

**LEGISLATORS' RETIREMENT SYSTEM—Continued**

valuation indicated an unfunded liability (the current value of benefits for which there are no assets) of \$19,303,000. The consulting actuary made several recommendations as to how this unfunded liability could be covered.

We recommend that legislation be enacted which would fund the system on the basis of one such recommendation (1) an annual General Fund appropriation of \$3 million for five fiscal years to fund the liabilities for retired and inactive members and (2) a state (employer) contribution of 35.7 percent of member payroll until January 1, 2002, and 25.5 percent thereafter to fund the accrued liabilities for active members.

These amounts may be subject to modification after the next quadrennial valuation due to commence on June 30, 1977.

**Administrative Expenses**

Pursuant to a recommendation made in our 1975-76 Analysis, legislation was enacted (Chapter 655, Statutes of 1975) which provided for the cost of administration of the system to be paid from earnings of the Legislators' Retirement Fund. Chapter 655 appropriated \$20,000 for the last half of the current fiscal year. The Governor's Budget proposes the expenditure of \$40,000 for administrative expenses for the 1976-77 fiscal year. The Legislators' Retirement System is administered by the Board of Public Employees' Retirement System (PERS).

**JUDICIAL**

Item 16 from the General Fund and Item 17 from the Motor Vehicle Account, State Transportation Fund.

Budget p. 9

Requested 1976-77 .....	\$17,041,929
Estimated 1975-76.....	16,885,830
Actual 1974-75 .....	13,294,012
Requested increase \$156,099 (0.9 percent)	
Total recommended reduction .....	None

**1976-77 FUNDING BY ITEM AND SOURCE**

Item	Description	Fund	Amount
16	Judicial	General	\$17,009,159
17	Judicial	State Transportation	32,770
			<u>\$17,041,929</u>

**GENERAL PROGRAM STATEMENT**

**Court Structure**

Section 1, Article VI, of the California Constitution vests the state judicial power in the Supreme Court, the courts of appeal and the superior, municipal and justice courts. The Supreme Court and the five courts of

appeal are wholly state supported. The remaining courts are supported by the counties except for the major portion of the superior court judges' salaries, an annual \$60,000 block grant for each superior court judgeship created after January 1, 1973, and the employer contributions to the Judges' Retirement Fund for superior and municipal judges, which are state obligations. Fines, fees, and forfeitures collected by the courts are paid into each county general fund to be distributed to the cities, counties, districts and state special funds as required by law.

The Supreme Court and courts of appeal hear appeals from the trial courts and have original jurisdiction over certain writs such as habeas corpus, mandamus, and prohibition.

#### **Judicial Council**

The Judicial Council consists of the Chief Justice, one other Supreme Court justice, five superior, three municipal, and two justice court judges, four members of the State Bar and one member of each house of the Legislature. The council's purpose is to improve the administration of justice by surveying the judicial business and making recommendations to the courts, the Governor and the Legislature relative to the judicial functions and adopting rules for the orderly administration of the courts.

The Judicial Council also receives federal grants directly from the federal government and through the Office of Criminal Justice Planning to fund studies and demonstration projects designed to improve judicial administration.

#### **Commission on Judicial Qualifications**

The Commission on Judicial Qualifications receives, investigates, holds hearings on, and makes recommendations to the Supreme Court on, complaints relating to the qualifications, competency and conduct of the judiciary. It may recommend to the Supreme Court the retirement for disability, the censure or removal of a judge for any of the causes set forth in Section 18, Article VI, of the State Constitution.

#### **ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

Table 1 summarizes the proposed funding of the several judicial functions.

#### **Budget Adjustments**

Exclusive of federal reimbursements, the judicial operation will increase by a net amount of \$156,099 or 0.9 percent for a total of \$17,041,929. The reduction in federal reimbursements is due to the completion of various federally funded projects and the transfer to state support of the previously federally funded Center for Judicial Education and Research and the court automation-information coordinator position. Table 2 summarizes the major budgetary changes.

## JUDICIAL—Continued

**Table 1**  
**Budget Summary**

	Estimated 1975-76	Proposed 1976-77	Change from Current Year	
			Amount	Percent
<b>Funding</b>				
General Fund.....	\$16,854,642	\$17,009,159	\$154,517	0.9%
State Transportation Fund.....	31,188	32,770	1,582	5.1
Reimbursements (Federal) .....	1,674,366	827,278	-847,088	-50.6
Total .....	\$18,560,196	\$17,869,207	\$-690,989	-3.7%
<b>Program</b>				
Supreme Court .....	\$2,713,891	\$2,726,751	\$12,860	0.5%
Courts of Appeal.....	10,985,982	11,108,927	122,945	1.1
Judicial Council .....	4,773,278	3,947,103	-826,175	-17.3
Commission on Judicial Quali- fications .....	87,045	86,426	-619	-0.7
Total .....	\$18,560,196	\$17,869,207	\$-690,989	-3.7%
Personnel Years.....	440.6	436.8	-3.8	-0.9%

**Table 2**  
**Budget Adjustments**  
**1975-76 to 1976-77**

Detail	Amount
21.3 new positions .....	462,856
Merit salary increases .....	159,495
Staff benefits .....	95,748
Operating expenses .....	-418,885
Arbitration proceedings .....	150,000
Transfer of federally funded projects to the General Fund .....	341,781
Reduction of funding for justice court judges .....	-635,000
Miscellaneous adjustments .....	104
Net increase.....	\$156,099

**New Positions**

The 21.3 new positions include five courts of appeal judges authorized by Chapters 1054 and 1055, Statutes of 1975, and related attorney and secretarial staff; 2.3 positions for workload increases in the first appellate district and the Administrative Office of the Courts; and 11 technical and clerical positions related to and reimbursed from federally supported projects as specified on page 9, lines 58 through 80 of the Governor's Budget.

**Operating Expenses**

The reduction in operating expenses results from a decrease of \$461,777 in consultant and professional services for the courts of appeal and Judicial Council partly offset by price increases and other minor adjustments. Costs of consultant and professional services decline because of a decrease in federally supported projects, many of which will terminate midway through the budget year.

**Arbitration Proceedings**

The \$150,000 provided for arbitration procedures results from enactment of Chapter 1006, Statutes of 1975 (operative July 1, 1976), which requires the Judicial Council to provide by rule for a system of arbitration of the following superior court matters:

- a. Any cause by stipulation of the parties thereto, and
- b. Any cause by election of the plaintiff if that party agrees that the arbitration award shall not exceed \$7,500.

Chapter 1006 provides further that the arbitrator shall be granted reasonable compensation for his services from funds appropriated to the Judicial Council for that purpose. The budget request for arbitration services is based on a projected 1,000 cases with compensation of \$150 per case to the arbitrators.

#### **Transfer of Federally Funded Projects to the General Fund**

*Judicial Education and Research.* The \$341,781 increase in General Fund expenditures relating to projects previously funded by federal sources includes the California Center for Judicial Education and Research and the court automation-information system coordinator. The Center for Judicial Education and Research provides programs of continuing education for the judiciary and research to improve judicial operations and procedures.

The center was created in the 1973-74 fiscal year with federal funds received through the Office of Criminal Justice Planning. The budget year will be the first full year of General Fund support for this program at a total cost of \$325,498. We believe the program merits continuation.

The purpose of the center is to improve the performance of California judges and thereby reduce the operating costs of the entire state judicial system. In order to provide the state with a well-informed and more expert judiciary to apply its laws and administer its courts fairly and efficiently, the center prepares judicial training and continuing education programs for judges, coordinates and assists other state organizations in preparing such programs to avoid duplication or overlap of program topics, prepares reference works for court use, and conducts research in judicial education. It is anticipated that the improved performance of judges will result in speedier trials, fewer reversals for errors and fewer retrials. Accomplishment of these results would mean state and local savings in court costs, a lessening of personal hardship created by trial delay and fewer criminal acts committed by defendants released on bail awaiting trial or decisions on appeal.

Educational programs provided by the center include:

1. Instructional sessions for trial judges on appropriate topics to improve and strengthen the trial court processes.
2. Sentencing institutes for superior court judges.
3. Separate institutes for juvenile, municipal, justice and appellate court judges on matters and issues pertinent to each.

The center also gathers, compiles and publishes materials for judicial education utilizing newsletters, monographs, audio and video tapes as well as conferences and institutes.

*Court Automation.* The court automation-information coordinator represents the Judicial Council in the development of the California Judicial Information System (CJIS), a federally funded project which will research, evaluate and develop methods of automating judicial data, procedures and operations.

**JUDICIAL—Continued**

The CJIS project and the coordination position have potential for significantly improving operations of the courts and providing data which will be of value to the courts, the Legislature and others interested in court operations.

**Estimate of Salary Savings Appears Unrealistic**

Estimates of salary savings, which are deducted from the gross budget level, represent projections of the money which will be saved through staff turnover, reflecting such factors as hiring new personnel at lower salary steps and delay in filling vacancies. When based on past operating experience, such estimates have significant budgetary implications and are properly treated as a deduction against support requirements. However, the relatively minor increase in the budget-year expenditures for the courts and judicial council has been contributed to by a large and unrealistic increase in the estimate of salary savings. For the current year, the Judicial Council estimates that position turnover will effect salary savings of \$157,789 or approximately 1.5 percent of the total cost of salaries and wages. However, for the budget year, this saving has been increased to \$304,549, or approximately 2.5 percent of salaries and wages. This is substantially in excess of recent experience in the judicial function and results in an underfunding of the level of judicial program authorized.

We are advised that the high level of salary savings reflects an effort to remain within the budget-year expenditure level allocated to the judicial function by the Governor's Budget. By utilizing salary savings to reduce expenditures in the personal services category, the judicial function retains more administrative flexibility in achieving staff reductions than would be possible if the positions were abolished. However, use of salary savings in this manner also results in a high level of authorized but unfilled positions, thus complicating legislative review of staffing requirements and precluding evaluation of the potential impact of personnel reductions on workload requirements because it is not known in which programs the manpower reductions will be made. If the projected level of salary savings is not realized, it may be necessary to augment the judicial budget from the Emergency Fund or by a deficiency appropriation.

**Justice Court Funding**

The California Supreme Court ruled in *Gordon vs. Justice Court* that nonattorney justice court judges could not hear criminal cases in which a jail sentence could be imposed unless the defendant waives the right to have his case tried by an attorney judge. In response thereto, the Legislature enacted Chapter 1493, Statutes of 1974 (Government Code Sections 71700-71704) which contained the following provisions:

1. Authorized the appointment by the Governor of not more than 22 "circuit" justice court judges meeting specified qualifications with terms limited to January 2, 1977. These judges were to hear criminal cases as required for justice courts having nonattorney judges.
2. Set the salaries of the 22 circuit judges and up to 30 existing justice court judges meeting the specified qualifications at \$30,000 per an-

num, subject to an automatic annual increase as provided all judges except justice court judges not included under Chapter 1493.

3. Authorized the state to reimburse counties for the annual salary of the 22 circuit judges as well as salaries of 30 existing justice court judges meeting the specified qualifications.
5. Required that all justice court vacancies after January 5, 1975, be filled by attorneys. As the terms of all justice court judges (with three exceptions statewide) expire in 1976, the elections held in November 1976 must include only candidates who are attorneys.

The 22 circuit justice court judges were never appointed and the necessary assistance to nonattorney justice court judges is being provided by utilizing existing attorney justice court judges (who meet the specified qualifications) on a full-time rather than part-time basis. The 1975-76 budget, as approved by the Legislature, contained \$1,270,000 to reimburse the counties for the salaries of these judges as authorized by Chapter 1493.

The Governor's Budget for 1976-77 reduces this amount to a half-year expenditure of \$635,000 on the basis that salary reimbursement will be required only through 1976 because all justice court judges taking office thereafter will be attorneys as required by the Government Code, thereby obviating the need for assistance under the Gordon decision. There is a possibility that qualified candidates may not be available for justice courts in some areas of the state. If this occurs, provision will have to be made for assignment of attorney judges to such districts unless anticipated legislation to merge the three existing trial courts (superior, municipal and justice) is enacted at the 1976 legislative session.

**SALARIES OF SUPERIOR COURT JUDGES**

Item 18 from the General Fund	Budget p: 13
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Requested 1976-77 .....	\$19,030,076
Estimated 1975-76.....	18,250,855
Actual 1974-75 .....	14,888,902
Requested increase \$779,221 (4.3 percent)	
Total recommended reduction .....	None
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**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

This item provides the state's share of superior court judges' salaries, health benefits and workers' compensation death benefit payments. The counties' salary contribution for each judge is limited to \$5,500, \$7,500 or \$9,500 per annum, depending on the population of the county. The state pays the remainder of the salary, which is presently \$45,299 under Government Code Section 68203. This section provides for an automatic adjustment of judges' salaries each September 1 based on the increase in the California consumer price index during the prior calendar year.

The amount budgeted provides for 17 new superior court judgeships effective January 1 and for two effective on July 1, 1976, in addition to the

**SALARIES OF SUPERIOR COURT JUDGES—Continued**

503 judgeships previously authorized. An additional \$540,000 is proposed in Item 100 of the Governor's Budget to provide a \$65 per month salary increase for superior and appellate court judges effective September 1, 1976.

**CONTRIBUTIONS TO JUDGES' RETIREMENT FUND**

In previous years the Governor's Budget has proposed an appropriation from the General Fund to cover deficits in benefit payments for members of the Judges' Retirement System. This has been necessary because the Judges' Retirement Fund is actuarially unfunded for service rendered prior to June 30, 1973.

The fund provides retirement benefits for municipal, superior, appellate, and supreme court judges and their surviving spouses. The fund receipts consist of contributions of 8 percent of salary from both the member and the state, special \$3 filing fees on specified civil matters, and the General Fund appropriation for any deficits experienced. In 1974-75 and 1975-76, appropriations of \$1,781,860 and \$1,750,000 respectively were required to fund such deficits. A General Fund appropriation of \$2,755,626 would be necessary to fund the projected 1976-77 deficit.

**Budget Proposal**

In lieu of such General Fund appropriations, the Governor's Budget proposes for 1976-77 and future years, the enactment of legislation amending the Government Code to provide for an increase to both the judges' and the state's contribution to the Judges' Retirement Fund from 8 percent to "approximately 15 percent" effective January 1, 1977.

The effect of such legislation, if enacted, will be to make the Judges' Retirement System fully funded and actuarially sound by January 1, 2002, which is legislative intent as expressed by Section 75110 of the Government Code.

This proposal will also result in a net savings to the General Fund of \$1,202,901 in fiscal year 1976-77 (the difference between the \$2,755,626 appropriation needed to meet the 1976-77 deficit and the \$1,552,725 increase in the state's contribution rate).

While we have not yet reviewed the specific legislation which would implement this proposal, we believe the concept of actuarially funding the Judges' Retirement System by equal increases on the part of both the employer and the employee is valid and therefore support the concept proposed in the Governor's Budget.

**Standardize Cost-of-Living Adjustment**

*We recommend legislation requiring the annual cost-of-living adjustment for retired judges to be applied in the same manner as under the Public Employees' Retirement System.*

The retirement allowances payable under this system (as well as judicial salaries) are adjusted annually on September 1 based on the increase in the California Consumer Price Index (CCPI) of the immediately preceding calendar year (December to December). The September 1, 1976 ad-

justment has been estimated to be 8.54 percent. Civil service retirees are limited to no more than a 2 percent annual cost-of-living adjustment after a two-year waiting period and the adjustment is applied to the original salary base. Thus, a retired superior court judge receiving a 75 percent retirement allowance of \$2,831 per month will be raised to \$3,073 (an increase of \$242 per month), while a comparable civil service retiree would receive an adjustment of \$56.62 per month. While we recognize a need for improvement in the PERS cost-of-living adjustment, we believe a standardized formula should be adopted to eliminate inequitable treatment of various employee groups.

Because there is a legal question whether the CCPI cost-of-living provision may have vested for current members who have not retired, this recommendation may be applicable only to future judges.

**STATE BLOCK GRANTS FOR SUPERIOR COURT JUDGESHIPS**

Item 19 from the General Fund	Budget p. 13
Requested 1976-77 .....	\$2,100,000
Estimated 1975-76.....	1,980,000
Actual 1974-75 .....	900,000
Requested increase \$120,000 (6.1 percent)	
Total recommended reduction .....	None

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The state provides an annual block grant of \$60,000 for each superior court judgeship created subsequent to January 1, 1973, to reimburse the counties for state-mandated cost increases.

This item provides block grants totaling \$2,100,000 for 35 judgeships authorized since January 1, 1973. Also included are funds for two judgeships authorized by Chapter 1298, Statutes of 1974. Funds appropriated for these two judgeships in 1974-75 were not expended and are reflected as estimated savings of \$120,000 for the current year in the Governor's Budget because the enabling legislation required Orange County to agree in a resolution to pay local costs in excess of the state block grants. The necessary resolution was not enacted by the Orange County Board of Supervisors until December 16, 1975.

Therefore, if the judges are appointed during the current year as authorized, the state block grants will be payable to Orange County and the current-year estimated \$120,000 savings will not be realized.