

ANALYSIS AND RECOMMENDATIONS

We recommend an augmentation of \$2,443,652 as the first step of a policy to amortize the unfunded liability and fully fund the Legislators' Retirement System.

Chapter 539, Statutes of 1972, declared legislative intent that, after January 1, 2002, the Legislators' Retirement System be fully funded and actuarially sound. Chapter 1192, Statutes of 1972, required a quadrennial actuarial valuation of the system commencing June 30, 1973. A consulting actuary completed the first such valuation early in 1974. The results of this valuation indicated an unfunded liability (the current value of accrued 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 amortized.

We recommend that the system be funded on the basis of one such recommendation consisting of (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.

The \$2,443,652 proposed augmentation represents the difference between \$4,152,634 (35.7 percent of the projected 1977-78 payroll plus the \$3 million proposed appropriation) and the \$1,708,982 appropriation proposed in the Governor's Budget for 1977-78.

These proposed contribution rates should be periodically reviewed and adjusted, if necessary, in light of future actuarial experience in the system, as reflected in the quadrennial valuations.

JUDICIAL

Items 16 and 18 from the General Fund and Item 17 from the Motor Vehicle Account, State Transportation Fund

Budget p. 9

Requested 1977-78	\$18,502,647
Estimated 1976-77	17,843,169
Actual 1975-76	16,314,703
Requested increase \$659,478 (3.7 percent)	
Total recommended increase	\$150,000

1977-78 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
16	Judicial	General	\$18,411,808
17	Judicial	State Transportation	35,839
18	Legislative Mandates	General	55,000
			<u>\$18,502,647</u>

JUDICIAL—Continued

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

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1. *Assigned Judges Program. Augment Item 16 by \$150,000.* Recommend increase to meet workload requirements.

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 Performance

The Commission on Judicial Performance 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, summarizing the proposed funding of the several judicial functions, shows reimbursements of \$386,605 in addition to appropriations amounting to \$18,502,647, for a total expenditure program of \$18,889,252.

Table 1
Budget Summary

<i>Funding</i>	<i>Estimated 1976-77</i>	<i>Proposed 1977-78</i>	<i>Change from Current Year</i>	
			<i>Amount</i>	<i>Percent</i>
General Fund	\$17,809,046	\$18,466,808	\$657,762	3.7%
State Transportation Fund ^a	34,123	35,839	1,716	5.0
Reimbursements	432,729	386,605	-46,124	-10.7
Total	\$18,275,898	\$18,889,252	\$613,354	3.4%
<i>Program</i>				
Supreme Court	\$2,839,674	\$2,928,023	\$88,349	3.1%
Courts of Appeal	11,487,581	11,618,897	131,316	1.1
Judicial Council	3,860,107	4,196,080	335,973	8.7
Commission on Judicial Performance	88,536	91,252	2,716	3.1
Legislative Mandates	-	55,000	55,000	
Total	\$18,275,898	\$18,889,252	\$613,354	3.4%
Personnel-years	433.6	446	12.4	2.9%

^a Supports a traffic court coordination function in the Administrative Office of the Courts.

I. Supreme Court

The \$88,349 or 3.1 percent increase in this program over the 1976-77 estimated expenditures reflected in Table 1 results from full-year salary increase costs for the judges (increase effective September 1, 1976), merit salary adjustments for nonjudicial personnel, staff benefits and price adjustments and a decrease of \$5,832 in salary savings.

II. Courts of Appeal

The budget request for the five Courts of Appeal totals \$11,618,897, an increase of \$131,316 as shown in Table 1. The increase reflects the full-year salary increase for judges, merit salary adjustments for court personnel and related staff benefits, two new positions, price adjustments, and a reduction in salary savings partially offset by deletion of one secretarial position at a salary savings of \$12,864 and a reduction of funds for appointment of counsel for criminal appellants totaling \$286,000.

Reduction in Appointed Counsel Funding

The \$286,000 reduction for appointed counsel results from the assumption of this criminal appeals workload by the State Public Defender. Appointed counsel fees are generally paid in the fiscal year following case assignment. Therefore, the funding reduction in the budget year primarily relates to the State Public Defender's assumption of cases in the current fiscal year. This new office became operational on July 1, 1976 and, due to the necessity to recruit and organize staff and establish operational procedures, it has not been able to assume the full assignment of appellate cases it will in future years.

New Positions

Included in the budget request for these courts are one new senior clerk (salary cost \$10,560) for the fourth district and one new judicial secretary I (salary cost \$10,284) for the fifth district for workload increases.

JUDICIAL—Continued

III. Judicial Council

The proposed budget of \$4,196,080 for this program represents an increase of \$335,973 or 8.7 percent over current-year estimated expenditures. As in the other programs of the judicial budget, a part of the net increase is for merit salary adjustments and staff benefits. Also included are 25.2 new positions with salary costs of \$495,113, partly offset by 15 staff reductions with salary savings of \$280,089. Six positions for the Calendar Management Technical Assistance Team reflected as staff reductions on page 12 of the Governor's Budget are not being abolished. Their funding is being changed from federal reimbursement to General Fund support for the first time. Additionally, 16.1 of the 25.2 requested new positions have been administratively established during the current fiscal year, further reducing the expenditure differential between the two fiscal years.

Calendar Management Technical Assistance Team

This team consists of four professional and two clerical positions established under federal grants to recommend calendar management (i.e., case scheduling and processing) improvements to the trial courts. The current year represents the third and final year of federal funding for this project, and the Governor's Budget proposes continuation as a General Fund obligation.

The team was created originally to make studies of calendar management problems in Sacramento and San Francisco counties. Its functions and scope were increased to provide assistance in all areas of court management upon the request of courts throughout the state. The team has spent effort providing services to newly created municipal courts in judicial districts previously served by justice courts and implementing the circuit justice court program. This latter activity provided attorney justice court judges as substitutes for nonattorney justice court judges to try criminal cases as required by a State Supreme Court decision.

Examples of improvements in court operations resulting from recommendations of this team include the setting of all criminal cases for trial in one county within 60 days as compared to only 50 percent being so set in the prior year. Additionally, in that county 87 percent of the criminal cases were disposed of within 60 days compared to 42 percent so disposed of in the prior period. In another county, team recommendations for establishment of a juvenile citation system and diversion program resulted in a 90 percent reduction in Section 601, Welfare and Institutions Code filings (i.e., truancy, etc.).

During the two years the team has operated under the direction of the Administrative Office of the Courts, it has rendered or is in the process of providing consultant services to 90 courts, which is approximately 27 percent of 335 trial courts authorized.

The local courts operate independently and many, especially those too small to justify a court administrator position, can benefit from improved management techniques. To optimize implementation of uniform and more efficient procedures, expedite case flow and hopefully reduce the

need for future increases in judges and court personnel, the state should continue to provide this service.

Provision of these technical services to the local courts is in furtherance of the constitutional mandate to the Judicial Council to survey judicial business and make recommendations to the courts, the Governor and the Legislature, and to adopt rules for court administration, practice and procedure.

New Positions for Determinate Sentence Law—Chapter 1139, Statutes of 1976

The determinate sentence law—Chapter 1139, Statutes of 1976, (SB 42) requires the Judicial Council to:

1. Promote uniformity of sentencing in criminal cases by adopting rules providing criteria for judges to consider when sentencing defendants.

2. Collect, analyze and quarterly report sentencing practices in this state *and in other jurisdictions*.

3. Conduct annually sentencing institutes for trial judges to assist in the imposition of appropriate sentences.

4. Continually study and review statutory sentences and the operation of existing criminal penalties and report to the Governor and to the appropriate policy committees of the Legislature its analysis regarding this subject matter and all proposed legislation affecting felony sentences.

In performing its duties under number 4 above, the Judicial Council must consider:

a. The nature of the offense and the degree of danger it presents to society.

b. The penalty for the offense compared to penalties for more serious offenses.

c. Comparability of California penalties in relation to other jurisdictions and sentence recommendations of national commissions and other learned bodies.

Because the determinate sentence law becomes operative July 1, 1977, it is necessary to establish sentencing rules, conduct sentencing workshops for judges and implement a sentencing reporting system. In order to meet the July 1 operative date, 9.2 new positions have been established administratively in the current year and are requested as new positions in the budget year. Included are one senior attorney III as chief of the unit, two senior attorneys II to establish sentencing rules and conduct sentencing institutes, two part-time positions (0.5 project manager and 0.5 research director), a court management analyst, an assistant statistician and three secretarial positions. It is anticipated that the part-time positions of project manager and research director, the statistician and one of the secretarial positions will be needed only for the current and budget years, with continuation dependent on future workload requirements.

Due to the time restraints related to development of this new program activity and the probable need to establish and subsequently revise rules and procedures as experience is gained under the new law, provide sentencing institutes and follow-up on sentencing practices and other enumerated duties, the positions requested appear to be justified subject to future review after the initial implementation period permits an evalua-

JUDICIAL—Continued

tion of the ongoing workload needs.

Experimental Court Projects

Recent legislation (Chapters 960 and 1287, Statutes of 1976) directs the Judicial Council to provide for and report on several experimental court projects. Chapter 960 requires three-year pilot projects in two municipal and two superior courts utilizing specified case processing and trial procedures. Chapter 1287 prescribes several experimental projects concerning small claims court procedures. To comply with these measures the Judicial Council is requesting two new professional positions and an additional clerk. These positions will terminate upon completion of the research projects.

Foundation and Workload Positions

The remaining seven positions requested include three for a civil trials benchbook project financed by a private foundation and four for workload related to ongoing programs. The benchbook provides a working manual for judges presiding over civil matters.

Operating Expenses Increase

Operating expenses for the budget year are projected to increase by \$409,353 or 99.6 percent over the current year. In addition to projected price adjustments, the increase primarily reflects substantial augmentations to the in-state travel and consultant and professional services categories.

The in-state travel increase (from \$84,624 in the current year to \$135,756 for the budget year) represents the additional travel incidental to implementation of Chapter 1139 reporting requirements and the special court studies required by the Legislature and per diem rate increases.

The increase in consultant services (from \$35,369 in the current year to \$343,343 in the budget year) is due to two causes. First, several of the proposed federally funded projects will rely heavily on consultant services under contract rather than direct employment of staff. Second, the Judicial Council anticipates that the Chapter 1139 mandates relating to collecting, analyzing and reporting sentencing data from the courts will, in addition to the federally supported projects, require data processing consulting services.

Underbudgeting for Assigned Judges

We recommend an augmentation of \$150,000 for the assigned judges program (Item 16).

The sum of \$288,392 is requested to provide compensation, expenses and staff for judges temporarily assigned to the various courts because of judicial vacancies or case backlog. This represents a decrease of \$172,200 from the estimated current-year expenditure of \$460,592 for this purpose. It is substantially below actual expenditures totaling \$767,552 in the 1975-76 fiscal year. While reduction partly reflects fewer judicial assignments for various reasons in the budget year, the support requirements of this program have been understated by approximately \$150,000. The Judicial

Council and the Department of Finance advise that they will seek to augment this expenditure category by \$150,000 during the budget hearings.

IV. Commission on Judicial Performance

The \$2,716 increase in the budget request for this commission reflects merit salary adjustments, staff benefit and price increases.

V. Legislative Mandates

Chapter 1355, Statutes of 1976, requires that justice court judges temporarily assigned to another justice court, except for exchange assignments under rules established by the Judicial Council, shall be paid a salary equivalent to that of circuit justice court judges authorized under Section 71702 of the Government Code. The Governor's Budget is requesting \$55,000 to reimburse the counties for these mandated salary costs in the budget year.

SALARIES OF SUPERIOR COURT JUDGES

Item 19 from the General Fund	Budget p. 13
Requested 1977-78	\$22,021,840
Estimated 1976-77	21,184,231
Actual 1975-76	17,789,575
Requested increase \$846,014 (4.0 percent)	
Total recommended reduction	None

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 presently totals \$49,166 under Government Code Section 68203. This section provides for an automatic adjustment of judges' salaries each July 1 (commencing in 1978) based on the increase in the California Consumer Price Index during the prior calendar year, but not to exceed 5 percent.

The amount budgeted provides for 20 new superior court judgeships effective January 1, 1977, in addition to the 522 judgeships previously authorized. Four of the new judgeships are for Orange County. Because the county did not request them, their establishment is subject to county approval and agreement to pay all costs in excess of the state's salary contribution and annual block grant of \$60,000 for each position.

STATE BLOCK GRANT FOR SUPERIOR COURT JUDGESHIPS

Item 20 from the General Fund	Budget p. 14
Requested 1977-78	\$3,300,000
Estimated 1976-77.....	3,060,000
Actual 1975-76	2,100,000
Requested increase \$240,000 (7.8 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 support costs related to the establishment of a new judicial position.

This item provides block grants totaling \$3,300,000 for 55 judgeships authorized since January 1, 1973. Also included are funds for four judgeships for Orange County authorized by Chapter 926, Statutes of 1976. No funds were appropriated for these four judgeships in 1976-77, and none are reflected as estimated expenditures for the current year in the Governor's Budget because the enabling legislation, in recognition of the fact that Orange County had not requested the judgeships, required the county to agree by resolution to pay local costs in excess of the state block grant for each judge. If the county board of supervisors gives the necessary approval and the judges are appointed during the current year as authorized; the state block grants will be payable and the current-year estimated expenditures for this item will be understated by \$240,000.

CONTRIBUTION TO JUDGES' RETIREMENT FUND

Items 21-22 from the General Fund	Budget p. 14
Requested 1977-78	\$4,586,861
Estimated 1976-77.....	6,653,748
Actual 1975-76	5,185,481
Requested decrease \$2,066,887 (31.1 percent)	
Total recommended increase	\$5,785,669

1977-78 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
21	Supreme and appellate court judges	General	\$41,343
—	Government Code Section 75101	General	299,887
22	Superior and municipal court judges	General	517,351
—	Government Code Section 75101	General	3,728,280
			<u>\$4,586,861</u>

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONSAnalysis
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| 1. <i>Full Funding.</i> Augment by \$5,785,669 (\$430,979 in Item 21 and \$5,354,690 in Item 22). Recommend policy to fund fully the Judges' Retirement System. | 15 |
| 2. Administration. Transfer administration to the Public Employees' Retirement System (PERS). | 15 |
| 3. Cost-of-living. Standardize adjustment for all state retirees. | 16 |

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The fund provides retirement benefits for municipal, superior, appellate and supreme court judges and their surviving spouses. The fund receipts consist of (1) contribution of eight percent of salary from both judges and the state, (2) special \$3 filing fees on specified civil suits and (3) annual General Fund appropriations for any deficit experienced. These General Fund appropriations have been necessary because the Judges' Retirement System is actuarially unfunded for service rendered prior to June 30, 1973. During the last two fiscal years, appropriations of \$1,781,860 and \$1,750,000, respectively, were required to fund such deficits. The current year shortage is estimated at \$2,755,626 and a projected \$558,694 will be required to fund the anticipated budget year deficit.

Proposal for Full Funding

We recommend an augmentation of \$5,785,669 as the first step of a policy to amortize the unfunded liability of the Judges' Retirement System. (The \$5,785,669 augmentation would apply to Item 21 in the amount of \$430,979 and to Item 22 in the amount of \$5,354,690.)

In previous years, the Governor's Budget proposed annual General Fund appropriations to cover the annual deficit in benefit payments for members of the Judges' Retirement System. In lieu of these appropriations, the 1976-77 Governor's Budget proposed enactment of legislation to increase both the judges' and the state's contribution to the Judges' Retirement Fund from the currently authorized eight percent to "approximately 15 percent" effective January 1, 1977, and thereafter. The intended effect of this proposal would have been full (actuarially sound) funding of the system as expressed in Section 75110 of the Government Code. For that reason we supported that proposal, but it was not implemented.

Because we believe that the full (actuarial) funding of retirement systems is a fiscally responsible policy in that funding runs concurrent with the creation of the obligation to pay benefits, we recommend that the system be funded on the basis of one of the alternative mechanisms suggested in the consulting actuaries' valuation report dated February 1, 1974. That mechanism called for an annual total state contribution of 20.6 percent of authorized payroll until January 1, 2002, consisting of (1) an eight percent rate to fund the future benefit costs for present and future active members and (2) a 12.6 percent contribution rate to amortize, by January 1, 2002, the unfunded costs of prior service benefits for present active and

CONTRIBUTION TO JUDGES' RETIREMENT FUND—Continued

retired members of the system. After January 1, 2002, the currently authorized eight percent contribution each from the state and the judges is expected to keep the system fully funded, according to the last actuarial report. Because of the secular rise in salaries over time, there is inevitable slippage in funding of retirement systems and all the more reason to provide current funding in accordance with actuarial projections rather than shifting the cost to future taxpayers.

The \$5,785,669 recommended augmentation represents the difference between \$10,372,530, which is 20.6 percent of the projected 1977-78 authorized payroll and \$4,586,861, the total 1977-78 state appropriation proposed in the Governor's Budget. This latter figure includes the normal annual state contribution of eight percent of authorized payroll (\$4,028,167) plus \$558,694 to fund the anticipated 1977-78 deficit.

The proposed contribution rates should be periodically reviewed and adjusted, if necessary, in light of future actuarial experience in the system, as reflected in the quadrennial valuations.

Consolidation with PERS

We recommend legislation which transfers administration of the Judges' Retirement System to the Public Employees' Retirement System (PERS).

The Judges' Retirement System is currently administered by the Controller's Office. We believe that administration of this system by PERS would result in more efficient and effective administration, as well as in more uniform consideration of interrelated policies.

Standardized Cost-of-Living Adjustments

We recommend legislation requiring the standardization of cost-of-living adjustments for retired judges with those for PERS retirees.

Pensions payable under this system (as well as the judicial salaries which determine the pensions) were, in the past, adjusted annually as of September 1, based on the increase in the California Consumer Price Index (CCPI) of the immediate past calendar year. Accordingly, judges' pensions were adjusted upward by 12.34 percent in 1975 and by 8.54 percent in 1976. By contrast, PERS pensions are limited to a maximum annual 2 percent cost-of-living adjustment after a two-year waiting period and the adjustment is applied to the original salary base.

Chapter 1183, Statutes of 1976, (AB 3844) eliminated the judges' CCPI adjustment factor for 1977 and limited it to a maximum of five percent for 1978 and thereafter. This reduction in salary and pension adjustments is the reason for the \$2,066,887 (31.1 percent) decrease in the proposed 1977-78 appropriation for state contribution to judges' retirement. However, the five-percent figure is still above the maximum two-percent adjustment rate for other state employees.

While we recognize the need to improve the current PERS cost-of-living adjustment rate, we believe that a standardized cost-of-living adjustment formula should be adopted for judges and all state employees to end this existing inequity.

Because there is a legal question as to whether the CCPI cost-of-living provision may have vested for current active members, this recommenda-

tion may be applicable only to future enrollees in the system.

NATIONAL CENTER FOR STATE COURTS

Item 23 from the General Fund	Budget p. 15
Requested 1977-78	\$14,000
Estimated 1976-77	14,000
Actual 1975-76	14,000
Requested increase—None	
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

The National Center for State Courts was established in 1971 to encourage judicial reform, recommend standards for fair and expeditious judicial administration and seek solutions to state judicial problems.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This item provides the state's membership fee in the National Center for State Courts, which is supported by a combination of state fees and a federal grant. The fee is based on state population. California's fee represents approximately 7 percent of the total state fees requested. Prior to 1975-76, cash match requirements for the federal grant were met by donations from private foundations.

GOVERNOR'S OFFICE

Items 24-27 from the General Fund	Budget p. 16
Requested 1977-78	\$3,366,415
Estimated 1976-77	3,366,415
Actual 1975-76	3,128,348
Requested increase—None.	
Total recommended reduction	None

1977-78 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
24	Governor's Office—Support	General	\$2,984,015
25	Residence—Support (Primarily for Security and Housekeeping)	General	17,400
26	Contingency Expenses	General	15,000
27	Governor's Budget—Printing	General	350,000
			\$3,366,415