force was cognizant of the legislative intent of the Act to maintain local flexibility and accommodate the needs of the courts and employees. The model is designed to allow courts to maintain local authority. The classification model created by the task force meets the mandate of the Act.

To meet the required objective of a personnel system that would have uniform statewide applicability and promote organizational and operational flexibility,⁴³ the task force determined that a common language would be required to create a uniform statewide trial court classification system of broad classifications that cover all jobs performed in the trial courts. The 1996 *Trial Court Model Classification Manual* is recommended as a starting point for the creation of this common language. The uniform classification system will serve as a common language for classification discussions statewide among courts, the Judicial Council, and the executive and legislative branches and will ensure consistency for budgeting and other operational purposes.

The model allows the trial courts to continue to establish and use their own existing classification titles within the broad classifications in the uniform classification system. Each local court will be responsible for determining the appropriate classification for each position within the uniform classification system.

To ensure that trial court positions are appropriately classified, the task force included in its model a requirement that the assignment of a classification within the uniform classification system reflect the actual duties performed by the trial court employee, not merely the title of the classification held. For example, if a position classified as Deputy Clerk at the local level is assigned to perform technical accounting tasks, the trial court should classify this position under the broad classification system as Account Technician, a classification more reflective of the actual duties performed by the employee. Deputy Clerk would continue to be the term used by the local trial court. Account Technician would be the cross-referenced term used in the uniform classification system.

The concept of a uniform statewide trial court classification system can be further illustrated as follows:

⁴³ Gov. Code, § 77605(b).

The job titles for positions that perform similar duties might include the following job titles at the local level:

- Deputy Court Clerk;
- Superior Court Clerk; and
- Courtroom Clerk.

These positions might then be described under a broad common-language classification title such as Courtroom Clerk, which would represent one of the uniform classifications within the uniform classification system recommended by the Judicial Council. Courts would use the uniform classification title of Courtroom Clerk to describe their positions that have similar duties. The individual trial courts could continue to use their existing classification titles for local purposes. However, the uniform classification title of Courtroom Clerk would become the term used for discussion regarding classification between courts and the Judicial Council. This common classification language would ensure consistency for budgeting purposes and communication with other state entities.

The Judicial Council would be responsible for recording or documenting the classifications within each local trial court after the courts make a change in their classification plans. If a trial court creates a new classification that is not covered in the uniform classification system, the Judicial Council will be responsible for revising the uniform classification system or creating a new classification to update the uniform classification system to reflect the court's change.

The task force recommends that the Judicial Council develop a method for periodically reviewing, revising, updating, and maintaining the broad classification within the uniform classification system to reflect changes in local court classification plans. The task force concurred that the Judicial Council is the appropriate entity to develop procedures and processes for maintenance of the uniform classification system to reflect changes in the specific classifications made by the local trial courts.

Impact Under Each Employment Status Option

The recommended classification model would essentially work the same under any of the employment status options of state, court, and county, and the impact of the model under each of the status options is generally the same. Under each employment status option, the local trial court would be responsible for classifying positions and allocating them to the broad common-language classification.

The Recommended Classification Model

The task force made no changes to the classification model after publication of the second interim report. The preliminary classification model is thus identical to the recommended classification model.

The Salary Model

Similar to the classification model, the task force made no changes to the salary model after publishing the second interim report. The model that follows is the task force's recommended salary model.

Preliminary and Recommended Salary Model

The task force recommends that the Judicial Council:

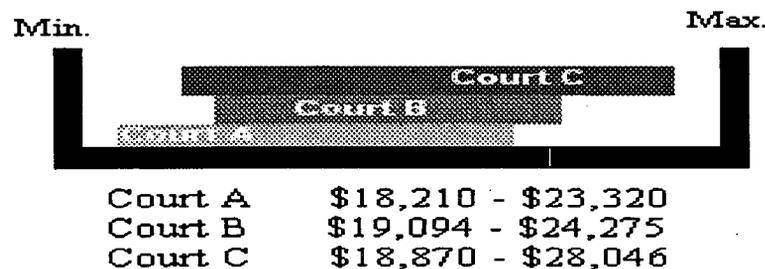
- I. Establish a salary system that allows individual trial courts to establish their own salary ranges based on the local market and other local compensation-related issues such as difficulty of recruitment or retention.
- II. Document existing local salary ranges contained in each uniform classification to create a broad salary register for each uniform statewide trial court classification. The minimum and maximum of the salary register for each uniform classification will be the minimum of the lowest local salary range and the maximum of the highest local salary range. The salary register for each uniform classification reflects actual salaries and does not set them.
- III. Document the local salary ranges that exist at the time of transition to the new trial court personnel system; future local salary range adjustments are subject to local personnel policies, procedures, and plans or meet and confer, where applicable.
- IV. Establish a process for maintaining, reviewing, and updating the broad salary registers to reflect changes in local salary ranges.

Considerations: Salary

The recommended salary model is compatible with the assumption that state funding levels will not significantly change as a result of the new personnel structure. The model also meets the intent of the Legislature that no employee in the trial court system shall sustain a salary reduction as a result of the new personnel structure. The recommended salary model creates a system of decentralized management and does not reduce salaries or require substantial cost increases. In keeping with the intent not to reduce the salary of a trial court employee, all court employees will enter the new personnel system with their existing salaries at the time of transition. The task force did not address any issues relating to salary equity since it was not compatible with the assumption that state funding levels would not significantly change and was outside the purview of the task force's legislative charge.

The model creates a salary system by documenting a broad salary register for each uniform classification within the uniform classification system. This is accomplished by documenting the existing local salary ranges of each classification within each local trial court. The current individual local trial court's salary ranges for each of the classifications would be incorporated into the salary register. The minimum and maximum of the salary register for each uniform classification will be the documented minimum of the lowest local salary range and the documented maximum of the highest local salary range. The salary register for each uniform classification reflects actual salaries and does not set them. The composite of current employees' salary ranges in each uniform classification creates the salary register for that classification and reflects existing salaries for that uniform classification.

It is possible that within the broad salary register, the individual trial court ranges may overlap. An example illustrating this point is shown here:

Courtroom Clerk Salary Register

As shown in the example, the model allows the current salary range for each individual court to be placed within the broad salary register. Every employee of each individual court will have the ability to advance to the maximum salary within the individual court salary range for his or her own local trial court classification. In the example, a Courtroom Clerk from Court A would be able to advance to a maximum salary of \$23,320; a Courtroom Clerk from Court B would be able to advance to a maximum salary of \$24,275; and a Courtroom Clerk from Court C would be able to advance to a maximum salary of \$28,046.

Concerns were raised that these broad ranges could put a cap on future negotiations. However, as indicated in item III of the model, the local salary ranges are subject to local salary range adjustments and to local personnel policies, procedures, and plans or meet and confer, where applicable. Adjustments made to local salaries as a result of changes to personnel policies, procedures, and plans or as the result of a meet and confer process may require an individual trial court's maximum salary range to move up the salary register. Likewise, the model allows the maximum of the salary register to increase to the level of the salary range in the highest-paying trial court. The model also accommodates the concern of the courts for flexibility in establishing and revising their own salary ranges based on local market and management needs.

After the local courts make changes to their local salary ranges, the Judicial Council would be responsible for documenting and updating the local salaries that make up the salary register. As stated earlier, the salary register created by the Judicial Council reflects actual salaries and does not set them. The task force recommends that the Judicial Council develop a process for maintaining, reviewing, and updating the broad salary registers to reflect any changes in local salary ranges.

Impact Under Each Employment Status Option

The recommended salary model would essentially work the same under any of the employment status options of state, court, and county. Under each employment status option, the courts would be responsible for setting their individual salary ranges and for the impact of those salary ranges on their authorized budgets.

The Recommended Salary Model

As mentioned earlier, the task force made no changes to the salary model after publication of the second interim report. This same model is the final recommended salary model.

B. Meet and Confer

Background

The task force agreed that labor relations is an integral part of a personnel structure for trial court employees. The task force prepared a meet and confer model, which addresses labor relations in the trial courts. The meet and confer model generally defines trial court employees' and trial courts' rights and responsibilities with respect to labor relations.

Education: Meet and Confer

The task force received education from Ms. Deborah Brown, Attorney, Administrative Office of the Courts, regarding labor relations and the meet and confer process in the trial courts. The task force learned about the history of the meet and confer process in the trial courts and received general information about how the Meyers-Milias-Brown Act,⁴⁴ the Court Employee Labor Relations Rules,⁴⁵ and Assembly Bill 1438,⁴⁶ codified at Government Code sections 68650 through 68655, apply to the trial courts and trial court employees.

The task force learned that the Court Employee Labor Relations Rules were adopted in April 1997 and became effective January 1, 1998. The Court Employee Labor Relations Rules extend to trial court employees and the trial courts the right and the responsibility to meet and confer in good faith over matters the court has authority to determine. Government Code sections 68650 through 68655 (the labor relations statute) acknowledge the adoption of the rules and provide that they have the force of law, notwithstanding any other provision of law.

The task force received an overview and interpretation of the procedure for petitioning for relief for a violation of the labor relations statute or the Court Employee Labor Relations Rules under Government Code section 68654. Pursuant to section 68654, parties may petition the Court of Appeal for relief through a writ of mandate under Code of Civil Procedure section 1085. Currently, there are no specific procedures describing how the Court of Appeal would address such a petition.

The task force was provided with information regarding multiple-employer bargaining units. The task force learned that under current law, bargaining units may contain both court and county employees.

⁴⁴ Gov. Code, §§ 3500–3510.

⁴⁵ Cal. Rules of Court, rules 2201–2210.

⁴⁶ Escutia; Stats. 1997, ch. 857.

The task force also learned about labor relations in other public agencies. Representatives from the University of California, California State University, and California Department of Personnel Administration gave presentations to the task force regarding labor relations in their particular agencies.

The task force was provided with general information regarding the four major public employment labor relations statutes in California: (1) the Higher Education Employer-Employee Relations Act (HEERA), which covers the University of California and the California State University and their employees; (2) the Dills Act (also known as the State Employer-Employee Relations Act, or SEERA), which covers the state executive branch and most of its employees; (3) the Educational Employment Relations Act (EERA), which covers the public schools (K-12) and community colleges and their employees; and (4) the Meyers-Milias-Brown Act (MMBA), which covers local government agencies and their employees.

Assumptions and Objectives: Meet and Confer

The task force did not adopt formal assumptions and objectives with respect to a meet and confer model for trial court employees.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. The task force developed a preliminary model that would apply under all three employment status options: state, court, or county. This preliminary model is presented here.

Preliminary Meet and Confer Model⁴⁷

- I. Existing labor relations statutes and the Court Employee Labor Relations Rules of Court remain in place except for changes necessitated by a particular employment status option (state, county, court, or other) or changes related to the enforcement of the Court Employee Labor Relations Rules of Court.
- II. The meet and confer process for each court will be conducted on a local level.
- III. This meet and confer model does not apply to unrepresented employees.
- IV. Employer and representatives of recognized employee organizations shall be authorized to meet and confer and to reach tentative agreement regarding all subjects within the scope of representation on behalf of their respective principals.
- V. Unless otherwise agreed, employer and representatives of recognized employee organizations shall negotiate a single agreement for each bargaining unit.
- VI. The Labor Relations Statute, Government Code sections 68650 through 68655, will be amended to provide that:
 - A. If a party petitions the Court of Appeal for relief as provided in Government Code section 68654 and the Court of Appeal orders a reference to make findings of fact, the Court of Appeal may not appoint as a referee a judge or employee from the affected court; and
 - B. The Judicial Council shall adopt a Rule of Court to provide a process for the Court of Appeal to use to select such a referee to take evidence and report findings on disputed questions of fact.
- VII. Nothing in this model precludes the establishment of mediation, arbitration, or other procedures through local personnel policies, procedures, and plans, subject to meet and confer, as applicable.

⁴⁷ As used in this model and other assumptions, objectives, and models of the task force, the meaning of the term *meet and confer* is as defined in rule 2202(3) of the California Rules of Court. Rule 2202(3) states, "Meet and confer in good faith means that a court or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in this division, local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent."

Preliminary Considerations: Meet and Confer

The task force clarified the meaning of the term *meet and confer*, both as it is used in this model and in other assumptions, objectives, and models of the task force. For those purposes, the meaning of the term *meet and confer* is as defined in rule 2202(3) of the California Rules of Court. Rule 2202(3), which is part of the Court Employee Labor Relations Rules, states, "Meet and confer in good faith means that a court or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in this division, local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent."

The task force agreed that the existing Court Employee Labor Relations Rules⁴⁸ and the labor relations statute,⁴⁹ codified at Government Code sections 68650 through 68655, should remain in place and be changed only as necessitated by a particular status option or as they relate to the enforcement of the Court Employee Labor Relations Rules of Court. The task force slightly modified this recommendation in its recommended model, as explained in more detail in the section "Additional Considerations and the Recommended Meet and Confer Model."

The task force agreed to one particular modification to the labor relations statute with respect to the enforcement of the Court Employee Labor Relations Rules of Court. The task force was concerned that as currently drafted, the statute does not provide guidance to the appellate courts with respect to how a particular Court of Appeal would address a petition for relief under Government Code section 68654. More specifically, the task force addressed the following scenario: "If, on writ to the Court of Appeal, questions of fact exist, the court may order a referral to a retired judge or justice or a trial court judge. In this situation, who would take evidence and report findings on the disputed questions of fact, and what process would the Court of Appeal use to select the fact-finding referee or special master?" To address the task force's concern that the affected trial court not be involved in the review of an alleged violation of the labor relations statute or the Court Employee Labor Relations Rules of Court, the task force agreed that the labor relations statute, Government Code sections 68650 through 68655, should be amended to provide the following:

⁴⁸ Cal. Rules of Court, rules 2201-2210.

⁴⁹ Assem. Bill 1438 [Escutia]; Stats. 1997, ch. 857.

- If a party petitions the Court of Appeal for relief as provided in Government Code section 68654 and the Court of Appeal orders a referral for the purpose of making findings of fact, the Court of Appeal may not appoint as a referee a judge or employee from the affected court; and
- The Judicial Council shall adopt a rule of court to provide a process for the Court of Appeal to use to select such a referee to take evidence and report findings on disputed questions of fact.

The model also clarifies that nothing in the model precludes the establishment of mediation, arbitration, or other procedures through local personnel policies, procedures, or plans, subject to meet and confer, as applicable. For example, as set out above, although a party may petition the Court of Appeal for relief if it believes there has been a violation of the labor relations statute or the Court Employee Labor Relations Rules, there is nothing to prevent the parties from adopting alternative procedures as either preliminary steps to be taken before petitioning the Court of Appeal for relief or as a complete alternative to petitioning the Court of Appeal for relief. As set out more fully in the section "Additional Considerations and the Recommended Meet and Confer Model," in its recommended model, the task force recommends that courts be required to adopt a procedure, subject to meet and confer, as applicable, as a preliminary step before petitioning the Court of Appeal for relief.

The task force also agreed that the model did not need to address whether court and county employees may remain in the same bargaining unit. Rule 2206 of the California Rules of Court currently states, "Nothing contained in the rules of this division is intended to preclude court employees from continuing to be included in representation units which contain county employees." The task force agreed that this rule need not be amended.

The task force recognized that the issue of involving the state as the funding source is an outstanding issue. The model itself does not address this issue, and the task force does not believe that it is the appropriate body to address this complicated policy issue.

Impact of Preliminary Model Under Each Employment Status Option

The preliminary meet and confer model applies equally under each employment status option. As indicated in item I of the model, the existing labor relations statute, Government Code sections 68650 through 68655, and the Court Employee Labor Relations Rules, rules 2201 through 2210 of the California Rules of Court, remain in place with the exception of any changes necessitated by a particular status option and the particular change referenced in item VI of the preliminary model related to the enforcement of the statute and rules.

Item IV of the preliminary model states that employer and representatives of recognized employee organizations are authorized to meet and confer and to reach tentative agreement regarding all subjects within the scope of representation on behalf of their respective principals. Under each employment status option, the employer with whom representatives of recognized employee organizations meet and confer changes. Under the state employment status option, representatives of recognized employee organizations negotiate with the local trial court administration with the involvement of the state judicial branch. Under the court employment status option, representatives of recognized employee organizations negotiate with the local trial court administration. Under the county employment status option, representatives of recognized employee organizations negotiate with county and local trial court administrations.

In addition, under each employment status option, the employer with the final authority to determine economic and noneconomic benefits also changes. Under the state employment status option, the court, with the involvement of the state judicial branch, has the authority to determine economic and noneconomic benefits. Under the court employment status option, the court has the authority to determine economic and noneconomic benefits. Under the county employment status option, the county board of supervisors and the court jointly have the authority to determine economic and noneconomic benefits.

Under each employment status option, the state determines the funding level of the courts. A concern was raised regarding the possibility of a situation in which negotiations between representatives of recognized employee organizations and the employer take place before the level of state funding is known. In this situation, a memorandum of understanding may be adopted that includes salary increases for local court employees when it is unknown whether the state ultimately will provide the funding for the salary increases. The task force concluded that an outstanding issue that eventually needs to be addressed in another forum is how to involve the state as the funding source in the meet and confer process under each of the employment status options.

Additional Considerations and the Recommended Meet and Confer Model
Following the issuance of the second interim report, the task force modified the meet and confer model in several respects. First, item I of the model was clarified to show that the labor relations statute regarding court employees,⁵⁰ Government Code sections 68650 through 68655, shall remain in effect except for specified changes, as shown in the model, related to the enforcement of the existing Court Employee Labor Relations Rules of Court.

⁵⁰ Assem. Bill 1438 [Escutia]; Stats. 1997, ch. 857.

In the preliminary model, the task force also recommended that the Court Employee Labor Relations Rules of Court remain in place; however, the task force has now modified that recommendation. As shown in item II of the model, the task force recommends that the Court Employee Labor Relations Rules be codified. In this codification, any particular cross-references to sections of the Meyers-Milias-Brown Act (MMBA) shall be replaced with specific language from those sections as the MMBA read on April 23, 1997.⁵¹ This is necessary so that the codified Court Employee Labor Relations Rules, together with the Court Employee Labor Relations Statute,⁵² may be read as an integrated statutory scheme, without need to cross-reference sections of the MMBA. Item III further clarifies this point and also emphasizes the court employment status by stating that under the new personnel system, court employees will not be covered by the MMBA or any subsequent changes to the MMBA.

An additional modification to the model is shown in item VI. This addition clarifies that nothing in the meet and confer model is intended to preclude joint county and court negotiations with recognized employee organizations. Currently, some courts may negotiate jointly with the county with recognized employee organizations, with the consent of the parties. Under the recommended model, if the parties consent, this practice may continue under the new personnel system.

The next modification to the model is shown in item VIII, which combines and replaces items VI and VII in the preliminary model. As stated in the preliminary considerations, Government Code section 68654 currently provides, "In the event that a court, a court employee, or an employee organization believes there has been a violation of this chapter or Rules 2201 to 2210, inclusive, of the California Rules of Court, that party may petition the Court of Appeal for relief." Item VIII.A of the model provides that each trial court must adopt a procedure, subject to meet and confer, as applicable, as a preliminary step to be taken before petitioning the Court of Appeal for relief as provided in section 68654. Examples of the type of procedure a court may adopt include mediation, arbitration, or a proceeding before an administrative tribunal such as that used for review of the decision of the hearing officer in evidentiary due process hearings, which is described in more detail in the section explaining the employment protection system model, Part VII.C. One qualification was added for courts with 10 or more judges. In such courts, if the parties reach impasse regarding the appropriate procedure to adopt as the preliminary step, the court is limited to two particular procedures that it may adopt: nonbinding arbitration or a proceeding before the administrative tribunal used for review of the decision of the hearing officer in an evidentiary due process

⁵¹ This particular date was chosen as it is referenced in Government Code § 68650 as follows, "Notwithstanding any other provision of law, these rules [the Court Employee Labor Relations Rules] shall be given full force and effect, and shall be maintained as adopted by the Judicial Council on April 23, 1997."

⁵² Government Code, §§ 68650-68655.

hearing. As explained in the section describing the employment protection system model, Part VII.C, the administrative tribunal's decision is by majority vote.

Item VIII.A also adds that the parties may provide for a complete alternative to petitioning the Court of Appeal for relief pursuant to section 68654 by mutual agreement between the court and representatives of the recognized employee organization.

The final modification to the model is shown in item IX. Item IX addresses agency shops. *Agency shop* means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of such an organization.⁵³ Employees who are members of religious organizations, bodies, or sects that have conscientious objections to joining or financially supporting public employee organizations may be required to pay sums of money equal to the agency shop fees to charity in lieu of paying the agency shop fees.⁵⁴

Currently, Rule 2209(d) of the Court Employee Labor Relations Rules addresses agency shop provisions in the trial courts. Rule 2209(d) incorporates by reference the section of the MMBA addressing agency shop provisions, Government Code section 3502.5.⁵⁵ In general, the MMBA provides that an agency shop agreement may be negotiated between the employer and a recognized public employee organization that has been recognized as the exclusive or majority bargaining agent.⁵⁶ Pursuant to the MMBA, agency shop agreements last for the duration of the agreement or for a period of three years from the effective date of such agreement, whichever comes first.⁵⁷ Under the MMBA, unless negotiated by mutual agreement otherwise, an agency shop provision in a memorandum of understanding may be rescinded by a majority vote of the employees in the unit covered by the memorandum of understanding, provided that (1) the vote is requested via a petition containing the signatures of at least 30 percent of the employees in the unit, (2) the vote is by secret ballot, and (3) the vote is not taken more than once during the term of the memorandum of understanding.⁵⁸ The MMBA states that an agency shop agreement shall not apply to management, confidential, and supervisory employees.⁵⁹ The MMBA also imposes record-

⁵³ See Gov. Code, § 3502.5(a).

⁵⁴ Gov. Code, § 3502.5(a).

⁵⁵ Agency shop agreements may also be referred to as organizational security agreements.

⁵⁶ Gov. Code, § 3502.5(a).

⁵⁷ *Ibid.*

⁵⁸ Gov. Code, § 3502.5(b).

⁵⁹ Gov. Code, § 3502.5(c).

keeping requirements upon the recognized employee organization that has an agency shop provision.⁶⁰

In the 1999–2000 legislative session, a bill was introduced that would modify the MMBA to add an additional way for an agency shop arrangement to take place.⁶¹ This bill would provide that in addition to an agreement between an employer and the recognized employee organization, an agency shop arrangement shall be placed in effect without a negotiated agreement upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop arrangement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in favor of the agency shop arrangement.⁶²

Item IX states that if certain conditions are met, the codified Court Employee Labor Relations Rules will be amended to provide that a 30 percent showing of interest by means of a petition triggers an election, and a showing of 50 percent plus one of those voting secures an agency shop arrangement. The conditions precedent to amending the codified Court Employee Labor Relations Rules as indicated are as follows: (1) the legislature must pass and the Governor must sign such legislation modifying the MMBA; and (2) the codified Court Employee Labor Relations Rules must be further modified to include a provision that, with respect to any particular court, the amendment will be effective only if the court and representatives of the recognized employee organizations, through the meet and confer process, establish a provision that the employee organization shall hold harmless the court and defend and indemnify the court regarding the application of any agency shop requirements or provisions, including but not limited to improper deduction of fees, maintenance of records, or improper reporting.

Item IX also states when this amendment would go into effect. As statutes are constitutionally prohibited from impairing contracts, to avoid unconstitutionally impairing existing memoranda of understanding that may contain agency shop provisions, the amendment would go into effect if the above-referenced conditions are satisfied on the latest of the following: (1) the effective date of the legislation that enacts a personnel system for trial court employees, or (2) 90 days from the date that such legislation is chaptered. However, to avoid unconstitutionally impairing contracts (memoranda of understanding), in the event that a memorandum of understanding between the court and an employee organization is in effect on the later of either of the dates referenced in (1) or (2), or if the MMBA and the codified Court Employee Labor Relations Rules are modified as specified above after the 2000–2001 legislative session, as to such employees covered by

⁶⁰ Gov. Code, § 3502.5(d).

⁶¹ Sen. Bill 739 (1999–2000 legislative session).

⁶² *Ibid.*

such memorandum of understanding the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding. The court and representatives of recognized employee organizations may mutually agree to a different effective date.

Recommended Meet and Confer⁶³ Model

- I. The existing labor relations statutes regarding court employees (Government Code sections 68650 through 68655) remain in place except for changes related to the enforcement of the existing Court Employee Labor Relations Rules of Court.
- II. The Court Employee Labor Relations Rules of Court shall be codified; Meyers Miliias Brown Act (MMBA) section references in the codification shall be replaced with specific language from the particular section of the MMBA referenced as the MMBA read on April 23, 1997 and any references to the MMBA itself shall be deleted.
- III. Trial courts and court employees will not be covered by the MMBA or any subsequent changes to the MMBA.
- IV. The meet and confer process for each court will be conducted on a local level.
- V. This meet and confer model does not apply to unrepresented employees.
- VI. The court's representatives and representatives of recognized employee organizations shall meet and confer and be authorized to reach tentative agreement regarding all subjects within the scope of representation on behalf of their respective principals. Nothing in this model is intended to preclude joint county and court negotiations with recognized employee organizations, subject to mutual agreement between the court and the county.
- VII. Unless otherwise agreed, the court and representatives of recognized employee organizations shall negotiate a single agreement for each bargaining unit.

⁶³ As used in this model and other assumptions, objectives, and models of the task force, the term meet and confer is as defined in rule 2202(3) of the California Rules of Court. Rule 2202(3) states, "Meet and confer in good faith means that a court or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in this division, local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent."

- VIII. The Labor Relations Statute, Government Code sections 68650 through 68655, will be amended to provide that:
- A. Each trial court shall adopt a procedure, such as mediation, arbitration, or a proceeding before an administrative tribunal such as that used for review of the decision of the hearing officer in evidentiary due process hearings as described in the employment protection system model, subject to meet and confer as applicable, as a preliminary step to be taken before petitioning the Court of Appeal for relief pursuant to Government Code section 68654. In those courts with 10 or more judges, in the event that the parties reach impasse regarding this procedure, the court may select only nonbinding arbitration or a proceeding before the administrative tribunal used for review of the decision of the hearing officer in evidentiary due process hearings. A complete alternative to petitioning the Court of Appeal for relief pursuant to Government Code section 68654 may be provided for by mutual agreement between the court and representatives of recognized employee organizations;
 - B. If a party petitions the Court of Appeal for relief as provided in Government Code section 68654 and the Court of Appeal orders a reference to make findings of facts, the Court of Appeal may not appoint as a referee a judge or employee from the affected court; and
 - C. The Judicial Council shall adopt a Rule of Court to provide a process for the Court of Appeal to use to select such a referee to take evidence and report findings on disputed questions of fact.
- IX. The codified Court Employee Labor Relations Rules will be amended to provide that a 30 percent showing of interest by means of a petition triggers an election and 50 percent plus one of those voting secures an agency shop arrangement only if the legislature passes and the Governor signs such legislation modifying the MMBA, as long as the codified Court Employee Labor Relations Rules are further modified to include a provision that, with respect to any particular court, the amendment will be effective only if the court and representatives of the recognized employee organizations, through the meet and confer process, establish a provision that the employee organization shall hold harmless the court and defend and indemnify the court regarding the application of any agency shop requirements or provisions, including but not limited to, improper deduction of fees, maintenance of records, and improper reporting. To avoid unconstitutionally impairing contracts, this amendment shall go into effect if the above-referenced conditions are satisfied on the latest of the following: (1) the effective date of the legislation that enacts a personnel system for trial court employees; (2) 90 days from the date that such legislation is chaptered; or (3) in the event that a memorandum of

understanding between the court and an employee organization is in effect on the later of either of the dates referenced in (1) or (2), or if the MMBA and the codified Court Employee Labor Relations Rules are modified as specified above after the 2000–2001 legislative session, as to such employees covered by such memorandum of understanding, the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding. The court and representatives of recognized employee organizations may mutually agree to a different effective date.

VII.C Employment Protection
System

C. Employment Protection System

Background

The task force agreed that an employment protection system is an integral part of a personnel structure for trial court employees. As defined by the task force, an employment protection system is a system that defines and establishes for employees the scope of rights that pertain to their employment.

Education: Employment Protection System

The task force received education from Ms. Deborah Brown, Attorney, Administrative Office of the Courts, regarding the various types of employment protection systems that currently apply to trial court employees, as well as other systems applicable to state and local government employees.

In the process of learning about employment protection systems, the task force received education about the following:

- At-will employment;
- Employment that may be terminated for cause;
- Employer personnel policies and procedures;
- Merit systems;
- Civil service systems; and
- Collective bargaining, including meet and confer requirements.

During the course of discussing an employment protection system that includes a "cause" standard for discipline, the task force learned that a generally accepted definition of *cause* is, "A fair and honest cause or reason, regulated by good faith on the part of the party exercising the power."⁶⁴ The task force also received education regarding the consequences of a system that includes a cause standard for discipline up to and including termination, including the procedural due process protections that a public employee has under such a system. These procedural due process protections are discussed in more detail in the section entitled, "Preliminary Considerations: Employment Protection System."

In addition, the task force received information regarding the availability of a civil service system for court employees under state, court, and county employment status options. The task force learned that under the state judicial branch status option, the California Constitution, article VII, section 4, precludes trial court employees from inclusion in the state civil service system. Under the court employment status option, no civil service system specifically for the courts

⁶⁴ *Pugh v. Sees Candies* (1981) 116 Cal.App.3d 311, 330.

presently exists. If a civil service system were to be created under the court employment status option, the Legislature would need to approve statutory amendments. Under the county employment status option, county civil service systems currently are available in some, but not all, counties.

Assumptions and Objectives: Employment Protection System

The task force did not adopt formal assumptions and objectives with respect to an employment protection system for trial court employees. However, in the course of discussing alternative employment protection systems, the task force agreed to the following approach for an employment protection system for trial court employees:

- Aim for broad provisions;
- Achieve a system with statewide applicability;
- Achieve a system with local flexibility;
- Identify core elements and principles; and
- Provide the ability to organize at the local level.⁶⁵

The task force also agreed that the model should consider potential disruption to trial courts and identify the employees to whom the model would apply.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. The preliminary model is presented here.

⁶⁵ Issues relating to the meet and confer process, including the ability to organize at a local level, are discussed in Part VII.B.

Preliminary Employment Protection System Model

- I. An employment protection system is legally available to the extent it is not excluded by the Constitution. To the extent that the particular employment protection system proposed by the task force is precluded by statute, statutory amendments may be necessary.
- II. No changes are recommended to local systems, except that each local system shall include, but not be limited to, the following elements:
 - A. Employees may be laid off based on the organizational necessity⁶⁶ of the court. Except for layoffs for organizational necessity, discipline up to and including termination of employees shall be for cause.⁶⁷
 - B. The employee protection system shall include progressive discipline, as defined by local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable.
 - C. *Employees*, as used in item II, means all employees other than:
 1. Subordinate judicial officers (for example, pro tem judges, commissioners, and referees, including referees appointed pursuant to California Code of Civil Procedure sections 638 and 639); and
 2. Managerial, confidential, temporary, limited-term, and probationary⁶⁸ employees, who may be excluded from this employment protection system in accordance with local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable.
 - D. This employment protection system shall not alter the fact that court employment is authorized and established by statute, and the termination of such employment shall not be construed to provide, either explicitly or implicitly, a civil cause of action for breach of contract, either implied or express. Unless modified through meet and confer or local trial court personnel policies, procedures, or plans, the procedure for any employee seeking a remedy who believes that the employing court has not complied with this employment protection system or who challenges the disciplinary decision shall be to first exhaust available administrative remedies provided by the employing court. In providing such administrative remedies, the employing court shall establish a lawful due process

⁶⁶ A layoff for organizational necessity means a termination based on the needs or resources of the court, including, but not limited to, a reorganization or reduction in force or lack of funds.

⁶⁷ A generally accepted definition of *cause* is, "A fair and honest cause or reason, regulated by good faith on the part of the party exercising the power" (*Pugh v. Sees Candies* (1981) 116 Cal. App.3d 311, 330).

⁶⁸ Probationary employees sometimes are referred to as introductory employees.

procedure to review disciplinary decisions that by law require a due process procedure. The lawful due process procedure shall be defined by local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable.⁶⁹ Any impartial hearing officer required by the lawful due process procedure in a postdeprivation due process hearing shall be appointed under procedures adopted through the meet and confer process, as applicable. At a minimum, any such impartial hearing officer shall not be an employee or judge of the employing court. The denial of due process or disciplinary decisions that by law require a due process procedure may be challenged by a petition for a writ of mandate.

- III. Nothing herein shall preclude the provision of enhanced employment protection systems through meet and confer or local trial court personnel policies, procedures, or plans.
- IV. The employment protection system in each court shall go into effect on the effective date of the legislation that enacts a personnel system for trial court employees, or 90 days from the date that such legislation is chaptered, whichever is later, unless the employer and representatives of recognized employee organizations mutually agree to a different effective date.

⁶⁹ Under the state and federal Constitutions, a public employee who has a property interest in his or her employment may not be deprived of this property interest unless the employer complies with procedural due process requirements. (See *Board of Regents v. Roth* (1972) 408 U.S. 564, 576-77; Cal. Const. art. I, § 7.) In *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, 215, the California Supreme Court held that at a minimum, preremoval safeguards must include (1) notice of the proposed action; (2) the reasons therefore; (3) a copy of the charges and materials on which the action is based; and (4) the right to respond, either orally or in writing, to the authority initially imposing discipline. In addition to these preremoval safeguards, the employee also is entitled to a postdeprivation due process hearing, which can be given before or after the discipline or discharge is imposed. (See *Cleveland Bd. of Educ. v. Loudermill* (1985) 470 U.S. 532, 545-47.) In general, the following elements are typical in a postdeprivation due process hearing: (1) the hearing should be at a meaningful time before an impartial hearing officer or decision maker; (2) during the hearing, the employee has the right to present favorable evidence, confront and cross-examine adverse witnesses, and be represented by counsel; and (3) the hearing results in findings of fact and conclusions that incorporate the evidence.

Preliminary Considerations: Employment Protection System

The task force determined that it was necessary to establish a fair and equitable minimum employment protection standard for all trial court employees. The task force thus identified two core elements to be included in the employment protection system for trial court employees. First, discipline of trial court employees shall be for cause, with certain exceptions specified in the model. Second, the trial court employment protection system shall include progressive discipline.

The task force recognized that many court employees currently may have employment protection systems that include progressive discipline and a cause standard for discipline. However, in creating an employment protection system model, the task force determined that these core elements should be considered minimum standards for all trial court employees. The task force identified these core elements as the minimum standard to provide court employees with a fair employment protection system.

In creating the preliminary model, the task force considered that courts should maintain the authority to lay off employees based on the organizational necessity of the court. Thus, the preliminary model states, "Except for layoffs for organizational necessity, discipline up to and including termination of employees shall be for cause." A layoff for organizational necessity is defined as "a termination based on the needs or resources of the court, including, but not limited to, a reorganization or reduction in force or lack of funds."

The task force also discussed and resolved to whom the model should apply. Subordinate judicial officers are excluded from the employment protection model. In addition, managerial, confidential, temporary, limited-term, and probationary employees may be excluded from the model in accordance with local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable. The task force did not define the terms *managerial*, *confidential*, *temporary*, *limited term*, and *probationary* but instead determined that those terms should be defined through local procedures, subject to meet and confer, as applicable.

By including a cause standard for discipline up to and including termination, the employment protection system model provides trial court employees with a property interest in their employment. Under the state and federal Constitutions, a public employee who has a property interest in his or her employment may not be deprived of this property interest unless the employer complies with procedural due process requirements.

Thus, under the employment protection system model, the employer would be required to comply with procedural due process requirements. In *Skelly v. State*

Personnel Board,⁷⁰ the California Supreme Court held that at a minimum, preremoval safeguards required by procedural due process must include: (1) notice of the proposed action; (2) the reasons therefore; (3) a copy of the charges and materials upon which the action is based; and (4) the right to respond, either orally or in writing, to the authority initially imposing discipline.

In addition to these preremoval safeguards, employees also are entitled to an evidentiary due process hearing, which can be given before or after the discipline or discharge is imposed.⁷¹ In general, the following elements are typical in an evidentiary due process hearing: (1) the hearing should be at a meaningful time before an impartial hearing officer or decision maker; (2) during the hearing, the employee has the right to present favorable evidence, confront and cross-examine adverse witnesses, and be represented by counsel; and (3) the hearing results in findings of fact and conclusions that incorporate the evidence.

With respect to the evidentiary hearing required by procedural due process, the task force expressed concern that any impartial hearing officer required in an evidentiary due process hearing be appointed through procedures adopted through the meet and confer process, as applicable. Where the meet and confer process is not applicable, the court must adopt local procedures to appoint such an impartial hearing officer. Regardless of the method of adoption of procedures to appoint such an impartial hearing officer, the model states that at a minimum, any such impartial hearing officer shall not be an employee or judge of the employing court.

Questions arose with respect to whether the impartial hearing officer's (or decision maker's) findings of fact and conclusions would be advisory to the employer or binding upon the employer. At the time the second interim report was issued, the task force was still considering this issue and had not yet proposed a final recommendation with respect to the hearing officer's conclusions. Following the issuance of the second interim report, the task force addressed this issue and modified the employment protection system model substantially to reflect its final recommendations. These modifications are discussed in detail in the section "Additional Considerations and the Recommended Employment Protection System Model."

The task force also discussed when the employment protection system should go into effect. Members of the task force expressed a desire that the employment protection system go into effect as soon as reasonably possible. The task force considered that in those courts with a represented workforce, the employer and trial court employee representatives would need to meet and confer regarding the

⁷⁰ *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, 215.

⁷¹ *Townsel v. San Diego Metropolitan Transit Development Board* (1998) 65 Cal.App.4th 940, 948-49.

details of the employment protection system. For example, as referenced in item II.C.2 of the preliminary model, the employer and trial court employee representatives would need to meet and confer over the definition of managerial, confidential, temporary, limited-term, and probationary employees and whether they will be included or excluded from the employment protection system. Additionally, the employer and trial court employee representatives would need to meet and confer over the specifics of the lawful due process procedure described in item II.D of the preliminary model. In deciding upon a reasonable amount of time for this process to take place, the task force considered the importance of this issue to the employees.

The task force determined that a reasonable amount of time for the employer to develop the details of the model, subject to meet and confer, would be approximately 90 days. Item IV of the preliminary model states that the employment protection system in each court shall go into effect on the effective date of the legislation that enacts a personnel system for trial court employees, or 90 days from the date that such legislation is chaptered, whichever is later, unless the employer and representatives of recognized employee organizations mutually agree to a different effective date. Therefore, for example, if the Governor signs legislation on October 6, 2000 (the chapter date is usually that day or the next day), that has an effective date of January 1, 2001, then the employer and trial court employee representatives will have until January 4, 2001, 90 days, in which to meet and confer over the details of the employment protection system. Alternatively, if the chapter date of the legislation is September 1, 2000, and the effective date of the legislation is January 1, 2001, then the employer and the trial court employee representatives will have until January 1, 2001, approximately 120 days, in which to meet and confer over the details of the employment protection system. Additionally, for represented workforces, the employer and representatives of recognized employee organizations may mutually agree to a different effective date for the employee protection system. This recommendation was modified in the recommended model to avoid unconstitutionally impairing existing contracts, or memoranda of understanding, between the court or county and recognized employee organizations. The modifications to this recommendation are explained in detail in the section "Additional Considerations and the Recommended Employment Protection System Model."

Another issue raised by the task force that is not specifically addressed in this model is the statutory rights that trial court employees currently have with respect to whistle blowing and retaliation by virtue of being considered county employees. The task force is concerned that trial court employees maintain the existing statutory protections with respect to whistle blowing and retaliation that currently apply to trial court employees as county employees. The task force agreed that, depending on which employment status the Legislature ultimately provides for

trial court employees, statutory amendments may be required to maintain the statutory protections that currently apply to trial court employees as county employees with respect to whistle blowing and retaliation.

Impact of Preliminary Model Under Each Employment Status Option

The preliminary employment protection system model applies equally under each employment status option. The preliminary employment protection system model addresses the issue of employment protection from a broad policy perspective by identifying the core elements of an employment protection system and leaving the details of the system to the trial courts. By stating that “[n]o changes are recommended to existing systems, except that each local system shall include, but not be limited to, the [elements identified in the model],” the preliminary model proposes a floor, or minimum standard, which all trial courts must provide to the employees specified in the preliminary model. The preliminary model does not provide a ceiling for employee rights. Therefore, under the preliminary model, employees currently in at-will systems will be provided with the additional rights identified in the model.

The model states that court employment protection systems shall include progressive discipline. Under the model, progressive discipline will be defined by local trial court personnel policies, procedures, or plans, subject to meet and confer requirements, as applicable. Thus, those courts that currently do not have progressive discipline will be required to adopt a policy of progressive discipline.

The employment protection system model includes a cause standard for discipline up to and including termination. Those courts that currently do not have a cause standard for discipline, but instead have a system with fewer rights for employees (for example, an at-will system), at a minimum will be required to adopt a cause standard for discipline as set forth in the employment protection system model.

By including a cause standard for discipline up to and including termination, the employment protection system provides trial court employees with a property interest in their employment, which is protected by the due process clauses of the federal and state Constitutions. Thus, procedural due process rights would attach in such a system. If courts currently do not have lawful due process procedures for reviewing disciplinary decisions that by law require a due process procedure, they must establish them. Moreover, as specified in the model, the lawful due process procedure must include a procedure to appoint an impartial hearing officer in an evidentiary due process hearing. This impartial hearing officer may not be an employee or judge of the employing court.

Subordinate judicial officers are excluded from the model. In addition, managerial, confidential, temporary, limited-term, and probationary employees may be

excluded from the model in accordance with local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable. The task force did not define the terms *managerial*, *confidential*, *temporary*, *limited term*, or *probationary* but instead left the definitions of those terms up to local procedures, subject to meet and confer requirements, as applicable.

Additional Considerations and the Recommended Employment Protection System Model

Following the distribution of the second interim report, the task force made substantial modifications to particular sections of the employment protection system model. After significant discussion with task force members and their constituencies and consideration of the concerns of the respective groups, modifications were made to the employment protection system model. These modifications reflect the task force's desire that the employment protection system for court employees be comprehensive, credible, and objective.

As a comprehensive system, the employment protection system shall become the minimum employment protection system for all trial court employees (with the exceptions noted in the model) and shall become part of the sole trial court employee personnel system. As indicated in item II, the trial court employment protection system shall replace county employment protection systems applying to trial court employees prior to the implementation date except as specified within the model. To ensure that the trial court employment protection system becomes the minimum employment protection system for all trial courts, the task force recognized in the model that statutory amendments will be required.

The task force is recommending this uniform employment protection system for all trial courts as a fair system, which avoids the two-tiered system that currently is in effect in some courts that have grandparented county civil service or merit systems for some employees. As stated in Part VII.D, which describes the trial court employment, selection, and advancement system, the task force has avoided recommending two-tiered systems in all aspects of the new trial court employee personnel system.

Item III.A of the model has been modified slightly. As indicated in the preliminary model, employees may be laid off based on the organizational necessity of the court. The recommended model adds that the local trial court shall develop personnel rules regarding procedures for layoffs, subject to meet and confer, as applicable.

The primary modifications to the model are shown in items III.G through III.M. In these sections, the model describes the minimum standards for an evidentiary due

process hearing required by the lawful due process procedure.⁷² The modifications to the sections regarding evidentiary due process hearings were designed to ensure satisfaction with the process by all parties.

As indicated in the preliminary model, any impartial hearing officer required by the lawful due process procedure in an evidentiary due process hearing shall be appointed under procedures adopted through the meet and confer process, as applicable. In addition, the impartial hearing officer may not be an employee or judge of the employing court. In the recommended model, the task force offers options for selection of the hearing officer that the court may consider. These options include but are not limited to a mutual strike-out system or a mutual selection system. In determining how to select an impartial hearing officer, courts shall consider using an outside organization for submission of names of potential hearing officers. An example of how this may occur is that the court may provide for selection of a hearing officer by agreement of the parties; however, if after a period of time, the parties cannot agree upon a hearing officer, the parties may receive a list of names from an outside organization and then proceed to strike out names until only one name is left.

As shown in item III.G, the evidentiary due process hearing must take place under state and federal standards and must include at a minimum the following elements: (1) the hearing shall result in an appropriate record with a written report that has findings of fact and conclusions that incorporate the evidence; (2) the employee and employer shall have the right to call witnesses and present favorable evidence, and the employer shall be required to release employees to testify at the hearing; (3) the employee has the right to representation, including legal counsel, if provided by the employee; and (4) the hearing officer shall have the authority to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence as provided in California Code of Civil Procedure section 1282.6.

In general, the first three of the minimum standards described in the preceding paragraph are required by law. The fourth minimum standard has been added as it is a typical component of an arbitration proceeding and will assist both the court and employee in achieving a fair hearing in which all necessary evidence may be presented by both parties. As proposed, in an evidentiary due process hearing, the hearing officer would have the authority to respond to parties' requests for subpoenas and subpoenas duces tecum and, on his or her own determination, issue

⁷² In the recommended model, the term "evidentiary due process hearing" replaces the term "post-deprivation due process hearing," as it is a more commonly used term to describe the hearing and also more accurately reflects that this hearing may be provided before or after the discipline or discharge is imposed.

subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence.

An additional minimum standard proposed by the task force in item III.G is that if the hearing officer disagrees with the court's disciplinary decision, the local trial court shall be responsible for furnishing a copy of the record of the proceedings before the hearing officer to the employee who is challenging his or her discipline or, if the employee is represented by a union or counsel, to the employee's bargaining representative or counsel, without cost.

Item III.H sets forth the standard of review by the trial court of the hearing officer's report and recommendation. First, with respect to factual findings of the hearing officer, the court is bound by the material factual findings of the hearing officer except for material factual findings that are not supported by substantial evidence. The terms *material factual findings* and *substantial evidence* are legal terms. A common definition for a material fact is "a fact that is significant or essential to the issue or matter at hand."⁷³ A common definition for substantial evidence is "evidence that a reasonable mind would accept as adequate to support a conclusion; evidence beyond a scintilla."⁷⁴

With respect to the acceptance or rejection of the hearing officer's report and recommendation, the court is to give substantial deference to the recommended disposition of the hearing officer and may not reject or modify the recommendation except pursuant to a written statement specifying the reason or reasons why the recommended disposition is rejected. This statement of reasons must have direct reference to the facts found by the hearing officer and specify whether the facts found by the hearing officer are supported by substantial evidence. Thus, although the court may reject or modify the hearing officer's recommendation following certain minimum standards, it may do so only after giving the hearing officer's report and recommendation serious consideration and may not do so arbitrarily.

Item III.H.2 sets forth the reasons why the court may reject the recommendation of the hearing officer. First, the court may reject the hearing officer's recommendation if the material factual findings made by the hearing officer are not supported by substantial evidence. Second, the court may reject the hearing officer's recommendation for the following reasons or reasons of substantially similar gravity or significance: (1) the recommendation places an employee or the

⁷³ *Black's Law Dictionary*, Seventh Ed. (1999).

⁷⁴ *Ibid.* See also, *Estate of Teed* (1952) 112 Cal.App.2d 638, 644, stating, "[S]ubstantial . . . clearly implies that such evidence must be of ponderable legal significance. . . . It must be reasonable in nature, credible, and of solid value; it must actually be 'substantial' proof of the essentials which the law requires in a particular case."

public at an unacceptable risk of physical harm from an objective point of view; (2) the recommendation requires an act contrary to law; (3) the recommendation obstructs the court from performing its constitutional or statutory function from an objective point of view; (4) the recommendation disagrees with the court's penalty determination, but the hearing officer has not identified material, substantial evidence in the record that provides the basis for that disagreement; (5) the recommendation is contrary to past practices in similar situations presented to the hearing officer that the hearing officer has failed to consider and/or distinguish; or (6) the recommendation, from an objective point of view and applied by the court in a good faith manner, exposes the court to present or future legal liability other than the financial liability of the actual remedy proposed by the hearing officer.

The list of reasons referenced above that a court may rely upon to reject the hearing officer's recommendation contain additional legal terms: *objective point of view* and *good faith manner*. A common definition for *objective point of view* is a "legal standard that is based on conduct and perceptions external to a particular person."⁷⁵ An objective standard refers to a reasonable person's point of view as compared to a subjective standard, which would refer solely to a particular person's point of view. The term *good faith* is used in a variety of legal contexts. A common definition of *good faith* is "a state of mind consisting in honesty in belief or purpose [and] faithfulness to one's duty or obligation. . . ."⁷⁶

Examples of some of the reasons a trial court may rely upon to reject the hearing officer's recommendation follow. A situation may arise in which a hearing officer agrees with the facts presented by the court, but decides to change the discipline recommendation without referencing material, substantial evidence in the record for so doing. This situation is an example of subparagraph (4) above and provides the court with a reason upon which to reject the hearing officer's recommendation. Another situation may arise if the court has discharged an employee for sexual harassment and the hearing officer makes a recommendation that the court should suspend, rather than discharge, the employee. This situation may implicate subparagraph (6) above. If the court determines in good faith and from a reasonable perspective that returning the employee to the workplace would expose the court to present or future legal liability, such as the threat of a lawsuit by those who initially complained of sexual harassment or others who may be placed in such a situation in the future, the court may reject the hearing officer's recommendation.

Item III.I sets forth the trial court's process of review of the hearing officer's report and recommendation; in other words, who in the court will make the

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

decision to reject or substantially modify the hearing officer's recommendation. That process shall be established in local personnel rules, subject to meet and confer, as applicable. At a minimum, the process of review must provide that the decision of the hearing officer shall be subject to review as described above (and in item III.H of the model) except that if the court determines to reject or substantially modify the recommendation of the hearing officer, that review must be done by an individual or group of individuals other than the disciplining officer of the court. Under this standard, although the disciplining officer may conduct the first review of the hearing officer's report and recommendation, the disciplining officer must refer it to another individual or group of individuals for review if the disciplining officer disagrees with the hearing officer's recommendation. Therefore, as a general rule for courts that have more than two judges but fewer than ten judges, if the disciplining officer is a judge of the court, a review that results in rejection or substantial modification of the hearing officer's recommendation must be performed by another judge of the court, a judicial committee, an individual, or a panel, as specified in local personnel rules. One exception to this general rule is in a court with two or fewer judges. In a court with two or fewer judges, if the court has no other judge than the disciplining judge or judges, such judge or judges may conduct the review.

Also, under the standard set forth in Item III.I, in those courts with ten or more judges, as a minimum requirement, the review shall be by a panel of three judges whose decision shall be by a majority vote. One judge shall be selected by the presiding judge or his or her designee. One judge shall be selected by the employee or, if the employee is represented, by his or her bargaining representative. The two appointed judges shall select the third judge. No judge may be selected to serve without his or her consent, and no judge may serve on the panel in a case in which he or she has imposed discipline. The term of office of the panel shall be defined by local personnel policies, procedures, or plans, subject to meet and confer, as applicable.

Item III.J sets forth the time for the trial court to review the hearing officer's report and recommendation. Here, the task force's recommendation is that this amount of time needs to be reasonable for both the court and the disciplined employee. As such, the model states that the trial court shall have 30 calendar days from receipt of the decision of the hearing officer or from receipt of the record of the hearing, whichever is later, to accept or reject the hearing officer's report or recommendation unless the trial court and employee mutually agree to a different time frame.

As stated in the preliminary model, the denial of due process or disciplinary decisions that by law require a due process procedure may be challenged by a petition for a writ of mandate. In item III.K of the recommended model, the task

force has clarified that if the disciplined employee challenges the decision of the disciplining court rejecting or modifying the hearing officer's proposed discipline, the employee may file a writ of administrative mandamus under Code of Civil Procedure section 1094.5 in the appropriate tribunal. In addition, in employee challenges to the decision of the court rejecting or modifying the hearing officer's proposed discipline, if required by the writ procedure and if not previously provided to the disciplined employee, the disciplining court shall furnish a certified copy of the record of the proceeding before the hearing officer to the disciplined employee or, if the employee is represented by a bargaining representative, to the bargaining representative, without charge. The reviewing court shall base its review on the entire record. In addition, in reviewing the rejection by the disciplining court of the recommendation of the hearing officer, the reviewing court shall be bound by the material factual findings of the hearing officer that are supported by substantial evidence.

Item III.M sets forth one exception to the earlier statement that the employment protection system shall replace county employment protection systems applying to trial court employees prior to the implementation date. This exception is limited to (1) court employees who are members of the Los Angeles County civil service system at the time of implementation of a personnel system for trial court employees, and (2) the evidentiary due process hearing required by a lawful due process procedure. For those court employees who are members of the Los Angeles County civil service system at the time of implementation of a personnel system for trial court employees, those employees will have the right to elect, as an alternative to the above described evidentiary due process hearing, to have an evidentiary due process hearing before the county civil service commission.

Certain procedures must be followed for this election to be effective. The election to remain in the county civil service system for the purpose of receiving evidentiary due process hearings before the county civil service system only shall be made not later than one year after the date of implementation of the personnel system for trial court employees. If an employee does not elect to remain in the county civil service system for this purpose only within that time frame, the employee will automatically be subject to the trial court employment protection system for all purposes.

In addition, there are certain restrictions upon this election. A court employee may not make this election after receiving notice of intended discipline until after the disciplinary action has been finally resolved and the employee has exhausted all remedies related to that action. Court employees who initially elect to remain in the county civil service system for this purpose may elect at any time to be subject to the trial court employment protection system except after receiving notice of

intended discipline as described above. The election to be subject to the trial court employment protection system may not be reversed.

Court employees also may automatically become subject to the trial court employment protection system for all purposes in the event that a court employee who initially elects to remain in the county civil service system for this purpose later is promoted or transfers into a position that is comparable to a position that is classified as exempt from the county civil service system. Those court employees in Los Angeles County who are eligible for this option shall be deemed county employees for purposes of remaining eligible for evidentiary due process hearings before the county civil service commission.

Item V has been modified since the issuance of the second interim report to take into consideration the constitutional prohibition on statutorily impairing contracts.⁷⁷ Thus, item V now provides that the implementation date on which the system in each court shall go into effect is the latest date of the following: (1) the effective date of the legislation that enacts a personnel system for trial court employees, or (2) 90 days from the date that such legislation is chaptered. Representatives of the court and representatives of recognized employee organizations may mutually agree to a different effective date.

In addition, item V now clarifies that if the provisions of the employment protection system model are governed by an existing memorandum of understanding covering court employees, as to such provisions, the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.

⁷⁷ See Part VII.D, "Employment, Selection, and Advancement System." for more information regarding the implementation date of the trial court employee personnel system.

Recommended Employment Protection System Model

- I. An employment protection system is legally available to the extent it is not excluded by the Constitution. To the extent that the particular employment protection system proposed by the task force is precluded by existing statutes, statutory amendments are required and shall be proposed to ensure that the trial court employment protection system becomes the minimum employment protection system for all trial courts.
- II. The trial court employment protection system shall become the minimum employment protection system for all trial court employees as of the implementation date and shall become part of the sole trial court employee personnel system. This trial court employment protection system shall replace county employment protection systems applying to trial court employees prior to the implementation date except as specified herein.
- III. Each local system shall include, but not be limited to, the following elements:
 - A. Employees may be laid off based on the organizational necessity⁷⁸ of the court. The local trial court shall develop personnel rules regarding procedures for layoffs. The development of these rules shall be subject to meet and confer, as applicable.
 - B. Except for layoffs for organizational necessity, discipline up to and including termination of employees shall be for cause.⁷⁹
 - C. The employee protection system shall include progressive discipline, as defined by local trial court personnel policies, procedures or plans, subject to meet and confer, as applicable.
 - D. *Employees*, as used in item III of this model, means all employees other than:
 1. Subordinate judicial officers (for example, pro tem judges, commissioners, and referees, including referees appointed pursuant to California Code of Civil Procedure sections 638 and 639); and
 2. Managerial, confidential, temporary, limited term, and probationary⁸⁰ employees who may be excluded from this employment protection system in accordance with local trial

⁷⁸ A layoff for organizational necessity means a termination based on the needs or resources of the court, including, but not limited to, a reorganization or reduction in force or lack of funds.

⁷⁹ A generally accepted definition for *cause* is "A fair and honest cause or reason, regulated by good faith on the part of the party exercising the power." (*Pugh v. Sees Candies*, 116 Cal. App. 3d 311, 330 (1981).)

⁸⁰ Probationary employees sometimes are referred to as introductory employees.

court personnel policies, procedures, or plans, subject to meet and confer, as applicable.

- E. This employment protection system shall not alter the fact that court employment is authorized and established by statute, and the termination of such employment shall not be construed to provide, either explicitly or implicitly, a civil cause of action for breach of contract, either implied or express.
- F. Unless modified through meet and confer or local trial court personnel policies, procedures, or plans, the procedure for any employee seeking a remedy who believes that the employing court has not complied with this employment protection system or who challenges the disciplinary decision shall be to first exhaust available administrative remedies provided by the employing court. In providing such administrative remedies, the employing court shall establish a lawful due process procedure to review disciplinary decisions that by law require a due process procedure. The lawful due process procedure shall be defined by local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable.⁸¹ Any impartial hearing officer required by the lawful due process procedure in an evidentiary due process hearing shall be appointed under procedures adopted through the meet and confer process, as applicable.⁸² At a minimum, any such impartial hearing officer shall not be an employee or judge of the employing court.

⁸¹ Under the state and federal Constitutions, a public employee who has a property interest in his or her employment may not be deprived of this property interest unless the employer complies with procedural due process requirements. (See *Board of Regents v. Roth* (1972) 408 U.S. 564, 576-77; Cal. Const., art. I, § 7.) In *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, 215, the California Supreme Court held that at a minimum, if an employer intends to remove an employee prior to providing an evidentiary due process hearing, prerule safeguards must include: (1) notice of the proposed action; (2) the reasons therefore; (3) a copy of the charges and materials on which the action is based; and (4) the right to respond, either orally or in writing, to the authority initially imposing discipline. The employee is entitled to an evidentiary due process hearing, which can be given before or after the discipline or discharge is imposed. (See *Cleveland Bd. of Educ. v. Loudermill* (1985) 470 U.S. 532, 545-47.) In general, the following elements are typical in an evidentiary due process hearing: (1) the hearing should be at a meaningful time before an impartial hearing officer/decision maker; (2) during the hearing, the employee has the right to present favorable evidence, confront and cross-examine adverse witnesses, and be represented by counsel; and (3) the hearing results in findings of fact and conclusions that reference the evidence.

⁸² Options for selection that the parties may consider include, but are not limited to, a mutual strike-out system or a mutual selection system. Consideration shall be given to using an outside organization such as the American Arbitration Association or the State Mediation and Conciliation Service for submission of names of potential impartial hearing officers.

- G. The evidentiary due process hearing required by the lawful due process procedure⁸³ shall take place under state and federal standards and shall include at a minimum the following elements:
1. The hearing shall result in an appropriate record with a written report that has findings of fact and conclusions that reference the evidence.
 2. The employee and employer shall have the right to call witnesses and present favorable evidence. The employer shall be required to release employees to testify at the hearing.
 3. The hearing officer shall have the authority to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence as provided in California Code of Civil Procedure section 1282.6.
 4. The employee has the right to representation, including legal counsel, if provided by the employee.
 5. If the hearing officer disagrees with the court's disciplinary decision, the local trial court shall furnish a copy of the record of proceedings before the hearing officer to the employee or, if the employee is represented by a union or counsel, to the employee's bargaining representative or counsel, without cost.
- H. The standard of review by the trial court of the hearing officer's report and recommendation shall be as follows:
1. The court shall be bound by the factual findings of the hearing officer except factual findings that are not supported by substantial evidence.
 2. With respect to the acceptance or rejection of the hearing officer's report and recommendation, the court shall give substantial deference to the recommended disposition of the hearing officer and may not reject or modify the recommendation except pursuant to a written statement specifying the reason or reasons why the recommended disposition is rejected. Such statement of reasons shall have direct reference to the facts found and shall specify whether they are supported by substantial evidence. The court may reject the recommendation of the hearing officer if the material factual findings are not supported by substantial evidence or for the following reasons or reasons of

⁸³ The evidentiary due process hearing required by a lawful due process procedure is sometimes referred to as a post deprivation due process hearing and may be given before or after the discipline or discharge is imposed.

substantially similar gravity or significance: (1) the recommendation places an employee or the public at an unacceptable risk of physical harm from an objective point of view; (2) the recommendation requires an act contrary to law; (3) the recommendation obstructs the court from performing its constitutional or statutory function from an objective point of view; (4) the recommendation disagrees with the court's penalty determination, but the hearing officer has not identified material, substantial evidence in the record that provides the basis for that disagreement; (5) the recommendation is contrary to past practices in similar situations presented to the hearing officer that the hearing officer has failed to consider and/or distinguish; or (6) the recommendation, from an objective point of view and applied by the court in a good faith manner, exposes the court to present or future legal liability other than the financial liability of the actual remedy proposed by the hearing officer.

- I. The trial court's process of review of the hearing officer's report and recommendation shall be as follows: Subject to meet and confer, as applicable, trial courts shall establish in local personnel rules a process for the trial court to review the hearing officer's report and recommendation that provides at a minimum that the decision of the hearing officer shall be subject to review as described in item III.H above, save and except that such review that results in rejection or substantial modification of the recommendation of the hearing officer shall be conducted by an individual other than the disciplining officer. If such disciplining officer is a judge of the court, it shall be made by another judge of the court, a judicial committee, an individual, or a panel as specified in local personnel rules.
 1. In a court with two or fewer judges, if the court or the county has no other judge than the disciplining judge or judges, such judge or judges may conduct the review.
 2. As a minimum requirement, in those courts with ten or more judges, the review shall be by a panel of three judges whose decision shall be by a majority vote. One judge shall be selected by the presiding judge or his or her designee. One judge shall be selected by the employee or, if the employee is represented, by his or her bargaining representative. The two appointed judges shall select the third judge. No judge may be selected to serve without his or her consent. The term of office of the panel shall be defined by local personnel policies, procedures, or plans, subject to meet and confer, as

applicable. No judge shall serve on the panel in a case in which he or she has imposed discipline.

- J. The time for the trial court to review the hearing officer's report and recommendation shall be as follows: The trial court shall have 30 calendar days from receipt of the decision of the hearing officer or from receipt of the record of the hearing, whichever is later, to accept or reject the hearing officer's report or recommendation unless the trial court and employee mutually agree to a different time frame.
- K. The denial of due process or disciplinary decisions that by law require a due process procedure may be challenged by a petition for a writ of mandate.
- L. If the disciplined employee challenges the decision of the disciplining court rejecting or modifying the hearing officer's recommendation, the employee may file a writ of administrative mandamus under Code of Civil Procedure section 1094.5 in the appropriate court, and such review by that court shall be based on the entire record. If required by the writ procedure, and if not previously provided to the disciplined employee, the disciplining court shall furnish a certified copy of the record of the proceeding before the hearing officer to the disciplined employee or, if the employee is represented, to the bargaining representative without charge. In reviewing the disciplining court's rejection or modification of the hearing officer's recommendation, the reviewing court shall be bound by the hearing officer's material factual findings that are supported by substantial evidence.
- M. In a county of the first class as defined in Government Code section 28022 as of January 1, 2000, to the extent that a court employee was a member of a county civil service system at the time of implementation of a personnel system for trial court employees, that employee will have the right to elect, as an alternative to the above described evidentiary due process hearing, to have an evidentiary due process hearing before the county civil service commission. The election to remain in the county civil service system for this purpose only shall be made not later than one year after the implementation date. Failure to elect to remain in the county civil service system for this purpose only shall result in the employee automatically being subject to the trial court employment protection system for all purposes. A court employee may not make this election after receiving notice of intended discipline until after the disciplinary action has been finally resolved and the employee has exhausted all remedies related to that action. The election to be subject to the trial court employment protection system may not be reversed. Court

employees who initially elect to remain in the county civil service system for this purpose may elect at any time to be subject to the trial court employment protection system except after receiving notice of intended discipline as described above. Court employees who initially elect to remain in the county civil service system for this purpose who later promote or transfer into a position that is comparable to a position that is classified as exempt from the county civil service system shall be subject to the trial court employment protection system for all purposes. Court employees in the county of the first class eligible for this option shall be deemed county employees for purposes of remaining eligible for evidentiary due process hearings before the county civil service commission as described herein.

- IV. Nothing herein shall preclude the provision of enhanced employment protection systems through meet and confer or local trial court personnel policies, procedures, or plans.
- V. The implementation date on which the system in each court shall go into effect is the latest date of the following: (1) the effective date of the legislation that enacts a personnel system for trial court employees, or (2) 90 days from the date that such legislation is chaptered. Representatives of the court and representatives of recognized employee organizations may mutually agree to a different effective date. If, however, the provisions of this model are governed by an existing memorandum of understanding covering court employees, as to such provisions, the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.

VIII.D Employment, Selection
and Advancement System

D. Employment, Selection, and Advancement System

Background

The task force explored the issues of employment, selection, and advancement after the second interim report. The model discussed in this section was developed to address those issues.

Some trial court employees in approximately half of the 58 counties are covered by civil service or merit system rules that govern their employment, selection, and advancement.⁸⁴ These merit-based systems were established to ensure formal nondiscriminatory hiring and promotion processes based on job-related factors. In general, merit-based systems require formal selection processes to fill positions when making initial hires as well as when promoting and offering transfer opportunities to employees. These rules also typically cover the impact of position reclassification on incumbents.

Currently, some courts have two-tiered systems in which some employees within the same classification are covered by county civil service or merit systems and some employees are not. The task force has avoided recommending two-tiered systems in all aspects of the new trial court employee personnel system.

In determining its ultimate recommendations regarding employment status and the employment, selection, and advancement system, it became clear to the task force that these recommendations were inextricably linked. The position of various task force members on the issue of status depended on the recommendations regarding the employment, selection, and advancement system. Therefore, after considerable discussion among its various constituencies, the task force concluded its recommendations on status and the employment, selection, and advancement system at the same time. The decisions were made after considering all of the concerns of the respective groups and formulation of a proposal that met their concerns.

Education: Employment, Selection, and Advancement System

The task force received information about the number of courts that contain trial court employees covered by county civil service and merit systems. This information was gathered from the trial courts in a telephone survey completed by task force staff.

⁸⁴ Information is based on an informal telephone survey of trial courts taken in October 1999.

Assumptions and Objectives: Employment, Selection, and Advancement System

The task force developed assumptions and objectives as follows:

Assumptions:

1. State funding levels will not increase as a result of the implementation of the trial court employee personnel system.
2. The model assumes no changes to federal law.
3. Existing state law will require changes as a result of the implementation of the trial court employee personnel system.
4. A substantial number of trial court employees are currently covered by county civil service and merit systems rules and personnel policies that govern employment, selection, and advancement policies and procedures.

Objectives:

- A. Each trial court shall have authority over personnel issues, subject to meet and confer, as applicable.
- B. Trial court employees shall be covered by local employment, selection, and advancement systems that ensure nondiscriminatory hiring and promotional processes based on job-related factors.
- C. The trial court employee personnel system shall require personnel rules that provide minimum standards for the processes of hiring, promotion, and transfer and for the impact of reclassification.

Recommended Employment, Selection, and Advancement System Model

- I. Hiring and promotion within the trial courts shall be done in a nondiscriminatory manner based on job-related factors.
- II. Trial courts shall develop personnel rules regarding hiring, promotion, transfer, and the impact of reclassification, subject to meet and confer, as applicable, on those rules that cover matters within the scope of representation.⁸⁵
- III. Trial courts shall develop personnel rules and procedures that meet the following minimum standards:
 - A. Recruiting, selecting, transferring, and advancing employees shall be on the basis of their relative ability, knowledge, and skills. Initial appointment shall be through an open, competitive process. Preference shall be given to internal candidates.
 - B. Formal job-related selection processes are required when filling positions.
 - C. Each court shall have an equal employment opportunity policy applying to all applicants and employees in accordance with applicable state and federal law.
 - D. The following positions are excluded from required competitive selection and promotion processes:
 1. Subordinate judicial officers (such as pro tem judges, commissioners, and referees).
 2. Managerial, confidential, temporary, and limited-term positions in accordance with local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable. Where managerial, confidential, temporary, and limited-term positions are currently defined for this purpose within the local trial court, that definition shall be maintained for purposes of establishing what is managerial, confidential, temporary, and limited term in the new personnel system subject to changes in personnel policies, procedures, or plans, subject to meet and confer, as applicable. In courts where managerial, confidential, temporary, and limited-term positions have not previously been defined for this purpose, any such designation shall be subject to meet and confer, as applicable. Permanent or regular employees who assume limited-term appointments or assignments to other positions

⁸⁵ This model is not intended to expand the Court Employee Labor Relations Rules definition of those matters within the scope of representation.

or classes shall retain their permanent or regular status. The exclusion of managerial, confidential, temporary, and limited-term positions from required competitive selection and promotion processes shall not affect the right of employees in those positions to representation.

- IV. The alleged misapplication, misinterpretation, or violation of the rules governing hiring, promotion, transfer, and the impact of reclassification as set forth in this model are subject to binding arbitration.
- V. The implementation date on which the system in each court shall go into effect is the latest date of the following: (1) the effective date of the legislation that enacts a personnel system for trial court employees, or (2) 90 days from the date that such legislation is chaptered. The employer and representatives of recognized employee organizations may mutually agree to a different effective date. If, however, the provisions of this model are governed by an existing memorandum of understanding covering court employees, as to such provisions the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.
- VI. The trial court employment, selection, and advancement system described in this model shall become the employment, selection, and advancement system for all trial court employees as of the implementation date and shall become part of the sole trial court employee personnel system. This trial court employment, selection, and advancement system shall replace any aspects of county employment, selection, and advancement systems applying to trial court employees prior to the implementation date.

Considerations: Employment, Selection, and Advancement System

The task force agreed that an employment, selection, and advancement system is an integral part of a personnel structure. To ensure a fair and equitable personnel system for the trial courts and trial court employees, the task force determined that it was necessary to establish uniform minimum standards for employment, selection, and advancement applying to all trial courts in the new trial court employee personnel system. This recommended system eliminates the two-tiered system that currently exists in many courts that have grandparented county civil service or merit system status for some of their employees.

In requiring that hiring and promotion in the trial courts be done in a nondiscriminatory manner based on job-related factors, the task force established a model that requires all trial courts to develop personnel rules regarding hiring, promotion, transfer, and the impact of reclassification on incumbents. Those rules that cover matters within the scope of representation must be developed subject to meet and confer, where applicable. The task force did not intend that its model expand the definition of those matters within the scope of representation contained in the Court Employee Labor Relations Rules.

In its model, the task force established minimum standards for each trial court to use in developing its rules relating to employment, selection, and advancement. The model requires that the recruiting, selecting, transferring, and advancing of employees shall be on the basis of relative ability, knowledge, and skill. This wording in the model establishes the concept of merit in these employment decisions. The model also requires that initial appointments to positions in the trial court shall be based on an open, competitive process. Thus, individuals who have not previously held positions in the trial court must participate in a competitive selection process open to other applicants before being hired. The model also requires that qualified internal candidates participating in open, competitive selection processes be given preference over candidates from outside the trial court. For example, some systems provide for the establishment of promotional eligible lists separate from open eligible lists, giving preference to the promotional eligible list when filling vacancies; other systems add preference points to the scores of qualified promotional eligibles on open eligible lists. Any rules giving such preference must comply with state and federal employment laws.

The model requires not only that trial courts develop equal employment opportunity policies in accordance with state and federal law, but also that they establish formal job-related selection processes to determine the relative merit of applicants for vacant positions and promotional or transfer opportunities.

The task force recognized that certain positions are typically excluded from required competitive selection and promotion processes in civil service or merit systems. Accordingly, subordinate judicial officers are excluded from the selection processes described in this model. In addition, managerial, confidential, temporary, and limited-term positions may be excluded from these processes in accordance with local trial court personnel policies, procedures, or plans, subject to meet and confer, as applicable.

The task force was concerned that the implementation of the new trial court personnel system not result in significant changes to already existing definitions of the terms *managerial*, *confidential*, *temporary*, and *limited-term positions* contained in current civil service or merit selection systems. Therefore, the model specifies that where these terms are already defined for this purpose within a local trial court, that definition shall be maintained in the new personnel system, recognizing that these terms may be changed in the future, subject to changes in personnel policies, procedures, and plans and subject to meet and confer, as applicable. In those courts where these terms have not previously been defined for this purpose, the definitions shall be subject to meet and confer, as applicable. The task force included the words "for this purpose" because the terms *managerial* and *confidential* are often defined for purposes of exclusion from representation in labor relations, but that definition does not necessarily apply to exclusion from competitive selection processes. For example, positions that assist in developing management policies relating to labor relations are usually excluded from representation but are often included in merit system requirements. Therefore, the task force specified that only those definitions developed for purposes of exclusion from competitive selection processes should be used in defining managerial, confidential, temporary, and limited-term positions for that purpose in the new personnel system.

The task force was also concerned that permanent or regular employees who accept limited-term appointments to other classes or positions not be disadvantaged. The task force therefore specified that these employees retain their permanent or regular status. The task force also specified that employees in positions excluded from competitive selection processes should not be excluded from any right they might otherwise have to representation.

Civil service and merit systems typically have an impartial process for the binding resolution of conflicts regarding the implementation of established employment, selection, and promotion processes. The task force decided to include a recommendation that would provide a similar process for the trial court employment, selection, and advancement system. Therefore, the model provides that the alleged misapplication, misinterpretation, or violation of the local trial

court's rules governing hiring, promotion, transfer, or the impact of reclassification as set forth in the model are subject to binding arbitration.

The task force specified the implementation date of the employment, selection, and advancement system in the model consistent with other models in the new personnel system. The task force decided that the new personnel system should be implemented as soon as possible after the effective date of the legislation that creates the system. Therefore, the task force recommended that the effective date be either the effective date of the legislation or 90 days after the legislation is chaptered, whichever is later. Since the legislation may not be chaptered until late in the year, and since some portions of the trial court employment, selection, and advancement system are subject to meet and confer, the task force wanted to provide at least a 90-day period for that process to occur. Representatives of the court and of recognized employee organizations may mutually agree to a different effective date. However, the Constitution prevents legislation from impairing existing contracts. Therefore, the task force added a separate implementation date where memoranda of understanding are in effect that contain aspects of the employment, selection, and advancement system.

The task force has included in this model a provision that if aspects of the employment, selection, and advancement system are contained in memoranda of understanding existing on the effective date of the new personnel system, then the implementation date for this model will be the date a successor memorandum of understanding is effective. To ensure that an impasse would not prevent the implementation of the new system, the task force decided that if there is no agreement reached for a successor memorandum of understanding, the trial court employment, selection, and advancement system must be implemented 90 days from the date of expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.

The final provision in the model clarifies the task force's intention that the implementation of the trial court employment, selection, and advancement system described in the model replaces any existing aspects of county employment, selection, and advancement systems applying to trial court employees.

Some courts, by contract or memoranda of understanding, have existing employment, selection, and advancement systems that offer less protection than that contained in this model. The task force encourages courts and recognized employee representatives to work together to implement the new trial court employment, selection, and advancement system as soon as possible following the

effective date of the legislation implementing the new trial court employee personnel system.

Impact: Employment, Selection and Advancement System Model

Since this model was adopted by the task force in conjunction with its decision to recommend court employment status, it was designed under the assumption of local trial court employment status.

This model establishes minimum standards for an employment, selection, and advancement system based on merit to be implemented in each local court through the adoption of local personnel rules. Those courts that do not have existing court personnel rules that meet the standards set forth in the model will be required to adopt rules that comply with the model. The adoption of personnel rules that address subjects within the scope of representation under the Court Employee Labor Relations Rules will be subject to meet and confer, where applicable.

The model establishes that the trial court employment, selection, and advancement system is separate from any equivalent county system. Each local trial court will be responsible for developing and administering its own system. The model does not preclude courts from seeking assistance from vendors or counties or other courts in administering their systems.

This model ensures that employees in all trial courts will have the protections inherent in selection and promotion processes set forth in local court rules that are formal, nondiscriminatory, job-related, and competitive. The model also ensures that failure to provide employees with processes that meet these requirements are adjudicated by an impartial arbitrator.

VII.E Personnel File Access

E. Personnel File Access**Background**

The task force explored the issues of personnel file access after publication of the second interim report. The model discussed in this section was developed to address those issues.

The task force recognized that employers typically have policies and procedures that govern employee access to their own personnel files. For example, California Labor Code section 1198.5 applies to private sector employers and governs employees' access to their personnel files. The task force agreed that courts also should have policies and procedures governing employee access to their personnel files. Therefore, the task force adopted the personnel file access model, which parallels the provisions of Labor Code section 1198.5.

Objectives: Personnel File Access

Although the task force did not formally adopt assumptions and objectives for this model, the following objective supports the need for the model. The task force agreed to develop personnel rules, subject to meet and confer, as applicable, to provide trial court employees with access to their official personnel files.

Recommended Personnel File Access Model
--

The trial courts shall adopt personnel rules, subject to meet and confer, as applicable, to provide trial court employees with access to their official personnel files. The rules shall provide at a minimum that:

- I. Trial courts shall at reasonable times and at reasonable intervals, upon the request of an employee, permit the employee to inspect his or her personnel files that are used or have been used to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary actions.
- II. Trial courts shall keep a copy of each employee's official personnel file at the place where the employee reports to work, or shall make the official personnel file available at such place within a reasonable period of time after a request therefore by the employee.
- III. Records of an employee relating to the investigation of a possible criminal offense, letters of reference, and other matters protected by constitutional, statutory, or common law provisions shall be excluded from inspection.

Considerations: Personnel File Access

Task force members agreed that it was important to establish minimum standards for each trial court to use in developing personnel rules related to employee access to their own official personnel files. The task force agreed that the personnel rules to be adopted by the courts would be subject to meet and confer, as applicable.

The minimum standards adopted by the task force require the following. At reasonable times and reasonable intervals, and upon request by an employee, trial courts shall make available for inspection by the employee documents used to make determinations regarding the employee's qualifications for promotion, additional compensation, or termination and other disciplinary actions. The task force's recommendation also states that trial courts shall keep a copy of each employee's official personnel file at the place where the employee reports to work, or shall make such files available at such place within a reasonable period of time after a request from an employee to see his or her personnel file.

Materials or records of an employee relating to the investigation of a possible criminal offense, letters of reference, and other matters protected by constitutional, statutory and common law provisions will be excluded from inspection by the employee. These exclusions parallel those provided in Labor Code section 1198.5 and recognize that others (such as those providing a letter of reference) may have a privacy interest in preventing the disclosure of particular information to the employee.

Impact: Personnel File Access Model

The recommended personnel file access model would work the same under any employment status option, and the impact for any of the status options is generally the same. Under this model, the local court would be responsible for permitting employees to inspect their personnel files at reasonable times and at reasonable intervals upon request by an employee.

VII.F Defined-Benefit
Retirement Plan

F. Defined-Benefit Retirement Plan

Background

Defined-benefit retirement plans are those retirement plans with specific benefits determined by a retirement formula based on years of service, age at retirement, and salary or final compensation, as defined by law. Defined-contribution retirement plans require a specific level of contribution but do not provide a specific benefit. This section focuses on defined-benefit retirement plans only; defined-contribution plans are discussed in the deferred compensation assumptions, objectives, and model in this report, in Part VII.G.

The task force recommends protecting the vested retirement benefits of current court employees in county defined-benefit retirement plans and ensuring that employees do not lose the benefits and expectations they currently enjoy when they transition to the new personnel system.

Trial court employees are currently members of county defined-benefit retirement systems that vary greatly from county to county. These retirement systems include 1937 Act, Public Employees' Retirement System (CalPERS), and other public retirement systems. Not only do the benefits offered by the local systems vary, but some counties are covered by social security and others are not. Developing a retirement model that does not affect the benefits of current employees and does not affect social security contributions required particular attention.

The task force initially addressed only current trial court employees. Current employees are defined as those individuals who meet the definition of a trial court employee at the time of implementation of the new personnel system. Assumptions, objectives, and a model for defined-benefit retirement plans for current employees were included in the first interim report of the task force. Since then, the task force also addressed employees hired after implementation of the new personnel system. The task force was opposed to a two-tiered retirement system that treated future employees differently from current employees and decided that future employees should be provided the same retirement system as current employees. The recommendations of the task force regarding future employees have been incorporated into the revised assumptions, objectives, and model in this section.

Education: Defined-Benefit Retirement Plan

The task force first received education regarding retirement systems in general. Representatives from the California Public Employees Retirement System (CalPERS) provided general education about retirement systems and about CalPERS in particular. Also, task force member Mr. Robert Walton, Assistant Executive Officer, Governmental Affairs, and Mr. David Christianson, Legislative Manager,

Governmental Affairs, from CalPERS, provided expert advice. Contract actuarial consultant Mr. Drew James of William M. Mercer, Inc., responded to questions about current county retirement systems. As a result of this education, the task force determined that it needed answers to specific questions before pursuing assumptions, objectives, and a model for retirement systems. Some examples of the questions raised by the task force are:

- Is there a way to design a system that would allow court employees to maintain their current benefits regardless of employment status?
- If individual courts were to choose to be independent employers, with their own retirement systems, how could administrative costs be minimized for small courts?
- Could some court employees within a court elect to remain in their county retirement plan while other court employees in the same court choose a newly created plan?
- If current employees were to remain in county retirement systems while any new employees became members of a newly created system, what effect would this have on social security coverage?

These and other specific questions were drafted and sent to CalPERS and Mercer. The task force reviewed responses received from both entities.

The task force reviewed the statutes governing the conversion of employees from county employment to independent employment within the newly created County Offices of Education.⁸⁶ In that case, employees were allowed to choose to join the State Employee Retirement System or to remain in their county retirement systems. The decisions, once made, could not be rescinded. For those employees remaining in the county system, the same appropriations and transfers of funds were made to the retirement fund as required of the county under the county retirement law.

The task force also received education from Ms. Deborah Brown, staff attorney to the task force, regarding options for retaining the current social security contribution or noncontribution status for trial court employees. Additionally, the task force received education regarding the state judicial branch retirement system and regarding the social security system.

Assumptions and Objectives: Defined-Benefit Retirement Plan

The task force subsequently developed assumptions and objectives as follows:

⁸⁶ Educ. Code, § 1312-1313.

Assumptions:

1. State funding levels will not significantly increase as a result of the implementation of the trial court personnel system.
2. The trial courts will exist as public agencies with the ability to contract for retirement benefits within the scope of the defined-benefit system.
3. The model assumes no changes in current federal law.
4. Existing state law regarding retirement provisions may require changes as a result of implementation of the trial court personnel system.
5. There will be no substantial financial impact on retirement systems and employee/employer contributions as a result of the implementation of the trial court personnel system.
6. Any successor retirement system will be a defined-benefit system. (This model will not address defined-contribution plans, which the task force will address separately.)
7. Any successor system will not assume any of the liabilities or assets of county retirement systems.
8. Social security is a tax. Whether an employee pays social security is determined by a variety of factors, including the employer's agreement with the social security administration.
9. For trial court employees in county retirement systems, the county is responsible for determining any plan design changes in the level of retirement benefits. The employer shall have the authority to determine the level of employer-paid member contributions through local trial court policies, procedures, or plans, subject to meet and confer, as applicable.
10. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is state or court, counties are not obligated to meet and confer with trial court employees' bargaining units regarding defined-benefit retirement plans.

Objectives:

- A. The retirement model will apply to current and future trial court employees.
- B. The level of retirement benefits of trial court employees will not be reduced as a result of the implementation of the trial court personnel system.
- C. If trial court employees become state or court employees, the trial court employees will have the right to continue to receive the same retirement plan design benefits as county employees.
- D. The employer shall determine the level of employer-paid member contributions through local trial court policies, procedures, or plans, subject to meet and confer, as applicable.
- E. The vested rights accrued by employees under their current retirement systems will be protected.

- F. Any successor defined-benefit system will provide for reciprocity with current county defined-benefit systems.
- G. To the extent permitted by law, social security contributions or noncontributions under current county retirement systems will not be modified by implementation of the trial court personnel system.
- H. To facilitate trial court employee participation in county defined-benefit retirement plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. Therefore, the preliminary model created by the task force laid out how defined-benefit retirement would be administered and provided for under all three employment status options: state, court, and county. This preliminary model is presented here.

Preliminary Defined-Benefit Retirement Plan Model

- I. If trial court employees become court or state employees, trial court employees will have the right to continue to receive the same retirement plan design benefits as county employees without the opportunity to meet and confer with the counties as to those benefits. Regardless of employment status, trial court employees will be eligible to participate in county defined-benefit retirement systems⁸⁷ and will be subject to county defined-benefit retirement system regulations and policies.
- II. For trial court employees who are members of a county retirement system, the same rate of contribution shall be paid by the state or court, as the case may be, to the county retirement system for each employee as the rate of contribution required of the county under the county retirement system.
- III. To the extent permitted by law, social security contributions or noncontributions of trial court employees will not be modified by implementation of the trial court personnel system.
- IV. To facilitate court employee participation in county defined-benefit retirement plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- V. The model does not exclude the possibility that trial court employees may have a future option of joining a new defined-benefit retirement plan or, if trial court employees become state employees, a state defined-benefit retirement plan.

⁸⁷ *County retirement systems* in this model means 1937 Act, CalPERS, or independent retirement systems or plans.

Preliminary Considerations: Defined-Benefit Retirement Plan

As mentioned earlier, the preliminary defined-retirement benefit plan model contained language for all three status options: state, court, and county. To provide insight into the impact of the model under various employment status options as contemplated by the task force, the considerations for each possibility are included in the discussion below.

The preliminary model recognized that, regardless of employment status, both current and future trial court employees will be eligible to participate in county retirement systems. However, since these county retirement systems are designed by the county and subject to meet and confer with county employees, if trial court employees are not county employees, they will not be in a position to meet and confer over plan benefits. They may, however meet and confer with the court over the level of employee contribution toward those benefits. The model ensured that the state or court will pay to the county retirement system the same rate of contribution per employee as the county pays for its employees. The model made it clear that neither a new statewide plan nor development of new local retirement plans was precluded by the model.

This preliminary model ensured that, regardless of the employment status ultimately adopted, the retirement benefits of current employees were protected. This protection will require legislation similar to the statutes relating to the retirement status of employees of the County Offices of Education during their employment status transition. The California State Association of Counties had informed the task force that it would support the provision to allow trial court employees to participate in county defined-benefit retirement systems

This model will not increase current court, county, or state costs since current trial court employees are already in the county retirement systems. The cost impact of developing a new retirement system and allowing trial court employees a choice of retirement systems cannot be addressed until the actuarial calculations based on the results of the survey of trial court employees have been analyzed.

Impact of Preliminary Model Under Each Employment Status Option

The task force also considered the impact of trial court employees' participation in county retirement plans under each employment status option. These effects are shown in Exhibit VII-1, at the end of this section.

The impact of trial court employees' participation in county retirement plans would be the same under the state and court employment status options. The court, and ultimately the state, contribute to the county retirement system the total cost for each employee in the county retirement plan, including the employer contributions set by

the retirement system, the member (employee) contributions, and the bargained employer-paid member contributions. The state or court deducts the member contribution from the employee's paycheck. The percentage of the employee contribution paid by the employer is subject to bargaining. Employees would receive the defined-benefit plan bargained by county employees. Employees also may have a future option to join a new defined-benefit retirement plan that may be developed subject to meet and confer.

In the preliminary model under the county employment status option, all court employees would participate in their local county retirement plans. The state or court would reimburse the county for the total cost for each employee, including the employer contribution, the member (employee) contribution, and any bargained employer-paid member contribution. The percentage of the employee contribution paid by the county would be subject to bargaining. The county would determine retirement plan benefits through local personnel policies and meet and confer processes, where applicable. The state or court would be required to fund the level of benefits established by the county.

As noted earlier, any analysis of the cost consequences of allowing current employees a choice of retirement systems has been postponed until the actuarial calculations based on results of the trial court employee survey have been analyzed.

In determining the impact of its proposed retirement model on current employees under each of the status options, a major consideration was whether or not employees would be covered by social security. The task force did not want its decisions to affect the current coverage levels. Currently, 10 courts are not covered by social security, and their employees do not contribute to social security. The task force's recommendation to allow all trial court employees to continue to participate in county retirement plans ensures that existing social security coverage will not be affected. If, in the future, new local or statewide retirement systems are developed subject to meet and confer, their impact on social security coverage should be considered prior to implementation.

Additional Considerations and the Recommended Defined-Benefit Retirement Plan Model

As a result of further deliberations by the task force and the selection of court as the employment status for trial court employees, the task force made modifications to the preliminary defined-benefit retirement plan model by eliminating all references to county or state employment status.

Mr. Drew James, an actuarial consultant with William M. Mercer, Inc., presented the task force with a preliminary actuarial analysis based on preliminary trial court employee survey data that is in the final stages of verification. The preliminary analysis evaluated the financial implications of the task force's defined-benefit retirement plan model and the benefit costs associated with any change in retirement benefits. The findings indicated that creating a new defined-benefit retirement plan option generally would result in a plan that is more costly than the existing system. The task force's recommended defined-benefit retirement plan model minimizes current court costs and does not add significantly to long-term costs. The complete final actuarial analysis will be published separately at a later date in an addendum to this final report.

Recommended Defined-Benefit Retirement Plan Model

- I. Trial court employees will be eligible to participate in county defined-benefit retirement systems⁸⁸ and will be subject to county defined-benefit retirement system regulations and policies. Trial court employees will have the right to continue to receive the same retirement plan benefits as county employees without the opportunity to meet and confer with the counties as to those benefits.
- II. For trial court employees who are members of a county retirement system, the same rate of contribution shall be paid by the court to the county retirement system for each employee as the rate of contribution required of the county under the county retirement system.
- III. To the extent permitted by law, social security contributions or noncontributions of trial court employees will not be modified by implementation of the trial court personnel system.
- IV. To facilitate court employee participation in county defined-benefit retirement plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- V. The model does not exclude the possibility that trial court employees may have a future option of joining a new defined-benefit retirement plan.

⁸⁸ *County retirement systems* in this model means 1937 Act, CalPERS, or independent retirement systems or plans.

Exhibit VII-1
Working Impact of Trial Court Employees' Participation in
County Defined-Benefit Plans

	Employment Status	
	STATE/COURT	COUNTY
Employer Contribution⁸⁹	- State/court pays the same employer contribution amount the retirement system requires the county to pay.	- Court pays the same employer contribution amount the retirement system requires the county to pay.
Member (Employee) Contribution⁹⁰	- State/court deducts employee contribution from paycheck. - State/court transfers funds to county retirement system.	- County deducts employee contribution from paycheck. - County transfers funds to county retirement system.
Employer-Paid Member (Employee) Contributions⁹¹	- Bargainable. - State/court pays any employer-paid member contributions to county retirement system.	- Bargainable. - Court pays any employer-paid member contributions to county retirement system.
Plan Benefits	- Shall be the same retirement benefits as provided to county employees.	- Shall be the same retirement benefits as provided to county employees.
Bargaining Defined-Benefit Plan⁹²	- Employees shall receive the defined-benefit plan bargained by county employees with the county. ⁹³	- Employees shall receive the defined-benefit plan bargained with the county.

⁸⁹ The amount an employer contributes to the plan.

⁹⁰ The amount an employee contributes to a plan on his or her behalf; contributions are generally made through a payroll deduction.

⁹¹ Employees' contributions paid for by the employer.

⁹² A retirement plan with benefits determined by a retirement formula based on years of service, age at retirement, and salary or final compensation, as defined by law.

⁹³ This does not exclude the possibility that trial court employees may have a future option of joining a new defined-benefit retirement plan that may be developed subject to meet and confer.

G. Accrued Leave Benefits

Background

The term *accrued leave benefits* as defined here may include (1) accrual rates (how much leave time an employee earns in a given time period), (2) leave type (for example, vacation, sick leave, compensatory time off), and (3) the vested accrued leave benefits held by trial court employees. The task force has attempted to preserve employees' accrued leave benefits and to ensure that trial court employees maintain any rights related to accrued leave benefits, such as the ability to carry leave over from one year to another, to exchange leave credits for cash at the end of the year, and/or to apply leave credit to other benefits, including retirement and deferred compensation.

Definition, Assumptions, and Objectives: Accrued Leave Benefits

In developing its accrued leave model, the task force used the following definition, assumptions, and objectives:

Definition:

Accrued leave benefits refer to leave time earned by trial court employees, such as vacation, sick leave, annual leave, personal holidays, and compensatory time off, which may have a cash-out value, may be carried over from one year to another, and/or may be applied to other benefits, including retirement and deferred compensation.⁹⁴ When the term *accrued leave benefits* is used in the assumptions, objectives, and model, it may include accrual rates, leave type (for example, vacation, sick leave, compensatory time off), and the vested accrued leave benefits held by trial court employees.

Assumptions:

1. Accrued annual leave, sick leave, compensatory time off, and vacation time are unfunded liabilities when they are carried over from one year to the next.
2. Determination of liability for leave balances accrued by court employees before implementation of the trial court employee personnel system is a policy issue that is outside the scope of the task force's charge.
3. Employees may or may not receive cash for accrued leave and compensatory time off according to local personnel policies, procedures, and plans subject to memoranda of understanding in effect, where applicable.
4. State funding levels will not significantly increase as a result of the implementation of the trial court employee personnel system.
5. The model assumes no changes to federal law.

⁹⁴ For example, employees may be able to count unused sick leave as service credit for purposes of retirement or to convert unused leave credits to a contribution into a deferred compensation plan.

6. Existing state law will require changes as a result of the implementation of the trial court employee personnel system.

Objectives:

- A. The type and rate of accrued leave benefits, as well as policies related to accrued leave⁹⁵ in effect on the date of implementation, will not be reduced as a result of the implementation of the trial court employee personnel system.
- B. Trial court employees will retain their vested accrued leave benefits upon implementation of the trial court employee personnel system.
- C. Implementation of the trial court employee personnel system will not force a cash-out liability for the court or the county.
- D. Upon implementation of the trial court employee personnel system, while existing memoranda of understanding remain in effect, represented trial court employees shall continue to receive the same accrued leave benefits as provided under the memoranda of understanding.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. Therefore, the preliminary model created by the task force laid out how accrued leave benefits would be administered and provided for under all three employment status options: state, court, and county. This preliminary model is presented here.

⁹⁵ Policies relating to accrued leave may include policies governing opportunities for employees to exchange unused leave credits for cash, carry over unused leave credits from one year to the next, and apply unused leave credits to other benefit programs.

Preliminary Accrued Leave Benefits Model

Upon implementation of the trial court employee personnel system:

- I. The type and rate of accrued leave benefits, as well as policies related to accrued leave in effect on the date of implementation, will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. Regardless of the employment status of trial court employees, employees will retain their vested accrued leave benefits upon implementation of the trial court employee personnel system. Employees may not cash out their accrued leave balances solely as a result of implementation of the trial court employee personnel system.
- III. While existing memoranda of understanding remain in effect, represented employees shall continue to receive the same type and accrual rate of, as well as policies relating to, accrued leave benefits as provided in the memoranda of understanding.
- IV. The type and accrual rate of, as well as policies relating to, accrued leave benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding subject to meet and confer, or revision of existing personnel policies, procedures, or plans.
- V. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is state or court employment, neither the court nor the county will be forced to cash out trial court employees' accrued leave balances.

Preliminary Considerations: Accrued Leave Benefits

In creating its model, the task force sought to preserve employees' accrued leave benefits and to ensure that trial court employees maintain any rights related to accrued leave benefits. The preliminary benefits model contained language for the three status options: state, court, and county. To provide insight into the impact of the model under various options as contemplated by the task force, the considerations for each possibility are included in the discussion below.

The model upholds the goal that, as a result of the implementation of the new trial court employee personnel system, trial court employees will experience no reduction in accrued leave benefits. The model also states that any accrued leave rights that trial court employees currently enjoy, as defined in existing accrued leave policies, will not be diminished as a result of implementation of the new personnel system.

Regardless of their employment status, trial court employees will keep their vested accrued leave benefits when the trial court employee personnel system goes into effect. At the time of transition, employees will not have the option of exchanging their accrued leave credits for cash simply because their employment status changed. If, as a result of the implementation of the trial court employee personnel system, trial court employees' employment status were state or court, neither the county nor the court would be forced to cash out trial court employees' accrued leave balances. In other words, if trial court employees were, for example, to change their employment status from county to court, these employees would carry over the full amount of their accrued leave benefits to the new employer.

Employees who are covered by memoranda of understanding will continue to receive their accrued leave benefits while memoranda of understanding remain in effect, with type and rate remaining the same. Any accrued leave policies referenced in the memoranda of understanding will also continue to apply while these memoranda of understanding remain in effect.

Accrued leave benefits, as well as policies relating to these benefits, may be modified through the usual channels: that is, through the meet and confer process or through changes to existing personnel policies, procedures, or plans.

It remains to be determined which entity, the court or the county, will ultimately be responsible for funding any leave benefits accrued by trial court employees prior to the implementation of the trial court employee personnel system. In some counties, courts have already assumed fiscal responsibility for these carried-over accrued leave benefits. The issue of fiscal responsibility for leave benefits accumulated prior to transitioning to a new personnel system is a policy question that is outside the purview of the task force.

Impact of Preliminary Model Under Each Employment Status Option

The accrued leave model is applicable equally under each employment status option. No matter what the employment status option—state, court, county, or other—trial court employees will experience no change in the type and accrual rate of their accrued leave benefits as a result of the implementation of the trial court employee personnel system.

Each employment status option does, however, require that different transition issues be addressed to ensure a smooth implementation of the model. For example, under state or court employment status, the court would need a mechanism for tracking trial court employees' accrued leave balances previously monitored by the county. If trial court employees' employment status were to be county, the counties would have to contend with the fact that some courts in their counties grant accrued leave benefits that differ from those granted by other county departments.

Whatever the transition issues, it is the goal of the task force to ensure that trial court employees' accrued leave benefits and related rights are not reduced as a result of implementation of the new trial court employee personnel system.

Additional Considerations and the Recommended Accrued Leave Benefits Model

Following the issuance of the second interim report, the task force modified the accrued leave benefits model in three respects. First, language was added to item I of the model to clarify that policies related to accrued leave in effect on the date of implementation would remain in effect until modified pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or revision of existing personnel policies, procedures, or plans. For example, a policy may provide for accrual of six hours of vacation during each pay period; however, this time may be used only after the first 90 days of employment. Under this policy, if an employee has worked only 30 days at the time the new personnel system is implemented, the employee would need to work 60 more days before being able to use that accrued vacation time. Second, the recommended model included language to clarify that

the implementation of the trial court employee personnel system will not be considered to cause a termination of employment and rehire for purposes of accrued leave. Finally, changes were made to eliminate all references to county or state employment status for the recommended model.

Recommended Accrued Leave Benefits Model

Upon implementation of the trial court employee personnel system:

- I. The type and rate of accrued leave benefits will not be reduced as a result of the implementation of the trial court employee personnel system. Policies related to accrued leave in effect on the date of implementation remain in effect until modified pursuant to item IV.
- II. The implementation of the trial court employee personnel system will not be considered to cause a termination and rehire of employment for purposes of accrued leave. Employees will retain their accrued leave balances upon implementation of the trial court employee personnel system. Employees may not cash out their accrued leave balances solely as a result of implementation of the trial court employee personnel system.
- III. While existing memoranda of understanding remain in effect, represented employees shall continue to receive the same type and accrual rate of, as well as policies relating to, accrued leave benefits as provided in the memoranda of understanding.
- IV. The type and accrual rate of, as well as policies relating to, accrued leave benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or revision of existing personnel policies, procedures, or plans.
- V. The implementation of the trial court employee personnel system will not force either the court or the county to cash out trial court employees' accrued leave balances.

VII.H Benefits

H. Benefits: Group Insurance and Other Employer-Provided Benefits

Background

The task force intends that trial court employees not lose the benefits they currently enjoy when they transition to the new personnel system. The task force recognizes that protecting benefits for trial court employees was crucial to meeting its charge that trial court employees' benefits should not be reduced.⁹⁶

Trial court employees are offered a wide variety of benefits. With 58 different county systems, trial court systems vary greatly. The task force conducted a survey that requested information about trial court employees' benefits. The task force used information obtained from the survey in developing this model. Analysis of the survey data is still ongoing.

This model addresses the group insurance and other employer-provided benefits of current employees. It does not address other conditions of employment that have been addressed in the salary, classification, meet and confer, employment protection system, retirement, federally regulated benefits, deferred compensation, accrued leave, and transition models. Current employees are defined as those individuals who meet the definition of a trial court employee at the time of implementation of the new personnel system. (See Part III for a complete definition of trial court employee.)

The task force developed this model with the intent to protect trial court employees' benefits. A particular thoroughness was required by the task force to create a model that would maintain stability of benefits for trial court employees during the transition to a new personnel system.

Education: Group Insurance and Other Employer-Provided Benefits

The task force received education from Ms. Judith A. Myers, staff to the task force, regarding group insurance benefits and other employer-provided benefits applicable to trial court employees. Mr. Gregg Kenney, manager in the Health Benefits Service Division of the California Public Employees' Retirement System (CalPERS), provided education on other benefit systems associated with state and local government employees and considerations and ramifications of plan design. Ms. Deborah Brown, staff attorney to the task force, provided education on the legal issues relating to group insurance and other employer-provided benefits.

⁹⁶ Gov. Code, § 77605(d).

Definition, Assumptions, and Objectives: Group Insurance and Other Employer-Provided Benefits

The task force used the following definitions, assumptions, and objectives in developing a recommended model for benefits:

Definitions:***Group Insurance Benefits***

The term *group insurance benefits* means insurance benefits that employers offer to employees, such as medical, dental, vision, disability, legal, life insurance, and other like benefits. Employers may obtain group insurance benefits through vendors or provide group insurance benefits directly through a self-insurance program. The *level of benefits* refers to the benefits received by employees under plan provisions, including co-payment levels and employee contributions.

Other Employer-Provided Benefits

The term *other employer-provided benefits* is defined as benefits provided by the employer, the cost of which may or may not be covered by the employer, excluding group insurance benefits (defined above), deferred compensation, and accrued leave benefits. Deferred compensation and accrued leave benefits are addressed separately. Other employer-provided benefits may be provided directly by the employer or through a third-party vendor. These benefits may include, but are not limited to, bus tokens, parking, transit passes, tuition reimbursement, car allowances, and so on.

Benefits

The term *benefits* as used here does not refer to other conditions of employment that have been addressed in the salary, classification, meet and confer, employment protection system, retirement, federally regulated benefits, deferred compensation, accrued leave, and transition models.

Assumptions:

1. State funding levels will not significantly increase as a result of the implementation of the trial court employee personnel system.
2. The model assumes no changes in current federal law.
3. Existing state law will require changes as a result of implementation of the new trial court employee personnel system.
4. Benefits vendors are independent entities and may or may not be legally required to provide benefits to trial court employees, depending on trial court employees' employment status.

Objectives:

- A. As of the effective date of implementation of the trial court employee personnel system, the level of benefits provided to trial court employees will

not be reduced as a result of the implementation of the trial court employee personnel system.

- B. While existing memoranda of understanding remain in effect, represented trial court employees shall continue to receive the same level⁹⁷ of benefits as provided under the memoranda of understanding.
- C. If the implementation of the trial court employee personnel system causes a change in the employment status of trial court employees:
 - 1) Provide for a transition period for all unrepresented trial court employees who are receiving benefits from one entity (county or court) to continue to receive benefits from the same entity;
 - 2) Provide a transition period to transfer responsibility for administration of benefits to the new employer;
 - 3) The successor employer shall provide, to the extent permitted by law, trial court employees with the same or comparable benefits; and
 - 4) The court and the county may mutually agree that the county will administer the payroll for trial court employees to facilitate court employee participation in county benefit plans, for which trial court employees may be eligible.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. Therefore, the preliminary model created by the task force laid out how benefits would be administered and provided for under all three employment status options: state, court, and county. This preliminary model is presented here.

⁹⁷ *Same level* means the same benefits unless they are not permitted by law or vendor, in which case *same level* means a comparable level of benefits.

Preliminary Benefits Model

- I. As of the effective date of implementation of the trial court employee personnel system, the level of benefits provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is state or court employment, while existing memoranda of understanding remain in effect or for a period of 24 months, whichever is longer, represented trial court employees shall continue to receive the same level⁹⁸ of benefits as provided under the memoranda of understanding unless there is a mutual agreement to a change.
- III. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is county employment, while existing memoranda of understanding remain in effect, represented trial court employees shall continue to receive the same level of benefits as provided under the memoranda of understanding. Benefits are subject to modification pursuant to the terms of memoranda of understanding or upon expiration of existing memoranda of understanding, subject to meet and confer.
- IV. Regardless of the employment status of trial court employees, unrepresented employees' benefits are subject to modification upon revision of existing personnel policies, procedures, or plans, as applicable.
- V. If there is a change in responsibility for administering⁹⁹ benefits, a transition period for the transfer of responsibility is provided in this model. During this transition period, the county or the court may include trial court employees in their benefit plans regardless of the employment status of trial court employees, as permitted by law or vendor.
- VI. The court or state, as the case may be, will reimburse the county for the cost of coverage of trial court employees in county benefit plans.

⁹⁸ For the purpose of this model, *same level* means the same benefits unless they are not permitted by law or vendor, in which case *same level* means a comparable level of benefits.

⁹⁹ For the purpose of this model, the terms *administering*, *administration of*, and *administers* mean that the entity contracts with a vendor or otherwise makes available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs for these benefits.

- VII. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is *county* employment, the following provisions govern which entity will be responsible for administering the benefits:
- A. At the time of implementation of the trial court employee personnel system, if the county administers benefits, or if the court contracts with the county to administer benefits, the county shall administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.
 - B. At the time of implementation of the trial court employee personnel system, if the court administers benefits separately from the county, the following provisions govern the transition of responsibility for administration of these benefits to the county:
 - 1. While existing memoranda of understanding remain in effect¹⁰⁰ or for a period of up to 24 months, whichever is longer, courts will administer represented trial court employees' benefits as provided in the memoranda of understanding unless notified by the county that it no longer needs the court to administer specified benefits or the county and the court mutually agree that the court will no longer administer specified benefits.
 - 2. For a transition period of up to 24 months after implementation of the trial court employee personnel system, the courts will administer unrepresented trial court employees' benefits unless notified by the county that it no longer needs the court to administer specified benefits or the county and the court mutually agree that the court will no longer administer specified benefits. During this 24-month transition period, if the court intends to change the benefits for unrepresented trial court employees, the court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the county can decide whether to accept the court's change in benefits or consider alternatives to provide benefits on its own.
 - 3. If, during the 24-month transition period, the county decides to offer particular benefits that are different from what the

¹⁰⁰ For the purpose of this model, an existing memorandum of understanding shall remain in effect until, pursuant to the meet and confer process, the parties adopt a successor memorandum of understanding or until the parties reach an impasse and, pursuant to the meet and confer process and local procedures regarding impasse, the level of benefits is modified.

court is administering, then the county will be responsible for administering those particular benefits.¹⁰¹

4. If the county intends to give notice to the court that it no longer needs the court to provide specified benefits, the county shall provide the court with at least 60 days' notice, or a mutually agreed to amount of notice.

VIII. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is *state or court* employment, the following provisions govern which entity will be responsible for administering the benefits:

- A. At the time of implementation of the trial court employee personnel system, if the court administers benefits separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.
- B. At the time of implementation of the trial court employee personnel system, if the county administers benefits or the court contracts with the county to administer benefits, the following provisions govern the transition of responsibility for administering these benefits to the court:
 1. While existing memoranda of understanding remain in effect or for a period of up to 24 months, whichever is longer, counties will administer represented trial court employees' benefits as provided in the memoranda of understanding unless notified by the trial court that it no longer needs the county to administer specified benefits or the court and the county mutually agree that the county will no longer administer specified benefits.
 2. For a transition period of up to 24 months after implementation of the trial court employee personnel system, the counties will administer unrepresented trial court employees' benefits unless notified by the court that it no longer needs the county to administer specified benefits or the court and the county mutually agree that the county will no longer administer specified benefits. During this 24-month transition period, if the county intends to change unrepresented trial court employees' benefits, the county shall provide the court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the court can decide whether to

¹⁰¹ The determination of authority to make changes to benefits (that is, county versus court authority) depends on the employment status recommended by the task force and will be addressed separately.

- accept the county's change or consider alternatives and arrange to provide benefits on its own.
3. If, during the 24-month transition period, the court decides to offer particular benefits that are different from what the county is administering, then the court will be responsible for administering those particular benefits.¹⁰²
 4. If the court intends to give notice to the county that it no longer needs the county to administer specified benefits, the court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.
- C. The court and the county may mutually agree that the county will administer the payroll for trial court employees to facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible.
- IX. This model does not exclude the possibility that the courts may have a future option of participating in other group insurance benefit plans that may be developed subject to meet and confer.

¹⁰² The determination of authority to make changes to benefits (that is, county versus court authority) depends on the employment status recommended by the task force and will be addressed separately.

Preliminary Considerations: Group Insurance and Other Employer-Provided Benefits

In developing the benefits model, the task force recognized the importance of addressing two major concerns. The first concern is ensuring the stability and protection of benefits for trial court employees upon transition. The second is recognizing the need to have a transition period that provides sufficient time for the successor employer to investigate and negotiate with third-party vendors or providers of new benefit programs and also provides sufficient time for the transfer of administrative responsibility.

As mentioned earlier, the preliminary benefits model contained language for all three status options: state, court, and county. To provide insight into the impact of the model under various options as contemplated by the task force, the considerations for each possibility are included in the discussion below.

The model ensures that, regardless of the employment status ultimately adopted, the benefits of current employees will not be reduced as a result of implementation of the trial court employee personnel system.

The text of the preliminary model provides that if trial court employees' status were state or court, represented employees would continue to receive the same level of benefits as provided under the memoranda of understanding for the length of the memoranda of understanding or for a period of 24 months, whichever is longer, unless there is mutual agreement between recognized employee representatives and the court to change the level of benefits.

The preliminary model states that if trial court employees' status were county, while existing memoranda of understanding remain in effect, represented employees would continue to receive the same level of benefits as provided by the memoranda of understanding. The benefits would be subject to change upon expiration of existing memoranda of understanding or pursuant to the terms of memoranda of understanding.

Regardless of the employment status, unrepresented employees' benefits are subject to modification upon revision of existing personnel policies, procedures, or plans, as applicable.

The benefits model presents more complicated administrative issues than other models recommended by the task force. This is so because the Trial Court Funding Act provided in Section 77212 that, beginning on July 1, 1998, the county may give the court notice that it will no longer furnish a specific service, or the court may give notice to the county that the court will no longer use a specific county service. The task force had to consider different scenarios for the

administration of benefits that may be in place in different courts before the implementation of the trial court employee personnel system. Section 77212 of the Trial Court Funding Act provides that this severance of county services may occur as early as the first day of the succeeding fiscal year. If the court or the county exercises this option, it is possible that by the time a new personnel structure is implemented, the county may have transferred responsibility to the court for the administration of specific benefits.

The model addresses this issue by defining how benefits will be administered if either the court or the county is administering benefits at the time the trial court personnel structure is implemented. Item VII in the preliminary model addresses the situation in which, at the time of implementation of the trial court employee personnel system, trial court employees' status is *county*. Item VIII of the preliminary model addresses the situation in which, at the time of implementation, trial court employees' status is *court* or *state*.

Within this framework (in items VII and VIII), the preliminary model provides that the same entity will continue to administer benefits for 24 months or for the length of the memorandum of understanding. The purpose of this provision is to accommodate a smooth transition of administration of benefits if the responsibility for administration were transferred from one entity to another due to trial court employees' ultimate status. The terms *administering*, *administration of*, and *administers*, as used in the model, mean that the entity contracts with a vendor or otherwise makes available particular benefits. These terms do not, and are not intended to, indicate which entity is responsible for paying the costs for these benefits.

Item VII of the preliminary model addresses what would happen administratively if court employees' ultimate status were *county* employment. Item VII.A provides that, if the county administers benefits, or if the court contracts with the county to administer benefits, the benefits will continue to be administered by the county as provided under the existing personnel policies, procedures, and plans or trial court employee memoranda of understanding.

Item VII.B.1 provides that, if at the time of implementation of the trial court employee personnel system, the court administers benefits separately from the county, then the court will administer represented trial court employees' benefits for the length of the existing memoranda of understanding or for a period of up to 24 months, whichever is longer. This administrative responsibility could end earlier if the county notifies the court that it no longer needs the court to administer benefits or if the county and the court mutually agree that the court will no longer administer benefits.

Item VII.B.2 provides for a 24-month transition period after the implementation of the trial court employee personnel system. During this 24-month period, the courts will administer unrepresented trial court employees' benefits, unless the court is notified by the county that it no longer needs the court to administer the benefits or there is mutual agreement that the court will no longer administer the benefits. This item also provides that, if the court intends to change the benefits for unrepresented trial court employees, the court must provide the county with at least 60 days' notice, or a mutually agreed amount of notice, before the implementation of any change. This 60-day notice will allow time for the county to decide whether to accept the court's proposed change or to consider alternatives to provide benefits on its own.

Item VII.B.3 provides that if, during this 24-month transition period, the county decides to offer benefits that are different from what the court is administering, the county will be responsible for administering those benefits.

Item VII.B.4 states that the county must provide the court with at least 60 days' notice, or a mutually agreed amount of notice, if the county intends to give the court notice that it no longer needs the court to provide specified benefits.

Item VIII of the preliminary model addresses what will happen administratively if court employees' ultimate status is *court* or *state* employment. Item VIII.A provides that if, at the time of implementation of the trial court employee personnel system, the court administers benefits separately from the county, the court will continue to administer the benefits as provided under the existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.

If, at the time of implementation of the trial court employee personnel system, the county administers benefits or the court contracts with the county to administer the benefits, the county will administer the represented trial court employees' benefits for the length of the existing memoranda of understanding or for a period of up to 24 months, whichever is longer. This administrative responsibility could end earlier if the court notifies the county that it no longer needs the county to administer benefits or if the court and the county mutually agree that benefits will no longer be administered by the county.

Item VIII.B.2 provides for a 24-month transition period after implementation of the trial court employee personnel system. During this 24-month period, the county will administer unrepresented trial court employees' benefits, unless the county is notified by the court that it no longer needs the county to administer the benefits or there is mutual agreement that the county will no longer administer the benefits. This item also provides that, if the county intends to change the benefits for unrepresented trial court

employees during this 24-month transition period, the county will provide at least 60 days' notice, or a mutually agreed to amount of notice, before any change is implemented. This 60 days' notice will allow time for the court to decide whether to accept the county's change or to consider alternatives to provide benefits on its own.

Item VIII.B.3 states that, if the court decides to offer different benefits from what the county is administering, then the court will be responsible for administering those benefits.

Item VIII.C. provides that a court and the county may mutually agree that the county will administer the payroll system for trial court employees to facilitate trial court employees' participation in a county benefit plan. If trial court employees' ultimate status is court employment, this provision accommodates the situation that may arise in which some counties may require trial court employees' paychecks to be issued from the county in order for employees to receive benefits from the county.

Item IX of the preliminary model states that, if court employees' ultimate status is court or state employment, the possibility exists that the courts may have a future option of participating in other group insurance benefit plans that may be developed subject to meet and confer.

Impact of Preliminary Model Under Each Employment Status Option

Under all status options, trial court employees' group insurance and other employer-provided benefits would not be reduced as a result of the implementation of the new personnel system. Under the status option of county, represented employees would receive the same level of benefits as under existing memoranda of understanding, subject to meet and confer. Unrepresented employees would receive the same level of benefits, subject to modification upon revision of existing personnel policies, procedures, or plans, as applicable.

Under the employment status option of county, union representatives would negotiate with the county and the local trial court administration. Under this status option, the court might have less control over the types of benefits and costs of a particular negotiated benefit since the total number of court employees would be a small percentage of the total number of county employees.

Under the status options of court and state, represented employees would receive the same level of benefits as under existing memoranda of understanding or for a period of 24 months, whichever is longer. Once the 24-month period expires or the memorandum of understanding expires, whichever is later, represented employees would meet and confer regarding future benefits.

Under the employment status option of state, union representatives would negotiate with the local trial court administration with the involvement of the state judicial

branch. For smaller courts and counties with less generous group insurance and employer-provided benefits, this could create pressure to ensure that future group insurance and other employer-provided benefits conform to state benefits if the benefits offered by the state are better than what the trial court employees are receiving.

Under the employment status option of court, union representatives would negotiate with the local trial court administration. If there is a wide disparity in the benefits offered by the court and the county, this could affect the ability of the court to attract or retain employees in the local market. This could create pressure to ensure that future group insurance and other employer-provided benefits conform to the benefits received by county employees.

If the employment status option is either state or court, the local trial court would be responsible for the administration of group insurance and other employer-provided benefits. In addition to the issue of local courts having responsibility for the administration of group insurance and other employer-provided benefits and for contracting to provide these benefits, scale and volume may become a concern for small courts. For example, the cost of health insurance benefits for a small court could be higher than the current cost for the same employees under the current county health insurance benefit plan. Also, benefits are secured through contractual obligations, and although it is unlikely, a vendor could refuse to cover trial court employees as a result of a change in their employment status. In consideration of these issues, the model allows for the development of other group insurance benefit plans and for the opportunity to develop regional or statewide plans.

Additional Considerations and the Recommended Benefits Model

As a result of further deliberations by the task force, consideration of comments received on the second interim report, and the selection of court as the employment status for trial court employees, the task force made some modifications to the preliminary benefits model. The primary changes include eliminating all references to county or state employment status.

The other modification appears in item VI.C of the model and reflects the task force's recommendation that counties be given statutory authority to provide benefits to court employees beyond the transition period identified in the model. This statutory language would ensure that counties have the authority to provide these benefits to court employees if the court requests this and the county agrees to do so. This section in the recommended model also has language to clarify that the county's agreement to provide the benefits is not to be interpreted as an obligation on the part of the county to meet and confer with any recognized court employee organization.

Recommended Benefits Model

- I. As of the effective date of implementation of the trial court employee personnel system, the level of benefits provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. While existing memoranda of understanding remain in effect or for a period of 24 months, whichever is longer, represented trial court employees shall continue to receive the same level¹⁰³ of benefits as provided under the memoranda of understanding unless there is a mutual agreement to a change.
- III. Unrepresented employees' benefits are subject to modification upon revision of existing personnel policies, procedures, or plans, as applicable.
- IV. If there is a change in responsibility for administering¹⁰⁴ benefits, a transition period for the transfer of responsibility is provided in this model. During this transition period, the county may include trial court employees in its benefit plans, as permitted by law or vendor.
- V. The court will reimburse the county for the cost of coverage of trial court employees in county benefit plans.
- VI. Upon implementation of the trial court employee personnel system, the following provisions govern which entity will be responsible for administering the benefits:
 - A. At the time of implementation of the trial court employee personnel system, if the court administers benefits separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.
 1. At the time of implementation of the trial court employee personnel system, if the county administers benefits or the court contracts with the county to administer benefits, the court may either continue to receive benefits from the county as provided in item VI.D or administer benefits directly

¹⁰³ For the purpose of this model, *same level* means the same benefits unless they are not permitted by law or vendor, in which case *same level* means comparable level of benefits.

¹⁰⁴ For the purpose of this model, the terms *administering*, *administration of*, and *administers* mean that the entity is responsible for making available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs of these benefits.

- through the following transition provisions: While existing memoranda of understanding remain in effect or for a period of up to 24 months, whichever is longer, counties will administer represented trial court employees' benefits as provided in the memoranda of understanding unless notified by the trial court that it no longer needs the county to administer specified benefits or the court and the county mutually agree that the county will no longer administer specified benefits.
2. For a transition period of up to 24 months after implementation of the trial court employee personnel system, the counties will administer unrepresented trial court employees' benefits unless notified by the court that it no longer needs the county to administer specified benefits or the court and the county mutually agree that the county will no longer administer specified benefits. During this 24-month transition period, if the county intends to change unrepresented trial court employees' benefits, the county shall provide the court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the court can decide whether to accept the county's change or consider alternatives and arrange to provide benefits on its own.
 3. If, during the 24-month transition period, the court decides to offer particular benefits that are different from what the county is administering, then the court will be responsible for administering those particular benefits.
 4. If the court intends to give notice to the county that it no longer needs the county to administer specified benefits, the court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.
- B. The court and the county may mutually agree that the county will administer the payroll for trial court employees to facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible.
- C. The counties shall have statutory authority to provide benefits to court employees if such benefits are requested by the court and subject to county concurrence to providing such benefits. A county's agreement to provide such benefits shall not be construed as creating a meet and confer obligation between the county and any recognized court employee organization.

- D. This model does not exclude the possibility that the courts may have a future option of participating in other group insurance benefit plans that may be developed subject to meet and confer.

I. Retiree Group Insurance Benefits

Background

It was important to the task force that the group insurance benefits of those trial court employees who retire after implementation of the trial court employee personnel system not be affected as a result of the implementation of the new personnel system. To accomplish this, the task force recognized the necessity of protecting those benefits and providing for a transition period, if needed, to transfer responsibility for administration of group insurance benefits for retiring trial court employees to any successor employer.

Retiree group insurance benefits can include such benefits as medical, dental, vision, or other like benefits. Retiree group insurance benefits generally are unfunded liabilities. However, some counties use excess funding in their retirement systems to fund retiree group insurance benefits, and some counties may prefund retiree group insurance benefits.

The model developed by the task force applies to those individuals who meet the definition of a trial court employee at the time of implementation of the new personnel system and who retire after implementation of the new personnel system. The model does not apply to employees who retired before the date of implementation of the new trial court employee personnel system.

Within the 58 separate county systems, a wide variety of benefits, including retiree group insurance benefits, are offered to trial court employees. The task force obtained information about retiree group insurance benefits from a survey of trial court employees' benefits conducted earlier this year. Final analyses of this survey data are being completed and will be published as an addendum to this final report.

Education: Retiree Group Insurance Benefits

The task force received education from Ms. Judith A. Myers, staff to the task force, regarding group insurance benefits applicable to trial court employees. Mr. Ken Marzion, Chief of the Actuarial and Employer Services Division, CalPERS, provided education and an overview of retiree health benefits offered through CalPERS. Mr. Steve Keil, Legislative Coordinator, California State Association of Counties, provided education about retiree group insurance benefits in 1937 Act counties and described the diverse funding mechanisms and arrangements among the county systems for retiree group insurance benefits, including excess earnings, unfunded liabilities, prefunding, and alternative funding provisions.

Assumptions and Objectives: Retiree Group Insurance Benefits

The task force used the following assumptions and objectives in developing a recommended model for retiree group insurance benefits:

Assumptions:

1. Implementation of the trial court employee personnel system may require changes in existing statutes.
2. State funding levels will not significantly increase as a result of the implementation of the trial court employee personnel system.
3. This model assumes no changes in federal law.
4. In some counties, retiree group insurance benefits are unfunded liabilities; in some counties they are prefunded. Some counties use excess funding in their retirement systems to fund retiree group insurance benefits.
5. Determination of liability for such benefits for employees who have retired prior to implementation of the trial court personnel system is a policy issue that is outside the scope of the task force's charge.
6. Retiree group insurance benefit plans are separate from defined-benefit retirement plans.
7. Retiree group insurance benefits for represented employees may be bargainable in the meet and confer process and may be changed upon expiration of memoranda of understanding or revision of personnel policies.
8. Group insurance benefits vendors are independent entities and may or may not be legally required to provide group insurance benefits to retired trial court employees.

Objectives:

- A. As of the effective date of implementation of the trial court employee personnel system, the level of retiree group insurance benefits provided to active trial court employees through memoranda of understanding or personnel policies will not be reduced as a result of the implementation of the trial court employee personnel system.
- B. If there is a change in the employment status of trial court employees, the transition to a new employer will not have a significant financial impact on the new and former employers.
- C. The retiree group insurance model does not apply to employees who retired before the date of implementation of the new trial court employee personnel system.
- D. If retiree group insurance benefits are funded with an excess of funds in a county retirement system or prefunded by the county, the county shall provide the court with the same amount of funding for each trial court employee who retires, as prefunded by the county, for each county employee who retires.

- E. Upon implementation of the trial court employee personnel system, active trial court employees who retire shall receive the level¹⁰⁵ of group insurance benefits provided under the personnel policies or memoranda of understanding, as applicable, subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- F. This model will allow for a transition period to transfer responsibility for administration of group insurance benefits for retiring trial court employees to the employer.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. Therefore, the preliminary model created by the task force laid out how retiree group insurance benefits would be administered and provided for under all three employment status options: state, court, and county. This preliminary model is presented here.

¹⁰⁵ *Level* means the same retiree group insurance benefits unless they are not permitted by law or vendor, in which case *level* means comparable level of retiree group insurance benefits.

Preliminary Retiree Group Insurance Benefits Model

- I. This model applies to active trial court employees on the date of implementation of the trial court employee personnel system who retire after implementation of the trial court employee personnel system; this model does not apply to trial court employees who retired before the implementation of the trial court employee personnel system.
- II. As of the effective date of implementation of the trial court employee personnel system, the level of retiree group insurance benefits provided to active trial court employees through memoranda of understanding or personnel policies will not be reduced as a result of the implementation of the trial court employee personnel system.¹⁰⁶
- III. Upon implementation of the trial court employee personnel system, active trial court employees who retire shall receive the level¹⁰⁷ of retiree group insurance benefits provided under the personnel policies or memoranda of understanding, as applicable, subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- IV. If there is a change in responsibility for administering¹⁰⁸ retiree group insurance benefits, a transition period for the transfer of responsibility is provided in this model. During this transition period, the county or the court may include trial court employees in its retiree group insurance benefit plans regardless of the employment status of trial court employees, as permitted by law or vendor.
- V. The court or state, as the case may be, will reimburse the county for the cost of coverage of retired trial court employees in county retiree group insurance benefit plans. The county may charge the court for retiree group insurance benefits only the amount that the county is required to pay in excess of the retirement system funding or prefunding of the retiree group

¹⁰⁶ The determination of authority to make changes to benefits (that is, county versus court authority) depends on the employment status recommended by the task force and will be addressed separately.

¹⁰⁷ *Level* means the same retiree group insurance benefits unless they are not permitted by law or vendor, in which case *level* means comparable level of retiree group insurance benefits.

¹⁰⁸ For the purposes of this model, the terms *administering*, *administration of*, and *administers* mean that the entity either contracts with a vendor or otherwise makes available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs for these benefits.

insurance benefits. The county and the court may agree to an alternative arrangement to administer and fund retiree group insurance benefits.

- VI. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is *county* employment, each county or county retirement system will continue to administer retiree group insurance benefits to retired trial court employees in the same manner and under the same conditions that it administers these benefits to other retired county employees.
- VII. If, as a result of implementation of the trial court employee personnel system, court employees' status is *court* or *state* employment, the following provisions govern which entity will be responsible for administering the retiree group insurance benefits:
- A. In those counties that fund retiree group insurance benefits from excess funds in their retirement systems or prefund retiree group insurance benefits, the county shall administer retiree group insurance benefits to trial court employees who retire from that county retirement system. The county and the court may agree to an alternative arrangement to administer retiree group insurance benefits.
- B. In all counties not included in item VII.A:
1. At the time of implementation of the trial court employee personnel system, if the court administers retiree group insurance benefits to trial court employees separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.
 2. At the time of implementation of the trial court employee personnel system, if the county administers retiree group insurance benefits, or if the court contracts with the county to administer retiree group insurance benefits to trial court employees, the following provisions govern the transition of responsibility for administering these benefits to the court:
 - a) While existing memoranda of understanding remain in effect or for a transition period of up to 24 months, whichever is longer, counties will administer retiree group insurance benefits for represented trial court employees who retire during that period, as provided in the applicable memoranda of understanding, unless notified by the court that it no longer needs the county to administer specified benefits or the court and the

- county mutually agree that the county will no longer administer specified benefits.
- b) For a transition period of up to 24 months after implementation of the trial court employee personnel system, the counties will administer retiree group insurance benefits for unrepresented trial court employees who retire during that period, unless notified by the court that it no longer needs the county to administer specified benefits or the court and the county mutually agree that the county will no longer administer specified benefits. During this 24-month transition period, if the county intends to change unrepresented trial court employees' retiree group insurance benefits, the county shall provide the court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the court can decide whether to accept the county's change or consider alternatives and arrange to provide benefits on its own.
 - c) If, during the 24-month transition period, the court decides to offer particular retiree group insurance benefits that are different from what the county is administering, then the court will be responsible for administering those particular retiree group insurance benefits.
 - d) If the court intends to give notice to the county that it no longer needs the county to administer specified retiree group insurance benefits to trial court employees, the court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.

VIII. This model does not exclude the possibility that the courts may have a future option of participating in other retiree group insurance benefit plans for trial court employees that may be developed subject to meet and confer.

Preliminary Considerations: Retiree Group Insurance Benefits

Stability and protection of benefits for trial court employees retiring after the implementation of the new personnel system and providing a sufficient transition period were important to the task force in developing their recommendations for the retiree group insurance benefits model.

As mentioned earlier, the preliminary retiree group insurance benefits model contained language for all three status options: state, court, and county. To provide insight into the impact of the model under the various employment status options as contemplated by the task force, the considerations for each possibility are included in the discussion below.

The model applies to employees who are active trial court employees on the date of implementation of the trial court employee personnel system and who retire after implementation of the trial court employee personnel system. The model does not apply to trial court employees who retired before the implementation of the trial court employee personnel system.

Sections of the model protect trial court employees' retiree group insurance benefits at the time of implementation of the new system. The model provides that the level of retiree group insurance benefits provided to active trial court employees through either memoranda of understanding or personnel policies will not be reduced. While these existing personnel policies or memoranda of understanding are in effect, active trial court employees who retire will receive the same level of retiree group insurance benefits.

Item IV introduces the concept of a transition period, which was explained more fully in items VI and VII of the preliminary model. Item IV provides that the court or the county may include, as permitted by law or vendor, trial court employees in its retiree group insurance benefit plans regardless of the employment status of trial court employees during this transition period.

The task force was aware that some retiree group insurance benefits are funded with an excess of funds in a county retirement system, and some counties prefund retiree group insurance benefits. Item V addresses the situation where a county funds retiree group insurance benefits. In those cases, the county may charge the court only the amount that the county is required to pay in excess of the retirement system funding or prefunding.

The preliminary model explained how the transition would be different, if there were to be a change in employment status, depending on how retiree group insurance benefits are administered and funded. As used in the model, the terms

administering, administration of, and administers mean that the entity contracts with a vendor or otherwise makes available particular benefits. These terms are not intended to indicate which entity is responsible for paying the costs for these benefits. Item VI of the preliminary model recognized that if the employment status were to be county, each county or county retirement system would continue to administer retiree group insurance benefits to retired court employees in the same way that these benefits are provided to other retired county employees.

Item VII.A in the preliminary model states that if court or state were to be the employment status and the county funds retiree group insurance benefits from excess funds in its retirement system or prefunds retiree group insurance benefits, the county would continue to provide these benefits to trial court employees who retire from the county system. As stated in item V, the court and county may also mutually agree to an alternative arrangement.

Pursuant to the Trial Court Funding Act, Government Code section 77212, as of July 1, 1998, item VII.B.1 takes into consideration that counties and courts can notify each other that they no longer wish to furnish or accept specific services. This severance of services may be effective as early as the first day of the succeeding fiscal year. For example, the county may give notice to the court that it will no longer furnish a specific service, or the court may give notice to the county that the court no longer needs the county to provide a specific service. If the court or the county exercise this option, it is possible that by the time a new personnel structure is implemented, in some counties responsibility for retiree group insurance benefits may have already been transferred from the county to the court.

Item VII.B.1 of the preliminary model provides for the situation in which the court is administering retiree group insurance benefits at the time the trial court personnel structure is implemented. In this event, if the employment status were to be court or state, the court would continue to administer retiree group insurance benefits as provided under existing personnel policies, procedures, plans, or memoranda of understanding.

Item VII.B.2 of the preliminary model provides for a transition of responsibility for the administration of retiree group insurance benefits in the event that the county administers retiree group insurance benefits or the court contracts with the county for these benefits at the time the trial court personnel system is implemented. This transition provides that, for a period of 24 months or while existing memoranda of understanding are in effect, whichever is longer, the counties will continue to administer retiree group insurance benefits for represented employees who retire during that period, unless the court notifies the county that it no longer needs the county to administer the retiree group insurance

benefits or there is mutual agreement that the county will not administer these benefits.

The model also provides a 24-month transition period for unrepresented trial court employees. During this time, the county will administer the benefits unless the court notifies the county that it no longer needs the county to administer these benefits or the county and the court mutually agree that the county will not administer benefits.

If the county intends to change unrepresented employees' retiree group insurance benefits within this 24-month transition period, the county must provide the court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change may be implemented. This 60 days' notice will allow time for the court to decide whether to accept the county's change or to consider alternatives to provide retiree group insurance on its own. A 60 days' notice is also required if the court intends to notify the county that it no longer needs the county to administer retiree group insurance benefits to trial court employees. The court and the county may also mutually agree to another amount of time.

During the 24-month transition period, if the employment status is court or state, the court is responsible for administering any retiree group insurance benefits the court decides to offer that are different from what the county is administering.

Impact of Preliminary Model Under Each Employment Status Option

For all status options, the model ensures that represented employees receive the same level of retiree group insurance benefits for the life of their memoranda of understanding. Retiree group insurance benefits are subject to change upon expiration of memoranda of understanding or pursuant to the terms of the memoranda of understanding, subject to meet and confer. Unrepresented employees receive the level of retiree group insurance benefits provided in personnel policies, procedures, and plans, which are also subject to change.

Retiree group insurance benefits are generally an unfunded liability. The determination of liability for such benefits for employees who have retired prior to implementation of the trial court personnel system is a policy issue that is outside the purview of the task force.

If the status of court employees were to be state or court employment, the preliminary model does not exclude the possibility that the courts may have a future option of participating in other retiree group insurance benefit plans that may be developed subject to meet and confer.

Additional Considerations and the Recommended Retiree Group Insurance Benefits Model

As a result of further deliberations by the task force and the selection of court as the employment status for trial court employees, the task force made several modifications to the preliminary retiree group insurance benefits model. The primary changes made to the model include eliminating all references to county or state employment status options.

Additionally, item VI of the model was modified to clarify that the court may either continue to receive retiree group insurance benefits from the county, as provided in item VII of the model, or administer retiree group insurance benefits through the transition provisions discussed in item VI.B.2.b of the model. Another modification to the recommended model is the addition of item VII. Item VII reflects the task force's recommendation that statutory provisions be made that would allow counties to provide court employees with retiree group insurance beyond the transition period in the model. The task force felt this issue should be addressed in the statute to ensure that the counties would have the authority to provide retiree group insurance benefits to the trial court employees if the court requests this and the court agrees to do so. Language was also added to the recommended model to clarify that any request by the court for the county to provide retiree group insurance benefits is not to be interpreted as an obligation to meet and confer. The recommended model includes changes made to the model eliminating all references to county or state employment status options.

Recommended Retiree Group Insurance Benefits¹⁰⁹ Model

- I. This model applies to active trial court employees on the date of implementation of the trial court employee personnel system who retire after implementation of the trial court employee personnel system; this model does not apply to trial court employees who retired before the implementation of the trial court employee personnel system.
- II. As of the effective date of implementation of the trial court employee personnel system, the level of retiree group insurance benefits provided to active trial court employees through memoranda of understanding or personnel policies will not be reduced as a result of the implementation of the trial court employee personnel system.
- III. Upon implementation of the trial court employee personnel system, active trial court employees who retire shall receive the level¹¹⁰ of retiree group insurance benefits provided under the personnel policies or memoranda of understanding, as applicable, subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- IV. If there is a change in responsibility for administering¹¹¹ retiree group insurance benefits, a transition period for the transfer of responsibility is provided in this model. During this transition period, the county or the court may include trial court employees in its retiree group insurance benefit plans as permitted by law or vendor.
- V. The court will reimburse the county for the cost of coverage of retired trial court employees in county retiree group insurance benefit plans. The county may charge the court for retiree group insurance benefits only the amount that the county is required to pay in excess of the retirement system funding or prefunding of the retiree group insurance benefits. The county and the court may agree to an alternative arrangement to administer and fund retiree group insurance benefits.

¹⁰⁹ *Retiree benefits* refers to benefits active trial court employees would receive upon retirement.

¹¹⁰ *Level* means the same retiree group insurance benefits unless they are not permitted by law or vendor, in which case *level* means comparable level of retiree group insurance benefits.

¹¹¹ For the purposes of this model, the terms *administering*, *administration of*, and *administers* mean that the entity either contracts with a vendor or otherwise makes available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs for these benefits.

- VI. Upon implementation of the trial court employee personnel system, the following provisions govern which entity will be responsible for administering the retiree group insurance benefits:
- A. In those counties that fund retiree group insurance benefits from excess funds in their retirement systems or prefund retiree group insurance benefits, the county shall administer retiree group insurance benefits to trial court employees who retire from that county retirement system. The county and the court may agree to an alternative arrangement to administer retiree group insurance benefits.
 - B. In all counties not included in item VI.A:
 - 1. At the time of implementation of the trial court employee personnel system, if the court administers retiree group insurance benefits to trial court employees separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding.
 - 2. At the time of implementation of the trial court employee personnel system, if the county administers retiree group insurance benefits, or if the court contracts with the county to administer retiree group insurance benefits to trial court employees, the court may either continue to receive retiree group insurance benefits from the county as provided in item VII or administer retiree group insurance benefits through the following transition provisions:
 - a) While existing memoranda of understanding remain in effect or for a transition period of up to 24 months, whichever is longer, counties will administer retiree group insurance benefits for represented trial court employees who retire during that period, as provided in the applicable memoranda of understanding, unless notified by the court that it no longer needs the county to administer specified benefits or the court and the county mutually agree that the county will no longer administer specified benefits.
 - b) For a transition period of up to 24 months after implementation of the trial court employee personnel system, the counties will administer retiree group insurance benefits for unrepresented trial court employees who retire during that period, unless notified by the court that it no longer needs the county to administer specified benefits or the court and the

county mutually agree that the county will no longer administer specified benefits. During this 24-month transition period, if the county intends to change unrepresented trial court employees' retiree group insurance benefits, the county shall provide the court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the court can decide whether to accept the county's change or consider alternatives and arrange to provide benefits on its own.

- c) If, during the 24-month transition period, the court decides to offer particular retiree group insurance benefits that are different from what the county is administering, then the court will be responsible for administering those particular retiree group insurance benefits.
- d) If the court intends to give notice to the county that it no longer needs the county to administer specified retiree group insurance benefits to trial court employees, the court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.

VII. The counties shall have statutory authority to provide retiree group insurance benefits to court employees if such benefits are requested by the court, subject to county concurrence to provide such benefits. A county's agreement to provide such benefits shall not be construed as creating a meet and confer obligation between the county and any recognized court employee organization.

VIII. This model does not exclude the possibility that the courts may have a future option of participating in other retiree group insurance benefit plans for trial court employees that may be developed subject to meet and confer.

VII.J Federally Regulated
Benefits

J. Federally Regulated Benefits

Background

Federally regulated benefits are benefits that provide tax-favored treatment for employees. The federal government, through the Internal Revenue Code (Code), Treasury Department regulations, and other Internal Revenue Service authorities, governs the provisions of these benefits. Typically, federally regulated benefits are included in what are commonly called cafeteria plans, flexible benefit plans, or flexible spending arrangements. The portions of these plans that offer tax advantages and therefore are considered federally regulated benefits include flexible spending accounts covering health and dependent care under Code section 125, educational assistance benefits under Code section 127, and fringe benefits under Code section 132.

The task force conducted a survey of all trial court employee benefits. The results of the survey have been compiled and initial analyses completed. Due to the size and complexity of the database, the last analysis is being finalized. The final analysis will be published in an addendum to the final report. The initial analysis provided the task force with information on all federally regulated benefits currently offered in the trial courts.

This discussion of federally regulated benefits addresses only the commonly offered Section 125 plans. Section 125 plans allow the employee to pay pretax for such benefits as medical, dental, vision, disability, and life insurance. Flexible spending accounts for health or dependent care provide benefits by permitting employees to set aside amounts from their paychecks on a pretax basis over a 12-month period to cover medical payments not covered by insurance, such as deductible amounts and co-payments or dependent-care payments. Employees estimate eligible expenses during the coming year and contribute monthly to set aside the amount estimated. When expenses are incurred, employees submit claim forms and receive tax-free reimbursement for the covered expenses.

Both the employee and the employer incur risk in undertaking a health care flexible spending account. The employee must forfeit amounts of money left in the account at year's end. However, employees are entitled to use the full amount estimated for the year immediately. For example, if an employee contributes for only one month, incurs a covered health expense equal to the entire estimated amount, and then leaves employment, the employer must pay the full amount, even though the employee contributed only one month toward the total.

Employees incur some risk in participating in dependent-care flexible spending accounts because they forfeit unused contributions. The employer has no risk because eligible expenses are reimbursable only up to the amount contributed by the employee minus any amounts already reimbursed from the account to the employee.

Legally, only employees can participate in an employer's Section 125 plan. The determination of whether a person is an employee is governed by Internal Revenue Service standards. Therefore, if trial court employees were state or court employees after implementation of the new personnel system, they would not be able to participate in county Section 125 plans unless the court is a co-sponsor of the plan. If the court is a co-sponsor of the plan with the county, trial court employees could remain in the county plan even though they are not county employees.

Trial court employees are currently participating in county federally regulated benefits programs that vary widely as to the benefits themselves as well as the plan year for those benefits. Of the 58 counties, 27 have health care flexible spending accounts, and 39 have dependent-care flexible spending accounts. Some plan years coincide with the calendar year, some coincide with the fiscal year, and some begin on dates other than January 1 or July 1. Because of the risk to the employee and the employer described above, transition to a new employer on any date other than the first day of the plan year in each county could negatively affect either the employee or the employer. Transition during a plan year could result in employees forfeiting unused contributions and employers being unable to collect all of the employees' promised contributions to cover previous distributions.

In developing its federally regulated benefits assumptions, objectives, and model, the task force paid particular attention to avoiding any potential negative impact on employees or employers during the implementation of the new personnel system.

Education: Federally Regulated Benefits

The task force received education on federally regulated benefits and, in particular, Section 125 plans. Ms. Barbara McGeoch, an attorney with William M. Mercer, Inc., provided general education regarding Section 125 plans and discussed possible implementation strategies that would minimize or eliminate any negative impact on transition to a new employer.

Definition, Assumptions, and Objectives: Federally Regulated Benefits

The task force developed a definition, assumptions, and objectives as follows:

Definition:

Federally regulated employee benefits are benefits that often include tax-favored treatment for employees. Such arrangements are governed by the Internal Revenue Code (Code), Treasury Department regulations, and other Internal Revenue Service authorities. Examples of federally regulated benefits include, but are not limited to, cafeteria plans under Code section 125, educational assistance benefits under Code section 127, and fringe benefits under Code section 132. Deferred compensation benefits, which are also governed by federal law, are addressed in a separate model.

Assumptions:

1. Federal laws govern federally regulated benefits.
2. For the purposes of federally regulated benefits, trial court employees are currently considered county employees.
3. The Code provides that only employees may participate in an employer's Section 125 cafeteria plan.
4. The State of California requires an employee to be paid through the State Controller's Office in order to participate in the state's Section 125 plan.
5. If there is a transition to a new employer, under COBRA employees may retain access to amounts already contributed to their health care flexible spending account with the former employer.
6. The Code requires that employees participating in a Section 125 plan have immediate access to the full amount they contracted to contribute to a medical reimbursement account for the plan year. (For example, if the employee contributes for one month, spends the full year's reimbursement account, and leaves employment in the second month, the employer cannot receive any additional contributions from the former employee.)
7. Existing state law will require changes as a result of implementation of the new trial court employee personnel system.

Objectives:

- A. The level of federally regulated benefits presently provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- B. While existing memoranda of understanding remain in effect, represented trial court employees shall continue to receive the same level¹¹² of federally regulated benefits as provided under the memoranda of understanding.

¹¹² For the purposes of this model, *same level* means the same federally regulated benefits unless they are not permitted by law or vendor, in which case *same level* means comparable level of federally regulated benefits.

- C. If the implementation of the trial court employee personnel system causes a change in the employment status of trial court employees, with respect to federally regulated benefits, to the extent permitted by law:
- 1) The successor employer shall provide trial court employees with the same or comparable benefits;
 - 2) Trial court employees must retain access to dollar amounts already deposited with their former employer in federally regulated benefits accounts;
 - 3) The transition to a new employment status will not result in a financial liability for employees or new or former employers; and
 - 4) The court and county may mutually agree that the county will administer the payroll for trial court employees to facilitate trial court employee participation in the county benefit plans, for which trial court employees may be eligible.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. Therefore, the preliminary model created by the task force laid out how federally regulated benefits would be administered and provided for under all three employment status options: state, court, and county. This preliminary model is presented here.

Preliminary Federally Regulated Benefits Model

- I. As of the effective date of implementation of the trial court employee personnel system, the level of federally regulated benefits provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. While existing memoranda of understanding remain in effect, represented trial court employees shall continue to receive the same level of federally regulated benefits as provided under the memoranda of understanding.
- III. Federally regulated benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- IV. If, upon implementation of the trial court employee personnel system, the entity that administers¹¹³ the federally regulated benefit plan is not the employer of trial court employees, then an effective date for the transfer of responsibility for administering federally regulated benefits must be determined. This effective date must be established to coincide with the first day of the applicable federally regulated benefits plan year to ensure that there is no financial impact on the employee or on either employer.
- V. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is *county* employment, the following provisions govern which entity will be responsible for administering the federally regulated benefits:
 - A. At the time of implementation of the trial court employee personnel system, if the county administers federally regulated benefits, or if the court contracts with the county to administer federally regulated benefits, the county shall administer these benefits as provided under existing personnel policies, procedures, plans, or memoranda of understanding applicable to trial court employees.
 - B. At the time of implementation of the trial court employee personnel system, if the court administers federally regulated benefits separately from the county, the following provisions govern the transition of responsibility for administering these benefits to the county:

¹¹³ For the purpose of this model, the terms *administering*, *administration of*, and *administers* mean that the entity either contracts with a vendor or makes available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs of these benefits.

1. Until the effective date of the transition, courts will administer represented trial court employees' federally regulated benefits as provided in the memoranda of understanding, subject to meet and confer.
2. Until the effective date of transition, courts will administer unrepresented trial court employees' federally regulated benefits as provided in personnel policies, procedures, and plans.
3. To ensure that there is no financial impact on the employee or on either employer, during the period between implementation of the trial court employee personnel system and the effective date of the transition, both the court and the county will co-sponsor the federally regulated benefit plan. Co-sponsorship will continue so long as the trial court employees are governed by a plan not offered by the county, but in no event longer than 18 months unless the county and the court agree to continued co-sponsorship.
4. If, during the co-sponsorship period, the county decides to offer particular benefits that are different from what the court is administering, then the county will be responsible for administering those particular benefits unless the court and the county agree to an alternative.¹¹⁴

- VI. If, as a result of implementation of the trial court employee personnel system, trial court employees' status is *court* or *state* employment, the following provisions govern which entity will be responsible for administering the federally regulated benefits:
- A. At the time of implementation of the trial court employee personnel system, if the court administers federally regulated benefits separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or memoranda of understanding applicable to trial court employees.
 - B. At the time of implementation of the trial court employee personnel system, if the county administers federally regulated benefits, or if the court contracts with the county to administer federally regulated benefits, the following provisions govern the transition of responsibility for administering these benefits to the court:
 1. Until the effective date of the transition, counties will administer represented trial court employees' federally

¹¹⁴ The determination of authority to make changes to benefits, that is, county versus court authority, depends on the employment status recommended by the task force and will be addressed separately.

- regulated benefits as provided in the memoranda of understanding.
2. Until the effective date of the transition, counties will administer unrepresented trial court employees' federally regulated benefits as provided in personnel policies, procedures, and plans.
 3. To ensure that there is no financial impact on the employee or on either employer, during the period between implementation of the trial court employee personnel system and the effective date of the transition, both the court and the county will co-sponsor the federally regulated benefit plan. Co-sponsorship will continue so long as the trial court employees are governed by a plan not offered by the court, but in no event longer than 18 months unless the court and the county agree to continued co-sponsorship.
 4. If, during the co-sponsorship period, the court decides to offer particular benefits that are different from what the county is administering, then the court will be responsible for administering those particular benefits unless the court and the county agree to an alternative.¹¹⁵
- VII. To facilitate trial court employee participation in county benefit plans for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- VIII. The court or state, as the case may be, will reimburse the county for the cost of any coverage of trial court employees in county federally regulated benefits plans.
- IX. This model does not exclude the possibility that the courts may have a future option of participating in other federally regulated benefit plans that may be developed subject to meet and confer.

¹¹⁵ The determination of authority to make changes to benefits, that is, county versus court authority, depends on the employment status recommended by the task force and will be addressed separately.

Preliminary Considerations: Federally Regulated Benefits

The intent of this model is to protect those federally regulated benefits that trial court employees currently have, as well as ensure that there is no negative impact on either the employee or the employer if there is a transition to a new employer. As mentioned earlier, the preliminary benefits model contained language for all three status options: state, court, and county.

The task force considered several transition strategies that could be used to protect these benefits should a change in employer occur. These included the following: (1) select an implementation date that coincides with the first day of the new Section 125 plan year, (2) provide the employee with money in the new employer's Section 125 plan equivalent to the amount accumulated but not yet paid out to the employee from the former employer's plan, and (3) allow the employee to continue participation in the old employer's health care flexible spending account plan through COBRA (this option does not apply to dependent care).

All of these options require the employer to have a flexible spending account in place at the time of transition. The last two options require coordination between the former employer and the new employer to implement the transfer of the benefits.

The task force initially favored having the implementation date coincide with the first day of the plan year because this approach appeared to be the most easily understood and required no administrative coordination between the two employers. The task force asked the staff to obtain information from the survey of the trial courts conducted by Mercer to determine how many courts had Section 125 plans and what plan years were used. Currently, there are 27 health care flexible spending accounts, of which 18 use the calendar year, 3 use the fiscal year, and the rest use other plan years. There are 39 dependent-care flexible spending accounts, of which 28 use the calendar year, 5 use the fiscal year, and the rest use other plan years.

The task force ultimately rejected the concept of having the implementation date on the first day of the plan year because it could delay the implementation of the entire trial court personnel system. Subsequent to other research, the task force adopted an alternative that allows the court and the county to be co-sponsors of the federally regulated benefit plans until a transition between employers can be arranged on the first day of the plan year. Co-sponsorship would allow the employees to continue to participate in the old employer's plan until the new employer develops its own plan and would allow the co-sponsors to transfer responsibility for administering federally regulated benefits to the new employer effective on the first day of the applicable plan year.

The task force adopted a model that recommends that trial court employees retain their federally regulated benefits upon transition to the new personnel system. Since the plan years vary among the various courts, the task force recommended a model that would account for varying transition dates if there were to be a transition to a new employer. To ensure that neither the employee nor the employer is disadvantaged by the transfer of responsibility for federally regulated benefits, the model specifies that:

- Responsibility for administering the benefits will transfer on the first day of the plan year; and
- Prior to that transfer date, the former employer and the new employer will be co-sponsors of the federally regulated benefit plans.

The model recognizes that the county may no longer be providing federally regulated benefits to the court when the new personnel system is implemented. The Trial Court Funding Act provides an opportunity for counties and courts to give notice to each other that they no longer wish to furnish or accept specific services. Therefore, the model accounts for a transition of federally regulated benefits from the court to the county as well as from the county to the court.

Since contributions to federally regulated benefit plans are typically deducted from payroll, the model provides that the court and the county may agree that the county will administer payroll for trial court employees to facilitate their participation in county benefit plans.

The model does not preclude the courts from having a future option to participate in other federally regulated benefit plans on a county, regional, or statewide basis.

Impact of Preliminary Model Under Each Employment Status Option

The task force considered the impact on trial court employees and on their employers of the federally regulated benefits model under each employment status option. Under all status options, the trial court employees' federally regulated benefits would not be reduced as a result of the implementation of the new personnel system. For all status options, the model also ensured that represented employees would receive the same level of benefits for the life of their memoranda of understanding. The benefits are subject to change when memoranda of understanding are revised upon expiration or pursuant to the terms of the memoranda of understanding, through the meet and confer process. Unrepresented employees receive the level of benefits provided in personnel policies, procedures, and plans, which are also subject to change.

Under the *county* employment status option, all trial court employees currently participating in county plans would remain in their local county federally regulated benefits plans. If the county were no longer providing this service to the court at the time of implementation, then the court would add the county to its plans as a co-sponsor and continue to administer the benefits. Administration of these benefits would transition to the county, effective the first day of a new plan year.

Under the *court* or *state* employment status option, all trial court employees currently participating in court plans would remain in their local court federally regulated benefits plans. If the county were administering these benefits for court employees, then the county would add the court to its plans as a co-sponsor and continue to administer the benefits. Administration of these benefits would transition to the court, effective the first day of a new plan year.

The model does not specify that the transition to a new employer must occur on the first day of the next plan year because that date might not allow sufficient time for an orderly transition. Therefore, an 18-month transition period is provided, during which time the co-sponsorship of the plan would continue until the transition to the new employer, effective on the first day of the subsequent plan year.

The task force considered whether trial court employees could participate in the state's Section 125 plan if they were to become state employees. However, the state requires that state employees receive a paycheck from the State Controller's Office in order to participate in the state's plan. State employees who do not receive a paycheck from the State Controller are not eligible to participate. Since these models assume local administration of the courts' payroll, participation in the state's federally regulated benefits plan was not an option for court employees. However, the model does not preclude the development of other federally regulated benefits plans for trial court employees to provide an opportunity for regional or statewide plans.

Additional Considerations and the Recommended Final Federally Regulated Benefits Model

As a result of further deliberations by the task force, comments received regarding the second interim report, and the selection of court as the employment status for trial court employees, the task force made modifications to the initial federally regulated benefits model. The primary changes included eliminating all references to county or state employment status options.

An additional modification appears in item IX of the recommended model. The addition of this item reflects the task force's concern that statutory provisions be adopted that would allow counties to co-sponsor federally regulated benefits with the courts in order to provide these benefits to court employees beyond the 18-month transition period required in the model. This statutory language would ensure that counties have the authority to provide these federally regulated benefits to court employees as a co-sponsor if the court requests this and the county agrees to do so. Language was also added to the recommended model to clarify that the county's agreement to co-sponsor federally regulated benefits is not to be interpreted as an obligation on the part of the county to meet and confer with any recognized court employee organization.

The task force's final recommendations regarding federally regulated benefits are presented here.

Recommended Federally Regulated Benefits Model

- I. As of the effective date of implementation of the trial court employee personnel system, the level of federally regulated benefits provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. While existing memoranda of understanding remain in effect, represented trial court employees shall continue to receive the same level of federally regulated benefits as provided under the memoranda of understanding.
- III. Federally regulated benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- IV. If, upon implementation of the trial court employee personnel system, the entity that administers¹¹⁶ the federally regulated benefit plan is not the court, then an effective date for the transfer of responsibility for administering federally regulated benefits must be determined. This effective date must be established to coincide with the first day of the applicable federally regulated benefits plan year to ensure that there is no financial impact on the employee or on either employer.
- V. Upon implementation of the trial court employee personnel system, the following provisions govern which entity will be responsible for administering the federally regulated benefits:
 - A. At the time of implementation of the trial court employee personnel system, if the court administers federally regulated benefits separately from the county, the court shall administer these benefits as provided under existing personnel policies, procedures, plans, or memoranda of understanding applicable to trial court employees.
 - B. At the time of implementation of the trial court employee personnel system, if the county administers federally regulated benefits, or if the court contracts with the county to administer federally regulated benefits, the following provisions govern the transition of responsibility for administering these benefits to the court:

¹¹⁶ For the purpose of this model, the terms *administering*, *administration of*, and *administers* mean that the entity either contracts with a vendor or otherwise makes available particular benefits; these terms do not, and are not intended to, indicate which entity is responsible for paying the costs of these benefits.

1. Until the effective date of the transition, counties will administer represented trial court employees' federally regulated benefits as provided in the memoranda of understanding.
 2. Until the effective date of transition, counties will administer unrepresented trial court employees' federally regulated benefits as provided in personnel policies, procedures, and plans.
 3. To ensure that there is no financial impact on the employee or on either employer, during the period between implementation of the trial court employee personnel system and the effective date of the transition, both the court and the county will co-sponsor the federally regulated benefit plan. Co-sponsorship will continue as long as the trial court employees are governed by a plan not offered by the court, but in no event longer than 18 months unless the court and the county agree to continued co-sponsorship.
 4. If, during the co-sponsorship period, the court decides to offer particular benefits that are different from what the county is administering, then the court will be responsible for administering those particular benefits unless the court and county agree to an alternative.
- VI. To facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- VII. The court will reimburse the county for the cost of any coverage of trial court employees in county federally regulated benefits plans.
- VIII. This model does not exclude the possibility that the courts may have a future option of participating in other federally regulated benefit plans that may be developed subject to meet and confer.
- IX. The counties shall have statutory authority to co-sponsor federally regulated benefits with the courts to provide such benefits to court employees if such benefits are requested by the court subject to county concurrence to co-sponsor such benefits. A county's agreement to co-sponsor such benefits shall not be construed as creating a meet and confer obligation between the county and any recognized court employee organization.

K. Deferred Compensation Plan Benefits

Background

Deferred compensation plans are federally regulated plans that allow employees to save on a pretax basis. The most common types of deferred compensation plans are derived from Internal Revenue Code sections 401(k) and 457. The task force recognizes that deferred compensation plans are an important part of the retirement plans of the trial court employees who participate in them. These plans also serve as part of the compensation provided to some trial court employees in those counties where the employer contributes to the plan on behalf of the employee.

Deferred compensation 401(k) plans were available to governmental entities for only a brief period in the early 1980s. The plans were intended as profit-sharing plans, but the legislation creating them did not specifically exclude nonprofit employers such as governmental entities. In addition to employee contributions to 401(k) plans, employer contributions may also be made to these plans. In 1986, the federal government precluded nonprofit organizations from establishing any new plans. However, those employers that had established 401(k) plans were allowed to continue to offer the plans to new employees as well as establish new or additional 401(k) plans after 1986.

Deferred compensation 457 plans were established for employees of state and local governments and tax-exempt organizations. The money deposited in these plans is held in trust by the employer on behalf of participating employees. Typically, only employees contribute to these plans, but some plans include an employer contribution.

An employer may offer deferred compensation plans only to its own employees. The determination of who is an employee for deferred compensation purposes is governed by Internal Revenue Service standards. In this case, if there is a change in trial court employment status, the Internal Revenue Service may consider the trial courts to be successor employers of the county. This means that employees may continue to participate in county deferred compensation plans. If the courts were not determined to be successor employers of the counties or if a court as a successor employer wanted to establish a plan separate from the county, the court could establish a new comparable, non-401(k) deferred compensation plan.

If the trial court offers a comparable plan, the county may require the trial court employees to leave their plan balances in the county's deferred compensation plan, or the county may transfer trial court employees' plan balances to the trial court's deferred compensation plan.

If one employer replaces another (for example, through merger or reorganization) and employees remain in the same jobs, a principle known as the "same desk rule" applies. Under this principle, there is no termination of service to cause a distribution of plan balances. Plan balances either remain in the former employer's plan or are transferred to the new employer's plan. This transfer may take place using a plan map. The plan map transfers the invested money to a comparable investment in the new plan. With a plan map transfer, the employee may have the option of making changes in the new investments either before the transfer or immediately after the transfer.

If balances are transferred from one employer's deferred compensation plan to another employer's plan, as dictated by particular contract provisions, deferred sales charges may be incurred as a result of the transfer. Deferred sales charges can be up to 5 percent of the employee's assets in the plan and decrease with the number of years the employee has been in the plan.

Upon implementation of the trial court employee personnel system, to the extent possible, the task force intends to protect the investments that current employees have in their deferred compensation plans, ensures comparable investment opportunities, prevents employees from paying deferred sales charges, and preserves the opportunity to continue contributing to deferred compensation plans in those courts where they exist. The task force does not intend for its recommendations to affect any employer contribution programs that currently exist.

Education: Deferred Compensation Plan Benefits

The task force received education regarding deferred compensation programs from Ms. Judith A. Myers, staff project leader of the task force. Mr. Keith Sendall of ICMA Retirement Corporation, a company that administers deferred compensation programs for governmental employers, and Mr. Drew James of William M. Mercer, Inc., consultant to the task force, were available at the meeting for consultation during the discussion. Ms. Deborah Brown, staff attorney to the task force, also provided education regarding the preservation of deferred compensation programs on transition from one employer to another.

Definition, Assumptions, and Objectives: Deferred Compensation Plan Benefits

The task force subsequently developed a definition as well as assumptions and objectives.

Definition:

Deferred compensation plans are federally regulated plans that allow employees to save on a pretax basis. Deferred compensation plans are governed by the Internal Revenue Code (Code), Treasury Department regulations, and other Internal Revenue Service authorities. These savings can come from either employee or employer contributions, or a combination of the two. The most common type of deferred compensation plans are eligible Code section 457 plans and qualified Code section 401(k) plans, referred to as 457 and 401(k) plans.

The 457 plans are those that for the 1999 tax year allow pretax contributions of up to \$8,000 or one-third of taxable pay, whichever is less. They also include a catch-up provision for additional contributions as an employee approaches retirement. Typically, only employees contribute to these plans, but some plans include an employer contribution.

The 401(k) plans are those that for the 1999 tax year allow an employee to contribute, pretax, up to \$10,000 or 25 percent of pay, whichever is less, to a retirement savings account. Employer contributions may also be made to 401(k) plans.

Deferred compensation plan benefits refers to the opportunity an employee may have to participate in deferred compensation plans, as well as to employer contributions to deferred compensation plans and investment options included in the plans.

Assumptions:

1. Federal laws govern deferred compensation plans.
2. Existing state law will require changes as a result of the implementation of the new trial court employee personnel system.
3. For purposes of deferred compensation, trial court employees are currently considered county employees.
4. State funding levels will not significantly increase as a result of the implementation of the trial court personnel system.
5. Governmental entities may establish 457 plans.
6. Governmental entities that did not have a 401(k) plan as of May 7, 1986, may not establish 401(k) plans.
7. Governmental entities that maintained a 401(k) plan before May 7, 1986, may continue to provide 401(k) plans to their employees and to employees of their successor entities.
8. For purposes of county-provided 401(k) and 457 plans, the IRS would consider the trial court employer to be a successor employer of the county. Thus, if court employees become employees of the trial court, they may

continue to participate in county 401(k) and 457 deferred compensation plans.¹¹⁷

9. Under the “same desk rule,” when one employer replaces another and employees retain the same jobs, for purposes of deferred compensation plan benefits, there is no termination of service to cause a distribution of plan balances. Thus, if court employees are offered deferred compensation plan benefits by a successor employer, counties may require that court employees leave their plan balances in the counties’ deferred compensation plans. In the alternative, counties may transfer trial court employees’ plan balances to the successor employer’s deferred compensation plans.
10. County 401(k) and 457 plan documents may need to be amended to achieve the objectives of the model (for example, to permit court employees to remain in county plans or permit a transfer of court employees’ plan balances from county plans to the successor employer’s plans).

Objectives:

- A. The level of deferred compensation plan benefits presently provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- B. If the implementation of the trial court employee personnel system causes a change in the employment status of trial court employees, the successor employer shall provide trial court employees with the same or comparable deferred compensation plan benefits, to the extent permitted by law.
- C. While existing memoranda of understanding remain in effect, represented employees shall continue to receive the same level of deferred compensation plan benefits¹¹⁸ as provided under the memoranda of understanding.
- D. If the transition to a new employment status causes a change in deferred compensation plans and requires the transfer of court employees’ plan balances to a successor employer’s deferred compensation plans:
 - 1) Trial court employees will not suffer a financial loss due to transfer-related penalties, such as deferred sales charges; and
 - 2) Any financial loss due to transfer-related penalties, such as deferred sales charges, will be borne by the court or state, as the case may be.

¹¹⁷ This assumption may require Internal Revenue Service private letter rulings and/or determination letters to confirm. Based on legal research and conversations with the Internal Revenue Service, most probably trial court employees may continue to receive deferred compensation plan benefits through county plans because courts would be considered related successor entities of the county with respect to judicial functions and trial court employment. Alternatively, the court and the county may be considered to have such close ties that for purposes of deferred compensation plans that the Internal Revenue Service may consider them to be a single employer.

¹¹⁸ *Same level of deferred compensation plan benefits* as used in the objectives and model means the same deferred compensation plan benefits, including the opportunity to participate in the plan, employer contributions, and investment options, unless they are not permitted by law or vendor, in which case *same level of deferred compensation plan benefits* means comparable level of deferred compensation plan benefits.

- E. If trial court employees become court or state employees, a transition period will be provided that permits the new employer to establish the same or comparable deferred compensation plans or provide for a method to permit court employees to remain in county deferred compensation plans.
- F. To facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.

Preliminary Model and Considerations

At the time the task force published its second interim report in October 1999, the task force had not yet determined which employment status it would recommend for trial court employees. Therefore, the preliminary model created by the task force laid out how deferred compensation plan benefits would be administered and provided for under all three employment status options: state, court, and county. This preliminary model is presented here.

Preliminary Deferred Compensation Plan Benefits Model

- I. The level of deferred compensation plan benefits presently provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. If the implementation of the trial court employee personnel system causes a change in the employment status of trial court employees, the successor employer shall provide trial court employees with the same or comparable deferred compensation plan benefits, to the extent permitted by law.
- III. While existing memoranda of understanding remain in effect, represented employees shall continue to receive the same level of deferred compensation plan benefits as provided under the memoranda of understanding.
- IV. If the transition to a new employment status causes a change in deferred compensation plans and requires the transfer of court employees' plan balances to a successor employer's deferred compensation plans:
 - A. Trial court employees will not suffer a financial loss due to transfer-related penalties, such as deferred sales charges; and
 - B. Any financial loss due to transfer-related penalties, such as deferred sales charges, will be borne by the court or state, as the case may be.
- V. If court employees become county employees, court employees shall continue to be eligible to receive deferred compensation plan benefits from the county.
- VI. If court employees become trial court or state employees, court employees shall continue to receive deferred compensation plan benefits from the county or court as follows:
 - A. For purposes of 401(k) plans:
 1. If permitted by federal law and deferred compensation plan vendors, employees may continue to receive 401(k) deferred compensation plan benefits through county plans unless or until the court modifies its plan benefits pursuant to local rules, policies, and procedures, subject to meet and confer, as applicable; or

2. The court may provide the same level of deferred compensation plan benefits developed subject to meet and confer, as applicable. In this case:
 - a) Upon transition to the new deferred compensation plan, to provide the successor employer time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which court employees may continue to receive deferred compensation plan benefits from the county; and
 - b) Upon transition to the new deferred compensation plan, counties may require that court employees leave their plan balances in the counties' deferred compensation plans or may transfer trial court employees' plan balances to the successor employer's deferred compensation plan.
- A. For purposes of 457 deferred compensation plans:
1. If permitted by federal law and deferred compensation plan vendors, employees may continue to receive 457 deferred compensation plan benefits through county plans unless or until the court modifies its plan benefits pursuant to local rules, policies, and procedures, subject to meet and confer, as applicable; or
 2. The court may provide the same level of deferred compensation plan benefits developed subject to meet and confer, as applicable. In this case:
 - a) Upon transition to the new deferred compensation plan, to provide the successor employer time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which court employees may continue to receive deferred compensation plan benefits from the county; and
 - b) Upon transition to the new deferred compensation plan, counties may require that court employees leave their plan balances in the counties' deferred compensation plans or may transfer trial court employees' plan balances to the successor employer's deferred compensation plans.

- VII. Deferred compensation plan benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- VIII. To facilitate trial court employee participation in county benefit plans, for which they may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- IX. The court or state, as the case may be, will reimburse the county for the cost of any coverage of trial court employees in county deferred compensation plans.
- X. County 401(k) and 457 plan documents may need to be amended to achieve the objectives of the model (for example, to permit court employees to remain in county plans or permit a transfer of court employees' plan balances from county plans to the successor employer's plans).
- XI. This model does not exclude the possibility that the courts may have a future option of participating in other deferred compensation plans that may be developed subject to meet and confer.

Preliminary Considerations: Deferred Compensation Plan Benefits

The task force intended to protect trial court employees' opportunity to participate in deferred compensation plans where they exist as well as ensure that trial court employees who have deferred compensation balances retain their balances in the same or comparable investments. A survey taken by the task force revealed that some counties offer 401(k) plans, some offer 457 plans, and some offer both. Other types of deferred compensation plans also are offered, such as 401(a) plans.

Preserving trial court employees' 401(k) plans required particular attention since no new employers can establish plans if such plans were not in place by 1986. Those counties that established a 401(k) plan prior to 1986 have 401(k) plans in which trial court employees in those counties could continue to participate if the employment status were to be county.

The state has a 401(k) plan for state employees and could create a new plan for trial court employees. With the state's agreement, trial court employees may be eligible to participate in a state plan if they were to become state employees and the local trial court pursues such an alternative, subject to meet and confer. But trial courts, as separate employers from the counties, do not have existing 401(k) plans. The task force questioned whether the courts could establish new 401(k) plans.

After seeking legal counsel from several sources, the task force determined that most probably trial court employees may continue to receive deferred compensation plan benefits through county plans because courts would be considered related successor entities of the county with respect to judicial functions and trial court employment. Alternatively, the court and the county may be considered to have such close ties that, for purposes of deferred compensation plans, the Internal Revenue Service may consider them to be a single employer. A definitive answer would require an IRS private letter ruling, which the task force is considering seeking, depending on the status option recommended. If the trial courts are found to be successor employers, then trial court employees who are court or state employees may continue to receive deferred compensation plan benefits through county 401(k) plans, or the court may be able to establish its own 401(k) plan. If the courts are not determined to be successor employers of the counties, or if a court as a successor employer wants to establish a plan separate from that of the county, the court could establish new comparable, non-401(k) deferred compensation plans.

The same rationale would apply to 457 deferred compensation plans. The state has a 457 plan or could create a new plan for trial court employees. With state agreement, trial court employees may be eligible to participate in a state plan if

they become state employees and the local court pursues such an alternative, subject to meet and confer. If trial courts are found to be successor employers of the counties, then trial court employees who are court or state employees may continue to receive deferred compensation plan benefits through county 457 plans, or the court could establish a new comparable deferred compensation plan.

The task force concluded that employees should not bear the cost of transfer-related penalties such as deferred sales charges if they are forced to move their plan balances from the county deferred compensation plan to a new plan. Therefore, in the preliminary model the task force recommended that the court or state, as the case may be, should pay transfer-related penalties, if any.

Impact of Preliminary Model Under Each Employment Status Option

The task force considered the impact for trial court employees of the deferred compensation model under each employment status option. Under all status options, the trial court employees' deferred compensation plan benefits would not be reduced. As defined earlier, the deferred compensation plan benefits that would not be reduced include the opportunity an employee may have to participate in deferred compensation plans, to receive employer contributions to deferred compensation plans, and to choose among the investment options included in the plans.

For all status options, the model also ensures that employees receive the same level of benefits for the life of their memoranda of understanding, while recognizing that deferred compensation plan benefits are subject to change upon expiration of memoranda of understanding, upon modification pursuant to the terms of memoranda of understanding, or upon revision of personnel policies, procedures, or plans.

Under the county employment status option, all trial court employees would remain in their local county deferred compensation plans. Thus, employees in counties that offer a 457 plan would continue to have the opportunity to contribute to the 457 plan. Employees in counties with 401(k) plans would continue to have the opportunity to contribute to 401(k) plans. Those employees in counties that offer both plans would continue to have both plans available to them. Those employees with plans that permit an employer contribution or matching contribution would continue to have those employer contributions or matches available to them.

Under the state or court status option, as permitted by law or vendor, trial court employees could continue to participate in county 401(k) and 457 deferred compensation plans unless:

- The court chose to provide the same level of benefits on its own; or
- The court modified its plan benefits pursuant to local rules, policies, and procedures, subject to meet and confer, as applicable.

If the court intends to provide its own deferred compensation plan either through modification of the county plan or by developing a plan of its own, a transition period of at least six months is provided to allow the court to establish its plan. Upon transition to a court plan, the counties may require that court employees leave their plan balances in the counties' deferred compensation plans or may transfer the balances to the successor employer's deferred compensation plan.

The model allows the possibility of development of other deferred compensation plans for trial court employees to provide an opportunity for regional or statewide plans.

Additional Considerations and the Recommended Deferred Compensation Plan Benefits Model

As mentioned earlier, the preliminary deferred compensation plan benefits model contained language for all three status options, state, court, and county, to provide insight into the impact of the model under various options as contemplated by the task force. As a result of further deliberations by the task force and the selection of court as the employment status for trial court employees, the task force eliminated all references to county or state employment status in the recommended deferred compensation plan benefits model. No other changes were made to the model.

Recommended Deferred Compensation Plan Benefits Model
--

- I. The level of deferred compensation plan benefits presently provided to trial court employees will not be reduced as a result of the implementation of the trial court employee personnel system.
- II. Upon implementation of the trial court employee personnel system, the court shall provide trial court employees with the same or comparable deferred compensation plan benefits, to the extent permitted by law.
- III. While existing memoranda of understanding remain in effect, represented employees shall continue to receive the same level of deferred compensation plan benefits as provided under the memoranda of understanding.
- IV. If the transition to court employment status causes a change in deferred compensation plans and requires the transfer of court employees' plan balances to the court's deferred compensation plans:
 - A. Trial court employees will not suffer a financial loss due to transfer-related penalties, such as deferred sales charges; and
 - B. Any financial loss due to transfer-related penalties, such as deferred sales charges, will be borne by the court.
- V. Court employees shall continue to be eligible to receive deferred compensation plan benefits from the county or court as follows:
 - A. For purposes of 401(k) plans:
 1. If permitted by federal law and deferred compensation plan vendors, employees may continue to receive 401(k) deferred compensation plan benefits through county plans unless or until the court modifies its plan benefits pursuant to local rules, policies, and procedures, subject to meet and confer, as applicable; or
 2. The court may provide the same level of deferred compensation plan benefits developed subject to meet and confer, as applicable. In this case:
 - a) Upon transition to the new deferred compensation plan, to give the court time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which court employees may continue to receive deferred compensation plan benefits from the county; and

- b) Upon transition to the new deferred compensation plan, counties may require that court employees leave their plan balances in the counties' deferred compensation plans or may transfer trial court employees' plan balances to the court's deferred compensation plan.
 - B. For purposes of 457 deferred compensation plans:
 - 1. If permitted by federal law and deferred compensation plan vendors, employees may continue to receive 457 deferred compensation plan benefits through county plans unless or until the court modifies its plan benefits pursuant to local rules, policies, and procedures, subject to meet and confer, as applicable, or
 - 2. The court may provide the same level of deferred compensation plan benefits developed subject to meet and confer, as applicable. In this case:
 - a) Upon transition to the new deferred compensation plan, to give the court time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which court employees may continue to receive deferred compensation plan benefits from the county.
 - b) Upon transition to the new deferred compensation plan, counties may require that court employees leave their plan balances in the counties' deferred compensation plans or may transfer trial court employees' plan balances to the court's deferred compensation plans.
- VI. Deferred compensation plan benefits are subject to modification pursuant to the terms of memoranda of understanding, or upon expiration of existing memoranda of understanding, subject to meet and confer, or upon revision of existing personnel policies, procedures, or plans.
- VII. To facilitate trial court employee participation in county benefit plans, for which trial court employees may be eligible, the court and county may mutually agree that the county will administer the payroll for trial court employees.
- VIII. The court will reimburse the county for the cost of any coverage of trial court employees in county deferred compensation plans.

- IX. County 401(k) and 457 plan documents may need to be amended to achieve the objectives of the model (for example, to permit court employees to remain in county plans or permit a transfer of court employees' plan balances from county plans to the court's plans).
- X. This model does not exclude the possibility that the courts may have a future option of participating in other deferred compensation plans that may be developed subject to meet and confer.

L. Transition

Background

Many elements of the new trial court employee personnel system will require a transition period before they can become fully implemented. In each of the preceding personnel components, the task force addressed several transition issues within the models themselves. Several other transition issues, however, are outside the scope of these preceding models and are thus included in this separate transition model.

In changing to the new trial court employee personnel system, some transition issues will be similar to those addressed in the transition to a unified court system. The unification transition provisions were established by Senate Bill 2139 and are codified in Government Code sections 70210 through 70219. In addition to addressing transition issues identified by the task force, the transition objectives and model that follow incorporate pertinent sections from the unification transition provisions. The objectives and model also refer to existing labor relations statutes and rules of court that will continue to apply to trial court employees.

Assumptions and Objectives: Transition

The task force used the following assumptions and objectives:

Assumptions:

1. State funding levels will not significantly increase as a result of the implementation of the trial court employee personnel system.
2. The model assumes no changes in current federal law.
3. Existing state law will require changes as a result of implementation of the new trial court employee personnel system.
4. County charter provisions that legislate county affairs cannot be superseded or modified by state law.
5. County charter provisions may restrict or preclude employee portability or transferability between other employers and the county. To the extent that the model conflicts with charter provisions, the model shall not apply.
6. Legislation enacting a personnel system for trial court employees will not be enacted through urgency legislation.

Objectives:

- A. Trial court employees will not be affected negatively by the transition to the trial court employee personnel system.
- B. Upon transition, existing memoranda of understanding remain in effect.

- C. Implementation of the trial court employee personnel system will not affect the transition provisions of Senate Bill 2139 (Government Code sections 70210 through 70219) for purposes of unification.

Preliminary Model and Considerations

The preceding assumptions and objectives were modified slightly after the publication of the second interim report. After the second interim report was distributed in October 1999, the task force added assumptions 4 through 6. The task force also made minor wording changes to the original objectives. The model directly below is the model that was included in the second interim report, before the task force had made its employment status determination. The following model was also written before the task force had addressed several previously unresolved issues, including (1) the time for the successor employer to implement a support structure, (2) employees' mobility rights between the county and the court, (3) transfer of disciplinary actions, and (4) union security (agency shop) continuation. These issues were addressed by the task force in November 1999 and are included in the recommended transition model.

Preliminary Transition Model

Upon implementation of the trial court employee personnel system:

- I. All current court employees who work for the court become the employees of the successor employer: state, court, county, or other.
- II. The terms of any memorandum of understanding shall remain in effect until the memorandum of understanding expires, is amended, or is replaced, subject to meet and confer. Upon expiration of memoranda of understanding, the successor employer¹¹⁹ shall meet and confer with recognized court employee organizations.
- III. An employee organization that is recognized as a representative of a group of court employees or the exclusive representative of an established bargaining unit of court employees, either by the county or the court, shall be recognized by the successor employer as a representative, or the exclusive representative, of the same employees.
- IV. Unrepresented employees are governed by their employer's personnel policies, procedures, and plans. The transition to a new employer status shall not of itself be a basis for changing the employer's personnel policies, procedures, and plans except where otherwise required by the new trial court employee personnel system or by law. The successor employer retains previously existing rights with respect to revision of its personnel policies, procedures, and plans.
- V. Employment seniority of a court employee on the date of implementation of the trial court employee personnel system, as calculated under the predecessor's system, shall be counted toward seniority with the successor employer to the extent not prohibited by law.
- VI. The employment status of a court employee as a probationary, permanent, or regular employee shall remain in effect, and the employee shall be considered to have transferred to the successor employer with that status, so that probationary employees will not be required to serve a new probationary period but rather to complete the existing probationary period under the terms of hire to the extent not prohibited by law.

¹¹⁹ In relation to meet and confer, *successor employer* means the trial court, the trial court with the involvement of the state, or the trial court with the involvement of the county, as the case may be. See "Definitions of Employment Status Options: State, County, Court and Other" in Part IV of this report.

- VII. The classification and salary rate of a court employee shall remain in effect, and the employee shall be considered to have transferred to the successor employer at the same classification and salary rate to the extent not prohibited by law.

- VIII. Implementation of the trial court employee personnel system will not affect the transition provisions of Senate Bill 2139 (Government Code sections 70210 through 70219) for purposes of unification.

Preliminary Considerations: Transition

As mentioned earlier, at the time the task force published its second interim report in October 1999, the task force had not determined which employment status trial court employees should have: state, court, county, or other. The task force therefore considered transition issues under all possible employment status options.

Under any employment status option, the transition model recognizes trial court employees as having become employees of a successor employer. Unless otherwise indicated in particular models, the transition model is not intended to affect the way the employer may modify employees' classification, salary, or other terms and conditions of employment.

Memoranda of understanding in effect at the time of implementation of the trial court employee personnel system will remain in effect until their regularly scheduled expiration dates or until they are modified through the meet and confer process. When existing memoranda of understanding expire, if trial court employees' employment status were to be state, recognized court employee organizations would meet with the local trial court administration, with the involvement of the state judicial branch. If trial court employees' status were to be county, recognized court employee organizations would meet with the county and the local trial court administration. Under a court employment status, when existing memoranda of understanding expire, recognized court employee organizations would meet with the local trial court administration. (See Part VII.B, "Meet and Confer," for more specific information on the meet and confer process.)

Under the preliminary model, upon transition to the new trial court employee personnel system, the successor employer will continue to recognize any employee organization or exclusive representative previously recognized as representing trial court employees. Unrepresented employees will continue to be governed by their employer's personnel policies, procedures, and plans, which are subject to change. The act of transitioning to a new personnel system will not in itself trigger changes to these personnel policies, procedures, and plans, unless expressly specified by the new personnel system or by law. Both the classification and salary rate of trial court employees will remain in effect upon transition to a new personnel system.

Trial court employees' seniority credits will transfer to the successor employer upon transition to the new personnel system. For example, if a trial court employee worked for the county for six years and then became a court employee, the court would recognize that employee as entering the system with six years seniority. Similarly, if a court employee held a certain status immediately prior to the transition, such as the status of probationary, permanent, or regular employee, then

that employee would retain that same status upon transition. Thus, a probationary employee who had already completed seven months of a twelve-month probationary period would, at the time of transition, be credited with seven months time for purposes of the probationary period.

The unification transition provisions of Senate Bill 2139 (Government Code sections 70210 through 70219) will not be changed as a result of implementation of the trial court personnel system.

At the time of publication of the second interim report, the task force was still deliberating a few outstanding transition issues. These issues included (1) the time for the successor employer to implement a support structure, (2) employees' mobility rights between the county and the court, (3) transfer of disciplinary actions, and (4) union security (agency shop) continuation. The task force resolved these issues in November 1999 and addresses them in the recommended version of the transition model.

Additional Considerations and the Recommended Transition Model

The task force's final transition recommendations are presented in the recommended model. This final set of recommendations assumes a court employment status. In addition to the issues covered in the preliminary model, the recommended model also addresses the issues of (1) agency shop, (2) giving consideration to contractual obligations and rights accrued by employees under their current systems, (3) disciplinary action initiated prior to implementation of the trial court employee personnel system, (4) transfers between the court and the county, and (5) the implementation date on which the new personnel system will go into effect.

An agency shop currently arises out of agreements or memoranda of understanding under the Meyers-Milias-Brown Act (MMBA) and Court Employee Labor Relations Rules. The task force recommends that any agency shop provisions previously agreed to continue to be honored under the new trial court personnel system for the duration of pertinent memoranda of understanding. The implementation of the trial court employee personnel system shall not in and of itself cause a new agency shop election. (See Part VII.B for more detailed information on the meet and confer process.)

The task force also recommends that consideration be given to existing contractual obligations and rights accrued by employees under their current systems when transitioning to the new personnel system. These contractual obligations and rights may be reconsidered, subject to meet and confer, as applicable.

In terms of transfer of disciplinary action, the task force recommends that disciplinary action taken before the implementation of the new trial court employee personnel system remain in effect. Any employee who has received disciplinary action or proposed disciplinary action before implementation of the new trial court employee personnel system and who has not yet exhausted any appeal or administrative remedies under the predecessor personnel system shall use only those appeal or administrative procedures available under the predecessor system. The ultimate disposition of the discipline shall be pursuant to the terms of the predecessor system.

The impact of the new employment protection system on past discipline is subject to meet and confer at the local level, as applicable (for example, how a particular type of discipline may be considered for purposes of future disciplinary action under the new employee protection system). The process for employees to appeal disciplinary decisions taken after implementation of the court's employment protection system will be in accordance with the court's employment protection system. Exceptions apply to a county of the first class as specified in Part VII.C, "Employment Protection System," of this report. Part VII.C. also discusses disciplinary issues in more detail.

With regard to trial court employees' transfer rights between the court and the county, the task force recommends that transfer policies in effect at the time of implementation of the new personnel system continue to apply for a period of two years, or until the existing pertinent memoranda of understanding expire, whichever is longer. These transfer rights are subject to county agreement and county charter provisions related to transfer policies. Also within this same time frame, the policies regarding trial court employees' ability to carry their seniority, accrued leave credits, and leave accrual rates with them upon transfer (portability rights) shall remain in effect, unless prohibited or limited by charter provisions, subject to county agreement. Any future transfer and portability rights following the expiration of existing memoranda of understanding or the end of a two-year period are subject to meet and confer at the local level, as applicable, as well as subject to local negotiations between the county and the court.

Regarding an implementation date for the new personnel system, the task force recommends that the new system become effective on the date legislation is enacted, or 90 days from the date that such legislation is chartered, whichever is later. Representatives of the court and representatives of recognized employee organizations may mutually agree to a different effective date. Certain pieces of the new personnel system may have slightly different effective dates as specified in particular models or as covered under pertinent memoranda of understanding. To avoid the unconstitutional impairment of contracts, where provisions of any

model are governed by existing memoranda of understanding, the implementation date shall be either the date a successor memorandum of understanding becomes effective or, lacking a successor memorandum, 90 days from the expiration date of the original memorandum. Representatives of the court and representatives of recognized employee organizations may mutually agree to different effective dates.

Some courts, by memoranda of understanding, have existing personnel systems that offer less protection than that contained in the new trial court employee personnel system, such as courts with at-will systems. Although not part of the model, the task force encourages such courts and recognized employee representatives to work together to implement the new trial court employment system as soon as possible following the legislative effective date.

Because transitioning to the new trial court employee personnel system will have a substantial impact on the courts and court employees, ongoing communication with employees will be a necessary priority for court administrators. (See Part X.B for more information regarding educating employees and other key constituencies about the work of the task force.)

Recommended Transition Model

In addition to the transition recommendations addressed in other models, upon implementation of the trial court employee personnel system:

- I. All court employees who meet the definition of trial court employee who work for the court will be considered court employees.
- II. The terms of any memorandum of understanding shall remain in effect until the memorandum of understanding expires, is amended, or is replaced, subject to meet and confer. Upon expiration of memoranda of understanding, the court shall meet and confer with recognized court employee organizations.
- III. An employee organization that is recognized as a representative of a group of court employees or the exclusive representative of an established bargaining unit of court employees, either by the county or the court, shall be recognized by the court as a representative, or as the exclusive representative, of the same employees.
- IV. If the court is party to any memorandum of understanding with any bargaining unit that includes court employees and that provides for an agency shop provision, the court and employee organization representing the court employees shall be obligated to honor the terms of the agency shop provision (including indemnification provisions, if any) for the duration of the memorandum of understanding. The implementation of the trial court employee personnel system shall not in and of itself cause a new agency shop election.
- V. Unrepresented employees are governed by their employer's personnel policies, procedures, and plans. The implementation of the trial court employee personnel system shall not of itself be a basis for changing the employer's personnel policies, procedures, and plans except where otherwise required by the new trial court employee personnel system (for example, if the existing policies fail to meet standards established within the new personnel system) or by law. The court retains previously existing rights with respect to revising its personnel policies, procedures, and plans.
- VI. In establishing local personnel structures for trial court employees, consideration shall be given to contractual obligations, minimizing disruption of the trial court workforce, and protecting the rights accrued by employees under their current systems. This shall not be interpreted to

mean that prior contractual obligations and rights may not be reconsidered subject to meet and confer, as applicable. Rather, it is intended to acknowledge that both parties should give consideration to past contractual obligations and rights.

- VII. Employment seniority of a court employee on the date of implementation of the trial court employee personnel system, as calculated under the predecessor system, shall be counted toward seniority with the court.
- VIII. The employment status of a court employee as a probationary, permanent, or regular employee shall remain in effect, and the employee shall continue to have that status as a court employee, so that probationary employees will not be required to serve a new probationary period but rather to complete the existing probationary period under the terms of hire, to the extent not prohibited by law.
- IX. The classification and salary rate of a court employee shall remain in effect, at the same classification and salary rate.
- X. Implementation of the trial court employee personnel system will not affect the transition provisions of Senate Bill 2139 (Government Code sections 70210 through 70219) for purposes of unification.
- XI. Disciplinary action initiated before implementation of the trial court employee personnel system shall remain in effect. Until implementation of the court's employment protection system in accordance with the employment protection system model, any employee who has received disciplinary action or proposed disciplinary action but has not yet exhausted any appeal or administrative remedies under the predecessor personnel system shall use only those appeal or administrative procedures that are available pursuant to the predecessor personnel system. The ultimate disposition of the discipline shall be pursuant to the predecessor personnel system. Any discipline of an employee after the date of implementation of the court's employment protection system, in accordance with the employment protection system model, shall be determined pursuant to the terms of the court's employment protection system, including the administrative procedures contained therein, except in a county of the first class as specified in the employment protection system model. The impact of the court's new employment protection system on past discipline shall be subject to meet and confer, as applicable, at the local level.

- XII. Subject to county agreement and unless prohibited or limited by charter provisions, the policies regarding transfer between the court and the county that are in place upon implementation of the personnel system shall be continued while existing memoranda of understanding remain in effect or for two years, whichever is longer. Any further rights of trial court employees to transfer between the court and the county shall be subject to meet and confer, as applicable, at the local level between representatives of the court and representatives of recognized employee organizations and local negotiation between the court and the county. Subject to county agreement and unless prohibited or limited by charter provisions, the policies regarding the portability of seniority, accrued leave credits, and leave accrual rates that are in effect upon implementation of the personnel system will be continued if trial court or county employees transfer between the court and the county or the county and the court while existing memoranda of understanding remain in effect or for a period of two years, whichever is longer. Any further right of trial court employees to portability is subject to meet and confer, as applicable, between representatives of the court and representatives of recognized employee organizations and local negotiation between the court and the county.
- XIII. Unless otherwise specified in individual models, the implementation date on which the system in each court shall go into effect is the latest date of the following: (a) the effective date of the legislation that enacts a personnel system for trial court employees; or (b) 90 days from the date that such legislation is chaptered. Representatives of the court and representatives of recognized employee organizations may mutually agree to a different effective date. If, however, the provisions of any model are governed by an existing memorandum of understanding covering court employees, as to such provisions the implementation date shall be either the date a successor memorandum of understanding is effective or, if no agreement for a successor memorandum of understanding is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding unless representatives of the court and representatives of recognized employee organizations mutually agree otherwise.

PART VIII

ADVISORY VOTE AND PUBLIC ENTITY POLL

Background

The Act mandates that the Task Force on Trial Court Employees “prepare a method for submitting the issue of employment status to an advisory vote of trial court employees in each county.”¹²⁰ The statute did not specify who would take the vote or when the vote would be taken, only that a method for taking the vote must be prepared. Although not specified by the statute, the task force initially planned to conduct the advisory vote of employees to help in the crafting of the final recommendations to the Legislature. The task force also decided to poll the preferences of the courts and the counties to assist in the formulation of the final recommendations.

The task force determined that, prior to asking the trial court employees and public entities to vote on their preferences, it would be necessary to finalize all components of a personnel structure under each status option (county, court, state, or other). Due to the volume and complexity of issues that needed to be resolved prior to the final report, it became increasingly clear that the task force could not finalize decisions on these issues in time to complete the advisory vote and the public entity poll before releasing the final report in December 1999.

Since the statute did not charge the task force with actually conducting the advisory vote but rather just to prepare a method, the task force concluded that its paramount objective was to produce its final report and recommendations by the end of 1999. After extensive discussions and careful consideration of all the options available, at the July 1999 meeting the task force voted without dissent not to conduct the advisory vote or public entity poll. The task force, however, determined that in accordance with the Act, it would “prepare a method for submitting the issue of employment status to an advisory vote of trial court employees in each county,”¹²¹ as well as recommend a method for polling the trial courts and the counties. The assumptions and objectives guiding this recommended method are presented here.

¹²⁰ Gov. Code, § 77603(h).

¹²¹ *Ibid.*

Assumptions and Objectives: Trial Court Employee Advisory Vote and Public Entity Poll

The task force used the following assumptions and objectives in recommending a process for both the advisory vote of trial court employees and the public entity poll of court and county entities.

Assumptions:

1. As required by statute, the task force is to “prepare a method for submitting the issue of employment status to an advisory vote of trial court employees in each county.”¹²²
2. The Trial Court Funding Act requires agreement from the county and the courts in the county for county employment, and agreement from the state and the courts in the county for state employment; the vote must obtain information regarding second and third preferences.

Objectives:

- A. Prepare a method for obtaining information about employee preferences regarding employment status options, including second and third preferences.
- B. Prepare a method for obtaining information about counties’ and courts’ preferences and concerns regarding employment status options.
- C. Ensure that the method proposed provides education to employees, counties, and courts regarding the potential consequences of each status option.
- D. Ensure that the method proposed provides a neutral entity to administer the vote.

¹²² *Ibid.*

Recommended Method: Trial Court Employee Advisory Vote and Public Entity Poll

As required by the Act, the task force has prepared the following recommended method for conducting an advisory vote.

Advisory Vote:

- I. Employees who meet the task force's definition of trial court employee will be eligible to participate in the trial court employee advisory vote.
- II. The employment status options as defined by the task force will be the status options used in the trial court employee advisory vote.
- III. Employees will be provided with educational materials that will provide explanations of the employment status options. These educational materials will first have been reviewed by the task force.
- IV. A neutral entity, such as the State Mediation and Conciliation Service, will administer the trial court employee advisory vote and tabulate the results.

Public Entity Poll:

- I. Individual counties and trial courts will be eligible to participate in the public entity poll. The poll will be submitted to the court administrator and the county administrative officer.
- II. The employment status options as defined by the task force in its final report will be the status options used in the public entity poll.
- III. Counties and trial courts will be provided with educational materials that will provide explanations of the employment status options. These educational materials will first have been reviewed by the task force.
- IV. The public entity poll will obtain information about the positions of the trial courts and counties with respect to the employment status of trial court employees. Each public entity's response will identify the public entity and be publicly available.
- V. A neutral entity, such as the State Mediation and Conciliation Service, will administer the public entity poll and tabulate the results.

Considerations: Trial Court Employee Advisory Vote and Public Entity Poll

In developing the process for the trial court employee advisory vote and public entity poll, the task force established the following goals: (1) have an independent third party conduct the vote, (2) ensure that every employee receives a ballot, and (3) guarantee the validity of the vote. To meet these three goals, the task force recommends that a neutral agency experienced in administering employee votes conduct, tabulate, and report the votes.

The task force recognized that, for the advisory vote to be accurate and informative, the vote must be limited to those employees who would be included in the new trial court employee personnel system and whose status would be affected. It is necessary, then, to use the definition of *trial court employee* found in Part III of this report to determine which employees are eligible to participate in the advisory vote and which are not.

The task force recognized the importance of informing employees and public entities about the employment status options before asking them to indicate their preferences. The task force thus recommends undertaking an educational effort to clarify the impact of the employment status options for affected parties. In an attempt to make the most accurate educational materials available to trial court employees, the task force recommends that the task force have the opportunity to review any educational materials prior to distribution.

In November 1999, the task force voted unanimously to recommend a court employment status option for all trial court employees. This status option is the only one that does not require the concurrence of either the state or the county. Given the unanimous vote of the task force, which includes court, county, and state representation as well as extensive labor representation, if the Legislature accepts the task force's recommendations, an advisory vote may not be necessary.

PART IX

TRIAL COURT EMPLOYEE SURVEY AND DOCUMENTATION

Background

The Act established the Task Force on Trial Court Employees and mandated that it complete the following tasks, as specified in the Act:¹²³

- Complete a survey of trial court employee status, classification, and salary;
- Document local retirement systems and identify future retirement options;
- Determine costs of changes in retirement benefits, including the impact of change on pension obligation bonds, unfunded liabilities, actuarial assumptions, and costs to counties;
- Document existing contractual agreements and bargaining agents;
- Identify functions relating to trial courts that are provided by county employees.

Assumptions and Objectives: Trial Court Employee Survey

The task force's objectives in developing the Trial Court Employee Survey were to:

- Meet the statutory requirements of the Act;
- Document current personnel data;
- Obtain data to use as a foundation for recommendations; and
- Determine the baseline to use in anticipating the impact of any changes.

Education: Trial Court Employee Survey

The task force received education about the survey process and methodology from Mr. Drew James, an actuarial consultant with the firm of William M. Mercer, Inc. The consultant presented information about the content and structure of the survey and provided a summary of the survey questions related to classification, pay and benefits, memoranda of understanding, retirement, and employment status.

Pilot Testing

To determine ways to improve the survey instrument, the Trial Court Employee Survey was pilot tested in two urban courts, one suburban court, and two rural courts. The feedback, suggestions, and problems identified in the pilot test were addressed to the extent possible in the final survey sent to all trial courts.

¹²³ Gov. Code, §§ 77600-77606.

Trial Court Employee Survey

The Administrative Office of the Courts (AOC), in conjunction with the task force, retained William M. Mercer, Inc. (Mercer), a consulting firm, to design the survey and conduct related analyses so that the task force would have access to the trial court employee information mandated by the Act.

The task force submitted the Trial Court Employee Survey to all trial court executive officers. For the task force to make appropriate recommendations, it was essential that the needs and interests of the entire court system, which includes approximately 18,000 trial court employees in 58 county systems, be considered. Among the courts, there are different classification systems, salaries, benefits, retirement systems, and memoranda of understanding. This state-mandated survey was the principal means by which the task force obtained data about personnel and benefits systems currently in place in the trial courts.

The survey necessitated obtaining information about memoranda of understanding, retirement plans, benefits, salaries, and classifications. Much of this information resides in the 58 county personnel offices. The enormity and complexity of the questions resulted in a survey process that was time consuming and challenging for all trial courts to complete; analysis of this personnel information is ongoing.

In addition, to obtain the information described above, the Act requires the task force to document local retirement systems and determine the costs associated with a change in retirement benefits¹²⁴; the survey data provided the information needed to perform these actuarial calculations.

The Judicial Council is currently using the trial court employees' salary and classification data from the survey in anticipation of developing a system of uniform court employee classifications. After giving consideration and due weight to the final report of the task force, the Judicial Council will recommend to the Legislature a system of uniform court employee classification. The classifications will include duty statements, minimum qualifications, and salary ranges.¹²⁵ (See the salary and classification models recommended to the Judicial Council in Part VII.A and B).

Confidentiality

Trial courts expressed concern about privacy and confidentiality of personnel information. The Administrative Office of the Courts and the consultant, Mercer, expressed their commitment to the trial courts to protect confidential survey information related to trial court employees. In addition, the use of social security

¹²⁴ Gov. Code, § 77603(b-c).

¹²⁵ Gov. Code, § 77605(a).

numbers was not permitted in any part of the survey. Data regarding individual court employees will not be released.

Survey Definition of Court Employee

The Trial Court Employee Survey required that all information be completed based on the task force's definition of a trial court employee. (See Part III for the definition used in the survey.)

Survey Reporting Date: June 30, 1998

June 30, 1998, was the "snapshot" date all trial courts used in completing the survey questionnaire. The June 30, 1998, date was chosen unanimously by the task force because it was the last date for which the trial courts had complete fiscal year records at the time the survey was taken. The task force considered the complicating effect of unification and determined that this date was the most appropriate date for obtaining complete and accurate documentation from all trial courts. Trial courts were instructed in the survey to provide a cover letter explaining any significant or noteworthy changes that occurred after June 30, 1998. Examples of such changes include substantial salary increases, significant changes in job classification specifications, or changes resulting from a large classification study.

Description of Survey Information

The Trial Court Employee Survey requested information from trial courts about the following:

- Trial court employee bargaining units, memoranda of understanding, recognized bargaining agents, and unrepresented employees;
- Classification; salary; employment status; demographic information (for retirement purposes); and retirement benefits, funding, and administration of court employees;
- Medical, dental, vision, paid time off, long-term disability, life insurance, and other employer-provided benefits for active employees;
- Health and welfare benefits court employees would be entitled to when they retire;
- Deferred compensation plans, including 401(k) and 457 non-core retirement plans;
- Functions provided to the court by non-court employees (county employees, temporary agency employees, independent contractors, or others);
- Funded but vacant positions, to ensure that all possible classifications are identified; and
- Aggregate information about specified non-court employees.

Survey Addendum

As a result of educational sessions with retirement and deferred compensation experts, the task force determined that an addendum to the survey was required to obtain additional, more comprehensive information about non-core retirement benefits such as 457, 401(k), and other non-core retirement plans. These plans are often referred to as deferred compensation plans. The original survey requested only general information regarding non-core retirement plans to which the employer contributed on behalf of the employee. The survey addendum requested more detailed information about the plans and information about all non-core retirement plans, whether or not the employer makes a contribution to the plan on behalf of the employee. The Addendum Survey requested information for each non-core retirement plan provided to court employees as of June 30, 1999, not as of the June 30, 1998, date used for the original Trial Court Employee Survey.

The articulated goal of the task force is to protect the benefits of current employees. To ensure that no trial court employee is negatively affected by any change in employment status, more detailed information about all non-core retirement plans was required, whether or not the employer provides a contribution. The information provided in response to the survey addendum was critical to decisions the task force made to ensure that no trial court employee would be negatively affected by any change in employment status.

Union Verification Process

The task force wanted to provide each union or association that represents trial court employees the opportunity to review survey response data relating to the particular union's or association's memoranda of understanding. This information includes only aggregate data, not individual employee information. In July 1999, parts of the survey containing information about represented employee groups and some general census data relating to employees of the particular union or association were provided to each union or association. In October 1999, the remaining information from the survey was provided for review to each union or association representing trial court employees. This review process is still taking place and has not been completed as of the date of publication of this final report.

Court Verification Process

The task force felt it was also important for the courts to have an opportunity to review and verify the survey data to ensure a complete and accurate database of information. This review process by the courts is still taking place and has not been completed as of the date of publication of this final report.

Addendum to the Final Report

An addendum to the final report will be issued at the time that these verification processes have been completed. This addendum will include survey reports of the

data collected on court employee status, classification, salary, local retirement systems, benefits, and functions relating to trial courts that are provided by county employees, and the actuarial analysis.

Documentation of Provisions Relating to Trial Court Employee Classification, Compensation, and Benefits

The Act states that one of the duties of the task force is to “[d]ocument existing constitutional, statutory, and other provisions relating to classification, compensation, and benefits of court employees.”¹²⁶ To fulfill this mandate, staff to the task force documented existing constitutional provisions, statutes, and California Rules of Court relating to trial court employees’ classifications, compensation, and benefits.

Documentation of such existing law is included in the appendix to this report. The California State Association of Counties (CSAC) reviewed county charter provisions and found none that impacted trial court employees in the proposed new system.

¹²⁶ Gov. Code, § 77603(e).

PART X

ONGOING WORK OF THE TASK FORCE

While this report represents the final recommendations of the task force for a new personnel structure for trial court employees, two areas remain where the work of the task force will continue. These two areas are (1) drafting legislation and (2) education. The task force will continue to meet during the first few months of 2000 to review draft legislative language and to ensure that key constituent groups receive helpful informational materials regarding the task force's recommendations.

A. Drafting Legislation

The task force has spent 18 months developing its recommendations to the Legislature establishing a new personnel structure for trial court employees. These recommendations have been the result of significant discussions to find ways to accommodate all of the competing interests represented on the task force. The wording contained in the models was carefully crafted as a result of input from all task force members. The task force was concerned that the legislation implementing its recommendations accurately reflect its intent. Therefore, the task force developed a process for drafting and approving the proposed legislation prior to submission to the Legislature. This recommended process is presented below.

Objective:

To ensure that legislative language accurately reflects the intent of the task force in designing all trial court employee personnel system assumptions, objectives, and models.

Process:

1. This legislation shall be known as the Court Employment Protection and Governance Act.
2. The draft proposed legislation prepared by staff shall be reviewed by the task force for form, content, and consistency with the task force's recommendations.
3. Task force members will remain available for consultation from January through March 2000.
4. Staff may use consultants to assist them in drafting the legislation.
5. Task force members shall be given an opportunity to review the proposed language, seek advice from counsel, and provide input to the task force to ensure consistency with the task force's recommendations and intent prior to the legislation's submission to the Legislative Counsel.

B. Education

The task force has worked hard to create a new trial court employee structure that minimizes disruptions to the trial courts and to trial court employees. Nonetheless, the recommendations described in this report do entail many changes to the way courts have operated in the past. The task force recognizes that ongoing communication with key constituencies is needed to facilitate a smooth transition to the new personnel system.

The task force has identified several key groups that should receive education on its recommendations, including court employees, court administrators, judges, county agents, and certain state executive branch agencies. Some of the contemplated methods for keeping various constituent groups informed include maintaining a Web site to help answer frequently asked questions, developing a comprehensive educational packet for distribution, inserting informational pamphlets with court employees' paychecks, and taking advantage of existing resources (for example, labor organizations and professional associations) to help disseminate information.

APPENDIX

2300	STATUTES OF CALIFORNIA	[Ch. 1204
45	Glenn -----	17,521
46	Inyo -----	15,571
47	Lassen -----	14,960
48	Del Norte -----	14,580
49	Calaveras -----	13,585
50	Colusa -----	12,430
51	Amador -----	11,821
52	Plumas -----	11,707
53	Trinity -----	7,615
54	Modoc -----	7,469
55	Mariposa -----	6,015
56	Mono -----	4,016
57	Sierra -----	2,365
58	Alpine -----	484

Sec. 2. Section 28023 of the Government Code is amended to read:

28023. Counties containing a population of 1,400,000 and under 4,000,000 are counties of the second class.

Sec. 3. Section 28024 of the Government Code is amended to read:

28024. Counties containing a population of 1,300,000 and under 1,400,000 are counties of the third class.

Sec. 4. Section 28025 of the Government Code is amended to read:

28025. Counties containing a population of 1,070,000 and under 1,300,000 are counties of the fourth class.

Sec. 5. Section 28026 of the Government Code is amended to read:

28026. Counties containing a population of 1,000,000 and under 1,070,000 are counties of the fifth class.

Sec. 6. Section 28027 of the Government Code is amended to read:

28027. Counties containing a population of 700,000 and under 1,000,000 are counties of the sixth class.

Sec. 7. Section 28028 of the Government Code is amended to read:

28028. Counties containing a population of 650,000 and under 700,000 are counties of the seventh class.

Sec. 8. Section 28029 of the Government Code is amended to read:

28029. Counties containing a population of 600,000 and under 650,000 are counties of the eighth class.

Sec. 9. Section 28030 of the Government Code is amended to read:

28030. Counties containing a population of 558,000 and under 600,000 are counties of the ninth class.

Sec. 10. Section 28031 of the Government Code is amended to read:

28031. Counties containing a population of 500,000 and under 558,000 are counties of the 10th class.

Ch. 1204]

1971 REGULAR SESSION

2301

Sec. 11. Section 28032 of the Government Code is amended to read:

28032. Counties containing a population of 450,000 and under 500,000 are counties of the 11th class.

Sec. 12. Section 28033 of the Government Code is amended to read:

28033. Counties containing a population of 400,000 and under 450,000 are counties of the 12th class.

Sec. 13. Section 28034 of the Government Code is amended to read:

28034. Counties containing a population of 370,000 and under 400,000 are counties of the 13th class.

Sec. 14. Section 28035 of the Government Code is amended to read:

28035. Counties containing a population of 300,000 and under 370,000 are counties of the 14th class.

Sec. 15. Section 28036 of the Government Code is amended to read:

28036. Counties containing a population of 290,000 and under 300,000 are counties of the 15th class.

Sec. 16. Section 28037 of the Government Code is amended to read:

28037. Counties containing a population of 260,000 and under 290,000 are counties of the 16th class.

Sec. 17. Section 28038 of the Government Code is amended to read:

28038. Counties containing a population of 250,000 and under 260,000 are counties of the 17th class.

Sec. 18. Section 28039 of the Government Code is amended to read:

28039. Counties containing a population of 205,000 and under 250,000 are counties of the 18th class.

Sec. 19. Section 28040 of the Government Code is amended to read:

28040. Counties containing a population of 200,000 and under 205,000 are counties of the 19th class.

Sec. 20. Section 28041 of the Government Code is amended to read:

28041. Counties containing a population of 190,000 and under 200,000 are counties of the 20th class.

Sec. 21. Section 28042 of the Government Code is amended to read:

28042. Counties containing a population of 185,000 and under 190,000 are counties of the 21st class.

Sec. 22. Section 28043 of the Government Code is amended to read:

28043. Counties containing a population of 160,000 and under 185,000 are counties of the 22nd class.

Sec. 23. Section 28044 of the Government Code is amended to read:

28044. Counties containing a population of 120,000 and under 160,000 are counties of the 23rd class.

2298

STATUTES OF CALIFORNIA

[Ch. 1204

(b) To prepare and distribute to all such persons and agencies, cards or other forms used in reporting data to the bureau. Such cards or forms may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics;

(c) To recommend the form and content of records which must be kept by such persons and agencies in order to insure the correct reporting of data to the bureau;

(d) To instruct such persons and agencies in the installation, maintenance, and use of such records and in the reporting of data therefrom to the bureau;

(e) To process, tabulate, analyze and interpret the data collected from such persons and agencies;

(f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state; and

(g) To present to the Governor, on or before July 1st, a printed annual report containing the criminal statistics of the preceding calendar year and to present at such other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed or otherwise prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment.

(h) To periodically review the requirements of units of government using criminal justice statistics, and to make recommendations to the Attorney General for changes it deems necessary in the design of criminal justice statistics systems, including new techniques of collection and processing made possible by automation.

CHAPTER 1204

An act to amend Sections 28020, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 28036, 28037, 28038, 28039, 28040, 28041, 28042, 28043, 28044, 28045, 28046, 28047, 28048, 28049, 28050, 28051, 28052, 28053, 28054, 28055, 28056, 28057, 28058, 28059, 28060, 28061, 28062, 28063, 28064, 28065, 28066, 28067, 28068, 28069, 28070, 28071, 28072, 28073, 28074, 28075, 28076, 28077, and 28078 of, to add Chapter 12 (commencing with Section 76000) to Title 8 of, and to repeal Chapter 12 (commencing with Section 76000) of Title 8 of, the Government Code, relating to counties.

[Approved by Governor October 21, 1971. Filed with Secretary of State October 21, 1971.]

1970 census

Ch. 1204]

1971 REGULAR SESSION

2299

The people of the State of California do enact as follows:

SECTION 1. Section 28020 of the Government Code is amended to read:

28020. The population of the counties of this state is hereby ascertained and determined to be and is as follows:

1. Los Angeles -----	7,032,075
2. Orange -----	1,420,386
3. San Diego -----	1,357,854
4. Alameda -----	1,073,184
5. Santa Clara -----	1,064,714
6. San Francisco -----	715,674
7. San Bernardino -----	684,072
8. Sacramento -----	631,498
9. Contra Costa -----	558,389
10. San Mateo -----	556,234
11. Riverside -----	459,074
12. Fresno -----	413,053
13. Ventura -----	376,430
14. Kern -----	329,162
15. San Joaquin -----	290,208
16. Santa Barbara -----	264,324
17. Monterey -----	250,071
18. Marin -----	206,038
19. Sonoma -----	204,885
20. Stanislaus -----	194,506
21. Tulare -----	188,322
22. Solano -----	169,941
23. Santa Cruz -----	123,790
24. San Luis Obispo -----	105,690
25. Merced -----	104,629
26. Butte -----	101,969
27. Humboldt -----	99,692
28. Yolo -----	91,788
29. Napa -----	79,140
30. Shasta -----	77,640
31. Placer -----	77,306
32. Imperial -----	74,492
33. Kings -----	64,610
34. Mendocino -----	51,101
35. Yuba -----	44,736
36. El Dorado -----	43,833
37. Sutter -----	41,935
38. Madera -----	41,519
39. Siskiyou -----	33,225
40. Tehama -----	29,517
41. Nevada -----	26,346
42. Tuolumne -----	22,169
43. Lake -----	19,548
44. San Benito -----	18,226

55	Mariposa -----	5,064
56	Sierra -----	2,247
57	Mono -----	2,213
58	Alpine -----	397

Classification
for purposes
of regulating
compensation

- SEC. 2. Section 28022 of said code is amended to read:
28022. Counties containing a population of 4,000,000 and over are counties of the first class.
- SEC. 3. Section 28023 of said code is amended to read:
28023. Counties containing a population of 1,000,000 and under 4,000,000 are counties of the second class.
- SEC. 4. Section 28024 of said code is amended to read:
28024. Counties containing a population of 850,000 and under 1,000,000 are counties of the third class.
- SEC. 5. Section 28025 of said code is amended to read:
28025. Counties containing a population of 730,000 and under 850,000 are counties of the fourth class.
- SEC. 6. Section 28026 of said code is amended to read:
28026. Counties containing a population of 700,000 and under 730,000 are counties of the fifth class.
- SEC. 7. Section 28027 of said code is amended to read:
28027. Counties containing a population of 600,000 and under 700,000 are counties of the sixth class.
- SEC. 8. Section 28028 of said code is amended to read:
28028. Counties containing a population of 503,000 and under 600,000 are counties of the seventh class.
- SEC. 9. Section 28029 of said code is amended to read:
28029. Counties containing a population of 480,000 and under 503,000 are counties of the eighth class.
- SEC. 10. Section 28030 of said code is amended to read:
28030. Counties containing a population of 425,000 and under 480,000 are counties of the ninth class.
- SEC. 11. Section 28031 of said code is amended to read:
28031. Counties containing a population of 390,000 and under 425,000 are counties of the 10th class.
- SEC. 12. Section 28032 of said code is amended to read:
28032. Counties containing a population of 350,000 and under 390,000 are counties of the 11th class.
- SEC. 13. Section 28033 of said code is amended to read:
28033. Counties containing a population of 300,000 and under 350,000 are counties of the 12th class.
- SEC. 14. Section 28034 of said code is amended to read:
28034. Counties containing a population of 275,000 and under 300,000 are counties of the 13th class.
- SEC. 15. Section 28035 of said code is amended to read:
28035. Counties containing a population of 220,000 and under 275,000 are counties of the 14th class.
- SEC. 16. Section 28036 of said code is amended to read:
28036. Counties containing a population of 199,000 and under 220,000 are counties of the 15th class.
- SEC. 17. Section 28037 of said code is amended to read:

28037. Counties containing a population of 175,000 and under 199,000 are counties of the 16th class.
- SEC. 18. Section 28038 of said code is amended to read:
28038. Counties containing a population of 168,700 and under 175,000 are counties of the 17th class.
- SEC. 19. Section 28039 of said code is amended to read:
28039. Counties containing a population of 162,000 and under 168,700 are counties of the 18th class.
- SEC. 20. Section 28040 of said code is amended to read:
28040. Counties containing a population of 152,000 and under 162,000 are counties of the 19th class.
- SEC. 21. Section 28041 of said code is amended to read:
28041. Counties containing a population of 147,000 and under 152,000 are counties of the 20th class.
- SEC. 22. Section 28042 of said code is amended to read:
28042. Counties containing a population of 144,000 and under 147,000 are counties of the 21st class.
- SEC. 23. Section 28043 of said code is amended to read:
28043. Counties containing a population of 125,000 and under 144,000 are counties of the 22d class.
- SEC. 24. Section 28044 of said code is amended to read:
28044. Counties containing a population of 100,000 and under 125,000 are counties of the 23d class.
- SEC. 25. Section 28045 of said code is amended to read:
28045. Counties containing a population of 88,000 and under 100,000 are counties of the 24th class.
- SEC. 26. Section 28046 of said code is amended to read:
28046. Counties containing a population of 84,000 and under 88,000 are counties of the 25th class.
- SEC. 27. Section 28047 of said code is amended to read:
28047. Counties containing a population of 82,000 and under 84,000 are counties of the 26th class.
- SEC. 28. Section 28048 of said code is amended to read:
28048. Counties containing a population of 77,000 and under 82,000 are counties of the 27th class.
- SEC. 29. Section 28049 of said code is amended to read:
28049. Counties containing a population of 70,000 and under 77,000 are counties of the 28th class.
- SEC. 30. Section 28050 of said code is amended to read:
28050. Counties containing a population of 65,800 and under 70,000 are counties of the 29th class.
- SEC. 31. Section 28051 of said code is amended to read:
28051. Counties containing a population of 62,000 and under 65,800 are counties of the 30th class.
- SEC. 32. Section 28052 of said code is amended to read:
28052. Counties containing a population of 58,000 and under 62,000 are counties of the 31st class.
- SEC. 33. Section 28053 of said code is amended to read:
28053. Counties containing a population of 55,000 and under 58,000 are counties of the 32d class.
- SEC. 34. Section 28054 of said code is amended to read:

The elementary district and the high school district each have their own separate district retirement plans. It is therefore necessary to enact statutory procedure effective well before July 1, 1961, so that these two separate district retirement plans may be merged by July 1, 1961, as the district retirement plan of the Los Angeles Unified School District.

Under existing law there is no procedure prescribed whereby the district retirement plan maintained by a city elementary school district and the district retirement plan maintained by a city high school district may be consolidated or the contract with the State Employees' Retirement System may be amended to substitute the unified district for the districts consolidated when the respective districts unify for elementary and high school purposes and there still remains a district retirement plan maintained by a city junior college district, all three districts being governed by the same governing board.

This lack of legislation prevents the separate district retirement plans from being organized as the school districts are organized and prevents the consolidation of the separate district retirement plans maintained by the districts which have been unified. In order to permit the consolidation of these district retirement plans at the earliest possible time so as to be effective well before July 1, 1961, when the unified school district is effective for all purposes, it is necessary that this act take effect immediately.

1960 census

CHAPTER 43

An act to amend Sections 28020, 28022 to 28078, inclusive, 69892, 69895, 69896, 69903, 70045.1 and 70045.9 of, to amend and renumber Sections 28102, 28104, 28105, 28109 to 28115, inclusive, 28117-28119, inclusive, 28121 to 28124, inclusive, 28127-28136, inclusive, 28138, 28139, 28141, 28142, 28145, 28146, 28147, 28149-28151, inclusive, 28153-28155, inclusive of, and to repeal Sections 28145.1 and 28145.2 of, the Government Code, relating to the classification of the counties of California and the compensation for public service in such counties as so classified, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor March 28, 1961. Filed with Secretary of State March 28, 1961.]

The people of the State of California do enact as follows:

SECTION 1. Section 28020 of the Government Code is amended to read:

Population of counties

28020. The population of the counties of this State is hereby ascertained and determined to be and is as follows:

- 1 Los Angeles ----- 6,038,771
- 2 San Diego ----- 1,033,011

3	Alameda -----	905,670
4	San Francisco -----	742,855
5	Orange -----	703,925
6	Santa Clara -----	642,315
7	San Bernardino -----	503,591
8	Sacramento -----	502,778
9	San Mateo -----	444,387
10	Contra Costa -----	409,030
11	Fresno -----	365,945
12	Riverside -----	306,191
13	Kern -----	291,984
14	San Joaquin -----	249,989
15	Ventura -----	199,138
16	Monterey -----	198,351
17	Santa Barbara -----	168,962
18	Tulare -----	168,403
19	Stanislaus -----	157,294
20	Sonoma -----	147,375
21	Marin -----	146,820
22	Solano -----	134,597
23	Humboldt -----	104,892
24	Merced -----	90,446
25	Santa Cruz -----	84,219
26	Butte -----	82,030
27	San Luis Obispo -----	81,044
28	Imperial -----	72,105
29	Napa -----	65,890
30	Yolo -----	65,727
31	Shasta -----	59,468
32	Placer -----	56,998
33	Mercedino -----	51,059
34	Kings -----	49,954
35	Madera -----	40,468
36	Yuba -----	33,859
37	Sutter -----	33,380
38	Siskiyou -----	32,885
39	El Dorado -----	29,390
40	Tehama -----	25,305
41	Nevada -----	20,911
42	Del Norte -----	17,771
43	Glenn -----	17,245
44	San Benito -----	15,396
45	Tuolumne -----	14,404
46	Lake -----	13,786
47	Lassen -----	13,597
48	Colusa -----	12,075
49	Inyo -----	11,684
50	Plumas -----	11,620
51	Calaveras -----	10,289
52	Amador -----	9,990
53	Trinity -----	9,706
54	Modoc -----	8,308

29 Kings -----	46,768
30 Napa -----	46,603
31 Placer -----	41,649
32 Mendocino -----	40,854
33 Yolo -----	40,640
34 Madera -----	36,964
35 Shasta -----	36,413
36 Siskiyou -----	30,733
37 Sutter -----	26,239
38 Yuba -----	24,420
39 Nevada -----	19,888
40 Tehama -----	19,276
41 Lassen -----	18,474
42 El Dorado -----	16,207
43 Glenn -----	15,448
44 San Benito -----	14,370
45 Plumas -----	13,519
46 Tuolumne -----	12,584
47 Inyo -----	11,658
48 Colusa -----	11,651
49 Lake -----	11,481
50 Calaveras -----	9,902
51 Modoc -----	9,678
52 Amador -----	9,151
53 Del Norte -----	8,078
54 Mariposa -----	5,145
55 Trinity -----	5,087
56 Sierra -----	2,410
57 Mono -----	2,115
58 Alpine -----	241

Classification
for purpose
of regulating
compensation

SEC. 2. Section 28023 of said code is amended to read:
 28023. Counties containing a population of 750,000 and under 900,000 are counties of the second class.
 SEC. 3. Section 28024 of said code is amended to read:
 28024. Counties containing a population of 600,000 and under 750,000 are counties of the third class.
 SEC. 4. Section 28025 of said code is amended to read:
 28025. Counties containing a population of 400,000 and under 600,000 are counties of the fourth class.
 SEC. 5. Section 28026 of said code is amended to read:
 28026. Counties containing a population of 295,000 and under 400,000 are counties of the fifth class.
 SEC. 6. Section 28027 of said code is amended to read:
 28027. Counties containing a population of 285,000 and under 295,000 are counties of the sixth class.
 SEC. 7. Section 28028 of said code is amended to read:
 28028. Counties containing a population of 280,000 and under 285,000 are counties of the seventh class.
 SEC. 8. Section 28029 of said code is amended to read:
 28029. Counties containing a population of 277,000 and under 280,000 are counties of the eighth class.

SEC. 9. Section 28030 of said code is amended to read: Same
 28030. Counties containing a population of 250,000 and under 277,000 are counties of the ninth class.
 SEC. 10. Section 28031 of said code is amended to read:
 28031. Counties containing a population of 230,000 and under 250,000 are counties of the tenth class.
 SEC. 11. Section 28032 of said code is amended to read:
 28032. Counties containing a population of 220,000 and under 230,000 are counties of the eleventh class.
 SEC. 12. Section 28033 of said code is amended to read:
 28033. Counties containing a population of 210,000 and under 220,000 are counties of the twelfth class.
 SEC. 13. Section 28034 of said code is amended to read:
 28034. Counties containing a population of 175,000 and under 210,000 are counties of the thirteenth class.
 SEC. 14. Section 28035 of said code is amended to read:
 28035. Counties containing a population of 160,000 and under 175,000 are counties of the fourteenth class.
 SEC. 15. Section 28036 of said code is amended to read:
 28036. Counties containing a population of 140,000 and under 160,000 are counties of the fifteenth class.
 SEC. 16. Section 28037 of said code is amended to read:
 28037. Counties containing a population of 128,000 and under 140,000 are counties of the sixteenth class.
 SEC. 17. Section 28038 of said code is amended to read:
 28038. Counties containing a population of 120,000 and under 128,000 are counties of the seventeenth class.
 SEC. 18. Section 28039 of said code is amended to read:
 28039. Counties containing a population of 110,000 and under 120,000 are counties of the eighteenth class.
 SEC. 19. Section 28040 of said code is amended to read:
 28040. Counties containing a population of 104,000 and under 110,000 are counties of the nineteenth class.
 SEC. 20. Section 28041 of said code is amended to read:
 28041. Counties containing a population of 100,000 and under 104,000 are counties of the twentieth class.
 SEC. 21. Section 28042 of said code is amended to read:
 28042. Counties containing a population of 90,000 and under 100,000 are counties of the twenty-first class.
 SEC. 22. Section 28043 of said code is amended to read:
 28043. Counties containing a population of 75,000 and under 90,000 are counties of the twenty-second class.
 SEC. 23. Section 28044 of said code is amended to read:
 28044. Counties containing a population of 69,500 and under 75,000 are counties of the twenty-third class.
 SEC. 24. Section 28045 of said code is amended to read:
 28045. Counties containing a population of 67,000 and under 69,500 are counties of the twenty-fourth class.
 SEC. 25. Section 28046 of said code is amended to read:
 28046. Counties containing a population of 65,000 and under 67,000 are counties of the twenty-fifth class.

1574

STATUTES OF CALIFORNIA

[Ch. 467

CERTIFICATE OF NOMINATION

State of California }
County of ----- } ss.

We, the undersigned, certify that we do hereby join in a certificate of nomination of -----, whose residence is at -----, in said county and State, for the office of director of ----- County Water District to be voted for at the election to be held in said district on the ----- day of -----, 19____, and each of us further certifies that he is a voter residing within the district and is not at this time a signer of any other certificate nominating any other candidate for the above named office, or, in case there are several places to be filled in the office, that he has not signed more certificates than there are places to be filled in the office; that his residence and occupation are as hereinafter stated.

Signature Residence Occupation

VERIFICATION DEPUTY'S AFFIDAVIT

State of California }
County of ----- } ss.

I, -----, solemnly swear that I have been appointed according to provisions of the County Water District Law as a verification deputy to secure signatures to a certificate of nomination of ----- as a candidate for election to the office of director, of ----- County Water District; that all the signatures on this section of the certificate were made in my presence and that to my knowledge and belief each of the signatures is the genuine signature of the person whose name it purports to be.

Verification deputy

Subscribed and sworn to before me this
----- day of -----, 19____

Notary Public (or other official)

The certificate of nomination of which this section forms a part shall, if found insufficient, be returned to the verification deputy at No. ----- Street, -----, California.

Sec. 3. Section 30802 of said code is amended to read:
30802. The secretary shall immediately make and deliver to each person elected a certificate of election signed by the secretary and authenticated with the seal of the district.

When a district is formed and first directors are elected pursuant to Chapter 4 of Part 2 of Division 12 of this code, a certificate of election shall be made and delivered to each person elected by the county clerk immediately following the canvass of the vote by the board of supervisors.

Certificate of election

Ch. 468]

1951 REGULAR SESSION

1575

CHAPTER 468

1950 census

An act to amend Sections 28020, 28023 to 28078, inclusive, 28105, 28107 to 28113, inclusive, 28115 to 28119, inclusive, 28121, 28123-28141, inclusive, 28144, 28145, 28147 to 28149, inclusive, and 28151 to 28154, inclusive, of the Government Code, and to amend Sections 405, 407 to 413, inclusive, 415 to 419, inclusive, 421, 423 to 426, inclusive, 428 to 437, inclusive, 439 to 441, inclusive, 444, 445, 447 to 449, inclusive, and 451 to 454, inclusive, of the Education Code, relating to the classification of the counties of California and providing for compensation for public service in such counties as so classified declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 15, 1951. Filed with Secretary of State May 16, 1951.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 28020 of the Government Code is amended to read:

28020. The population of the counties of this State is hereby ascertained and determined to be and is as follows: Population of counties

1 Los Angeles -----	4,151,687
2 San Francisco -----	775,357
3 Alameda -----	740,315
4 San Diego -----	556,808
5 Contra Costa -----	298,984
6 Santa Clara -----	290,547
7 San Bernardino -----	281,642
8 Sacramento -----	277,140
9 Fresno -----	276,515
10 San Mateo -----	235,659
11 Kern -----	228,309
12 Orange -----	216,224
13 San Joaquin -----	200,750
14 Riverside -----	170,046
15 Tulare -----	149,264
16 Monterey -----	130,498
17 Stanislaus -----	127,231
18 Ventura -----	114,647
19 Solano -----	104,833
20 Sonoma -----	103,405
21 Santa Barbara -----	98,220
22 Marin -----	85,619
23 Merced -----	69,780
24 Humboldt -----	69,241
25 Santa Cruz -----	66,534
26 Butte -----	64,930
27 Imperial -----	62,975
28 San Luis Obispo -----	51,417

20	Sonoma -----	69,052
21	Imperial -----	59,740
22	Marin -----	52,907
23	Solano -----	49,118
24	Merced -----	46,988
25	Humboldt -----	45,812
26	Santa Cruz -----	45,057
27	Butte -----	42,840
28	Kings -----	35,168
29	San Luis Obispo -----	33,246
30	Shasta -----	28,800
31	Siskiyou -----	28,598
32	Napa -----	28,503
33	Placer -----	28,108
34	Mendocino -----	27,864
35	Yolo -----	27,243
36	Madera -----	23,314
37	Nevada -----	19,283
38	Sutter -----	18,680
39	Yuba -----	17,034
40	Lassen -----	14,479
41	Tehama -----	14,316
42	El Dorado -----	13,229
43	Glenn -----	12,195
44	Plumas -----	11,548
45	San Benito -----	11,392
46	Tuolumne -----	10,887
47	Colusa -----	9,788
48	Amador -----	8,973
49	Modoc -----	8,713
50	Calaveras -----	8,221
51	Lake -----	8,069
52	Inyo -----	7,625
53	Mariposa -----	5,605
54	Del Norte -----	4,745
55	Trinity -----	3,970
56	Sierra -----	3,025
57	Mono -----	2,299
58	Alpine -----	323

Classification for purposes of regulating compensation

28021. For the purpose of regulating the compensation of all officers provided for in this part, the several counties of the State are classified according to their population, as ascertained and determined in Section 28020, as set forth in this chapter.

28022. Counties containing a population of 900,000 and over are counties of the first class.

28023. Counties containing a population of 600,000 and under 900,000 are counties of the second class.

28024. Counties containing a population of 400,000 and under 600,000 are counties of the third class.

28025. Counties containing a population of 200,000 and under 400,000 are counties of the fourth class.

28026. Counties containing a population of 176,000 and under 200,000 are counties of the fifth class. Classification of counties

28027. Counties containing a population of 173,000 and under 176,000 are counties of the sixth class.

28028. Counties containing a population of 168,000 and under 173,000 are counties of the seventh class.

28029. Counties containing a population of 150,000 and under 168,000 are counties of the eighth class.

28030. Counties containing a population of 135,000 and under 150,000 are counties of the ninth class.

28031. Counties containing a population of 134,000 and under 135,000 are counties of the tenth class.

28032. Counties containing a population of 125,000 and under 134,000 are counties of the eleventh class.

28033. Counties containing a population of 110,000 and under 125,000 are counties of the twelfth class.

28034. Counties containing a population of 106,000 and under 110,000 are counties of the thirteenth class.

28035. Counties containing a population of 103,000 and under 106,000 are counties of the fourteenth class.

28036. Counties containing a population of 90,000 and under 103,000 are counties of the fifteenth class.

28037. Counties containing a population of 74,000 and under 90,000 are counties of the sixteenth class.

28038. Counties containing a population of 72,000 and under 74,000 are counties of the seventeenth class.

28039. Counties containing a population of 70,000 and under 72,000 are counties of the eighteenth class.

28040. Counties containing a population of 69,500 and under 70,000 are counties of the nineteenth class.

28041. Counties containing a population of 65,000 and under 69,500 are counties of the twentieth class.

28042. Counties containing a population of 57,000 and under 65,000 are counties of the twenty-first class.

28043. Counties containing a population of 51,000 and under 57,000 are counties of the twenty-second class.

28044. Counties containing a population of 48,000 and under 51,000 are counties of the twenty-third class.

28045. Counties containing a population of 46,000 and under 48,000 are counties of the twenty-fourth class.

28046. Counties containing a population of 45,500 and under 46,000 are counties of the twenty-fifth class.

28047. Counties containing a population of 44,000 and under 45,500 are counties of the twenty-sixth class.

28048. Counties containing a population of 40,000 and under 44,000 are counties of the twenty-seventh class.

28049. Counties containing a population of 34,000 and under 40,000 are counties of the twenty-eighth class.

28050. Counties containing a population of 30,000 and under 34,000 are counties of the twenty-ninth class.

28051. Counties containing a population of 28,700 and under 30,000 are counties of the thirtieth class.

1178 STATUTES OF CALIFORNIA [Ch. 424]

Fees 27821. Except as provided in this chapter, constables shall charge and collect for their services the fees allowed by law to sheriffs.

Pounds 27822. If a pound district is created by the board of supervisors pursuant to law, and no poundmaster is appointed for the district, or if appointed has not qualified, the constable shall perform the duties of the poundmaster in districts in the township for which he is elected and shall collect for his services the fees allowed by law to poundmasters.

Law applicable 27823. The provisions of Sections 26600, 26601, 26602, 26604, 26606 to 26609, inclusive, 26611, 26660 to 26664, inclusive, 26680 to 26684, inclusive, and 26686 of this code and Sections 4166, 4168, 4169, and 4171 of the Political Code apply to constables, and govern their powers, duties, and liabilities.

Travel outside township mileage allowance 27824. A constable shall not be required to travel outside of his township to serve any civil process or notice.

Same 27825. For each mile necessarily traveled within his county in executing a warrant of arrest, both in going to and returning from the place of arrest, the constable shall charge fifteen cents (\$0.15).

Search warrants 27826. For each mile traveled out of his county, both going to and returning from the place of arrest, a constable shall charge five cents (\$0.05). For traveling in the performance of two or more official services at the same time, including the service of civil process or criminal warrants, or the transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged.

Arrests 27827. For executing a search warrant, a constable shall charge such fees and mileage as are allowed for executing a warrant of arrest.

Transportation to county jail 27828. For arresting a prisoner and bringing him into court or jail, a constable shall charge the actual cost of such transportation.

27829. For transporting prisoners to and from the county jail, a constable shall charge the actual cost of transportation.

PART 5. SALARIES

CHAPTER 1. GENERAL

Monthly payment 28000. The salaries of the officers named in this title and all county deputies, clerks, and employees who are entitled to salaries shall be paid monthly out of the county treasury.

Warrants 28001. On the first day of each month the auditor shall draw his warrant upon the treasurer in favor of each officer, deputy, clerk, and employee for the amount of salary due him for the preceding month.

Payment from salary fund 28002. On presentation the treasurer shall pay the warrants out of the salary fund of the county treasury.

Payment in chartered counties 28003. In counties operating under a charter the board of supervisors may by ordinance fix a date or schedule of dates for the payment of salaries of the officers, deputies, clerks, and

employees of the several departments and institutions of the county government.

28004. If the board of supervisors by ordinance so provides, the salaries of all county officers, deputies, clerks, and employees, including the employees of the several road districts, may be paid monthly out of the county treasury on warrants drawn by the auditor upon the treasurer in favor of each of the officers, deputies, clerks, and employees. Payment from general fund

28005. The auditor shall not draw his warrant for the salary of any officer for any month until the officer has first filed with him the sworn statement required in Sections 24354 and 24355 and a copy of the treasurer's receipt for all fees and other money payable into the county treasury collected by the officer in that month. Payment after deposit of fees, etc.

28006. No amendment of any section of this part shall affect the compensation of any officer whose compensation the Legislature is not authorized to fix under Section 5 of Article XI of the Constitution, and his compensation shall continue to be paid in accordance with the terms of the applicable section of this part as if the section had not been amended, unless and until the proper board of supervisors exercises the powers granted it under Section 25301 and Section 5 of Article XI of the Constitution. Effect of amendment

The compensation of any officer whose compensation the Legislature is authorized to fix under the provisions of Section 5 of Article XI of the Constitution shall be paid in accordance with any amendment made to the applicable section of this division.

CHAPTER 2. CLASSIFICATION OF COUNTIES

28020. The population of the counties of this State is hereby ascertained and determined to be and is as follows: Population of counties

1	Los Angeles	2,785,643
2	San Francisco	634,536
3	Alameda	513,011
4	San Diego	289,348
5	Fresno	178,565
6	Santa Clara	174,949
7	Sacramento	170,333
8	San Bernardino	161,108
9	Kern	135,124
10	San Joaquin	134,207
11	Orange	130,760
12	San Mateo	111,782
13	Tulare	107,152
14	Riverside	105,524
15	Contra Costa	100,450
16	Stanislaus	74,866
17	Monterey	73,032
18	Santa Barbara	70,555
19	Ventura	69,685

APPENDIX

Attachment D. Table of County-Specific Statutory Provisions Relating to Court Employees

- Where a statute says “board of supervisors,” the table generally says “County.”
- NP means that the statute does not have a provision related to the subject heading on the table.
- Mandatory and permissive provisions are generally distinguished by the use of “requires” or “permits,” respectively.
- The table is computer sortable.

Section ¹	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
26806	Counties with population 900,000 or more ²	Superior and municipal courts	Interpreters	Interpretation in cases and translation of documents as assigned by clerk.	Lists fees to be deposited in county treasury.	NP	Clerk of superior court may appoint.
68114.8	San Bernardino	Superior court	Court reporters	NP	Sets salary range, notwithstanding § 69906.	Sets vacation benefits.	NP
69595	San Diego	Superior court	Referees	NP	NP	NP	Decreases authorized number when a vacancy occurs and a judgeship is added (up to 3).
69599.5	Santa Barbara	Superior court	Juvenile court referee	NP	NP	NP	Appointment is prohibited by this statute.
69648	Los Angeles ³	Superior court	Clerk, deputy clerk, court reporter	NP	NP	Provides expenses when assigned to another location.	NP

¹ All section numbers refer to Government Code sections unless otherwise indicated.

² In 1947, when this statute was enacted, it pertained only to Los Angeles County. When the statute was amended in 1998, without changing the population number, several other counties also had populations over 900,000.

³ Statute refers to county with superior court districts.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69890	Counties with population of 300,000 or more ⁴	Superior court	Secretary	As required by court.	\$250/month, to be paid out of general fund of county.	NP	Permits judges to appoint a secretary.
69891	Counties with population of 65,500 or more where no jury commissioner is provided ⁵	Superior courts with fewer than 3 departments	Stenographer or secretary	As required by judge.	\$300/month, to be paid by county.	NP	Permits court to appoint one for each judge.
69891.1	Solano	Superior court	Secretary	As required by judge.	Set and adjusted by approval of county and court.	Same as for county employees.	Permits court to appoint one for each judge.
69891.5	Sonoma	Superior court	Secretary or stenographer	NP	As provided in § 69892, minimum \$350/month.	NP	NP
69892	Counties with population 82,000–1,500,000, 1960 census ⁶	Superior court	Secretary and assistant secretaries	NP	Set by county (within certain limits).	Exempt from civil service.	Permits judges to appoint one secretary, two assistant secretaries, and up to one additional assistant secretary for each department in the county over three.
69892.1	Los Angeles ⁷	Superior court	Executive officer/ clerk of superior court	As required by court or law.	As provided in § 69894.1.	Traveling and other expenses.	Requires majority of judges to appoint one.

⁴ At the time this statute was enacted, Los Angeles, San Francisco, Alameda, and San Diego counties had populations over 300,000. However, the statute does not refer to a particular year or census.

⁵ The statute does not designate a census year.

⁶ San Diego, Alameda, San Francisco, Orange, Santa Clara, San Bernardino, Sacramento, San Mateo, Contra Costa, Fresno, Riverside, Kern, San Joaquin, Ventura, Monterey, Santa Barbara, Tulare, Stanislaus, Sonoma, Marin, Solano, Humboldt, Merced, Santa Cruz, and Butte.

⁷ Statute refers to county with population over 7 million (1980 census).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69893.5	Sacramento	Superior court	Juvenile court referee appointed under W&I § 247, court commissioner	PJ may authorize duties of superior court commissioner, municipal court commissioner under § 72190, and juvenile court referee under W&I § 247.	85% of superior court judge's salary.	6.5 hours vacation credit for each biweekly pay period, with conditions.	NP
69893.5	Sacramento ⁸	Superior court	Court administrator, probate file examiner, master calendar clerk, legal secretaries, assistants, and other employees	NP	Permits county to establish and adjust compensation.	NP	Permits court to establish titles as required and to appoint employees with approval of county.
69893.7	Yolo	Superior and municipal courts	Various	NP	Permits county to adjust compensation.	Permits county to offer benefits package on same basis it is offered to other officers and employees of the county.	Permits courts, ⁹ with county approval, to establish classifications as necessary.
69893.7	Yolo	Superior and municipal courts	Court reporter (pro tempore)	NP	Rate set jointly by court and county.	NP	Permits PJ to appoint as many as business of court requires; may delegate to executive officer.
69894	Los Angeles	Superior court	Various (listed in statute)	NP	NP	NP	Permits majority of judges to appoint classifications and numbers listed.
69894.1	Los Angeles	Superior court	Various (listed in statute)	NP	Specifies salary rates in relation to county code.	NP	NP

⁸ Statute refers to county with population 480,000–503,000 (1960 census).

⁹ Courts may delegate authority to create job classifications and appoint employees to court executive officer.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69894.1	Los Angeles	Superior court	Court commissioners, referees	NP	Provides for salary 85% of that of superior court judge.	NP	NP
69894.2	Los Angeles ¹⁰	Superior court	Officers, assistants and other employees (interim additional appointments)	NP	Permits court to establish pay rates with county approval. Court and county may jointly adjust pay.	NP	Permits court to establish additional titles as required, with county approval.
69894.3	Los Angeles ¹¹	Superior court	Employees	NP	Rules of court may provide for step advancement.	Court may set benefits. Court employees have certain transfer rights in county employment.	At request of court, county shall furnish services through county civil service commission.
69894.4	Los Angeles ¹²	Superior court	Employees provided for in § 69894.1	NP	Requires salaries provided for in § 69894.1 to be paid by county.	Requires employees to be allowed same travel expenses as allowed for county employees. Travel expenses outside county permitted with prior county approval.	NP
69894.5	Los Angeles ¹³	Superior court	Interpreters ¹⁴	Cross-reference to § 26806.	NP	NP	Permits court to employ and assign by rule.
69894.6	Los Angeles	Superior court	Court reporters	NP	Specifies salary in relation to county code.	NP	Permits majority of judges to appoint 362.

¹⁰ Statute does not identify a particular county, but the context indicates Los Angeles.

¹¹ Statute refers to counties with population over 2 million.

¹² Statute refers to counties with population over 2 million.

¹³ Statute does not identify a particular county, but the context indicates Los Angeles.

¹⁴ Statute refers to officers or attachés performing duties in Gov. Code § 26806.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69895	San Francisco	Superior court	Executive officer	Secretary to judges, duties of jury commissioner (§ 69893), duties of court administrator (§ 69898), duties as delegated by court or law.	Requires city and county to pay salary.	NP	Requires court to appoint one.
69895	San Francisco	Superior court	Assistant executive officer	Assist executive officer in jury commissioner (§ 69893) and court administrator (§ 69898) duties.	Requires city and county to pay salary.	NP	Executive officer shall have one on authorization of judges.
69896	All counties except Los Angeles, where secretary is required to perform duties of jury commissioner	Superior court	Secretary to judges	Reference to § 69893.	Requires county to fix salary.	NP	NP
69897	County with population 600,000 to 900,000 ¹⁵	Superior court	Probate commissioner	Powers and duties of court commissioners and as delegated by court.	NP	NP	Permits court to appoint one.

¹⁵ In 1953, when the statute was enacted, this referred to San Francisco and Alameda counties. This section has not been amended since then.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69899.5	Orange	Superior court	Officers and employees	NP	Sets salaries pursuant to Table of Classifications and Salary Schedules adopted by court executive committee. Permits adjustment except for compensation of court commissioners and juvenile court referees.	Authorizes benefits as adopted in MOU or rules adopted by majority of judges. Permits travel expenses.	Permits majority of judges to appoint as court deems necessary or to delegate appointment to executive officer.
69900	San Francisco	Superior court	Listed in statute	NP	Specified according to county salary ordinance; may be altered by joint action of court and county.	Employment by court deemed employment by city and county (if approved by court) for purpose of benefits. Expenses provided for in § 69901.	Permits majority of judges to appoint positions listed.
69900	San Francisco	Superior court	Titles in addition to those listed, as required	NP	Rates may be established or altered by joint action of court and county.	Employment by court deemed employment by city and county (if approved by court) for purpose of benefits. Expenses provided for in § 69901.	Permits court to appoint and employ additional employees with approval of county.
69903	Alameda	Superior court	Listed in statute	NP	Specified in statute referencing Alameda County salary ordinance.	Exempt from civil service. Entitled to benefits up to those provided for county employees. Vacation benefits for referees and commissioners determined by court policy.	Permits majority of judges to appoint positions listed.
69903	Alameda	Superior court	Phonographic reporter	Includes secretarial services as required.	Specified in statute referencing Alameda County salary ordinance.	As for county employees, except for pro tem reporters.	Permits each judge to appoint one.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69903	Alameda	Superior court	Positions in addition to those listed	NP	Rates may be established or adjusted by joint action of court and county; ratification by Legislature required.	Exempt from civil service. Entitled to benefits up to those provided for county employees.	Permits majority of judges to appoint additional employees with county approval; ratification by Legislature required.
69903.3	Alameda ¹⁶	Superior court	Administrative assistant and chief calendar deputy in § 69903	NP	Salary shall be 10% more than it would be otherwise.	NP	NP
69904	San Diego	Superior court	Additional titles as deemed necessary	NP	Majority of judges may establish and adjust pay rates.	Benefits at levels no less than those authorized for county employees, in addition to those in §§ 69902 and 69902.5 and in regulations adopted by majority of judges. Exempt from civil service.	Majority of judges may appoint and employ additional employees as deemed necessary.
69904(c)	San Diego	Superior court	Juvenile court referee	NP	1st year, 75% judge's salary; 2nd year, 80%; thereafter, 85%.	NP	NP
69904(d)	San Diego	Superior court	Juvenile court referee, legal research assistant	NP	NP	Permits reimbursement of State Bar dues with approval of judges.	NP
69906	San Bernardino	Superior court	Officers and employees	NP	Fixed and adjusted by mutual agreement of county and court, except as otherwise expressly provided by statute.	Same as for comparable county classifications. Civil service does not apply unless made applicable by local rule.	Permits majority of judges to appoint officers and employees as expressly authorized by law, and additional titles with county approval.

¹⁶ Statute refers to courts in counties with populations of 800,000–1,000,000 (1960 census) that do not have position of assistant jury commissioner.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69906	San Bernardino	Superior court	Court investigator appointed pursuant to Probate Code § 1454	NP	Fixed by majority of judges.	Same as for comparable county classifications. Civil service does not apply unless made applicable by local rule.	Majority of judges may appoint as many as expressly authorized by law; additional numbers with county approval.
69906	San Bernardino	Superior court	Commissioners and referees	NP	Fixed and adjusted by mutual agreement of county and court, except as otherwise expressly provided by statute.	Same as for comparable county classifications, except that vacation benefits are same as provided for judges under CRC rule 205(7).	Majority of judges may appoint as many as expressly authorized by law; additional numbers with county approval.
69906.5	Mendocino	Superior court	Assistant probation officer and deputy probation officer	NP	NP	NP	Offices exist only if established by ordinance; probation officer may appoint if authorized by county.
69908	Madera	Superior court	Officers and employees	NP	Fixed and adjusted by mutual agreement of county and court, except as otherwise expressly provided by statute.	Same as for comparable county classifications. Included in county retirement system (except pro tempore reporters). Civil service does not apply unless made applicable by local rule.	Majority of judges may appoint as many as expressly authorized by law; additional numbers with county approval.
69908	Madera	Superior court	Titles in addition to those expressly authorized by law	NP	Fixed and adjusted by mutual agreement of county and court, except as otherwise expressly provided by statute.	Same as for comparable county classifications. Civil service does not apply unless made applicable by local rule.	Majority of judges may appoint with county approval.
69911	Kern	Superior court	Listed in statute	NP	Specified according to county salary ordinance; may be adjusted by joint action of court and county.	Same as for county employees, except for court holidays.	Majority of judges may appoint positions listed in statute.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69911	Kern	Superior court	Court commissioner, senior juvenile court referee	NP	75-85% of superior court judge's salary.	Same as for county employees, except for court holidays.	Majority of judges may appoint one of each.
69911	Kern	Superior court	Positions in addition to those listed	NP	Rates may be established or adjusted by court and county; ratification by Legislature required.	Same as for county employees, except for court holidays.	Majority of judges may appoint additional employees with county approval; ratification by Legislature required.
69912	San Luis Obispo	Superior court	Deputy clerk or assistant executive officer	Assist with duties of §§ 69893 and 69898 (secretary and court executive officer).	Established and adjusted by mutual agreement of majority of judges and board of supervisors.	Same as for equivalent county classifications, included in county retirement system. Exempt from civil service laws.	Executive officer shall appoint one upon authorization of majority of judges.
69948(b)	San Joaquin	Superior court	Court reporter	NP	Sets compensation as prescribed by § 69993.	NP	NP
69948(c)	Madera	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(d)	Kings	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$140/day.	NP	NP
69948(e)	Mariposa	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(f)	Siskiyou	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69948(g)	Yuba	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(h)	Butte	Superior court	Court reporter (pro tempore)	Reporting testimony and proceedings in contested cases.	Sets compensation at \$75 per day or fractional part thereof.	NP	NP
69948(i)	Sutter	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$110/day, except as otherwise provided in §§ 70045.11 and 74839; permits county to prescribe higher rate of compensation.	NP	NP
69948(j)	Napa	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(k)	Tehama	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(l)	Monterey	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$75 per day or fractional part thereof.	NP	NP
69948(m)	Nevada	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(n)	Calaveras	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$75/day; permits county to prescribe a higher rate of compensation.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69948(o)	Placer	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(p)	Sierra	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(q)	Trinity	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(r)	Humboldt	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$75 per day or fractional part thereof.	NP	NP
69948(s)	Del Norte	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$75 per day or fractional part thereof.	NP	NP
69948(t)	Alpine	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(u)	Glenn	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(v)	Colusa	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$125 per day or fractional part thereof.	NP	NP
69948(w)	Shasta	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69948(x)	Solano	Superior court	Court reporter	Reporting testimony and proceedings in contested cases.	Sets compensation at \$90/day or \$55/half day; permits county to prescribe a higher rate of compensation.	NP	NP
69948(y)	Inyo	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948(z)	Mono	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69948.5	Modoc	Superior court	Court reporter	NP	Permits county to prescribe a rate of compensation higher than \$55/day.	NP	NP
69990, 69991	Monterey, Santa Barbara, Stanislaus ¹⁷	Superior court	Court reporter	Duties shall be performed as elsewhere provided by law.	\$1,081/month for criminal cases; \$75/day for civil contested cases; other fees as elsewhere provided by law	For purpose of retirement, compensation is deemed to be reporter's salary plus average of fees paid to reporters in the court.	Permits majority of judges to appoint as many as necessary to report proceedings, up to number of judges provided for by law.
69993	San Joaquin	Superior court	Court reporter	NP	Established by county board of supervisors.	NP	Number of reporters shall not be less than number of judicial positions.
69994-69994.9	Sacramento ¹⁸	Superior and municipal courts	Court reporters	Reporting proceedings in courts and other duties as prescribed by law.	Provided for in §§ 69994.2, 69994.4, 69994.5, 69994.9.	§ 69994.3 entitles salaried official reporters to benefits as provided to county employees. Not subject to civil service (§ 69994.8).	Majority of judges may appoint as many as needed for duties as prescribed by law, up to number of judges authorized for county.

¹⁷ Statute refers to county with population 70,000-100,000 (1940 census).

¹⁸ Statute refers to county with population 490,000-503,000 (1960 census).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69994.2, 69994.5, 69994.8	Sacramento	Superior and municipal courts	Supervising phonographic reporter	NP	\$49,653 annually; lower amounts specified in statute may be paid in first two years of service.	Not subject to civil service.	Majority of judges of both courts may appoint one.
69994.9	Sacramento	Superior and municipal courts	Additional classifications of reporters	NP	Established by court with county approval. May be adjusted by approval of county and majority of judges. Ratification by Legislature is required.	NP	Permits court to establish additional classifications as required, with county approval. Ratification by Legislature is required.
69995	Ventura	Superior and municipal courts	Court reporter	Court reporting services as directed by judges.	Sets salary range at 90% of range for reporters in LA County. Permits adjustment by joint action of county and superior courts.	Official reporters are exempt from civil service and entitled to same benefits as county employees.	Majority of judges of superior court may appoint as many as business of court requires, and as required to provide reporting service to municipal court.
70000	Calaveras ¹⁹	Superior court	Court reporter	Duties as elsewhere provided by law.	Fees as elsewhere provided by law.	NP	Permits majority of judges to appoint one.
70010-70014	Orange ²⁰	Superior court	Court reporter	Duties of phonographic reporters as elsewhere in this code defined.	§ 70012 sets compensation at same rate as that for reporters in counties with population over 2 million (Los Angeles). § 70013 entitles reporter to transcription fees. § 70014 provides for manner of paying salary.	NP	§ 70010 permits court to appoint a number of official reporters equal to the number of judicial positions. § 70011 permits appointment of pro tempore reporters.

¹⁹ Statute refers to county with population 10,000-10,500 (1960 census).

²⁰ Statute refers to county with population 210,000-220,000 (1950 census).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70025	Riverside	Superior court	Court reporter	NP	Requires county to fix salary within specified range.	NP	NP
70043	Various ²¹	Superior court	Court reporter	Duties of phonographic reporters	NP	NP	Permits majority of judges to appoint a number up to the number of judicial positions.
70043	Los Angeles	Superior court	Court reporter	NP	As provided in § 69894.1.	NP	As provided in § 69894.1.
70043	San Francisco ²²	Superior court	Regular official court reporter	NP	NP	NP	Number of official reporters shall be but shall not exceed total number of judicial positions and number of referees appointed pursuant to W&I § 553.
70044	Various (see footnote 21)	Superior court	Court reporter	Duties of phonographic reporter	NP	NP	Permits appointment of pro tempore reporter under certain circumstances.
70044.1	Fresno ²³	Superior court	Court reporter	Requires official reporter to report to court when ordered by judge.	Specifies \$35/day for proceedings in contested cases.	NP	NP

²¹ Unless otherwise specifically provided, the provisions of this article (§§ 70040–70064) apply to San Bernardino, San Diego, Alameda, San Francisco, Los Angeles, Santa Clara, and Napa counties, and to Contra Costa, Ventura, Sonoma, Marin, Solano, Merced, Humboldt, Butte, and Shasta counties if the board of supervisors adopts by resolution the procedure for appointment and compensation of reporters provided for in this article. (§§ 70041, 70041.1, 70041.5, 70042.)

²² The statute refers to a county of the second class as provided in § 28023. County populations in this article are designated on the basis of the 1950 federal census unless otherwise provided (see § 70040).

²³ Statute refers to county with population 250,000–277,000 (1950 census).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70044.5	San Mateo	Superior and municipal courts	Court reporter	Requires reporters to devote full time to court duties when court is open for judicial business.	Specifies rate with reference to salary schedule at § 73525; provides for per diem for pro tempore reporters, step advancement, and change of rates.	Provides for same vacation and sick leave allowances as county employees.	Requires appointment by judges of consolidated courts pursuant to § 70043 or 72194.
70045	Counties with population less than 70,000 (1940 census) ²⁴	Superior courts with two or more judges	Court reporter	NP	Sets salary for official reporters at \$4,200/year and payment for pro tempore reporters at \$15/day.	NP	NP
70045.1	Trinity	Superior court	Court reporter	Reporting in criminal and juvenile cases, preliminary examinations, grand jury proceedings, civil cases, etc.	Provides for salary and fees for official reporters and per diem for pro tempore reporters	Permits county to provide reporters with equipment.	NP
70045.10	Tehama	Superior court	Court reporter	Sets forth duties of official court reporters. Requires reporters to devote full time to court duties when court is open for judicial business.	Provides for \$2,267 monthly salary (unless county provides for greater amount) for listed services, and fees for transcriptions (§ 69941 et seq.). Provides for per diem for pro tempore reporters, adjustments, and additional fees for service past 5:30 or 8:30 p.m.	Entitles full-time official reporters to same retirement, vacation (upon judge's approval), sick leave, and insurance benefits as county employees.	Permits judges to appoint pro tempore reporters as business of court requires when regular reporters are occupied.

²⁴ Ventura, Sonoma, Imperial, Marin, Solano, Merced, Humboldt, Santa Cruz, Butte, Kings, San Luis Obispo, Shasta, Siskiyou, Napa, Placer, Mendocino, Yolo, Madera, Nevada, Sutter, Yuba, Lassen, Tehama, El Dorado, Glenn, Plumas, San Benito, Tuolumne, Colusa, Amador, Modoc, Calaveras, Lake, Inyo, Mariposa, Del Norte, Trinity, Sierra, Mono, and Alpine.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70045.11	Sutter	Superior court	Court reporter	NP	In lieu of compensation provided for in § 69948, permits county (with approval of PJ) to contract with reporters for reporting fees, per diem, and expenses.	In lieu of compensation provided for in § 69948, permits county (with approval of PJ) to contract with reporters for expenses.	NP
70045.12	Madera	Superior and municipal courts	Court reporter	Requires reporters to perform duties required by law and to assist judges as directed.	Salary of official reporters is as provided in § 69908. Provides for per diem for pro tempore reporters.	Benefits of official reporters are as provided in § 69908.	Superior court shall appoint reporters pursuant to § 70043; municipal court pursuant to § 72194.
70045.2	Modoc	Superior court	Court reporter	Reporting in criminal and juvenile cases, preliminary examinations, grand jury proceedings, coroner's inquests.	Provides for annual salary for official reporters to be determined by ordinance, per diem for pro tempore reporters.	Permits county to provide reporters with equipment.	NP
70045.4	Merced	Superior court	Court reporter	Sets forth duties for full-time official reporters.	Provides for \$16,735.94 annual salary (unless county provides for greater amount) for listed services, fees for transcriptions (§ 69941 et seq.), and adjustments.	Entitles full-time reporters to same insurance and retirement benefits as other county employees.	Permits judges to appoint additional reporters when regular reporters are occupied.
70045.5	Imperial	Superior court	Court reporter	Duties as required by law and stenographic or clerical assistance to judges.	Provides for \$21,700 annual salary for regular reporters and \$70/day for pro tempore reporters. Permits adjustment by joint action of court and county.	Entitles regular official reporters to same retirement, vacation, sick leave, and other benefits allowed county employees.	Permits superior court PJ to assign reporter to municipal court upon request of municipal court PJ.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70045.6	Kern	Superior court	Court reporter	NP	Specifies regular reporter's salary according to county salary schedule and permits county to adjust. Provides \$150/day for pro tempore reporters.	Entitles regular official reporters to same retirement, insurance, vacation, and sick leave benefits allowed county employees.	NP
70045.7	Napa	Superior court	Court reporter	NP	Provides for \$25,000 annual salary for regular reporters and \$110/day for pro tempore reporters. Permits county to establish higher rates.	NP	NP
70045.75	Nevada	Superior court	Court reporter	Sets forth duties of regular full-time official court reporters.	Sets forth salary schedule. Permits court to advance reporters in schedule. Entitles reporters to county cost-of-living increases and fees for transcriptions in § 69941 et seq.	Entitles reporters to same retirement, vacation, sick leave, and insurance benefits as county employees.	Permits judges to appoint pro tempore reporters when regular reporters are occupied.
70045.77	El Dorado	Superior court	Court reporter	Sets forth duties of regular full-time official court reporters.	Provides for range recommended by court and approved by county for full-time official reporters, plus fees for transcriptions in § 69941 et seq.	Entitles full-time official reporters to same retirement, vacation, sick leave, and insurance benefits as county employees.	Permits judges to appoint pro tempore reporters as business of court requires when regular reporters are occupied.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70045.8	Butte	Superior and municipal courts	Court reporter	Sets forth duties of regular full-time official court reporters.	Requires county to specify salary rates. Entitles reporters to fees for transcriptions in § 69941 et seq.	Provides \$25/month reimbursement for supplies. Entitles full-time official reporters to same retirement, vacation, sick leave, and insurance benefits as county employees	Permits judges to appoint pro tempore reporters as business of court requires when regular reporters are occupied.
70045.9	Shasta	Superior court	Court reporter	Sets forth duties of regular full-time official court reporters. Requires reporters to devote full time to court duties when court is open for judicial business.	Provides for \$1,470 monthly salary for regular reporters (unless county provides for greater amount) for listed services, and fees for transcriptions (§ 69941 et seq.). Provides for per diem for pro tempore reporters.	Entitles full-time official reporters to same retirement, vacation (upon judge's approval), sick leave, and insurance benefits as county employees.	Permits judges to appoint pro tempore reporters as business of court requires when regular reporters are occupied. Requires appointment of person(s) with whom county contracted (if any) for supplemental reporter services.
70046	San Bernardino	Superior court	Court reporter	Requires reporters to devote full time to court duties when court is open for judicial business.	Requires county to fix salary of regular reporters at not less than \$20,210/year, and compensation of pro tempore reporters at not less than \$75.25/day.	NP	NP
70046.1	Santa Clara	Superior court	Court reporter	Requires reporters to devote full time to court duties when court is open for judicial business.	Requires county to fix salary of regular reporters at not less than \$1,401.52 biweekly, and compensation of pro tempore reporters at not less than \$269.60/day.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70046.2	Fresno	Superior court	Court reporter	NP	Sets forth salary schedule and conditions for advancement. Sets daily and half-day rates for pro tempore reporters.	Provides for sick leave and vacation benefits.	NP
70046.4	Lake	Superior court	Court reporter	Sets forth duties in subd. (a).	Requires salary to be recommended by court and approved by county. Provides for step increases in salary and payment of transcription fees in § 69941 et seq.	Entitles reporters to same benefits as county employees.	NP
70047	Contra Costa	Superior court	Court reporter	Requires reporters to assist judges when not engaged in regular reporters' duties when court is open for judicial business.	Requires salary to be based on four-step salary plan adopted jointly by court and county. Provides for adjustments by county and permits court to advance. Sets compensation for pro tempore reporters in relation to range for full-time reporters.	NP	NP
70047.1	Stanislaus	Superior court	Court reporter	Requires reporting as required by law or as ordered by judge.	Requires county to set salary range and adjust as for county employees. Sets supervising reporter's salary at 10% higher than step 5. Entitles reporters to transcription fees in § 69941 et seq.	Entitles regular reporters to same benefits as county employees. Allows traveling expenses when reporting outside county seat. Requires county to provide reporters with supplies.	Permits majority of judges to appoint as many official reporters as needed with approval of county and as many pro tempore reporters as business of court requires. Requires court executive officer to appoint supervising reporter.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70047.5	Sonoma	Superior court	Court reporter	NP	Sets salary at \$37,740 to be increased in county's general salary adjustments. Sets pro tempore reporter's per diem at 90% amount received by regular reporter for one day.	Entitles regular reporters to same benefits as certain kinds of county employees.	NP
70048	San Diego ²⁵	Superior court	Court reporter	Requires reporters to devote full time to court duties when court is open for judicial business.	Requires salary rate for regular reporters and compensation for pro tempore reporters to be set jointly by county and court. Provides for step advancements.	NP	NP
70049	Inyo ²⁶	Superior courts	Court reporter	Refers to taking notes in criminal cases.	Provides for annual salary set by county for taking notes in criminal cases, and other fees as elsewhere provided by law.	NP	NP
70049.5	Siskiyou ²⁷	Superior court	Court reporter	NP	Sets annual salary at \$10,000 unless county provides for greater amount.	NP	NP
70050	San Benito	Superior court	Court reporter	Requires reporters to devote full time to court duties when court is open for judicial business.	Requires county to set compensation for regular and pro tempore reporters. Limits compensation of pro tempore reporters to \$75/day.	NP	NP

²⁵ Statute refers to county with population 1,300,00–1,400,000 (1970 census).

²⁶ Statute refers to county with population 11,650–12,000 (1960 census).

²⁷ Statute refers to county with population 32,000–33,000 (1960 census).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70050.5	San Francisco ²⁸	Superior court	Court reporter	NP	Sets compensation at same rate as that for reporters in Los Angeles. ²⁹	NP	NP
70050.6	Tuolumne	Superior court	Court reporter	Sets forth duties.	Requires county to establish salary. Entitles reporters to transcription fees in § 69941 et seq.	Allows traveling expenses when reporting outside county seat.	NP
70050.8	Yolo ³⁰	Superior court	Court reporter	NP	Sets fee at \$70/day unless county provides for greater amount.	NP	NP
70051–70052	Various ³¹	Superior court	Court reporter	NP	§ 70051 entitles reporters to transcription fees unless waived. § 70052 requires salaries to be paid monthly out of county salary fund.	NP	NP
70056.7	Monterey	Superior court	Court reporter	Requires reporters to report all criminal and civil proceedings and to assist court when not engaged in other duties required by law.	Requires county to establish regular court reporter's salary upon joint recommendation of county administrative officer and court. Requires county and majority of judges jointly to set per diem for pro tempore reporters.	Entitles reporters to same benefits as superior court clerk.	Permits judges to appoint as many pro tempore reporters as business of court requires.

²⁸ Statute refers to county with population 730,000–850,000 (1960 census).

²⁹ Statute refers to counties with populations over 6,000,000.

³⁰ Statute refers to county with population 62,000–65,800 (1960 census).

³¹ San Bernardino, San Diego, Alameda, San Francisco, Los Angeles, Santa Clara, and Napa counties; Contra Costa, Ventura, Sonoma, Marin, Solano, Merced, Humboldt, Butte, and Shasta counties if the board of supervisors adopts by resolution the procedure for appointment and compensation of reporters provided for in article 11 (§§ 70040–70064). (See §§ 70041, 70041.1, 70041.5, 70042.)

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70059.7	Santa Barbara	Superior and municipal courts	Court reporter	Refers to services reporting all court and grand jury proceedings and coroners' inquests.	Sets biweekly salary of regular reporters at \$1,685.85. Limits per diem for pro tempore reporters to \$168/day. Permits county and court to adjust rates.	Entitles pro tempore reporters to traveling expenses when called from other counties.	NP
70059.8	Solano	Superior court	Court reporter	Sets forth duties and requires reporters to devote full time to court duties when court is open for judicial business.	Requires court and county to jointly establish five-step plan for reporter salaries. Entitles reporters to transcription fees in § 69941 et seq.	Entitles reporters to same benefits as county employees.	Permits judges to appoint as many pro tempore reporters as business of court requires.
70059.9	San Luis Obispo	Superior court	Court reporter	Requires reporters to assist court when not engaged in other duties required by law.	Entitles regular reporters to monthly salary recommended by court and approved by county. Provides for advancements to be determined by court. Sets per diem for pro tempore reporters at \$76 and permits adjustment.	Entitles pro tempore reporters to traveling expenses when called from other counties. Entitles official reporters to same benefits as provided to county employees.	NP
70063	Mendocino	Superior court	Court reporter	Reporting proceedings before court and grand jury and assisting judge.	Requires salary to be recommended by court and approved by county. Provides for step advancement. Sets pro tempore reporter compensation in relation to first step in salary range.	Entitles full-time reporters to same benefits as county employees.	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70064	Mono	Superior court	Court reporter	Refers to taking notes in criminal cases.	Provides for annual salary set by county for taking notes in criminal cases, and other fees as elsewhere provided by law.	NP	NP
70101	Alameda	Superior courts	Court reporter	NP	NP	NP	Permits each judge to appoint a reporter if majority of judges concur in an order that appointments may be made pursuant to this article (art. 12, §§ 70100-70104).
70110	Tulare	Superior court	Court reporter	Requires regular reporters to report every civil proceeding and perform duties as elsewhere provided by law.	NP	NP	Permits each judge to appoint a regular reporter and pro tempore reporters as necessary.
70111	Tulare	Superior court	Court reporter	NP	Sets salary with reference to county salary schedule. Sets per diem at \$115/day. Permits county to set higher rates. Entitles reporter to transcription fees in § 69950.	Requires county to provide supplies.	NP
70112-70113	Tulare	Superior court	Court reporter	NP	NP	Entitles reporters to same benefits as county employees. Provides for participation in county group insurance, deferred compensation, and retirement plans.	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70125	Humboldt	Superior court	Court reporter	NP	NP	NP	Permits majority of judges to appoint as many regular reporters as necessary, up to number of judgeships on court.
70126	Humboldt	Superior court	Court reporter	NP	NP	NP	Permits judge to appoint a pro tempore reporter when official reporter is unavailable.
70127	Humboldt	Superior court	Court reporter	NP	Sets annual salary at \$20,983.92/year; requires annual adjustments by county. Entitles pro tempore reporters to amounts in article 9 (§ 69941 et seq.).	Permits county to provide by ordinance that court reporters are entitled to same benefits as employees in county classifications serving in the superior court.	NP
70128	Humboldt	Superior court	Court reporter	NP	Entitles reporters to certain fees in article 9 (§ 69941 et seq.).	NP	NP
70130	Marin ³²	Superior court.	Court reporter	NP	Entitles full-time reporters to salary recommended by court and approved by county. Provides for step advancement. Sets compensation for pro tempore reporters in relation to third step in salary range.	Entitles full-time reporters to same benefits as county employees.	NP
70130.5	Marin	Superior court	Court reporter	NP	Entitles reporters to transcription fees unless waived.		

³² Statutes refers to county with population 205,000–225,000 (1970 census).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70132	Marin	Superior court	Court reporter	NP	NP	Entitles official reporters to membership in any retirement system maintained by county that includes court attachés.	NP
70132.5	Marin	Superior court	Court reporter	Requires official reporters to assist judges when not engaged in other duties required by law.	NP	NP	Provides that each official reporter shall be selected by the judge of the department in which he or she serves.
70133	Marin	Superior court	Court reporter	NP	NP	Exempts reporters from any law disqualifying employees because of age.	NP
70134	Marin	Superior court	Court reporter	NP	NP	Prohibits official reporters from using county equipment, premises, or hours except for county purposes.	NP
70136	Santa Cruz	Superior court	Court reporter	NP	Establishes step rate for full-time reporters. Sets compensation for pro tempore reporters at \$65/day. Permits county to increase rates.	Entitles full-time reporters to same benefits as county employees.	NP
70137	Santa Cruz	Superior court	Court reporter	NP	Provides for payment of transcription fees to reporters.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70138	Santa Cruz	Superior court	Court reporter	Requires official reporter to perform duties required by law and to assist judges when not performing such duties.	NP	NP	Provides that each official reporter shall be selected by the judge of the department in which he or she serves. Permits PJ to make temporary assignment to another court or department.
70141(a)	San Francisco ³³	Superior court	Court commissioner	NP	NP	NP	Permits court to appoint up to 10.
70141.1	El Dorado	Superior court	Court commissioner	As prescribed in CCP § 259. Court may require duties of probate commissioner appointed under § 69897, any other duties authorized by law for commissioner, duties of juvenile court referee appointed under W&I § 247.	Equivalent to 70–91% of superior court judge’s salary. Level set by court, adjusted by court and county.	PERS membership, other benefits as for unrepresented management employee classifications in the county. Actual traveling expenses pursuant to § 70148.	Court may appoint one (or more, up to one FTE), subject to availability of funding.
70141.10	Marin	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties in CCP § 259a, and duties of probate commissioner appointed under § 69897.	Shall receive salary as recommended by court and approved by board of supervisors.	NP	Court may assign retired commissioners to superior or municipal court when needed if county appropriates necessary funds.
70141.11	Contra Costa	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties of probate commissioner appointed under § 69897.	Shall receive salary recommended by court and approved by board of supervisors.	Necessary, reasonable, and actual expenses in connection with official duties.	NP

³³ The statute refers to “any city and county.”

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70141.11	Contra Costa	Superior court	Referee appointed pursuant to W&I § 247	Court may require, in addition to duties in CCP § 259, duties of probate commissioner appointed under § 69897.	NP	NP	NP
70141.12	Stanislaus	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties of probate commissioner appointed under § 69897 and of juvenile court referee appointed under W&I § 247.	Set at 75% salary of superior court judge.	Vacation, sick leave, and fringe benefits identical to those for county management employees.	Court may appoint 2 to replace 2 existing referees appointed under W&I § 247.
70141.13	Santa Cruz	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties of juvenile court referee appointed under W&I § 247, and other duties as specified by court.	NP	NP	Shall hold office at pleasure of the court.
70141.4	San Mateo	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties in CCP § 259a, and duties of probate commissioner appointed under § 69897.	70%, 75%, or 80% of superior court judge's salary. Court shall determine level and make adjustments.	NP	NP
70141.5	Alameda, Contra Costa, San Diego, San Francisco	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties in CCP § 259a, and duties of probate commissioner appointed under § 69897.	Sets annual salary at \$8,400.	Actual traveling expenses pursuant to § 70148.	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70141.6	Kern	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties in CCP § 259a, and duties of probate commissioner appointed under § 69897.	70-85% of superior court judge's salary. Court shall recommend level and board shall determine level within the range. Adjustments as set forth in § 68203.	Actual traveling expenses pursuant to § 70148. Same benefits as other county employees; same holidays as other court employees.	NP
70141.7	San Bernardino	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties in CCP § 259a, duties of probate commissioner appointed under § 69897, and duties of juvenile court referee appointed under W&I § 553.	80% of superior court judge's salary; 85% upon resolution of board of supervisors. Shall be increased automatically as set forth in § 68203.	Actual traveling expenses pursuant to § 70148.	Court may appoint four, and may appoint a 5th if court eliminates an occupied juvenile court referee position.
70141.8	Santa Clara	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties in CCP § 259a, and duties of probate commissioner appointed under § 69897.	Sets annual salary at \$12,000.	NP	NP
70141.9	Riverside ³⁴	Superior courts	Court commissioner	In addition to duties in CCP § 259, court may require duties of probate commissioner appointed under § 69897 and of juvenile court referee appointed under W&I § 247.	75%, 80%, or 85% of superior court judge's salary. Court shall determine level and make adjustments as specified in § 68203.	Actual traveling expenses pursuant to § 70148.	Court may appoint up to 4 with county approval. Court shall appoint 7 if county finds there are sufficient funds.

³⁴ Statute refers to "counties of the 11th class."

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70142	Los Angeles ³⁵	Superior court	Court commissioner	NP	While serving, shall continue to receive retirement, plus amount from county to equal full compensation.	NP	PJ may assign retired commissioner as needed.
70142.11	Solano	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties of probate commissioner appointed under § 69897 and of juvenile court referee appointed under W&I § 247.	Shall be set by board of supervisors, not to exceed superior court judge's salary.	Members of county retirement system; vacation, sick leave, and fringe benefits as for county administrative management employees.	Majority of judges may appoint 2 in lieu of commissioner authorized under § 70141.
70142.12	Sonoma	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties of probate commissioner appointed under § 69897 and of juvenile court referee appointed under W&I § 247.	78% of superior court judge's salary.	Member of county retirement system; vacation, sick leave, and fringe benefits as for county administrative management employees.	Majority of judges may appoint one.
70142.13	Tulare	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties of probate commissioner appointed under § 69897 and of juvenile court referee appointed under W&I § 247.	Up to 85% of superior court judge's salary.	Member of county retirement system; vacation, sick leave, and fringe benefits as determined by board of supervisors.	Majority of judges may appoint one in lieu of juvenile court referee under W&I § 247.

³⁵ Statute refers to county with population 3,000,000 or more.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70142.16	Placer	Superior court	Court commissioner	In addition to duties in CCP § 259, court may require duties of probate commissioner appointed under § 69897 and of juvenile court referee appointed under W&I § 247.	Salary as recommended by court and approved annually by board of supervisors.	NP	Court shall appoint commissioner under § 70141 only upon finding by county that there are sufficient funds.
70214.5	Contra Costa	Superior court	Referee, court commissioner	NP	NP	NP	Permits court to convert 4 existing referee positions to court commissioner positions, subject to court's certification to AOC that court can absorb additional cost.
70214.6	Santa Barbara	Superior court	Traffic referee, court commissioner	NP	NP	NP	Permits court to convert one existing traffic referee position to court commissioner position, subject to court's certification to AOC that court can absorb additional cost.
71221	San Francisco	Municipal court	Clerk, other officers and attachés except marshals	Requires clerk to certify to county auditor a list showing compensation of court officers and attachés.	Authorizes auditor to pay compensation in same manner and for same period as for employees of city and county.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
71260	Los Angeles	Municipal court	Clerk, deputies, attachés	NP	NP	NP	Appointment and removal shall be made by majority of judges, with certain conditions.
72400	San Diego ³⁶	Municipal court	Traffic referee	Requires full-time service.	NP	NP	Permits court to appoint two.
72407	Los Angeles	Municipal court	Traffic referee (retired)	Duties of traffic referee.	Requires county to pay difference between retirement allowance and full compensation as traffic referee.	No changes as a result of assignment.	Permits PJ to assign retired traffic referee.
72408	Santa Barbara	Municipal court	Traffic referee, hearing officer	Duties of traffic referee.	Requires county to provide funding.	Requires county to provide funding.	Permits judges to appoint a traffic referee or hearing officer upon adoption of resolution by county, with certain conditions.
72600	Los Angeles	Municipal court	Various	NP	Provides that an annual salary prescribed in this chapter (§§ 72600-72784) is payable in equal monthly installments.	NP	NP
72602.9	Los Angeles	Citrus Municipal Court	Court commissioner	NP	NP	NP	Permits appointment of one, and requires two if county finds there are sufficient funds.
72602.12	Los Angeles	East Los Angeles Municipal Court	Special assistant	NP	Same as clerk-administrative officer.	Same as clerk-administrative officer.	Permits court to appoint one.

³⁶ Statute refers to municipal court with more than 20 judges in county with population 1,300,000-1,400,000 (1970 census).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72602.20	Los Angeles	Compton Municipal Court	Court commissioner	NP	NP	NP	Limits the number of commissioners, depending on number of judges and county funding.
72604	Los Angeles ³⁷	Municipal courts	Court reporters	NP	Prescribes fees.	NP	NP
72604.1	Los Angeles	Antelope Municipal Court	Court reporters	NP	Prescribes salary equal to that of reporter in LA Municipal Court District.	NP	Requires one official reporter.
72606-72606.2	Los Angeles	Municipal courts	Positions in §§ 72640-72784	NP	NP	Provide various benefits.	NP
72607	Los Angeles	Municipal courts	Commissioners, officers, and attachés	NP	As provided for that position, or as set by judges with county approval. Permits judges, with county approval, to authorize clerk to adjust rates of compensation. Requires ratification by Legislature.	Permits judges, with county approval, to authorize clerk to adjust rates of compensation.	Permits judges, with county approval, to appoint more than the number authorized in articles 1.6-4 and to authorize clerk to appoint additional deputies. Requires ratification by Legislature.
72608	Los Angeles	Municipal courts	Officers and attachés	Relates positions listed in statute to classifications in county code.	Links salary adjustments to adjustments county employee and superior court employee salaries; additional provisions.	Entitles employees to same benefits as related county and superior court employee classifications; additional provisions.	NP
72609	Los Angeles	Municipal courts	Listed in statute	NP	Specified according to county code.	As specified in relation to county code.	NP
72622	Los Angeles	Municipal courts	Court attaché	Secretary and executive assistant to aggregate official body of municipal court judges.	Increased 10% while assigned to these duties.	NP	Permits judges to assign one attaché to serve as secretary to municipal court judges organization.

³⁷ Statute refers to a county with more than 2,000,000 inhabitants.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72627	Los Angeles	Municipal courts	Chief staff attorney, planning and research	NP	NP	NP	Permits judges to appoint one.
72627.5	Los Angeles	Municipal courts	Listed in statute	NP	Senior secretary III shall receive salary at rate specified for senior judicial secretary.	Not civil service.	Permits chief staff attorney to appoint positions listed.
72628	Los Angeles	Municipal courts	Senior judicial secretary	NP	NP	NP	Permits judges to appoint one.
72630-72631	Los Angeles	Municipal courts	Court coordinator	Make recommendations concerning transfer of cases among districts and work with JC concerning cross-assignments.	Established by county, not more than judge's salary.	NP	Requires PJs to appoint one.
72635	Los Angeles	Municipal courts	Senior planning analysts	NP	NP	NP	Permits executive committee of PJs association to appoint two.
72701	Los Angeles	Los Angeles Municipal Court	Court commissioner	As authorized by law.	Same as superior court commissioners, with conditions.	Provides membership in an retirement system that includes attachés of the court.	Permits court to appoint up to 22.
72702	Los Angeles	Los Angeles Municipal Court	Court administrator (clerk of the court)	As provided by law and delegated by judges.	County (rate in § 72609, linked to LA County Code).	NP (unless provided in county code).	Requires court to appoint one.
72702.5	Los Angeles	Los Angeles Municipal Court	Deputy clerks, law clerks	NP	NP	No civil service.	Permits clerk to appoint 6 deputy clerks and a number of law clerks approved by county.
72703-72704.5	Los Angeles	Los Angeles Municipal Court	Clerk's administrative personnel (listed)	NP	NP	NP	Permits clerk to appoint numbers specified.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72705	Los Angeles	Los Angeles Municipal Court	Various	NP	Set in relation to county code.	Same as allowed to county employees.	NP
72706	Los Angeles	Los Angeles Municipal Court	Deputy clerks	NP	NP	NP	Permits court administrator to appoint in lieu of another position under certain conditions.
72708	Los Angeles	Los Angeles Municipal Court	Traffic referee	As specified in § 72400 et seq.	65% of judge's salary.	Provides membership in any retirement system that includes attachés of the court.	Permits judges to appoint up to 5.
72708.5	Los Angeles	Los Angeles Municipal Court	Interpreter, law clerk	NP	As provided in § 72609.	Provides membership in any retirement system that includes attachés of the court.	Permits court to appoint up to two interpreters and up to 14 law clerks.
72709	Los Angeles	Los Angeles Municipal Court	Court reporters	NP	Same as superior court reporters, with conditions.	Permits court to provide benefits comparable to those provided superior court reporters.	Refers to appointment pursuant to § 72194.
72710	Los Angeles	Los Angeles Municipal Court	Court reporters pro tempore	NP	Provides for fees.	Permits judges to provide benefits comparable to those of county employees employed on daily basis.	Judges may appoint as many as business of court requires.
72714	Los Angeles	Los Angeles Municipal Court	Court reporters	NP	NP	Provides for membership in any retirement system that includes attachés of the court.	NP
72750.4-72754	Los Angeles	Municipal courts with number of judges specified	Clerk, deputy clerks, judicial secretary	NP	Specifies salary of assistant court administrator in relation to that of court administrator.	NP	Requires judges to appoint one court administrator; permits clerk to appoint positions listed.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72755-72756	Los Angeles	Municipal courts, except Los Angeles District	Various	NP	Provides for advancements and demotions; salary schedule refers to county salary ordinance.	NP	NP
72757-72759	Los Angeles	Municipal courts with not more than 10 judicial positions.	Jury commissioner	Same as superior court jury commissioner and as provided by law. May serve as general commissioner if so appointed. (§ 72758).	§ 72759 sets salary to be equal to that provided by law for LA Judicial District Court commissioners.	§ 72759 provides for membership in any retirement system that includes clerks and deputy clerks.	§ 72757 permits court to appoint one.
72760	Los Angeles	Municipal courts, except Los Angeles District	Deputy clerk	Duties of court clerk as directed by judge(s).	NP	NP	Permits judges to select deputy clerk to act as court clerk.
72761	Los Angeles	Beverly Hills Municipal Court	Clerk-administrative officer	Duties of traffic referee.	No additional compensation.	NP	Permits PJ to appoint clerk to serve as traffic referee if clerk is member of State Bar.
72762-72767, 72768-72771, 72772-72778, 72779-72784	Los Angeles	Municipal courts ³⁸	Court administrator, other personnel (listed)	NP	Specifies salary of assistant court administrator in relation to that of court administrator.	No civil service status for assistant court administrator in Beverly Hills District (§ 72764).	Requires judges to appoint one court administrator; permits clerk to appoint positions listed.

³⁸ Alhambra District (§ 72762), Antelope District (§ 72763), Beverly Hills District (§ 72764), Burbank District (§ 72765), Citrus District (§ 72766), Compton District (§ 72767), Culver District (§ 72768), Downey District (§ 72769), East Los Angeles District (§ 72770), Glendale District (§ 72771), Inglewood District (§ 72772), Long Beach District (§ 72773), Los Cerritos District (§ 72774), Malibu District (§ 72775), Newhall District (§ 72776), Pasadena District (§ 72777), Pomona District (§ 72778), Rio Hondo District (§ 72779), Santa Anita District (§ 72780), Santa Monica District (§ 72781), South Bay District (§ 72782), Southeast District (§ 72783), and Whittier District (§ 72784).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72767.1	Los Angeles	Compton Municipal Court	Court reporter	NP	Provides for same salary as LA Municipal Court District reporters and fees for transcription.	Same medical benefits as LA Municipal Court District reporters pursuant to § 72709.	Permits court to appoint up to 12.
72771.1	Los Angeles	Glendale Municipal Court	Court reporter	NP	Provides for same salary as LA Municipal Court District reporters and fees for transcription.	Same benefits as LA Municipal Court District reporters pursuant to § 72709.	Permits court to appoint up to 4.
72778.1	Los Angeles	Pomona Municipal Court	Court reporter	NP	Provides for same salary as LA Municipal Court District reporters and fees for transcription.	Same benefits as LA Municipal Court District reporters pursuant to § 72709.	Permits court to appoint up to 5.
73076	Alameda	Municipal courts	Clerks, deputy clerks, attachés	NP	§§ 73076–73080 provide for salaries and advancements.	§ 73080 provides for credit for prior continuous service.	NP
73084	Alameda	Municipal courts	Clerk, administrative officer	NP	Sets salary in relation to ordinance.	NP	Requires each court to appoint one.
73084.1–73084.6	Alameda	Municipal courts	Deputy clerks	NP	Provides for additional percentage for court interpreter.	NP	Administrative officer in each district may appoint personnel as listed in sections.
73085–73088	Alameda	Municipal courts	Various	NP	Sets salaries in relation to ordinance. Provides extra compensation for night shifts.	NP	NP
73089	Alameda	Municipal courts	Officers and employees	NP	Permits each court to establish and adjust rates with county approval, effective until 1/1/2000.	NP	Permits each court to appoint additional positions with county approval, effective until 1/1/2000.
73089.1	Alameda	Municipal courts	Traffic trial commissioner	NP	Sets salary at 80% of that of superior judge.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73091	Alameda	Municipal courts		Various.	Various.	§§ 73092-73094 provide various benefits.	§ 73091 permits the court to appoint to certain additional positions if higher positions remain unfilled.
73095	Alameda	Oakland-Piedmont-Emeryville Municipal Court	Court interpreter	NP	Same as for clerk.	Same as for clerk.	Permits court to appoint one.
73096-73096.1	Alameda	Municipal courts	Court reporter	NP	§ 73096 sets salary and permits adjustment by court and county, effective until 1/1/2000.	Same as for superior court reporters.	§ 73096.1 permits each court to permit up to the number specified.
73107-73109	San Bernardino	Municipal court	Court administrator	As prescribed by judges, including those listed in § 73109.	§ 73107 sets salary.	NP	§ 73107 requires court to appoint one from applicants certified by county.
73113-73114	San Bernardino	Municipal court	Various	NP	Sets range in relation to county salary ordinance. § 73113.5 provides for increases and decreases.	NP	§ 73113.5 permits court administrator to appoint up to numbers listed. § 73114 permits judges to appoint up to two secretaries.
73117-73120	San Bernardino	Municipal court	Court reporter	NP	§ 73117 provides for same salary as superior court reporters; §§ 73118 & 73119 provide for fees.	§ 73117 provides various benefits. § 73120 provides for membership in county retirement system.	NP
73121	San Bernardino	Municipal court	Court commissioner	Cites statutory provisions.	85% of municipal court judge's salary.	Same as for superior court commissioner.	Permits court to appoint one.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73122	San Bernardino	Municipal court	Traffic trial commissioner	NP	NP	Same benefits as commissioner appointed under § 73121.	Appointed pursuant to § 72450.
73300	Various ³⁹	Municipal court	Various	NP	An annual salary prescribed in this chapter (ch. 10) is payable in equal monthly installments.	NP	NP
73300	San Francisco	Municipal court	Clerks and other officers and attachés	NP	An annual salary prescribed in chapter 10 (§§ 73300–74997) is payable either in equal monthly installments or semimonthly installments.	NP	NP
73301	Various ⁴⁰	Municipal court	All	NP	Entitles persons who succeeded to positions in municipal court to credit and increments for prior service in superseded court.	Entitles persons who succeeded to positions in municipal court to credit for prior service in superseded court.	NP
73330	Calaveras	Coordinated superior and municipal courts	Court executive officer	As provided by statute, county resolution or personnel ordinance, and MOU.	Provides for annual salary set by the court as provided for in § 69898.	As provided by statute, county resolution or personnel ordinance, and MOU.	Requires court to appoint one.
73330	Calaveras	Coordinated superior and municipal courts	Listed in statute	As provided by statute, county resolution or personnel ordinance, and MOU.	Provides salary range.	As provided by statute, county resolution or personnel ordinance, and MOU.	Permits court executive officer to appoint number listed, with approval of judges.

³⁹ Chapter 10 has provisions for Butte, Calaveras, Contra Costa, El Dorado, Fresno, Glenn, Humboldt, Imperial, Kern, Kings, Lake, Madera, Marin, Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Orange, Placer, Riverside, Sacramento, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Ventura, Yolo, and Yuba counties.

⁴⁰ Kings, Monterey, Marin, Placer, Santa Cruz, Stanislaus, and San Joaquin (Stockton Municipal Court).

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73330	Calaveras	Coordinated superior and municipal courts	Employees in addition to those listed.	As provided by statute, county resolution or personnel ordinance, and MOU.	As recommended by courts and approved by county.	As provided by statute, county resolution or personnel ordinance, and MOU.	Permits court executive officer to appoint additional employees, with county approval and upon recommendation by courts.
73343–73348	Contra Costa	Municipal courts	Court reporters	§ 73348(b) references duties.	§ 73344 provides fee for reporters pro tempore. § 73348 provides for salary.	§ 73347 provides for membership in county retirement system.	§ 73343 provides for appointment of regular official reporters by judges. § 73344 provides for appointment of reporters pro tempore.
73349–73353, 73354–73356, 73358, 73365–73366	Contra Costa	Municipal courts	Various	§ 73351 lists positions and duties. § 73354 lists county equivalents.	§§ 73350, 73352, 73353, 73354, and 73365 provide for salary in accordance with county salary ordinance.	§ 73349 references county merit system. §§ 73350 and 73354 provide for benefits in accordance with county salary ordinance.	§ 73349 references county merit system. § 73355 provides for appointments by court executive officer. § 73358 lists numbers of authorized positions. § 73365 permits appointment of additional deputies.
73353.2	Contra Costa	Coordinated superior and municipal courts	Various	NP	Permits county to adopt county-funded bonus program.	Permits county to adopt county-funded bonus program.	NP
73355, 73356	Contra Costa	Coordinated superior and municipal courts	Executive officer	Clerk of the court for each judicial district.	NP	Exempt from merit system.	Requires judges to appoint one.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73356, 73362-73363	Contra Costa	Coordinated superior and municipal courts	Court commissioner	Powers and duties of superior court commissioners and as provided by law. May hear small claims cases.	§ 73363 provides hourly fee for temporary commissioners.	NP	§ 73362 permits judges to appoint no more than 4 for all districts. § 73363 permits appointment of temporary commissioner if county finds sufficient funds.
73357	Contra Costa	Municipal courts	Probation officers	Powers and duties of deputy probation officer.	NP	NP	Requires appointment of no more than four by majority of judges.
73398	Kings	Superior and municipal courts	Court executive officer/clerk of the court	NP	Salary shall be as provided by law.	NP	Requires judges to appoint one.
73399.4	Kings	Municipal court	Officers and employees	NP	NP	Entitles court officers and employees to same benefits allowed to county employees.	NP
73399.5-73399.6	Kings	Municipal court	Court reporters	Reporting testimony and proceedings, transcription.	§ 73399.5 provides for same compensation as pro tempore reporters of superior court. § 73399.6 provides for fees.	NP	§ 73399.5 permits PJ to appoint as many pro tempore reporters as required.
73432.1	Kern	Bakersfield Municipal Court	Court commissioner	Same as superior court commissioners and as provided by law.	70-85% of municipal court judge's salary.	Same retirement, group insurance, sick leave, and vacation as county employees.	Permits court to appoint two.
73433	Kern	Municipal courts	Clerk-administrator	NP	Specified in relation to county salary schedule.	NP	Requires majority of judges in each court to appoint one.
73433.1	Kern	Bakersfield Municipal Court	Assistant clerk-administrator	NP	Specified in relation to county salary schedule.	NP	Requires judges to appoint one.
73434	Kern	Bakersfield Municipal Court	Judicial secretaries	NP	Specified in relation to county salary schedule.	NP	Requires judges to appoint two.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73435	Kern	Bakersfield Municipal Court	Various	NP	Specified in relation to county salary schedule and permitting various advancements.	NP	Permits clerk to appoint up to number listed.
73435.1	Kern	East Kern Municipal Court	Court commissioner	Same as superior court commissioners and as provided by law.	70-85% of municipal court judge's salary.	Same retirement, group insurance, sick leave, and vacation as county employees.	Permits judges to appoint one.
73436	Kern	East Kern Municipal Court	Various	NP	Specified in relation to county salary schedule and permitting various advancements.	NP	Permits clerk-administrator to appoint up to numbers listed.
73436.05	Kern	North Kern Municipal Court	Court commissioner	Same as superior court commissioners and as provided by law.	70-85% of municipal court judge's salary.	Same retirement, group insurance, sick leave, and vacation as county employees.	Permits judges to appoint one.
73436.1	Kern	North Kern Municipal Court	Various	NP	Specified in relation to county salary schedule and permitting various advancements.	NP	Permits clerk-administrator to appoint up to numbers listed.
73436.2	Kern	South Kern Municipal Court	Various	NP	Specified in relation to county salary schedule and permitting various advancements.	NP	Permits clerk-administrator to appoint up to numbers listed.
73437-73438	Kern	Municipal courts	Various	NP	§ 73437 provides for salaries according to county salary ordinance. § 73437.5 permits adjustment by county.	§ 73437 provides for same benefits as county employees.	§ 73437.5 permits majority of judges to establish additional positions with county approval.
73440-73443	Kern	Municipal courts	Court reporters	Reporting testimony and proceedings, transcription.	§ 73440 provides for salary. §§ 73441 and 73442 provide for fees.	§ 73440 entitles official reporters to same retirement, group insurance, sick leave, and vacation as county employees.	§ 73440 provides for appointment pursuant to § 72194.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73482	San Joaquin	Lodi Municipal Court	Clerk	Administrative officer and secretary to judge.	Provides for salary in accordance with § 73487.	NP	Requires one clerk.
73483–73490	San Joaquin	Lodi Municipal Court	Various	NP	§§ 73486–73489 provide for salaries in accordance with county salary resolution.	§ 73490 provides for benefits and application of civil service provisions.	§ 73483 permits clerk to appoint positions and numbers listed.
73522	San Mateo	Municipal court	Court commissioners	Powers and duties of superior court commissioners, as directed by judges.	80% of superior court judge's salary.	Same county benefits as other court employees.	Requires judges to appoint 3.
73523	San Mateo	Consolidated superior and municipal courts	Court executive officer	As prescribed by judges, including those listed.	Provides for salary according to county salary schedule.	NP	Permits judges to appoint one.
73524–73526	San Mateo	Municipal court	Various	NP	§ 73524 sets salary range for each position; § 73525 provides biweekly salary schedule.	NP	§ 73524 permits court administrator to appoint positions and numbers listed.
73528	San Mateo	Consolidated superior and municipal courts	Officers and attachés	NP	Permits adjustment of salaries upon recommendation of clerk with approval of judges and county.	NP	NP
73529	San Mateo	Consolidated superior and municipal courts	Court reporters	As required by law and directed by judges.	Sets salary in relation to county salary schedule; provides for advancements and per diem.	Provides for same vacation and sick leave allowances as county employees.	Provides for appointment pursuant to § 70043 or § 72194.
73564	Monterey	Municipal court	Court commissioner	As authorized by law at direction of judges.	70-80% of salary of municipal court judge.	Same county benefits as other employees of the court.	Permits court to appoint one.
73565	Monterey	Municipal court	Court administrator	As prescribed by judges, including those listed.	Sets salary and provides for adjustments.		Permits majority of judges to appoint one.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73566–73569	Monterey	Municipal court	Various (listed in § 73566)	§ 73569 permits court to adjust classification of positions with county approval.	§ 73566 sets salary. § 73568 provides for adjustments by county.	§ 73568 entitles court attachés to same benefits as county employees.	§ 73566 permits court administrator to appoint positions and numbers listed. § 73569 permits adjustments.
73572	Monterey	Municipal court	Court reporters	NP	Requires county to fix compensation of reporters pro tempore at \$75/day; permits county to adjust.	NP	NP
73582	Lake	Municipal court	Executive officer	NP	Sets salary range.	NP	Requires majority of judges to appoint one.
73583	Lake	Municipal court	Court clerks as listed	NP	Sets salary ranges.	NP	Permits court executive officer to fill positions listed, with budgetary approval by county.
73584–73586.1	Lake	Municipal court	Employees (listed in § 73586.1)	NP	§ 73586.1 sets forth salary ranges. § 73586 permits county to adjust salaries.	§ 73584–73586 make court employees subject to same benefits, privileges, and regulations as other county employees.	§ 73586.1 authorizes positions and numbers listed.
73601	El Dorado	Municipal court	Court administrator	NP	Sets salary range of court administrator.	NP	Provides for appointment of court administrator.
73602–73603, 73607–73608	El Dorado	Municipal court	Various (listed in § 73602)	NP	§ 73602 sets salary ranges of other employees. Under § 73603, compensation is governed by MOU and county personnel rules.	NP	§ 73602 permits court administrator to appoint positions and numbers listed. § 73608 permits adjustments.
73643	San Diego	El Cajon Municipal Court	Court administrator	Clerk of the court.	Sets salary according to county salary ordinance.	NP	Requires majority of judges to appoint one.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73644, 73645- 73647, 73649	San Diego	El Cajon Municipal Court	Various	Various.	§ 73644 and 73646 set salary ranges according to county salary ordinance.	§§ 73646 and 73649 provide for various benefits.	§§ 73644, 73645, and 73646 permit various appointments by court administrator.
73649.1	San Diego	El Cajon Municipal Court	Court commissioner	NP	Sets salary at 80% of municipal court judge's salary.	Provides various benefits.	Permits court to appoint two, plus one additional if county finds sufficient funds.
73650	San Diego	El Cajon Municipal Court	Court reporters	Reporting testimony and proceedings, transcription.	Provides for salary and fees.	Provides for membership in county retirement system and same benefits as superior court reporters.	References appointment pursuant to § 72194.
73650	San Diego	El Cajon Municipal Court	Chief court reporter	NP	Sets salary 15% higher than that of official reporters.	Provides same benefits as for chief reporter of superior court.	Permits court and county to establish this position.
73664- 73664.5, 73667- 73668	Humboldt	Municipal court	Various	§ 73664.5 sets forth duties of administrative officers.	§ 73667 provides for court reporter salaries and fees; references § 70127. § 73668 makes county salary ordinance applicable to court officers and attachés.	§ 73668 makes civil service rules applicable to court officers and attachés.	§ 73664 authorizes court appointment of clerk in each division with concurrence of county. § 73667 authorizes appointment of court reporters.
73672.6	Solano	Northern Solano Municipal Court	Court commissioner	NP	Provides for salary 60-80% of superior court judge's salary.	NP	Requires appointment of two.
73673	Solano	Northern Solano Municipal Court	Executive officer	Nonjudicial activities, jury commissioner.	Set in reference to salary grade range in MOU.	NP	Requires appointment of one.
73674, 73674.5	Solano	Northern Solano Municipal Court	Officers and employees	NP	Sets salaries in reference to salary grade ranges in MOU.	NP	Permits court executive officer to appoint positions and numbers listed.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73674.1	Solano	Northern Solano Municipal Court	Court reporters	Reporting court proceedings and other duties as assigned.	Sets salary in reference to salary grade range in MOU; provides for fees.	Provides for same benefits as for county employees.	NP
73676–73679.5	Solano	Northern Solano Municipal Court	Various	NP	§§ 73676–73679 provide for salary amounts and increases, equalization with salaries of county employees.	§ 73679.5 provides for same benefits as county employees and civil service membership.	NP
73681.1	Fresno	Superior and municipal courts	Court commissioners	NP	Provides for salary of 85% of a superior court judge's salary.	NP	Permits court to appoint eight.
73682	Fresno	Superior and municipal courts	Court executive officer	NP	Requires salary to be fixed by judges.	NP	Requires judges to appoint one.
73683	Fresno	Superior and municipal courts	Various (listed in statute)	NP	Sets salaries according to ranges in Fresno County Salary Resolution.	NP	Authorizes executive officer to appoint positions and numbers listed.
73684, 73686–73690, 73694, 73697	Fresno	Municipal court	Officers and attachés	NP	§§ 73686–73687 provide for salary rates and ranges. § 73694 provides for equalization with county employee salaries.	§ 73684 provides same benefits as for county employees except as otherwise provided in this article.	§ 73697 permits clerk to establish new positions or reclassify positions with county approval.
73691–73693, 73696	Fresno	Superior and municipal courts	Court reporters	§ 73693 requires reporters to report to court when ordered by a judge.	§ 73691 sets forth an annual salary schedule. § 73692 provides for fees. § 73696 permits equalization with county employee salaries.	§ 73691 provides for sick leave and vacation benefits.	§ 73691 permits court to appoint 33 full-time reporters.
73695	Fresno	Superior and municipal courts	Interpreters	NP	Provides for fees for interpreters.	NP	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73699	Fresno	Central Valley Municipal Court	Associate court executive officer	NP	Sets salary according to county salary resolution.	Civil service does not apply.	Authorizes court executive officer to appoint one.
73699.1	Fresno	Superior and municipal courts	Various	NP	Cross-references §§ 73683, 73684, 73685, 73686, and 73687.	NP	Permits court executive officer to appoint listed personnel in consultation with judges.
73699.4	Fresno	Central Valley Municipal Court	Officers and attachés	NP	County personnel regulations, MOU, etc. apply.	Same benefits as county employees except as specifically provided in this article to the contrary.	NP
73699.5	Fresno	Central Valley Municipal Court	Court reporters	NP	Provides for compensation pursuant to §§ 73691 and 73692.	NP	Permits court to appoint two full-time reporters, and additional pro tempore reporters as required.
73699.6	Fresno	Central Valley Municipal Court	Interpreters	NP	Provides for fees in accordance with § 73695, unless otherwise required.	NP	Refers to appointment pursuant to § 68092.
73704-73714	San Joaquin	Manteca-Ripon-Escalon-Tracy Municipal Court	Various	NP	§§ 73709 and 73710 set salary ranges according to county salary resolution. § 73713 permits adjustments.	§ 73714 provides for same benefits as county employees.	§ 73704 requires appointment of one clerk (administrative officer). § 73705 permits clerk to appoint positions listed.
73733	Imperial	Municipal court	Clerk-administrator	NP	Specifies salary referencing county salary resolution.	NP	Requires judges to appoint one clerk-administrator.
73734	Imperial	Municipal court	Traffic referee	As set forth in § 72404 (prorated).	Provides for salary as set forth in § 72404, prorated.	Provides for membership in county retirement system.	Permits judges to appoint one part-time traffic referee.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73736	Imperial	Municipal court	Various		Specifies ranges in reference to county salary resolution.		Permits clerk-administrator to appoint positions and numbers listed.
73737	Imperial	Municipal court	Jury commissioner, assistants	Refers to jury commissioner duties in § 72191.	Specifies salaries in reference to county salary resolution.	NP	Requires judges to appoint one jury commissioner; permits jury commissioner to appoint two assistants. Permits county to assign superior court jury commissioner.
73738–73741	Imperial	Municipal court	Various	NP	§ 73738 provides that references to salary ranges refer to schedule in county salary resolution. §§ 73740 and 73741 provide for adjustments.	§ 73739 provides for same benefits as allowed to county employees.	NP
73742–73743	Imperial	Municipal court	Court reporters	Reporting and transcription.	§ 73743 provides for salaries, per diem, and fees.	§ 73743 provides for expenses.	§ 73742 permits presiding judge to appoint as many as business of court requires.
73759–73761	Madera	Municipal court	Various	NP	§§ 73759 and 73760 provide salary ranges in accordance with county salary resolution.	§§ 73760 and 73761 provide for same benefits as for equivalent county classifications.	§ 73758 permits appointment of positions and numbers listed, and of additional positions with county approval.
73762	Madera	Municipal court	Court reporters	NP	Provides for salary at rates provided by § 70045.12.	NP	Provides for appointment pursuant to § 72194.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73763–73765	Madera	Municipal court	Officers, employees, and attachés	§ 73764 requires full-time performance of duties.	§ 73765 permits equalization of compensation with county employees at court’s recommendation, with county approval.	§ 73763 provides that matters not determined by this article (§§ 73750-73767) are governed by county ordinance and civil service.	§ 73763 provides that matters not determined by this article (§§ 73750-73767) are governed by county ordinance and civil service.
73771.1	Marin	Municipal court	Commissioner	NP	NP	NP	Requires judges to appoint one pursuant to § 72190.
73772	Marin	Municipal court	Court executive officer	NP	Provides for salary as recommended by court and approved by county.	NP	Provides for one.
73773	Marin	Superior and municipal courts	Various (listed in statute)	NP	Provides salary ranges for positions listed. Provides for step advancements.	NP	Permits court executive officer to appoint positions and numbers listed with approval of judges. Permits additional appointments with county approval.
73777	Marin	Municipal court	Traffic referee	NP	NP	NP	Permits judges to appoint one part-time traffic referee.
73779, 73783	Marin	Municipal court	Officers and attachés	NP	§ 73779 permits adjustments to equalize with county employees.	§ 73783 provides for same benefits as for county employees.	NP
73781–73782	Marin	Municipal court	Court reporters	Transcription and reporting.	§ 73781 provides for salary with step increases. §§ 73781 and 73782 provide for fees.	§§ 73781 and 73781.5 provides for benefits.	§ 73781 refers to appointments pursuant to § 72194.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73783.4, 73783.6- 73783.9	Mariposa	Municipal court	Various	NP	§§ 73783.4 and 73783.6 reference county salary ranges.	§ 73783.7 entitles officers and attachés to same benefits as county employees.	§ 73783.4 requires appointment of one clerk and permits judge to appoint positions listed. § 73783.8 permits judge to appoint additional positions as needed with approval of PJ and county.
73785	Mendocino	Superior and municipal courts	Various	NP	Provides salary ranges.	NP	Authorizes appointment of positions and numbers listed.
73793	Merced	Municipal court	Clerk-administrator	NP	Sets salary according to county salary ranges.	NP	Requires judges to appoint one.
73794	Merced	Municipal court	Traffic trial commissioners	NP	NP	NP	Requires judges to appoint two.
73795.5	Merced	Municipal court	Court reporters	NP	Provides for salary.	Provides for mileage for assignments outside county seat.	Refers to appointment pursuant to § 72194.
73798- 73801	Merced	Municipal court	Various		§ 73798 provides salary ranges in reference to county schedule. § 73800 provides for adjustments.	§ 73800 entitles court employees to same benefits as county employees.	§ 73798 authorizes appointment of positions and numbers listed. § 73801 permits court to appoint additional employees with county approval.
73822	Nevada	Superior and municipal courts	Court executive officer	NP	Sets forth salary range.	NP	Requires appointment of one.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73823–73825, 73827–73828	Nevada	Municipal court	Various	NP	§ 73823 sets forth salary ranges. § 73824 provides that compensation is governed by county personnel rules, salary ordinance, and court employees MOU, subject to § 72001. § 73828 permits adjustments.	§ 73825 provides for same benefits as for county employees.	§ 73823 permits executive officer to appoint positions and numbers listed in accordance with county personnel rules.
73872	Sacramento	North Sacramento Municipal Court	Clerk	Secretary of the court.	Sets salary at rate specified in Schedule 28 of § 73876.	NP	Requires judges to appoint one.
73873	Sacramento	North Sacramento Municipal Court	Deputy clerks as listed	NP	Sets salaries at rates specified in schedules in § 73876.	NP	Permits clerk to appoint deputy clerks as listed.
73875–73877	Sacramento	North Sacramento Municipal Court	Various	NP	§ 73876 sets forth salary schedule. §§ 73875–73877 provide for adjustments.	NP	NP
73953	San Diego	North County Municipal Court	Court administrator	Clerk of the court.	Sets salary range with reference to county compensation ordinance.	NP	Requires judges to appoint one.
73954	San Diego	North County Municipal Court	Various	NP	Sets salary ranges with reference to county compensation ordinance. Cross-references § 74345. Permits adjustment by majority of judges.	NP	Permits court administrator to appoint positions and numbers listed. Permits adjustment by majority of judges.
73955	San Diego	North County Municipal Court	Deputy clerks	NP	Sets salary at rate specified in § 73954.	NP	Permits certain additional appointments if number of judges is increased.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
73957	San Diego	North County Municipal Court	Various	NP	NP	Provides for same benefits as county employees in comparable classes.	Permits appointment and promotion by appointing authority, with probationary period.
73958	San Diego	North County Municipal Court	Court reporters	NP	Provides for salary equal to that of superior court reporters, and for fees.	Provides for membership in county retirement system and benefits as provided to superior court reporters.	Refers to appointment pursuant to § 72194.
73959	San Diego	North County Municipal Court	Judicial secretaries, supervising judicial secretaries	NP	Equivalent to that of specified county employees, with commensurate adjustments.	Same as for specified county employees, and as specified in statute.	Permits majority of judges to appoint three, one of whom may be supervising judicial secretary if jointly authorized by court and county.
73960	San Diego	North County Municipal Court	Commissioner	NP	80% of municipal court judge's salary.	Same as for chief deputy county counsel, with additional provisions for sick leave and vacation credit and State Bar dues.	Permits judges to appoint three, and two additional with county approval.
74021	Placer	Municipal court	Commissioner	NP	75% of municipal court judge's salary.	NP	Provides for one commissioner.
74022	Placer	Municipal court	Clerk/administrator	Secretary of the court.	NP	NP	Requires judges to appoint one in accordance with county civil service rules.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74023, 74026, 74030	Placer	Municipal court	Various	As required by court.	§ 74030 sets salary ranges according to county code and provides for step increases.	§ 74030 provides same benefits as for county employees.	§ 74023 requires court administrator to appoint positions and numbers listed in accordance with county civil service rules. § 74026 permits court to appoint additional employees with county approval.
74132	Riverside	Municipal courts	Various	NP	Provides for salary in accordance with county salary schedule.	Entitles court employees to same benefits as county employees.	Permits county, with court concurrence, to adjust number of positions.
74133	Riverside	Municipal courts	Clerk	Court administrator.	NP	NP	Requires judges in each judicial district to appoint one.
74134	Riverside	Western Riverside Municipal Court	Various	NP	Provides for salary ranges in accordance with county salary schedule.	NP	Permits clerk to appoint positions and numbers listed.
74135, 74135.6	Riverside	Municipal courts	Court commissioner	Primarily to hear actions to enforce local ordinances; powers and duties specified in §§ 72190, 72190.1, and 72190.2 and CCP § 259.	§ 74135.6 provides for salary equal to 75% of municipal court judge's salary. § 74135 permits county to provide for same compensation as superior court commissioner while serving on superior court.	§ 74135.6 provides for same benefits as provided to superior court commissioner.	§ 74135.6 permits municipal court judges in the county to appoint one.
74135.1	Riverside	Western Riverside Municipal Court	Court commissioner	Powers and duties of a traffic referee and as specified in §§ 72190 and 72190.1 and CCP § 259.	Provides for salary equal to 75%, 80%, or 85% of municipal court judge's salary, as determined by court.	NP	Permits judges to appoint three, and a fourth under certain conditions.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74135.5	Riverside	Municipal court	Traffic referee	NP	Provides for salary of 60-65% of municipal court judge's salary.	NP	NP
74136	Riverside	Desert Municipal Court	Various	NP	Provides for salary ranges in accordance with county salary schedule.	NP	Permits clerk to appoint positions and numbers listed.
74136.1	Riverside	Desert Municipal Court	Court commissioner	Powers and duties of a traffic referee and as specified in §§ 72190 and 72190.1 and CCP § 259.	Provides for salary equal to 75%, 80%, or 85% of municipal court judge's salary, as determined by court.	NP	Provides for two if county finds sufficient funds, or one if an additional judge is authorized for the district.
74138	Riverside	Corona Municipal Court	Various	NP	Provides for salary ranges in accordance with county salary schedule.	NP	Permits clerk to appoint positions and numbers listed.
74140	Riverside	Municipal court	Court reporters	Reporting proceedings as required by law or court.	Provides for salary and per diem.	NP	NP
74141	Riverside	Mt. San Jacinto Municipal Court	Various	NP	Provides for salary ranges in accordance with county salary schedule.	NP	Permits clerk to appoint positions and numbers listed.
74143	Riverside	Three Lakes Municipal Court	Various	NP	Provides for salary ranges in accordance with county salary schedule.	NP	Permits clerk to appoint positions and numbers listed.
74143.1	Riverside	Three Lakes Municipal Court	Traffic referee/assistant clerk	NP	Apportions salary between Three Lakes District and Mt. San Jacinto District.	Apportions benefits between Three Lakes District and Mt. San Jacinto District.	Permits clerk to appoint traffic referee serving in Mt. San Jacinto District (§ 74141).
74143.2	Riverside	Three Lakes Municipal Court	Court commissioner	Powers and duties of a traffic referee and as specified in §§ 72190 and 72190.1 and CCP § 259.	Provides for salary equal to 75%, 80%, or 85% of municipal court judge's salary, as determined by court.	NP	Provides for two if county finds sufficient funds; permits reduction to one if an additional judge is authorized for the district.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74191.7	Sacramento	Sacramento Municipal Court	Commissioner	As provided in § 72190; duties of superior court commissioner and juvenile court referee under W&I § 247 if authorized by PJ of superior and municipal courts.	Provides for salary equal to 85% of judge's salary.	Provides for vacation credit.	Requires judges to appoint 4½ as business of court requires.
74192	Sacramento	Sacramento Municipal Court	Various	NP	Specifies salary ranges according to county personnel ordinance.	Specifies that positions are not civil service positions.	Requires judges to appoint one clerk/ administrator. Authorizes clerk to appoint positions and numbers listed.
74192.5	Sacramento	Sacramento Municipal Court	Traffic referee	NP	Specifies salary as percentage of municipal court judge's salary, according to years of service.	NP	NP
74193	Sacramento	Sacramento Municipal Court	Deputy clerks	NP	Specifies salary ranges according to county personnel ordinance.	NP	Authorizes administrator to appoint positions and numbers listed.
74195.5	Sacramento	Sacramento Municipal Court	Additional employees	NP	NP	NP	Permits court to appoint additional employees upon recommendation of judges, with county approval.
74196–74197	Sacramento	Sacramento Municipal Court	Attachés and employees	§ 74197 permits judges to reclassify a position with county approval.	§ 74197 permits judges, with county approval, to adjust compensation as provided.	§ 74196 provides for benefits as for county employees. Civil service is applicable unless otherwise provided.	NP
74201	Sacramento	Sacramento Municipal Court	Various	NP	Specifies salary ranges according to county personnel ordinance.	Specifies that positions are not civil service positions.	Authorizes judges to appoint positions and numbers listed.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74207	Sacramento	South Sacramento Municipal Court	Clerk/ administrator	Clerk of the court.	Specifies salary range according to county personnel ordinance.	Specifies that position is not a civil service position.	Requires judge to appoint one.
74208-74212	Sacramento	South Sacramento Municipal Court	Various	§ 74212 permits court to reclassify a position with county approval.	§ 74208 specifies salary ranges according to county personnel ordinance. § 74212 permits court to adjust compensation with county approval.	§ 74210 provides for same benefits as for county employees. Civil service is applicable unless otherwise provided.	§ 74208 authorizes clerk/ administrator to appoint positions and numbers listed. § 74211 permits clerk to appoint additional employees upon court recommendation and county approval.
74343	San Diego	San Diego Municipal Court	Court administrator	Clerk of the court.	Provides for salary in accordance with county compensation ordinance.	NP	Requires judges to appoint one.
74344	San Diego	San Diego Municipal Court	Various	Various.	Provides for salaries in accordance with county compensation ordinance. Appointments to some positions after 1998 may be at any step in salary range. Permits adjustments by action of judges.	Provides for benefits for certain new classifications.	Permits court administrator to appoint positions and numbers listed, some with consent of judges. Permits adjustment by action of judges.
74345, 74347-74348	San Diego	San Diego Municipal Court	Various; § 74345 sets forth equivalent county classes	Various.	§ 74345 provides for step advancements.	§ 74348 provides for same benefits as for comparable classes of county employees.	§ 74347 defines appointing authority.
74346	San Diego	San Diego Municipal Court	Commissioner	NP	80% of municipal court judge's salary.	As provided for chief deputy county counsel, with sick leave and vacation credit. Permits reimbursement of bar dues upon approval of court and county.	Provides for 8 commissioners.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74349	San Diego	San Diego Municipal Court	Court reporters	Reporting and transcription.	Provides for salary equal to that of superior court reporters, and for fees.	Provides for membership in county retirement system, and same benefits as provided to superior court reporters.	Refers to appointment pursuant to § 72194. Permits appointment of pro tempore reporters.
74352	San Diego	San Diego Municipal Court	Judicial secretary	NP	Provides for salaries and adjustments.	Provides for benefits.	Permits judges to direct court administrator to appoint up to 8.
74353	San Diego	San Diego Municipal Court	Deputy clerks (additional)	NP	Provides for salaries as specified in § 74745.	NP	Permits clerk to appoint additional deputies if number of judges increases.
74359.1-74359.2	San Diego	Municipal courts	Listed positions in San Diego County Pretrial Services Unit	NP	§ 74359.1 provides for salaries in accordance with county compensation ordinance.	§ 74359.2 provides for same benefits as for comparable classes of county employees. § 74359.1 provides for benefits for new classifications, pending establishment under this section.	§ 74359.1 permits a majority of court administrators to make appointments to county Pretrial Services Unit; permits adjustment by joint action of courts and county.
74502-74504	San Francisco	Municipal court	Various	Various.	Sets salaries and provides for step advancements.	§ 74504 provides for overtime pay for deputy clerks.	§§ 74502-74504 authorize judges, clerk-administrator, or clerk-administrator, with judges' consent, to appoint positions and numbers listed.
74504.5	San Francisco	Municipal court	Additional officers, attachés, and employees	NP	Permits establishment of pay rate for new position by court with county approval. Permits adjustment by joint action of court and county.	NP	Permits judges to establish and appoint to new positions with county approval.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74505-74509	San Francisco	Municipal court	Attachés	NP	§ 74505 entitles attachés who work night shift to higher pay rate.	§ 74508 provides for civil service benefits and any retirement and health service provisions in county charter. § 74509 continues benefits during leave of absence.	§ 74507 requires clerk to use civil service list in appointments to vacant positions in § 74504.
74511-74518	San Francisco	Municipal court	Court reporters	Reporting and transcription.	§ 74511-74512 provide for compensation equal to that of superior court reporters. §§ 74514 and 74518 provide for fees.	§ 74511 entitles official reporters to county health care benefits and same vacation and sick leave benefits as superior court reporters. § 74515 entitles reporters to membership in county retirement system.	§ 74512 permits judges to appoint as many reporters pro tempore as business of court requires.
74603	San Luis Obispo	Municipal court	Commissioner	As prescribed by law.	Sets salary at 85% of salary of superior court judge.	Entitles commissioner to same county benefits as other court employees under § 74609.	Requires PJ to appoint one with concurrence of majority of judges, pursuant to § 72190.
74604	San Luis Obispo	Municipal court	Court executive officer	Lists duties.	Specifies salary range in reference to county salary table.	NP	Requires PJ to appoint one with concurrence of majority of judges.
74605	San Luis Obispo	Superior and municipal courts	Traffic referee, juvenile court hearing officer	NP	No additional compensation.	NP	Permits appointment of municipal court executive officer to serve in these positions.
74607	San Luis Obispo	Municipal court	Various	NP	Specifies salary ranges in reference to county salary table.	NP	Permits PJ to appoint positions and numbers listed.
74609-74611	San Luis Obispo	Municipal court	Employees; § 74610 lists equivalent county classifications	NP	§§ 74610 and 74611 provide for increase when salary for equivalent county classification increases.	§ 74609 entitles court employees to county benefits.	§ 74610 permits appointment of additional employees upon judges' recommendation and county approval.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74612-74613	San Luis Obispo	Municipal court	Court reporters	Reporting and transcription.	§ 74612 entitles reporters to same compensation as superior court reporters. § 74613 provides for fees.	NP	§ 74612 permits PJ to appoint as many reporters pro tempore as business of court requires.
74641, 74647	Santa Barbara	Municipal courts	Commissioners	As authorized for superior court commissioners and as prescribed by law.	§ 74647 provides for 85% of municipal court judge's salary.	NP	§§ 74641 and 74647 provide for 2 in Santa Barbara District and 1 in Northern Santa Barbara District.
74641.1	Santa Barbara	Santa Barbara-Goleta Municipal Court ⁴¹	Commissioner	NP	Sets salary at 85% of municipal court judge's salary.	NP	Authorizes appointment of one, pursuant to § 72190.
74642	Santa Barbara	Santa Barbara Municipal Court	Various	NP	Provides salary ranges with reference to county salary schedule.	NP	Authorizes appointment of positions and numbers listed.
74643	Santa Barbara	North Santa Barbara Municipal Court	Various	NP	Provides salary ranges with reference to county salary schedule.	NP	Authorizes appointment of positions and numbers listed.
74645-74646	Santa Barbara	Municipal courts	Employees	NP	§ 74645 provides for application of changes in county salary schedule to court employees.	§ 74645 entitles court employees to same benefits as county employees; permits application of civil service to court employees by court rule.	§ 74646 permits majority of judges to adjust number and classification of positions, effective when established by county.
74647	Santa Barbara	Municipal courts	Court reporters	Full time to court duties while court is open.	Provides for compensation in accordance with § 70059.7. Permits adjustment of per diem.	NP	Authorizes appointment of full-time reporters pursuant to § 72194 and of as many part-time reporters as required.

⁴¹ This district apparently no longer exists, so this section is likely superseded.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74662	Santa Clara	Municipal court	Commissioners	As prescribed by law.	Provides for salary equal to 86.9% of municipal court judge's salary.	Requires membership in same retirement system as county determines applies to court attachés.	Permits judges to appoint one.
74662.5	Santa Clara ⁴²	Municipal court	Traffic referee	NP	Provides for salary equal to 60% of municipal court judge's salary.	NP	Refers to appointment pursuant to § 72400.
74663	Santa Clara	Municipal court	Various	NP	Sets salaries, some with reference to range in county salary ordinance.	NP	Requires judges to appoint one chief administrative officer/ clerk and 2 other positions. Permits clerk to appoint positions and numbers listed.
74665, 74669, 74670	Santa Clara	Municipal court	Court reporters	NP	§ 74665 provides for per diem; §§ 74665, 74669, and 74670 provide for other fees.	NP	§ 74665 permits judges to appoint as many as required pursuant to § 72194.
74666	Santa Clara	Municipal court	Attachés	NP	Provides for salaries comparable to those of county employees.	Entitles attachés to receive benefits provided by county.	References appointment as provided by law.
74692	Santa Cruz	Municipal court	Clerk, assistant clerk	NP	Specifies clerk's salary in relation to county salary schedule.	Provides that clerk is not deemed a civil service position.	Requires majority of judges to appoint one clerk; requires clerk to appoint one assistant with judges' approval.
74693	Santa Cruz	Municipal court	Various	NP	Specifies salaries in relation to county salary schedule.	NP	Permits clerk to appoint positions and numbers listed.

⁴² The name of the county in the code section reads "Santa Cruz County."

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74693.1-74693.3	Santa Cruz	Municipal court	Various	NP	§§ 74693.1 and 74693.3 provide for application of county salary schedule, step advancements, and adjustments to court employees.	§ 74693.2 entitles court employees to same benefits as county employees.	NP
74695	Santa Cruz	Municipal court	Court reporter	As elsewhere provided by law.	Specifies salary according to county salary schedule.	NP	Permits each judge to appoint a reporter.
74698	Santa Cruz	Municipal court	Court commissioner	As authorized by law.	Provides for salary at rate established by judges, up to amount of municipal court judge's salary.	Requires membership in any retirement system that includes attachés of the court.	Requires judges to appoint one.
74701.5	Sonoma	Municipal court	Court commissioner	As provided in §§ 72190, 72190.1, and CCP § 259, and powers and duties of traffic referee.	85% of municipal court judge's salary.	Requires membership in county retirement system and benefits equal to those provided county employees.	Permits judges to appoint two, or three if county finds sufficient funds.
74702	Sonoma	Municipal court	Clerk administrator	Court executive officer, powers and duties as delegated by judges.	Requires county and court to establish salary equal to that paid county department heads.	Entitles clerk to same benefits as equivalent county department heads.	Requires judges to appoint one.
74703	Sonoma	Municipal court	Traffic referee	Powers and duties of deputy clerk of court, as specified in §§ 72402 and 72402, and as assigned by court.	Provides for salary equal to 60% of municipal court judge's salary	Entitles referee to same benefits as those provided county administrative management employees.	Permits court, with county approval, to appoint one in addition to any others authorized by statute. Requires appointment from list of temporary traffic referees.
74705, 74708, 74711	Sonoma	Municipal court	Various (listed in § 74708)	§ 74705 sets forth equivalents with county classifications.	§§ 74705 and 74711 provide for adjustment of salaries.	§ 74711 entitles court employees to county benefits.	§ 74708 requires judges to appoint positions and numbers listed.
74707	Sonoma	Municipal court	Court reporters	NP	Provides that § 70047.5 shall govern salary.	Provides that § 70047.5 shall govern benefits.	Refers to appointment pursuant to § 72194.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74726–74727.5	Siskiyou	Municipal court	Various	NP	§ 74727.5 specifies salary ranges. § 74727 permits county to adjust salaries, with ratification by Legislature.	§ 74726 entitles employees to same benefits as county employees.	§ 74727.5 permits court to appoint positions and numbers listed.
74743	San Diego	South Bay Municipal Court	Court commissioner	NP	80% of municipal court judge's salary.	Entitles commissioner to various benefits.	Permits judges to appoint 2, or 3 if county finds sufficient funds.
74744	San Diego	South Bay Municipal Court	Court administrator	Clerk of the court.	Specifies salary according to county compensation ordinance.	NP	Requires judges to appoint one.
74745, 74745.1, 74746, 74749	San Diego	South Bay Municipal Court	Various	Various.	§§ 74745 and 74746 specify salaries according to county compensation ordinance.	§ 74749 entitles attachés to same benefits as comparable classes of county employees.	§§ 74745 and 74746 permit court administrator to appoint, with approval of judges, positions and numbers listed. § 74745 provides for establishment of new classes by court and county and permits judges to adjust numbers.
74750	San Diego	South Bay Municipal Court	Court reporters	Reporting and transcription.	Provides for salary equal to that of superior court reporters, and fees.	Provides for same benefits as superior court reporters and membership in county retirement system.	Refers to appointment pursuant to § 72194.
74765	Glenn	Superior and municipal courts	Various	Various	Sets forth salaries; provides for adjustment and advancement; provides for continued effect of MOU.	Entitles employees to same benefits as county employees. Provides for retention of accrued benefits upon court unification.	Permits court executive officer to appoint positions and numbers listed, with approval of judges. Permits additional appointments upon judges' recommendation and county approval.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74782, 74786, 74791-74792	Stanislaus	Municipal court	NP	NP	§ 74782 provides for step advancements and equalization with county employee salaries. §§ 74791 and 74792 provide for application of changes to court employees.	§ 74786 entitles employees to no more benefits than county employees.	NP
74782.1	Stanislaus	Municipal court	Court commissioner	As prescribed by law.	80% of municipal court judge's salary.	Entitles commissioner to same benefits as other court employees.	Permits judges to appoint one.
74783	Stanislaus	Municipal court	Clerk-administrator	NP	Provides for salary specified in county salary resolution.	NP	Requires judges to appoint one.
74783	Stanislaus	Municipal court	Various	NP	Provides for salaries specified in county salary resolution.	NP	Permits clerk to appoint positions and numbers listed, with approval of judges.
74785, 74788, 74789, 74790	Stanislaus	Municipal court	Court reporters	Reporting and transcription.	§ 74785 provides for salary specified in county salary resolution. §§ 74788 and 74789 provide for fees.	§ 74790 provides for membership in county retirement system.	§§ 74785 and 74788 refer to appointment pursuant to § 72194.
74802	San Joaquin	Stockton Municipal Court	Clerk	Administrative officer.	Provides for the salary specified in § 74807.	NP	NP
74803	San Joaquin	Stockton Municipal Court	Various	NP	NP	NP	Permits clerk to appoint positions and numbers listed.
74806-74807, 74808-74809	San Joaquin	Stockton Municipal Court	Various	NP	§ 74807 sets forth salary ranges in accordance with county salary resolution and provides for step increases. § 74808 permits adjustments.	§ 74809 makes civil service applicable and entitles court employees to same benefits as county employees.	NP

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74807.5	San Joaquin	Stockton Municipal Court	Court commissioner	As authorized by law.	70, 75, or 80% of municipal court judge's salary.	Entitles commissioner to same benefits as other court employees.	Requires one commissioner.
74832, 74834-74838	Sutter	Municipal court	Various	§ 74838 requires full-time performance of duties.	§ 74832 specifies salary ranges with reference to county salary system. § 74834 permits equalization with county employee salaries upon recommendation of judge and approval of county.	§ 74835 entitles court employees to same benefits as county employees.	§ 74832 requires judges to appoint one court administrator and permits court administrator to appoint positions and numbers listed. § 74836 permits appointment of additional employees with approval of court and county.
74839	Sutter	Municipal court	Court reporters	NP	Permits county, with approval of PJ, to contract with reporters at \$2,050 per month.	NP	NP
74841.5	Solano	Vallejo-Benicia Municipal Court	Traffic trial commissioner	Determined pursuant to § 72450.	Determined pursuant to § 72450.	NP	Requires PJ to appoint one with concurrence of judges.
74842	Solano	Vallejo-Benicia Municipal Court	Court executive officer	Administration of nonjudicial activities and serving as jury commissioner.	Provides for compensation at salary grade referencing schedule in county MOU.	Provides same benefits as other management employees of county.	Requires PJ to appoint one with concurrence of majority of judges.
74843	Solano	Vallejo-Benicia Municipal Court	Various	NP	NP	NP	Permits clerk/administrator to appoint positions and numbers listed.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74843.5	Solano	Vallejo-Benicia Municipal Court	Various	NP	Provides for compensation at salary grades referencing schedule in county MOU.	NP	Permits clerk/administrator to appoint positions and numbers listed so long as county continues to receive block-grant funding pursuant to Trial Court Funding Act.
74846-74850	Solano	Vallejo-Benicia Municipal Court	Various	NP	§ 74846 provides that references to salary grade numbers refer to schedule in county MOU. §§ 74847, 74848, and 74849 provide for credit, advancements, promotions, and adjustments.	§ 74850 requires membership in county civil service system and entitles employees to same benefits as county employees.	NP
74851	Solano	Vallejo-Benicia Municipal Court	Court reporters	Reporting, transcription, and other services as required.	Provides for salary with reference to schedule in county MOU, and fees.	Entitles reporters to benefits provided to county employees.	Permits judges to appoint as many pro tempore reporters as business of court requires.
74865-74866, 74868	Tehama	Municipal court	Various	NP	§ 74866 provides for application of county salary ranges, advances, etc. to court employees.	§ 74868 entitles court employees to same benefits as county employees.	§ 74865 permits court to appoint additional employees with county approval.
74867	Tehama	Municipal court	Court executive officer	NP	Sets salary range with reference to county salary schedule.	NP	Permits court executive officer to appoint positions and numbers listed, with concurrence of judges.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74905, 74911	Ventura	Superior and municipal courts	Court executive officer	NP	§ 74905 requires majority of judges to set salary within range of \$4,318–4,874 biweekly. § 74911 provides for adjustments as provided to county management personnel.	§ 74911 provides for benefits adjustments as provided to county management personnel.	§ 74905 requires majority of judges to appoint one.
74905, 74911	Ventura	Superior and municipal courts	Assistant and deputy executive officers	NP	§ 74905 requires court and county to jointly set salaries with ranges specified. § 74911 provides for adjustments as provided to county management personnel.	§ 74911 provides for benefits adjustments as provided to county management personnel.	§ 74905 requires court executive officer to appoint 2 assistants and 4 deputies.
74907, 74909, 74911	Ventura	Superior and municipal courts	Various	NP	§ 74909 sets forth salary ranges and provides for merit increases. § 74911 entitles employees to increases in manner provided in county salary ordinance	§ 74911 entitles employees to same sick leave, vacation, overtime, and other benefits as county employees. Civil service is applicable.	§ 74907 requires court executive officer to appoint positions and numbers listed.
74908	Ventura	Superior and municipal courts	Court commissioners	Permits exercise of duties of probate commissioner (§ 69897) and juvenile court referee (W&I § 248) and duties of judges in small claims and infractions at direction of court, in addition to duties in CCP § 259.	Requires county to set salary not to exceed 85% of superior court judge's salary.	Entitles commissioners to county employee benefits and membership in retirement system.	Permits judges to appoint two commissioners to be shared by the superior and municipal courts, provided county finds sufficient funds.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74910	Ventura	Superior and municipal courts	Additional employees	NP	Provides for salary as prescribed in this article or county salary ordinance.	Provides for compensation as prescribed in this article or county salary ordinance.	Permits court executive officer to appoint additional employees with approval of judges and county, or their designee.
74912	Ventura	Superior and municipal courts	Various (sets forth county equivalents)	NP	Requires adjustment of court employee salaries when equivalent county classifications are adjusted.	NP	NP
74916.5, 74917.5-74919	Yuba	Municipal court	Clerk; various	NP	§ 74916.5 provides for salary as specified in county salary resolution.	§ 74918 entitles court employees to same benefits as county employees.	§ 74916.5 provides for one clerk, who is required to appoint positions and numbers listed. § 74918.5 permits clerk to appoint additional employees with approval of court and county.
74921.7	Tulare	Superior and municipal courts ⁴³	Executive officer	Duties specified in CRC 207, jury commissioner, secretary at judges' meetings, and as assigned by PJ or Executive Committee.	NP	NP	Requires majority of judges to appoint one.
74921.8	Tulare	Superior and municipal courts	Administrative officer	As assigned by PJ and Executive Committee.	NP	NP	Requires judges to appoint one.
74921.10	Tulare	Superior and municipal courts	Various	NP	Specifies salary ranges with reference to county salary resolution. ⁴⁴	NP	Authorizes appointment of positions and numbers listed.

⁴³ Some sections refer to the consolidated superior and municipal courts, or the "Trial Court." (See Gov. Code, § 74921.5.)

⁴⁴ The salary schedule found in the salary resolution of Tulare County in effect on January 6, 1998, applies. (Gov. Code, § 74921.11.)

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74921.11	Tulare	Superior and municipal courts	Officers and attachés	NP	Permits adjustment of salaries upon county approval.	NP	NP
74922	Tulare	Municipal court	Officers and attachés	NP	Provides that county rules and ordinances govern various changes.	Provides that county rules and ordinances govern benefits.	NP
74925	Tulare	Municipal court	Court commissioner	NP	Requires salary to be 70-80% of municipal court judge's salary, as determined by county.	Entitles commissioner to vacation, sick leave, and fringe benefits as determined by county. Permits membership in county retirement system.	Permits majority of judges to appoint one.
74925.1	Tulare	Municipal court	Attachés and employees	Additional duties or duties in a class not otherwise provided for.	Requires compensation to be as provided in this article or as prescribed by ordinance.	Requires compensation to be as provided in this article or as prescribed by ordinance.	Permits clerk to appoint additional employees with approval of court and county.
74925.2	Tulare	Municipal court	Court reporters	As elsewhere provided by law.	Sets fee at \$150/day; permits adjustment by county.	Permits membership in any county retirement system.	Permits each judge to appoint a reporter and as many pro tempore reporters as necessary.
74926	Tulare	Municipal court	Officers and attachés	NP	Requires placement on step level of salary schedule with same rate of compensation when court is superseded.	NP	NP
74926.5	Tulare	Municipal court	Officers and attachés	NP	NP	Entitles all but court reporters to same benefits as county employees.	NP
74926.7	Tulare	Superior and municipal courts	Officers and attachés	Requires full-time devotion to duties.	NP	NP	NP
74935.6-74935.7	Butte	Municipal courts	Court reporters	NP	§ 74935.6 provides for fees for pro tempore reporters.	NP	Authorize appointment by judges pursuant to § 72194.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74936	Butte	Municipal courts	Clerk/administrator	NP	NP	NP	Requires judges in each judicial district to appoint one.
74937, 74940-74942, 74944-74945	Butte	Municipal courts	Various	§ 74944 requires full-time devotion to duties.	§ 74940 sets forth salaries according to county salary ordinance. § 74941 refers to MOU.	§ 74942 provides for same benefits as are granted to comparable county employees.	§ 74937 permits PJs to appoint positions and numbers listed.
74949.1	Napa	Superior and municipal courts	Court commissioners	Powers and duties of traffic referee, probate commissioner, juvenile court referee, and others.	Requires county to set salary, not to exceed 85% of superior court judge's salary.	Entitles commissioners to same holidays, fringe benefits, and travel reimbursement as other court employees.	Permits judges to appoint two shared commissioners in lieu of positions authorized by § 70141.
74951	Napa	Municipal court	Officers and employees	NP	Permits adjustments in manner provided by county personnel and salary ordinances.	Entitles court employees to same benefits as county employees.	Permits appointments in manner provided by county personnel and salary ordinances.
74953	Napa	Municipal court	Court reporters	Reporting testimony and proceedings.	Authorizes same fees provided in § 70045.7 for superior court reporters.	NP	Requires appointment pursuant to § 72194.
74954-74954.5, 74956-74958	Napa	Municipal court	Various	NP	§§ 74954-74954.5 require application of county salary schedules to court employees. § 74956 sets forth range for each position. § 74957 permits adjustment of salaries.	§ 74956 authorizes credit for prior continuous service in office.	§ 74956 authorizes appointment of positions and numbers listed, and permits judges to establish additional positions with county approval.
74955	Napa	Municipal court	Court executive officer	Various duties as required by law or directed by PJ.	Specifies salary in relation to county salary schedule.	NP	Requires judges to appoint one.
74963	Yolo	Municipal court	Clerk-administrator	NP	Specifies salary in relation to county salary schedule.	NP	Requires majority of judges to appoint one.

APPENDIX- Attachment D

County-Specific Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
74964	Yolo	Municipal court	Court commissioner	Powers and duties in §§ 72190, 72190.1, and 72190.2, and CCP § 259.	Requires county to determine salary at 75–85% of municipal court judge’s salary, with recommendation by court.	NP	Permits majority of judges to appoint one in lieu of traffic referee pursuant to § 72400.
74965, 74969–74971	Yolo	Municipal court	Various	§ 74971 lists equivalents with county classifications.	§ 74965 specifies salaries in relation to county salary schedule.	§ 74970 provides for same benefits as county employees and application of MOU.	§ 74965 permits clerk-administrator to appoint positions and numbers listed.
74972–74973	Yolo	Municipal court	Court reporters	Reporting and transcription.	§ 74972 provides for same compensation as superior court reporters; § 74973 provides for fees.	NP	§ 74972 permits PJ to appoint as many as business of court requires (pro tempore).
74982	Shasta	Municipal court	Court commissioner	As assigned by law and conferred by court.	75% of municipal court judge’s salary.	Provides for same benefits as for county management employees.	Permits court to appoint one if county finds sufficient funds.
74983	Shasta	Municipal court	Court reporters	NP	Authorizes fees provided by §§ 69947–69953, but no salary or county benefits.	NP	Permits court to appoint additional reporters pro tempore if superior court reporter is not available.
74986	Shasta	Superior and municipal courts	Court executive officer	Requires judges to prescribe and regulate duties and authority.	\$5,113/month as set forth in 1995–96 county salary resolution.	Requires same benefits as are provided to county employees in equivalent category.	Permits courts to appoint one.
74987–74989	Shasta	Municipal court	Various	NP	§ 74987 specifies salary ranges. § 74989 permits county to adjust. § 74988 provides that court employees are county employees.	§ 74987 entitles employees to same benefits as provided to county employees in equivalent categories.	§ 74987 permits court executive officer to appoint positions and numbers listed. § 74989 permits county to adjust numbers.
74996–74997	Tuolumne	Municipal court	Employees	NP	§ 74997 provides that court employees are governed by county personnel regulations, MOU, and policies.	§ 74996 entitles court employees to same benefits as other county employees.	NP

APPENDIX – Attachment C**Statutory Provisions**

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
Welf. & Inst. § 255	All	Superior court	Juvenile hearing officer	§ 256 authorizes hearing officer, subject to orders of court, to hear cases in which minor under 18 years is charged with certain offenses.	Requires county to determine whether compensation shall be paid to hearing officer not otherwise employed by public agency and to establish amount and rates.	NP	Permits judge or PJ of juvenile court to appoint one or more, to serve at pleasure of appointing judge.

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72400	All	Municipal court with 3 or more judges	Traffic referee	NP	NP	NP	Court may appoint one.
72401–72404	All	Municipal court	Traffic referee	As set forth in §§ 72401–72403. May serve as commissioner if qualified.	50% of judge’s salary unless otherwise provided by statute. Commissioner’s salary if serving as commissioner.	Shall be member of any retirement system that includes attachés of the court.	NP
72405	All	Municipal court	Court commissioner	Court may direct to exercise powers of traffic referee, if qualified.	NP	NP	NP
72406	All	Municipal court	Traffic referee	NP	65% of municipal court judge’s salary.	NP	Person performing duties of traffic referee for one year prior to 7/1/69 is eligible for appointment.
72450	All	Municipal court	Traffic trial commissioner	Powers and duties of commissioner of municipal court	Shall receive same salary as provided by law for court commissioners in the county; where no salary is established, at least 75% of judge’s salary.	NP	Court may appoint if county finds there are sufficient funds. May be appointed to serve 2 or more courts.
Welf. & Inst. § 247	All	Superior court	Juvenile court referee	§ 248 authorizes referee to hear assigned cases with same powers as judge of juvenile court, with exceptions.	Requires amount and rate of compensation to be fixed by county, except as otherwise provided by law.	NP	Permits judge or PJ of juvenile court to appoint one or more referees, to serve at pleasure of appointing judge.

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72190.5	All	Municipal court	Court commissioners, referees	NP	NP	NP	Authorizes all positions that were funded and filled as of 1/1/99 and are not authorized under another Government Code section.
72191	All	Municipal court	Jury commissioner	Same as jury commissioner of superior court.	No extra compensation for services as general commissioner.	NP	May be appointed to serve as general commissioner.
72192	All	Municipal court	Jury commissioner	NP	NP	Member of any retirement system that includes municipal court attachés.	Majority of judges shall appoint when authorized by law.
72194	All	Municipal court	Court reporter	NP	NP	NP	Majority of judges may appoint as many as business of court requires.
72195	All	Municipal court	Court reporter (official)	§§ 69942–69955 and CCP § 273 are applicable to official reporters.	§§ 69942–69955 and CCP § 273 are applicable, but fee for reporting in contested cases is \$55/day except where statute provides otherwise.	NP	NP
72196–72198	All	Municipal court	Superior court reporter	Duties of municipal court reporters.	No additional compensation.	Travel expenses if at different location.	Municipal court PJ may request temporary services in criminal cases.
72301–72303	All	Municipal court, unified superior court	Clerk	Sets forth duties and authority for accepting bail.	NP	NP	NP
72303–72304	All	Municipal court, unified superior court	Commissioner, traffic referee	May exercise clerk’s duties in accepting bail and may fix amount of bail in certain cases.	NP	NP	NP

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
72002	All	Municipal court	Deputies, employees	NP	Temporary assignment does not affect compensation except as provided in § 72053.	NP	Clerk may lay off because of lack of work or require to work in another municipal court in county.
72053	All	Municipal court	Clerk, deputy clerk, commissioner, traffic referee, court reporter	NP	NP	Allows expenses incurred, including travel within county. County may allow car to be provided at public expense.	NP
72053.5	All	Municipal court	Commissioner, traffic referee, clerk	NP	NP	Allows expenses incurred in connection with conference at which attendance is authorized by county.	NP
72054–72073	All	Municipal court, unified superior court (if limited civil case)	Clerk	Specifies fees to be collected.	NP	NP	NP
72150–72151	All	Municipal court	Deputy clerk	NP	Same as provided by law for such clerks and deputies.	NP	Clerk may appoint additional deputies with approval of judges, with limitations.
72190	All	Municipal court	Court commissioner	Same as for superior court commissioners, plus others as provided by law.	NP	NP	NP
72190	All	Municipal court	Retired municipal or superior court commissioner	NP	Retirement allowance plus amount to total full compensation of court commissioner.	No effect on retirement benefits.	Municipal court PJ may assign.
72190.1–72190.2	All	Municipal court	Court commissioner	Authority to conduct arraignment proceedings and issue bench warrants (if directed by PJ).	NP	NP	NP

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
71221	All	Municipal court	Clerk and other officers or attachés, except marshals	Requires certification of compensation by clerk, or judge if there is no clerk.	Requires clerk to certify monthly to county auditor a list showing amount of compensation.	NP	NP
71260	All	Municipal court	Clerk, deputies, attachés	NP	NP	NP	May be discharged "only for the good of the service." ¹⁵
71268–71269	All	Municipal court	Deputy clerk, attaché	Special assignments, performance of work as directed.	NP	NP	NP'
71270	All	Municipal court	Deputy clerk	Clerical functions as delegated by clerk.	Shall be paid by municipality, not county.	NP	Clerk may appoint upon application of a municipality.
71273	All	Municipal court	Deputy clerk	Clerical functions as delegated by clerk.	No additional compensation.	NP	Upon application of county, clerk may appoint a county officer or employee.
71280	All	Municipal court	Clerk	Same powers as clerk of superior court.	NP	NP	NP
71280.1–71280.4	All	Municipal court	Clerk	Describes duties of clerk to keep records and endorse papers.	NP	NP	NP
71280.5	All	Municipal court, unified superior court	Clerk	Requires certification and submission of certain court records relating to criminal convictions for DOJ computer system.	NP	NP	NP
72000	All	Municipal court	Officers and attachés	NP	Legislature shall prescribe compensation.	NP	Legislature shall prescribe number.
72001	All	Municipal court	Officers and attachés	NP	Annual increments depend on maintaining minimum efficiency rating.	NP	NP

¹⁵ Special provisions are made for appointment and removal of marshals in a county of the first class (Los Angeles).

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
71085	All	Municipal court where no provision is made by law for its officers and employees	Clerk, deputy clerk	NP	As fixed by judge at rate comparable to that for employees in another municipal court in county, or as provided in this statute.	NP	Requires one clerk; clerk may appoint deputies with approval of judge
71181	All	Municipal court	Clerk	NP	NP	NP	Vacancy shall be filled by appointment by judge, by majority of judges, or by senior judge when there is equal division.
71181	All	Municipal court	Positions in clerk's office	NP	NP	NP	Vacancy shall be filled by appointment by clerk.
71182	All	Municipal court	Clerk, deputy clerk	Permits marshal to appoint to serve ex officio as deputy marshal.	No increase in compensation.	NP	Permits marshal to appoint to serve ex officio as deputy marshal.
71183	All that have civil service commission	Municipal court	Positions in clerk's office (§ 71181)	NP	NP	NP	Requires appointments to be from among 3 highest of those certified. Permits temporary appointments under some circumstances.
71184	All that have no civil service commission	Municipal court	Secretary, clerk, deputies, and attachés	NP	NP	NP	Appointments are subject to confirmation by court.
71220	All	Municipal court	Clerk and other officers or attachés	NP	Requires salary to be paid by county out of salary fund, or out of general fund if there is no salary fund.	NP	NP

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70145–70147	All	Superior court	Court commissioners (Grade 2) appointed pursuant to § 70141	Grade 2 commissioners are all those other than Grade 1.	Unless otherwise prescribed by law when appointed pursuant to § 70141, shall receive salary of not more than \$5,100, as fixed by court.	NP	NP
70148	All	Superior court	Court commissioners as provided for in §§ 70140 and 70141	NP	NP	Actual traveling expenses, paid out of county general fund.	NP
70210(b) (2)	All (with unified courts)	Superior court, if unified	Court executive officer	NP	NP	NP	Provides for rules for selection of executive officer in unified court.
70214	All (with unified courts)	Superior court, if unified	Court commissioners, referees	Shall have all powers and authority of commissioners and referees of superior courts and of municipal courts.	NP	NP	Permits superior court to make appointments previously authorized to be made by municipal court.
71004	All	Municipal court	Clerk	When municipal court supersedes another court, person with same or similar duties has powers and duties of a clerk of the superseded court.	NP	NP	NP
71085	All	Municipal court	All	When municipal court supersedes another court, officers and employees of superseded court become officers and employees of municipal court, if the positions are provided by law.	NP	NP	When municipal court supersedes another court, officers and employees of superseded court become officers and employees of municipal court, if the positions are provided by law.

APPENDIX – Attachment C.

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
70141(b)–(d)	All	Either superior court or municipal court, but not both	Court commissioner	Court may provide that commissioner perform all duties authorized for commissioner of that court in the county.	Same rate of compensation as other commissioners for that court.	Same rate of compensation as other commissioners.	Permits court to appoint one in addition to commissioners authorized by other provisions of law, upon county resolution as specified in (c).
70141(e)	All	Superior court	Child support commissioners	Specified in Family Code § 4251.	85% of superior court judge’s salary.	NP	Court shall appoint pursuant to Family Code §§ 4251 and 4252.
70141(a)	Any county except Los Angeles ¹⁴	Superior court	Court commissioner	NP	NP	NP	Permits court to appoint one.
70143	All	Superior court	Court commissioner	NP	NP	NP	Permits courts in 2 or more counties to appoint same person as court commissioner.
70144	All	Superior court	Court commissioner	NP	NP	NP	Appointment shall be made by order entered in minutes of the court.
70145–70147	All	Superior court	Court commissioners (Grade 1) appointed pursuant to § 70141	Grade 1 commissioners are those who have performed duties of commissioner or of court clerk or had equivalent experience for 5 years and have been approved by court for appointment to Grade 1.	Unless otherwise prescribed by law when appointed pursuant to § 70141, shall receive salary of not more than \$7,200, as fixed by court.	NP	NP

¹⁴ Statute refers to “every county, except a county with a population of 4,000,000 or over.”

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69956	All	Superior court	Court reporter (official)	Describes duties in addition to reporting as directed by judges.	Additional compensation up to \$20/day as prescribed by court.	NP	NP
69957–69959	All	Superior and municipal courts	Court reporter (official superior court)	Duties of municipal court reporter.	NP	NP	Permits superior court PJ to assign superior court reporter to municipal court at request of municipal court PJ, subject to § 72190 et seq.
70140	All	Superior court, if unified	Former municipal court commissioner or referee (except commissioner under § 70141(e))	NP	Permits court to establish salary at amount not to exceed that of superior court commissioner; subject to county’s certification that it can support that within current allocation. If there was no superior court commissioner or referee before unification, the salary is required not to exceed percentage of superior court judge’s salary that commissioner or referee received of municipal court judge’s salary before unification.	NP	NP
70140.5	All	Superior court	Court commissioners, referees	NP	NP	NP	Authorizes all positions that were funded and filled as of 1/1/99 and are not authorized under another Government Code section.

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69941	All	Superior court	Court reporter (official)	NP ⁹	NP	NP	Permits judges to appoint as many as there are judges.
69941	All	Superior court	Court reporter (pro tempore)	NP	NP	NP	Permits judges to appoint as convenience of court requires.
69945	All	Superior and municipal courts ¹⁰	Court reporter	Requires official reporter to attend to duties of office in person except when excused for good and sufficient reason.	Entitles pro tempore reporter to same compensation as official reporter while employed under this section.	NP	Permits court to appoint reporter pro tempore when official reporter has been excused.
69947	All	Superior and municipal courts ¹¹	Court reporter (official)	NP	Entitles reporter to fees prescribed in this article (§§ 69941–69959), except in counties where statute provides otherwise.	NP	NP
69948(a)	All	Superior and municipal courts ¹²	Court reporter	Reporting testimony and proceedings in contested cases.	Sets fee at \$55/day or fractional part thereof.	NP	NP
69949–69954	All	Superior and municipal courts ¹³	Court reporter	Various.	Specifies rates and sources of payment for various transcriptions, copies, and records.	NP	NP
69955	All	All	Court reporter, clerk of court	Describes duties regarding keeping, delivery, and storage of reporting notes.	NP	Requires reimbursement for cost of medium on which reporting notes are kept.	NP

⁹ See §§ 69942, 69944 for qualifications.

¹⁰ Pursuant to § 72195.

¹¹ Pursuant to § 72195, except that fee for reporting testimony and proceedings in contested cases is \$55/day for municipal court reporters, unless statute provides otherwise.

¹² Pursuant to § 72195.

¹³ Pursuant to § 72195, except that fee for reporting testimony and proceedings in contested cases is \$55/day for municipal court reporters, unless statute provides otherwise.

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
69750	All	Superior court	Clerk, deputy clerk, court reporter, secretary	NP	NP	Allows expenses when travel required under § 68115; paid from general fund.	NP
69841–69848	All	Superior court	Clerk	Attend court, keep indexes and records, issue processes and notices, endorse filed papers, etc.	NP	NP	NP
69893	Any county where there is a secretary of judges of superior court	Superior court	Secretary	Duties of jury commissioner may be required by judges.	NP	NP	NP
69898	All	Superior court ⁸	Executive officer	As required by court; supervision of secretaries; duties or supervision of jury commissioner; authority of clerk of superior court.	Fixed by court and paid by county.	Exempt from civil service.	Permits court to appoint one executive officer. May appoint county clerk as executive officer.
69902	Any county having a retirement system for its employees	Superior court	Employees and attachés	NP	NP	Permits county to include in its retirement plan employees and attachés whose salaries are paid by the county.	NP
69902.5	Any county having a retirement system for its employees	Superior court	Jury commissioner and other employees of that office	NP	NP	Permits county to include in its retirement plan assistants, employees, and attachés whose salaries are paid by the county.	NP
69905	All	Superior court	Research assistant	NP	Set by judges and paid by county.	NP	Permits majority of judges to appoint a number set by the judges.

⁸ Courts that also have specific authorization from Legislature may elect to proceed under that authorization or this section.

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
68114.6	All	Courts with approved coordination plan	Executive officer for all participating courts	As delegated by participating courts and/or local rule; supervision of judicial secretaries.	Requires salary to be fixed by courts and paid by county.	Exempt from civil service.	Permits majority of judges of coordinated courts to appoint one for all participating courts, if coordination plan so provides.
68114.7	All	Coordinated, consolidated, merged, or converted courts	Employees	NP	NP	No reduction in benefit programs provided or administered by county pursuant to § 53200 et seq. or to MOU.	NP
68114.9	All	Coordinated superior and municipal courts	Personnel of each court	Comparable duties.	No additional compensation.	NP	Permits clerk of each court to cross-deputize personnel.
68505	All	All	County clerks and clerks of court	Requires clerks to keep records and report to Judicial Council as required.	NP	NP	NP
68525	All	All	Court reporter	Permits counties to require reporters to submit annual reports on their time, fees, expenses.	NP	NP	NP
68546	All	Municipal court	Court reporter	NP	Provides superior court salary while assigned to superior court with assigned judge.	NP	Permits municipal court PJ to assign court reporter along with municipal court judge assigned to superior court, if superior court PJ consents.
68546	All	Municipal court	Deputy clerk	NP	Provides superior court salary while assigned to superior court with assigned judge, if county adopts provision.	NP	Permits municipal court PJ to assign deputy clerk along with municipal court judge assigned to superior court, if superior court PJ consents.

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
53200.3	All	Superior and municipal courts	Officers and attachés whose salaries are paid in whole or in part from the salary fund of the county	NP	NP	Requires county to grant the same or similar benefits granted to employees of the county.	NP
53214.5	All	Superior and municipal courts	Officers and attachés whose salaries are paid in whole or in part by the county	NP	NP	Permits county to allow court officers and attachés to participate in deferred compensation plan established pursuant to §§ 53212–53214.5.	NP
68080	All	Superior and municipal courts	Clerk of the court	Requires clerk to keep the seal of the court.	NP	NP	NP
68086	All	Superior and municipal courts	Court reporter (official and pro tempore)	NP	Provides for collection of fees from parties by court.	NP	NP
68108	All	Superior and municipal courts	Court employees and county employees assigned to the courts	Requires courts not to be in session on days designated as unpaid furlough days under MOU.	Requires courts not to be in session on days designated as unpaid furlough days under MOU.	NP	NP
68112	All	Superior and municipal courts	All	NP	NP	NP	Provides for coordinated or joint use of court officers and staff under coordination plan.
68112.5	All	Courts with approved coordination plan	Subordinate judicial officers	All powers and duties of subordinate judicial officers of court to which assigned.	NP	NP	Permits cross-assignment of subordinate judicial officers within county.

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
23396	Proposed new county	Superior court	Officers, attachés, and other employees	NP	NP	Requires preference in appointment to be given to persons serving superior court within boundaries of proposed county.	Permits PJ to appoint as necessary to assist court.
26800–26863	All	Superior court	Clerk of the court ⁵	Duties include keeping records (§ 26803), keeping a calendar of criminal actions (§ 26805), and collecting fees (§§ 26820–26863).	NP	NP	NP
28003	All	Superior and municipal courts	Officers, employees, and attachés	NP	Permits county to fix date or schedule of dates for payment of salaries.	NP	NP
31554	All	Superior court	Officers and attachés ⁶	NP	NP	Provides for membership in county retirement association unless employees are participants in another pension system, if county authorizes by 4/5 vote.	NP
31555	All	Municipal court ⁷	Officers and attachés	NP	NP	Provides for membership in county retirement association, if county authorizes by 4/5 vote.	NP

⁵ § 26800 requires the county clerk to act as clerk of the superior court, except as the court has delegated those duties to a court executive officer appointed pursuant to § 69898.

⁶ Defined in this section to include “all commissioners, phonographic reporters who are paid salaries or per diems by the county and whose contributions are based upon such salaries or per diems, secretaries, stenographers, investigators, messengers, or other employees of the court.”

⁷ Applies to “any municipal court established within the county under the Municipal Court Act of 1925 or Municipal and Justice Court Act of 1949.”

APPENDIX – Attachment C

Statutory Provisions

Section	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
CCP § 873.940	All	Superior court	Referee	NP	NP	NP	Requires court to appoint one or three referees to appraise property for partition by appraisal.
Fam. § 1814	All	Superior court	Supervising counselor of conciliation; secretary (classifications determined by county)	Powers of supervising counselor are listed in (b) (hold conciliation conferences, make investigations, reports, and recommendations, conduct mediation, etc.).	Determined by county.	NP	Permits court to appoint one of each in each county where family conciliation court is established.
Fam. § 1814	All	Superior court	Associate counselors of conciliation; assistants (classifications determined by county)	Carried out under supervision of supervising counselor of conciliation.	Determined by county.	NP	Permits court to appoint with consent of county.
Fam. § 4251–4252	All	Superior court	Child support commissioner	Act as temporary judge, take testimony and enter judgments and orders, etc., as described in § 4251.	Requires Judicial Council to establish procedures for distribution of funding to courts for child support commissioners.	Requires Judicial Council to establish procedures for distribution of funding to courts for child support commissioners.	Requires court to appoint the number sufficient to hear Title IV-D child support cases as determined by the Judicial Council. Not subject to limitations under Gov. Code, § 70140 et seq.
Fam. § 10000–10012	All	Superior court	Family law facilitator	As described in §§ 10004–10005, including providing information and assistance to parents, mediating disputes, etc.	Fam. Code § 4251(b)(6) requires Judicial Council to establish procedures for distribution of funding to courts for family law facilitators.	Fam. Code § 4251(b)(6) requires Judicial Council to establish procedures for distribution of funding to courts for family law facilitators.	§ 10002 requires each court to appoint one.

APPENDIX

Attachment C. Table of Statutory Provisions Relating to Court Employees Statewide

- Where a statute says “board of supervisors,” the table generally says “County.”
- NP means that the statute does not have a provision related to the subject heading on the table.
- Mandatory and permissive provisions are generally distinguished by the use of “requires” or “permits,” respectively.
- The table is computer sortable.

Section ¹	County	Court	Classification	Duties	Compensation	Benefits	Authority to appoint or assign
CCP § 166	All	Superior and municipal courts	Referees	NP	NP	NP	Permits judge to appoint referees in chambers.
CCP § 195	All	Superior and municipal courts	Jury commissioner	Management of jury system under court supervision.	Requires salary to be set by joint action of county and court. ²	NP	Requires one in each county, to be appointed by superior court (majority of judges). ³
CCP § 195	All	Superior and municipal courts	Deputy jury commissioner	NP	Requires salary to be fixed in same manner as that of other court employees.	Requires benefits to be fixed in same manner as those of other court employees.	Permits jury commissioner to appoint whenever business of court requires, with consent of county.
CCP § 873.010	All	Superior court	Referee	Permits court to instruct referee.	Permits court to fix reasonable compensation.	Permits court to provide for payment of the referee’s reasonable expenses.	Requires judge to appoint referee to divide or sell property to be partitioned as ordered by the court. ⁴ Permits court to remove referee or appoint a new referee.

¹ All section numbers refer to Government Code sections unless otherwise indicated.

² Unless superior court administrator or executive officer serves as ex officio jury commissioner.

³ If there is a superior court administrator or executive officer, that person shall serve as ex officio jury commissioner for all trial courts within the county. Majority of judges of a municipal court may appoint a clerk or administrator to select jurors.

⁴ Sections 873.020 and 873.030 permit the judge to appoint, respectively, two or three referees.

PROVISIONS RELATING TO TRIAL COURT EMPLOYEES

TABLE OF CONTENTS

1. Introduction
2. Outline of Provisions Relating to Court Employees
 - A. Constitutional Provisions
 - Summary of Selected Constitutional Provisions Relating to Court Employees
 - Full Text of Constitutional Provisions Relating to Court Employees
 - B. Court Unification: General Provisions Governing Court Employee Classifications, Compensation, and Benefits Upon Court Unification
 - C. Table of Statutory Provisions Relating to Court Employees Statewide
 - D. Table of County-Specific Statutory Provisions Relating to Court Employees
 - E. County populations and classes (Gov. Code, § 28020)
 - 1940 census (Stats. 1947, ch. 424, § 1)
 - 1950 census (Stats. 1951, ch. 468, § 1)
 - 1960 census (Stats. 1961, ch. 43, § 1)
 - 1970 census (Stats. 1971, ch. 1204, § 1)

INTRODUCTION

One of the duties of the Task Force on Trial Court Employees is to “document existing constitutional, statutory, and other provisions relating to classification, compensation, and benefits of court employees.” (Gov. Code, § 77603(e); see page following this introduction.) This appendix is intended to provide that documentation.

The outline in the following section provides a comprehensive list of California Constitutional sections, statutes, and Rules of Court that relate to court employees. Included are sections that set out the duties of certain court officers and employees, statutes that govern public employment generally and may pertain to some court employees, and statutes that specifically govern the classification, compensation, and benefits of court employees, both statewide and by county. The attachments provide further detail on the constitutional provisions, statutes, and rules listed in the outline.

The major constitutional provisions relating to court employees are summarized on the first page of Attachment A. Copies of the texts of these sections and others that may relate to court officers and employees are on the following pages.

Attachment B sets out the provisions for transition to a unified court (Gov. Code, §§ 70200–70219) that relate to court employees. These provisions are significant because in a county in which the courts have unified, statutes that govern court unification prevail over inconsistent statutes otherwise applicable to the trial courts in that county. (Gov. Code, § 70215.) As of November 19, 1999, the courts in 54 of California’s 58 counties have unified, but most of the statutes relating to court employees have not been amended to reflect this.

The tables in Attachments C and D provide brief summaries of the provisions of specific statutes that pertain to the duties, compensation, and benefits of various classifications of court employees, and the authority to appoint or assign employees. The sections listed in Attachment C apply on a statewide basis; the sections in Attachment D are specific to court employees in particular counties. The provisions of some of the municipal court staffing statutes (Gov. Code, §§ 72602–73122 and 73340–74997), are set out in summary form rather than in detail because the number of staffing statutes is very large, they change frequently, and many of them may be obsolete because the courts in most counties have unified. Many of the county-specific statutes relating to court reporters may likewise be obsolete because they contain many overlapping provisions, some of them superseding others. This appendix does not identify which sections are obsolete, but describes the express provisions of each section.

APPENDIX – Introduction

Attachment E provides copies of Government Code section 28020 as amended in several different years. This section sets forth the population of each county in the state. Many county-specific statutes refer to counties by their population or “class” (rank in population) as of a particular census, rather than referring to them by name. Section 28020 was enacted in 1947 and amended several times to reflect the 1950, 1960, and 1970 censuses. All four versions of the statute are included here for convenient reference.

WEST'S ANNOTATED CALIFORNIA CODES
GOVERNMENT CODE
TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS
CHAPTER 14. TRIAL COURT FUNDING AND IMPROVEMENT ACT OF 1997
ARTICLE 1. THE TASK FORCE ON TRIAL COURT EMPLOYEES

Copr. © West Group 1999. All rights reserved.

Current through End of 1997-98 Reg. Sess. and 1st Ex. Sess.

§ 77603. Duties

The duties of the task force shall include, but not be limited to, the following:

- (a) Complete a survey of all trial courts regarding court employee status, classification, and salary.
- (b) Document the local retirement systems in which trial court employees are members and the terms of the systems, and identify future retirement options.
- (c) Determine the costs associated with a change in retirement benefits for court employees, including the cost to counties resulting from such change, including, but not limited to, the impact of such a change on pension obligation bonds, unfunded liabilities, and changes in actuarial assumptions.
- (d) Document existing contractual agreements and the terms and conditions of employment, and document exclusive bargaining agents representing court employees by court, county, and unit.
- (e) Document existing constitutional, statutory, and other provisions relating to classification, compensation, and benefits of court employees.
- (f) Identify functions relating to trial courts that are provided by county employees.
- (g) Examine and outline issues relating to the establishment of a local personnel structure for trial court employees under (1) court employment, (2) county employment, with the concurrence of the county and the courts in the county (3) state employment with the concurrence of the state and the courts in the county, or (4) other options identified by the task force. The task force, in recommending options for employee status, shall consider the complexity of the interests of employees and various governmental entities. Their recommendations shall, to the greatest extent possible, recognize the need for achieving the concurrence of the affected parties.

In outlining these issues, consideration shall be given to contractual obligations, minimizing disruption of the trial court work force, and protecting the rights accrued by employees under their current systems.

- (h) Prepare a method for submitting the issue of employment status to an advisory vote of trial court employees in each county.
- (i) Recommend a personnel structure for trial court employees.

CREDIT(S)

1999 Electronic Update

(Added by Stats. 1997, c. 850 (A.B. 233), § 48.)

<General Materials (GM) - References, Annotations, or Tables >

HISTORICAL AND STATUTORY NOTES

1999 Electronic Update

1997 Legislation

Short title, legislative findings, declaration and intent regarding trial court funding, and provisions relating to information about the fiscal impact of pending legislation affecting courts, the Civil Delay Reduction Team and construction of this act as mandate, of Stats.1997, c. 850 (A.B.233), see Historical and Statutory Notes under Code of Civil Procedure § 116.230.

West's Ann. Cal. Gov. Code § 77603

CA GOVT § 77603

END OF DOCUMENT

OUTLINE OF PROVISIONS RELATING TO COURT EMPLOYEES

The following outline provides a comprehensive list of constitutional provisions, statutes, and rules that relate to classification, compensation, and benefits of trial court employees. Sections that set out the duties of certain court officers and employees, or govern public employment generally and may pertain to some court employees, are included as well as statutes that specifically govern classification, compensation, and benefits. Footnotes and the attachments provide further detail. The attachments are referenced as follows:

* See also Attachment C (table of statewide provisions relating to court employees).

† See also Attachment D (table of county-specific statutes relating to court employees).

I. California Constitution¹

Article III, § 3	Separation of powers
Article IV, § 8(d)	Legislative powers – urgency measures
Article VI, § 4	Superior courts
Article VI, § 5	Municipal courts
Article VI, § 6	Judicial Council
Article VI, § 22	Subordinate judicial officers
Article VI, § 23	Unification of superior and municipal courts
Article VII, § 1	Public officers and employees
Article VII, § 4(b)	Exemption from civil service
Article XI, § 1	Counties
Article XI, § 3	County charters
Article XI, § 4	Provisions of county charters
Article XI, § 6	Charter city and county
Article XI, § 7	Authority of cities and counties
Article XI, § 10	Compensation and residency of public officers and employees

¹ See Attachment A for text of constitutional provisions.

APPENDIX – Outline of Provisions Relating to Court Employees

II. Business and Professions Code sections

8000–8047 Certified shorthand reporters ²

III. Code of Civil Procedure sections

73d Provides allowance for expenses for travel to another county in building and loan cases

166 Permits judges to appoint referees *

195 Jury commissioners *

259 Powers of court commissioners

269–274c Court reporter duties

640 Appointment of referee

873.010 Appointment of referee to partition property *

873.940 Appointment of referee for partition by appraisal *

IV. Family Code sections

1814–1816 Appointment of staff to assist family conciliation court *

4251–4252 Appointment of child support commissioners *

10000–10012 Family law facilitator *

V. Government Code sections

A. Public employees

3500–3510 Local public employee organizations (Meyers-Milias-Brown Act)

20000–21692 Public Employees' Retirement Law

23396 Appointment of court employees in proposed county *

² § 8000 establishes the Certified Shorthand Reporters Board in the Department of Consumer Affairs; § 8017 defines the practice of shorthand reporting; § 8018 limits the use of title of CSR; and § 8020 et seq. set out requirements for certification.

APPENDIX – Outline of Provisions Relating to Court Employees

26600–26778	Sheriff ³
26800–26863	Duties of county clerk (or court executive officer) *
28003	Schedule of dates for payment of salaries *
31200–31208	County retirement plans generally ⁴
31450–31894.3	County Employees Retirement Law of 1937 ⁵ *
31899–31899.10	Internal Revenue code compliance (public retirement systems)
53200–53210	Authority of local legislative body to provide health and welfare benefits (group insurance) *
53212–53214.5	Deferred compensation *
53215–53224	Pension trusts ⁶
53225–53225.2	Health insurance purchasing alliance ⁷
53240	Replacement of employees' damaged property
53245	Designation of person to receive checks
53247–53248	Comparable pay
53260–53264	Employment contracts
53291	Local agency assuming functions of another agency

B. Courts generally

68070	Government of courts (rules made by courts) ⁸
68080	Duties of clerk of court *
68086	Court reporter fees (charge to parties) *
68108	Unpaid furlough days *

³ The Task Force's definition of trial court employee does not include sheriffs, but these sections are included on the chart for reference. The sheriff's duty to attend the superior court is described at § 26603.

⁴ § 31201 provides for payment of the money paid as contribution toward retirement to a member of a county retirement system upon that member's separation from service of the county before retirement (for cause other than permanent disability).

⁵ § 31469(b) defines "employee" under this chapter to include any officer or attaché of a superior or municipal court brought within operation of this chapter.

⁶ Permits local agencies (including counties) to establish pension trusts.

⁷ Permits counties that maintain a county retirement system under the County Employees Retirement Law of 1937 to form or participate in a Health Insurance Purchasing Alliance program.

⁸ Permits every court to make rules for its own government and the government of its officers not inconsistent with law or rules adopted by the Judicial Council.

APPENDIX – Outline of Provisions Relating to Court Employees

68112–68114.7	Trial court coordination *
68114.8	Court reporters – San Bernardino County †
68114.9	Cross-deputizing (coordinated courts) *
68505	Duties of clerk of court *
68520	Report on employees from courts to Judicial Council ⁹
68525	Duties of court reporter *
68546	Compensation on cross-assignment *
68560–68566	Court interpreters
68650–68655	Trial court personnel (effectuates California Rules of Court, rules 2201–2210)
69595, 69599.5	Provisions affecting referees in San Diego and Santa Barbara counties †
69648	Expenses of employees attending superior court in another district (Los Angeles) †
69750	Expenses of employees travelling to another location in judicial emergency (§ 68115) *

C. Superior courts, generally and in specific counties

69841–69848	Duties of superior court clerk *
69890–69912	Officers, attaches, and employees generally – includes various benefits, some pertaining to specific counties * †
69941–70139	Superior court reporters * †
70140	Commissioner salary following unification *
70141–70148	Court commissioners * †
70210–70219	Transition to unified court ¹⁰ *

⁹ Requires superior and municipal courts to report to Judicial Council by 1/31/92 on number, classification, salary, and benefits of every officer and employee who is involved in performance of court operations. Requires Judicial Council to report to Legislature by 7/1/92.

¹⁰ See Attachment B for general provisions governing the transition to a unified court that affect court employees.

APPENDIX – Outline of Provisions Relating to Court Employees

- D. Municipal courts, generally ¹¹
- | | |
|------------------|--|
| 71004 | Powers and duties of clerk of municipal court superseding another court * |
| 71040.4, 71040.8 | Effect of consolidations on sheriffs and marshals (county-specific) |
| 71082–71094 | Officers and employees (including their salaries) of consolidated municipal court or municipal court superseding justice court * |
| 71181–71184 | Filling vacant positions * |
| 71220–71221 | Compensation * † |
| 71260–71305 | Clerk, marshal and constable * |
| 72000–72053.5 | Municipal court officers & employees, generally (compensation and benefits) * |
| 72054–72073 | Duties of clerk in limited civil cases * |
| 72110–72116 | Marshals (and some provisions on consolidation with sheriffs) |
| 72150–72151 | Deputies of marshal & clerk * |
| 72190–72190.2 | Court commissioners * |
| 72191–72192 | Jury commissioner * |
| 72194–72199 | Court reporters * |
| 72301–72304 | Duties of clerk, commissioner, and traffic referee in fixing and accepting bail * |
| 72400–72408 | Traffic referees *† |
| 72450 | Traffic commissioners * |

¹¹ A few of these sections are county-specific. For example, § 72407 applies only to Los Angeles. Some sections apply in a unified superior court, although as written they apply to a municipal court. See Attachment B for transitional provisions.

APPENDIX – Outline of Provisions Relating to Court Employees

E. Municipal courts in specific counties ¹²

72600–72784	Los Angeles †
73075–73096.1	Alameda †
73100–73122	San Bernardino †
73300–73301	Various counties (provisions regarding salary and credit for service in superseded courts) †
73330	Calaveras †
73340–73366	Contra Costa †
73390–73408	Kings †
73430–73443	Kern †
73480–73490	San Joaquin (Lodi District) †
73520–73530	San Mateo †
73560–73572	Monterey †
73580–73587	Lake †
73600–73608	El Dorado †
73640–73650	San Diego (El Cajon District) †
73660–73668	Humboldt †
73671–73679.5	Solano (Northern District) †
73680–73697	Fresno (Fresno District) †
73698–73699.6	Fresno (Central Valley District) †
73701–73714	San Joaquin (Manteca-Ripon-Escalon-Tracy District) †
73730–73743	Imperial †
73750–73767	Madera †
73770–73783	Marin †
73783.1–73783.9	Mariposa †
73784–73785	Mendocino †
73790–73802	Merced †

¹² This part includes statutes governing municipal courts in all counties except Alpine, Amador, Colusa, Del Norte, Inyo, Lassen, Modoc, Mono, Plumas, San Benito, Sierra, and Trinity. Some sections apply expressly to coordinated superior and municipal courts (see, for example, § 73330, regarding Calaveras County). The ranges of sections noted in this outline include all the sections applicable to the municipal courts in the counties listed, including number of judges, location of facilities, etc. Attachment D includes only those provisions that apply to court employees.

APPENDIX – Outline of Provisions Relating to Court Employees

73820–73828	Nevada †
73870–73877	Sacramento (North Sacramento District) †
73950–73960	San Diego (North County District) †
74010–74014	Orange ¹³
74020–74030	Placer †
74130–74145	Riverside †
74190–74201	Sacramento (Sacramento District) ¹⁴ †
74205–74212	Sacramento (South Sacramento County District) †
74340–74353	San Diego (San Diego District) †
74355–74359.2	San Diego †
74500–74521	San Francisco †
74600–74613	San Luis Obispo †
74640–74649	Santa Barbara †
74660–74673	Santa Clara †
74690–74699	Santa Cruz †
74700–74711	Sonoma †
74720–74731	Siskiyou †
74740–74750	San Diego (South Bay District) †
74760–74767	Glenn †
74780–74792	Stanislaus †
74800–74811	San Joaquin (Stockton) †
74820–74820.14	San Joaquin ¹⁵
74830–74839	Sutter †
74840–74851	Solano (Vallejo-Benicia District) †
74860–74868	Tehama †
74900–74913	Ventura †
74915–74919	Yuba †
74920–74926.7	Tulare †
74934–74945	Butte †
74948–74958	Napa †

¹³ These sections pertain to the office of the marshal in Orange County, and not to court employees.

¹⁴ § 74190 consolidates the Sacramento District with the North Sacramento District (§§ 73870–73877).

¹⁵ These sections pertain to consolidation of the marshal's and sheriff's offices.

APPENDIX – Outline of Provisions Relating to Court Employees

74960–74973	Yolo †
74980–74991	Shasta †
74993–74997	Tuolumne †

F. Trial Court Funding Act

77001	Judicial Council rules on trial court management
77003	“Court operations” includes salaries and benefits

VI. Penal Code sections

903–903.3	Duties of jury commissioner
938–938.3	Reporting and transcription of grand jury proceedings (reporter’s fees)

VII. Welfare and Institutions Code sections

247	Juvenile court referee ¹⁶ *
255	Juvenile hearing officer *

VIII. California Rules of Court

205	Duties of presiding judge of superior court (includes court personnel plan)
206	Requires judges to follow court’s personnel plan in dealing with employees
207	Duties of court executive officer (includes drafting personnel plan)
532.5	Duties of presiding judge and administrative judge of municipal court (includes personnel plan)
532.7	Requires municipal court judges to follow court’s personnel plan in dealing with employees
708(b)	Selection of court executive officer in unified court

¹⁶ Duties and powers of the juvenile court referee are at § 248.

APPENDIX – Outline of Provisions Relating to Court Employees

- 810 Definition of court operations
- 970 Judicial education (duty of judicial officers, including commissioners and referees who are full-time court employees)
- 2201–2210 Trial court employee labor relations
- 6.650 Trial court personnel plans
- 6.655 Procedures for processing complaints against subordinate judicial officers

IX. Standards of Judicial Administration sections

- 1.4 Reasonable accommodation for court personnel with disabilities
- 4.2 Guidelines for reimbursement of costs in change of venue cases
- 16 Procedures for handling complaints against court commissioners and referees
- 27 Court personnel plans
- 28 Trial court coordination plans
- 35 Model code of ethics for court employees

Attachment A. CONSTITUTIONAL PROVISIONS**Summary of Selected Constitutional Provisions Relating to Court Employees ¹****Superior courts**

The Legislature shall provide for the officers and employees of each superior court. (Art. VI, § 4.)

Municipal courts

The Legislature shall prescribe for each municipal court the number, qualifications, and compensation of judges, officers, and employees. (Art. VI, § 5(c).)

General

An urgency statute may not create or abolish any office or change the salary, term, or duties of any office. (Art. IV, § 8(d).)

The Legislature may provide for appointment of subordinate judicial officers by trial courts. (Art. VI, § 22.)

Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof are exempt from civil service. (Art. VII, § 4(b).)

The Legislature shall provide for an elected county sheriff in each county. (Art. XI, § 1(b).) County charters shall provide for an elected sheriff and for the sheriff's election, compensation, terms and removal. (Art. XI, § 4(c).)

Effect of court unification

In any county in which the superior and municipal courts become unified, in each preexisting superior and municipal court the previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court. (Art. VI, § 23(c)(1); see also Gov. Code § 70212(a).)

The implementation of SCA 4 may include urgency statutes that create or abolish offices or change the salaries, terms, or duties offices, notwithstanding section 8 of article IV. (Art. VI, § 23(a).)

¹ The full texts of the sections cited are included on the following pages.

Full Text of Constitutional Provisions Relating to Court Employees

ARTICLE III. STATE OF CALIFORNIA

Section 3. Enumeration; exercise

The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

ARTICLE IV. LEGISLATIVE

Section 8(d). Urgency measures

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

ARTICLE VI. JUDICIAL

Section 4. Superior courts; officers and employees; appellate divisions

In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

In each superior court there is an appellate division. The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence of the appellate division.

Section 5. Municipal courts; districts; justice courts conversion to municipal courts; unification of municipal and superior courts

(a) Each county shall be divided into municipal court districts as provided by statute, but a city may not be divided into more than one district. Each municipal court shall have one or more judges. Each municipal court district shall have no fewer than 40,000 residents; provided that each county shall have at least one municipal court district. The number of residents shall be determined as provided by statute.

(b) On the operative date of this subdivision, all existing justice courts shall become municipal courts, and the number, qualifications, and compensation of judges, officers, attaches, and employees shall continue until changed by the Legislature. Each judge of a part-time municipal court is deemed to have agreed to serve full time and shall be available for assignment by the Chief Justice for the balance of time necessary to comprise a full-time workload.

(c) The Legislature shall provide for the organization and prescribe the jurisdiction of municipal courts. It shall prescribe for each municipal court the number, qualifications, and compensation of judges, officers, and employees.

(d) Notwithstanding subdivision (a), any city in San Diego County may be divided into more than one municipal court district if the Legislature determines that unusual geographic conditions warrant such division.

(e) Notwithstanding subdivision (a), the municipal and superior courts shall be unified upon a majority vote of superior court judges and a majority vote of municipal court judges within the county. In those counties, there shall be only a superior court.

Section 6. Judicial Council

The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, 5 judges of municipal courts, 2 nonvoting court administrators, and such other nonvoting members as determined by the voting membership of the council, each appointed by the Chief Justice for a 3-year term pursuant to procedures established by the council; 4 members of the State Bar appointed by its governing body for 3-year terms; and one member of each house of the Legislature appointed as provided by the house. Vacancies in the memberships on the Judicial Council otherwise designated for municipal court judges shall be filled by judges of the superior court in the case of appointments made when fewer than 10 counties have municipal courts.

Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Section 22. Trial courts of record; officers to perform subordinate judicial duties

The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties.

Section 23. Municipal courts unification with superior courts

(a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to Section 16 of Article I, approved at the November 5, 1996, general election¹ is to permit the Legislature to provide for the abolition of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected

¹ Stats. 1996, Res. ch. 36 (S.C.A. 4), which amends Const. Art. I, § 16, and Const. Art. 6, §§ 1, 4, 5, 6, 8, 10, 11, and 16, was not on the ballot in 1996.

municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.

(c) Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:

(1) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.

(2) Preexisting court locations are retained as superior court locations.

(3) Preexisting court records become records of the superior court.

(4) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(5) Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.

(6) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(7) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

ARTICLE VII. PUBLIC OFFICERS AND EMPLOYEES

Section 1. Inclusion of officers and employees; permanent appointments and promotions

(a) The civil service includes every officer and employee of the state except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination.

Section 4(b). Exemptions

The following are exempt from civil service:

...

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

ARTICLE XI. LOCAL GOVERNMENT

Section 1. Counties; subdivisions of state; formation, consolidation and boundary change; removal of county seat; powers; officers and employees

(a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

(b) The Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees.

Section 3. Charters; adoption by counties and cities; amendment, revision or repeal; conflicting measures

(a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

(b) The governing body or charter commission of a county or city may propose a charter or revision. Amendment or repeal may be proposed by initiative or by the governing body.

(c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.

(d) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

Section 4. County charters; provisions

County charters shall provide for:

(a) A governing body of 5 or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.

(b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

(c) An elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attaches, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties.

Section 6. Consolidation as charter city and county

(a) A county and all cities within it may consolidate as a charter city and county as provided by statute.

(b) A charter city and county is a charter city and a charter county. Its charter city powers supersede conflicting charter county powers.

Section 7. Counties and cities; ordinances and regulations; authority

A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

Section 10. Extra compensation or allowance after service rendered; payment of claims; residency of public employees; exception

(a) A local government body may not grant extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or pay a claim under an agreement made without authority of law.

(b) A city or county, including any chartered city or chartered county, or public district, may not require that its employees be residents of such city, county, or district; except that such employees may be required to reside within a reasonable and specific distance of their place of employment or other designated location.

Attachment B. COURT UNIFICATION

**General Provisions Governing Court Employee Classifications,
Compensation, and Benefits Upon Court Unification**

Government Code § 70210. Adoption of rules; requirements

The Judicial Council shall adopt rules of court not inconsistent with statute for:

(a) The orderly conversion of proceedings pending in municipal courts to proceedings in superior courts, and for proceedings commenced in superior courts on and after the date the municipal and superior courts in a county are unified.

(b) Selection of persons to coordinate implementation activities for the unification of municipal courts with superior courts in a county, including:

(1) Selection of a presiding judge for the unified superior court.

(2) Selection of a court executive officer for the unified superior court.

(3) Appointment of court committees or working groups to assist the presiding judge and court executive officer in implementing unification.

(c) The authority of the presiding judge, in conjunction with the court executive officer and appropriate individuals or working groups of the unified superior court, to act on behalf of the court to implement unification.

(d) Preparation and submission of a written personnel plan to the judges of a unified superior court for adoption.

(e) Preparation of local court rules necessary to facilitate the orderly conversion of proceedings pending in municipal courts to proceedings in superior courts, and for proceedings commenced in superior courts on and after the date the municipal and superior courts in a county are unified. These rules shall, on the date the municipal and superior courts in a county are unified, be the rules of the unified superior court.

(f) Other necessary activities to facilitate the transition to a unified superior court.

§ 70212. Officers, employees and other personnel; court locations and records; business of the court; judicial powers

Except as provided by statute to the contrary, in a county in which the municipal and superior courts become unified, the following shall occur automatically in each preexisting municipal and superior court:

(a) Previously selected officers (including subordinate judicial officers), employees, and other personnel who serve the court become the officers and employees of the superior court.

(b) Preexisting court locations are retained as superior court locations.

(c) Preexisting court records become records of the superior court.

(d) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(e) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(f) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

(g) Subpoenas, summons of jurors, and other process issued by the court shall be enforceable by the superior court.

(h) The superior court and each judge of the superior court has all the powers and shall perform all of the acts that were by law conferred on, or required of, any court superseded by the superior court and any judge of the superseded court, and all laws applicable to the superseded court not inconsistent with the statutes governing unification of the municipal and superior courts apply to the superior court and to each judge of the court.

§ 70214. Authorized court commissioners, traffic referees or traffic trial commissioners; appointments; powers and authority

When the municipal and superior courts in a county are unified:

(a) Until revised by statute, the total number of authorized court commissioners in the unified superior court shall equal the previously authorized number of court commissioners in the municipal court and superior court combined.

(b) Until revised by statute, the total number of authorized traffic referees or traffic trial commissioners in the unified superior court shall equal the previously authorized number of court traffic referees or traffic trial commissioners in the municipal court.

(c) The superior court or its judges may make appointments previously authorized to be made by a municipal court or its judges.

(d) Commissioners and referees of the unified superior court shall have all of the powers and authority of commissioners and referees of superior courts and of municipal courts.

§ 70215. Construction with other laws

This article and other statutes governing unification of the municipal and superior courts in a county shall prevail over any inconsistent statutes otherwise applicable to the municipal or superior courts in the county, including, but not limited to, statutes governing the number of judges, selection of a presiding judge, selection

of a court executive officer, and employment of officers (including subordinate judicial officers), employees, and other personnel who serve the court.

§ 70217. Written personnel plan; procedure until adoption and approval (operative until January 1, 2000)

On unification of the municipal and superior courts in a county, until adoption of a written personnel plan by the judges of the unified superior court and approval of the plan by the Legislature:

(a) Upon unification, previously selected officers, employees, and other personnel who serve the courts shall become the officers, employees, and other personnel of the unified superior court at their existing or equivalent classifications, and at their existing salaries and benefits that include, but are not limited to, accrued and unused vacation, sick leave, personal leave, health and pension plans.

(b) Permanent employees of the municipal and superior courts on the effective date of unification shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees on the effective date of unification shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

(c) Employment seniority of an employee of the municipal or superior courts on the effective date of unification shall be counted toward seniority in the unified superior court, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(d) No officer or employee with peace officer status shall lose that status as a result of unification, and any officer or employee authorized to perform notice and process services or court security services in the municipal court is authorized to perform those services in the unified superior court.

§ 70217. Written personnel plan; procedure until adoption and approval (becomes operative on January 1, 2000)

On unification of the municipal and superior courts in a county, until adoption of a statewide structure for trial court employees, officers, and other personnel by the Legislature:

(a) Notwithstanding any other provision of law contained in this title, upon unification, previously selected officers, employees, and other personnel who serve the courts shall become the officers, employees, and other personnel of the unified superior court at their existing or equivalent classifications, and with their existing salaries, economic and noneconomic benefits and other existing terms and conditions of employment that include, but are not limited to, accrued and unused vacation, sick leave, personal leave, health and pension plans, civil service or merit system coverage, and other systems that provide similar employment

protections. The status, position, and rights of such persons shall not be affected by the unification and shall be retained by them as officers, employees, and other personnel of the unified superior court. This provision shall be retroactive to the date of unification and shall supersede any other provision of law governing at-will employment or exemption from civil service coverage applicable to these employees. It is the intent of the Legislature to ensure that officers, employees, and other personnel of the superior court do not lose employment protections to which they were entitled when unification took effect as a result of unification.

(b) Permanent employees of the municipal and superior courts on the effective date of unification shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees on the effective date of unification shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

(c) Employment seniority of an employee of the municipal or superior courts on the effective date of unification shall be counted toward seniority in the unified superior court, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

(d) No officer or employee with peace officer status shall lose that status as a result of unification, and any officer or employee authorized to perform notice and process services or court security services in the municipal court is authorized to perform those services in the unified superior court.

§ 70218. Applicability of laws; employee organizations; memorandum of understanding; bargaining units

When the municipal and superior court in a county are unified:

(a) Sections 3501.5, 68650, 68651, 68652, 68653, 68654, and 68655 shall be fully applicable to the county and unified superior court.

(b) Sections 2201 to 2210, inclusive, of the California Rules of Court shall remain in effect and shall be fully applicable to the county and unified superior court.

(c) An employee organization that has been previously recognized as a representative of a group of court employees or the exclusive representative of an established appropriate bargaining unit of court employees, either by the county or municipal court or superior court shall continue to be recognized as a representative or the exclusive representative of the same employees of the county or unified superior court.

(d) An existing memorandum of understanding or agreement between the county, a municipal court, or a superior court shall remain in effect and be fully binding on the county, the unified superior court, and the employee organization involved for the term of the agreement. However, in the event of an election held under paragraph (2) of subdivision (f), a memorandum of understanding or agreement with an employee organization that is no longer recognized as the

exclusive representative shall continue in effect and be administered by the employee organization that receives a majority of votes in the election and is certified or recognized pursuant to paragraph (2) of subdivision (f), provided that the memorandum of understanding or agreement shall be subject to reopening on request of either the unified superior court or the newly certified or recognized employee organization, provided that no changes in that memorandum of understanding or agreement may be made during its term without mutual agreement of the unified superior court and the newly certified or recognized employee organization, and (2) a memorandum of understanding or agreement with an employee organization that receives a majority of votes in the election shall remain in full force and effect until its expiration or until replaced by a subsequent memorandum of understanding or agreement.

(e) Nothing in this article shall disturb or affect any court- or county-established appropriate bargaining unit or memorandum of understanding or agreement between an employee organization and a county or court, unless subdivision (f) applies.

(f)(1) Where there is more than one employee organization that has been previously recognized as the exclusive representative of employees of the municipal court and the superior court, the county and the unified superior court shall continue to recognize each exclusive representative of each bargaining unit and shall continue to be bound by any existing memorandum of understanding or agreement covering those employees for a period not to exceed 225 days from date of unification, pending the exhaustion of the election procedure set forth in paragraph (2). Any conflicts in the existing agreements as to wages and other terms and conditions of employment shall be subject to negotiation between the county or unified superior court and each of the exclusive representatives.

(2) If after unification it is determined that two or more exclusive representatives seek to represent employees in a single appropriate bargaining unit, the unified superior court shall conduct a representation election in accordance with Sections 2201 to 2210, inclusive, of the California Rules of Court. With respect to this process (A) the unified court shall meet and confer with all incumbent exclusive representatives regarding the establishment of appropriate bargaining units, (B) the county or unified superior court shall maintain a neutral position as to the competing employee organizations in the election, (C) the employee organization shall be certified or recognized as the exclusive bargaining representative upon receiving a majority of the votes cast in the representation election, (D) the election of an exclusive representative shall be conducted no later than 180 days from the effective date of unification or the effective date of this subparagraph, whichever comes later, and (E) the certification or recognition of an exclusive representative shall be complete no later than 45 days from the date of the election.

(g) This section applies to all unified superior courts, and the counties and employee organizations involved, beginning on the date of unification.