

various uniform codes developed or modified by it in the past year are reviewed and submitted to the total membership for consideration and recommendation. The recommended uniform codes deemed by the California members to be appropriate for implementation in California are then presented to the Legislature for consideration.

The California commission consists of seven members—four appointed by the Governor, two selected by the respective houses of the Legislature, and the Legislative Counsel, a nonvoting, ex officio member. All seven members must belong to the California State Bar.

The commission's budget request of \$39,395 includes an increase of \$300 for travel expenses over estimated current-year expenditures.

JUDICIAL

Items 17, 18 and 20 from the General Fund and Item 19 from the Motor Vehicle Account, State Transportation Fund

Budget p. 8

Requested 1979-80	\$25,365,903
Estimated 1978-79	22,110,378
Actual 1977-78	18,667,715
Requested increase \$3,255,525 (14.7 percent)	
Total recommended reduction	\$50,000

1979-80 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
17	Judicial	General	\$22,050,960
18	Assignment of Municipal Court Judges to Superior Court	General	315,000
19	Judicial	State Transportation	39,029
20	Legislative Mandates	General	2,718,815
435	Allocation from Salary Increase Funds		<u>242,099</u>
	Total		\$25,365,903

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis page

1. *Supreme Court Procedures Study. Reduce by \$50,000.* 7
Recommend deletion of proposed study of Supreme Court procedures.
2. *Trial Court Consolidation. Recommend consideration of* 10
legislation to consolidate the trial courts into a single, state-supported system.

GENERAL PROGRAM STATEMENT

JUDICIAL—Continued**Court Structure**

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; three courts of appeal, 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 by 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 the State Constitution.

ANALYSIS AND RECOMMENDATIONS

The budget proposes a 1979-80 expenditure of \$25,365,903 in state funds for support of several judicial functions. This is an increase of \$3,255,525 or 14.7 percent over the amount estimated to be expended during the current year and includes \$242,099 in salary increases for justices of the Supreme Court, Courts of Appeal and those assigned judges and circuit justice court judges whose salaries are a state General Fund responsibility. All other justice court judges' salaries are county funded. In addition, the courts will expend \$730,518 in reimbursements which are primarily federal funds. Table 1 shows the budget program and source of funds for

judicial functions in 1979-80.

Table 1
Budget Summary

	Estimated 1978-79	Proposed 1979-80	Increase	
			Amount	Percent
<i>Funding</i>				
General Fund	\$22,071,349	\$25,326,874	\$3,255,525	14.8%
State Transportation Fund.....	39,029	39,029	—	—
Reimbursements.....	456,224	730,518	274,294	60.1
Total.....	\$22,566,602	\$26,096,421	\$3,529,819	15.6%
<i>Program</i>				
Supreme Court	\$3,287,050	\$3,532,718	\$245,668	7.5%
Courts of Appeal	12,734,448	13,643,058	908,610	7.1
Judicial Council.....	5,974,214	6,095,411	121,197	2.0
Commission on Judicial Performance	105,394	106,419	1,025	1.0
Legislative Mandates.....	465,496	2,718,815	2,253,319	484.1
Total.....	\$22,566,602	\$26,096,421	\$3,529,819	15.6%
Personnel-years.....	452.8	461.4	8.6	1.9

I. SUPREME COURT

The \$3,532,718 proposed for the Supreme Court is a \$245,668 or 7.5 percent increase over estimated current-year expenditures. The increase results from staff merit salary adjustments, a 5 percent salary increase for the justices (\$23,335), staff benefit adjustments, inclusion of a new item of \$50,000 for contractual services and \$113,975 to purchase word processing equipment. The word processing equipment should facilitate the work of the court, increase the efficiency of its clerical personnel and thereby postpone the need to employ additional clerical staff for increasing workload. Consequently, we recommend that funds to purchase this equipment be approved.

Study of Supreme Court Procedures

We recommend deletion of \$50,000 requested for a study of Supreme Court procedures.

The Supreme Court is requesting \$50,000 to finance a study of the procedures by which its decisions are reached. The court advises that its decision-making process has evolved over many years, and while many of its traditions should remain undisturbed, others may lend themselves to review and potential improvement.

The funding request is silent, however, as to the nature and scope of the study and potential problem areas to be addressed. In the absence of additional detailed information, which we have requested from the Administrative Office of the Courts, we are unable to determine the need for the study or the appropriateness of the amount requested. Therefore, we recommend deletion of the funds pending receipt and review of the requested information.

JUDICIAL—Continued**II. COURTS OF APPEAL**

The budget request for the five courts of appeal totals \$13,643,058, an increase of \$908,610 or 7.1 percent over current-year estimated expenditures. The increase would cover (1) the justices' salary increase, (\$173,448), (2) staff merit salary and benefit increases, (3) 8.5 proposed positions at a salary cost of \$130,488, (4) price adjustments, (5) \$89,594 for equipment and (6) \$222,600 for appointment of counsel to handle criminal appeals for indigents.

Staffing Increases

The 8.5 new positions include five attorneys to meet workload demands of increased filings and case backlog in the fourth and fifth appellate districts, and three and one-half clerical positions for workload increases in the second, third and fifth appellate districts. We have reviewed the justification material submitted with these position requests and agree that they are justified on a workload basis.

Data Processing Equipment

The \$89,594 increase in equipment expenditures consists largely of \$70,000 for word processing machines and \$10,300 for additional equipment to computerize the transcription of superior court proceedings which are on appeal. The word processors will improve the productivity of the clerical personnel, thus postponing the necessity of providing additional personnel to meet workload increases.

The computerized transcription of trial court proceedings appealed to the appellate courts presently is limited to superior court reporters in several counties within the territory of the Third District Court of Appeal. The system provides a means of transcribing, by automated data processes, superior court proceedings which have been recorded on cassettes by participating reporters. It is anticipated that this process will reduce the time required to produce the necessary transcripts and thereby expedite hearings of appeals. This project was begun in the current fiscal year. The agency plans to expand it to other trial courts in order to make the system economically feasible. It is conceivable that this system, if implemented in the trial courts on a statewide basis, would reduce expenses for court reporter and transcription services because of the greater efficiency and speed with which trial court proceedings could be prepared for appellate review.

Increased Costs of Appointed Counsel

The Courts of Appeal are requesting \$1,582,200 for appointment of private counsel to represent indigent criminal appellants. The request is an increase of \$222,600 or 16.4 percent over current-year estimated expenditures of \$1,359,600. The increase is partially due to an average increase of \$30 or 4.7 percent per case assigned to private counsel. A more significant factor, however, is the fact that the State Public Defender accepted a lower-than-anticipated number of criminal appeals in the current year, thereby necessitating the appointment of a larger number of

private attorneys to handle the cases. This has the effect of increasing budget-year costs because the private counsel are paid on completion of the appeal, which will occur generally in the year following appointment.

The State Public Defender's budget (Item 413) reflects a reduction of 18.5 attorneys and 10 clerical positions in the budget year. The reduction will decrease further the number of appeals accepted by that office and produce a corresponding increase in the appointment of private counsel. This, in turn, will require additional expenditures in the 1980-81 fiscal year for this expenditure category. Because the per case cost of appointed counsel is less than that of the State Public Defender and as the courts must provide legal counsel for indigent appellants, the requested increase in this expenditure category is necessary.

III. JUDICIAL COUNCIL

The Judicial Council proposes a total expenditure program of \$6,095,411, including reimbursements and salary adjustments for assigned judges and circuit justice court judges. The request is a net increase of \$121,197 or 2.0 percent over estimated current-year expenditures. It reflects higher expenses for personal services, operating costs and equipment (primarily due to federally reimbursed projects), which are substantially offset, by a reduction of \$400,000 in one of the two superior court arbitration programs. The most significant of these adjustments are discussed below.

Continuing Judicial Education

The budget includes a federal grant of \$150,000 for staff support (2.6 positions) and operating expenses for a pilot project entitled "Continuing Judicial Studies." The purpose of this project is to provide trial judges a comprehensive update on recent procedural and substantive law developments and a reexamination of their judicial philosophies, attitudes and work methods. Special training will be provided for judges receiving new assignments in areas of particular social sensitivity, involving cases relating to such matters as alcohol and drug abuse, sentencing of different types of criminal offenders, domestic relations, juvenile and mental health commitments, small claims and traffic violations. The Judicial Council contemplates that each trial judge would receive the training every five years.

It is anticipated that the project will receive federal funding for a period of three years. If the Judicial Council concludes that the project is successful, it will propose continuation of the project on a permanent basis using state funds.

Increased Operating Expenses and Equipment

Total operating expense and equipment is scheduled to increase by \$400,316 over the current year. In addition to price increases and higher operating costs related to federally funded projects, there is a proposed expenditure of \$222,902 for equipment. Most of this equipment (\$222,222) will be purchased with federal funds, and will provide transcription equipment for justice and municipal courts which have neither reporters nor adequate recording equipment. The federal support represents first-year funding of a two-year project to equip approximately 150 municipal and 50 justice courts. The equipment will enable these courts to comply with

JUDICIAL—Continued

a U.S. Supreme Court decision which affirms that all criminal defendants in lower courts are entitled to an adequate record to permit review of the case on appeal. Other federally funded projects are listed on page 9 of the Governor's Budget.

Superior Court Arbitration

The budget shows a reduction of \$400,000 in the superior court voluntary arbitration program, leaving an appropriation request of \$137,000. Under this program, which was approved by the Legislature and became operative July 1, 1976, arbitration is permitted in any case (1) upon agreement of the parties or (2) at the election of the plaintiff if the plaintiff is agreeable to limiting judgment to no more than \$7,500. The program provides for arbitrator fees of not more than \$150 per case.

The \$400,000 reduction is more than offset by the cost resulting from a new, mandatory arbitration program established by Chapter 743, Statutes of 1978. Chapter 743 requires arbitration, in superior courts housing 10 or more judges, in certain cases where the amount in controversy, in the judge's opinion, does not exceed \$15,000. Other specified actions may be submitted to arbitration regardless of the monetary amount involved. The budget contains a request for \$2.5 million (Item 20) to reimburse county costs under this state-mandated program. This new program will substantially replace the voluntary program, thereby reducing its costs. Increased use of arbitration as required by Chapter 743 should result in less cost to the litigants and also to state and local governments by reducing the need for additional judges in the future. Chapter 743 is limited in operation to January 1, 1985.

Trial Court Consolidation and Funding

We recommend that legislation be considered to consolidate the trial courts into a single, state-supported system.

To provide for more efficient administration and more adequate staffing and funding of the trial courts, we believe the justice, municipal and superior courts should be consolidated into a single trial court system. As part of this reform, commissioners and/or referees should be authorized to handle routine matters that now come before the courts. A unified system should include all necessary personnel under the direct administrative control of the courts. Overall, statewide administrative direction of the courts should be strengthened and vested in the Judicial Council. State funding and operation of the courts would constitute a form of local assistance if the court revenues from fees, fines, forfeitures and penalties were left with local government.

A uniform trial court system under statewide direction would be more receptive than the existing individual county systems to improvements in operations which could result from adoption of new techniques, such as computerized transcription (discussed earlier). While procedural and technological improvements may be suggested to the trial courts by the Judicial Council or others, adoption of these improvements cannot be required under existing law. As a result, procedural and other innovations are left to the discretion of the individual courts. Thus, in order to improve

efficiency of the total court system, we support the concept of state operation of a unified trial court system.

Supplemental Language Report

The supplemental language report of the Conference Committee on the 1978 Budget Bill directed the Judicial Council to:

1. Maintain appropriate data to permit evaluation of the cost effectiveness of utilizing graduate legal assistant positions authorized in the 1978 Budget Act.
2. Provide continuing evaluation of the productivity of the individual judges of the Courts of Appeal, Superior and Municipal Courts on a weighted unit or other appropriate basis.
3. Study the feasibility of developing guidelines to improve the administration of the courts and report to the Joint Legislative Budget Committee by December 1, 1978.
4. Study the feasibility of collecting statewide data on the number of peremptory challenges filed against individual judges.

Although requested, no data have been received by this office from the Administrative Office of the Courts as to the status of the foregoing items.

We recommend that the Judicial Council report to the Legislature on its reasons for not complying with legislative intent, as expressed in the Supplemental Report.

IV. COMMISSION ON JUDICIAL PERFORMANCE

The \$106,419 requested for this commission in the budget year represents an increase of \$1,025 or 1 percent above current-year estimated expenditures. The increase results from minor increases in staff benefits and operating expenses.

V. LEGISLATIVE MANDATES

The budget contains a request for \$2,718,815 to reimburse local government for court related state-mandated programs. The following are the proposed reimbursements to local government including the previously discussed \$2.5 million for superior court arbitration:

1. Circuit Justice Court Judges' Salaries (Chapter 1355, Statutes of 1976)	\$55,000
2. Economic Litigation Study Project (Chapter 960, Statutes of 1976)	61,315
3. Court Interpreter Services (Chapter 158, Statutes of 1978)	102,500
4. Judicial Arbitration (Chapter 743, Statutes of 1978)	2,500,000
 Total	 <u>\$2,718,815</u>

SALARIES OF SUPERIOR COURT JUDGES

Item 21 from the General Fund

Budget p. 12

Requested 1979-80	\$25,947,404
Estimated 1978-79	24,281,997
Actual 1977-78	22,301,847
Requested increase \$1,665,407 (6.9 percent)	
Total recommended reduction	None

1979-80 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
21	Salaries of Superior Court Judges	General	\$24,499,463
435	Allocation from salary increase funds		<u>1,447,941</u>
	Total		\$25,947,404

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis
page

1. Newly Authorized Judges' Salaries. Recommend that legislation authorizing new superior court judgeships also appropriate the first-year state contributions for the judges' salaries. 12

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

This item funds the state's share of the superior court judges' salaries and benefits. The county's salary contribution for each judge is limited to \$5,500, \$7,500 or \$9,500 per year, depending on the county's population. The state pays the balance of the judge's salary currently (\$51,624), as established by Government Code Section 68203. This section provides for an automatic increase in each judge's salary (except justice court judges) effective July 1, based on the increase in the California Consumer Price Index for the prior calendar year but not to exceed 5 percent. The July 1, 1979 increase will result in a salary of \$54,205 for superior court judges. The amount requested also provides for the state's share of health benefit costs for superior court judges already enrolled in a state health plan.

Newly Authorized Judges' Salaries

We recommend that the state's first-year contribution to the salaries of newly authorized superior court judges be appropriated in the legislation creating the new judgeships.

The total amount estimated for expenditure in 1978-79 includes an Emergency Fund allocation of \$211,620 effective January 1, 1979, to pay the salaries and benefits of the 10 additional superior court judgeships authorized by 1978 legislation, as well as the cost of new state health plan enrollments. An Emergency Fund allocation of \$282,763 was required to pay similar costs for the establishment of nine new judgeships in 1977-78.

We do not believe the Emergency Fund should be used for this purpose. Traditionally, legislation authorizing new judgeships has appropriated

\$60,000 per judgeship as the state's share of the support costs relating to the new judgeships but has not appropriated the state's share of salaries. Because this cost can be anticipated in advance, we believe that future bills authorizing new judgeships should include an appropriation for the salary costs as well as support costs.

STATE BLOCK GRANTS FOR SUPERIOR COURT JUDGESHIPS

Item 22 from the General Fund	Budget p. 13
Requested 1979-80	\$4,440,000
Estimated 1978-79.....	4,440,000
Actual 1977-78	3,840,000
Requested increase—None	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The state provides annual block grants of \$60,000 to the counties for each superior court judgeship created after January 1, 1973. These grants are intended to reimburse the counties for support costs related to the judgeships.

This item provides block grants of \$4,440,000 for 74 judgeships authorized since January 1973, including 10 authorized during the 1978 legislative session. These grants are in addition to state contributions for salaries, retirement, health and death benefits provided by other items of the Budget Bill. The total General Fund cost per judgeship is estimated to be \$47,165 per year for each superior court judgeship established before January 1, 1973, and \$107,165 for judgeships created after that date.

CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND

Items 23-24 from the General Fund	Budget p. 13
Requested 1979-80	\$10,321,140
Estimated 1978-79.....	8,472,187
Actual 1977-78	5,744,967
Requested increase \$1,848,953 (21.8 percent)	
Total recommended increase	None

1979-80 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
23	Supreme and Appellate Court Judges	General	\$405,083
—	Government Code Section 75101	General	330,625
24	Superior and Municipal Court Judges	General	5,276,311
—	Government Code Section 75101	General	4,309,121
	Total		\$10,321,140

CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND—Continued

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS	<i>Analysis page</i>
1. Deficiency funding. Recommend legislation to increase judges' contribution rate to share the annual state cost of deficiency appropriations.	14

ANALYSIS AND RECOMMENDATIONS

The Judges' Retirement Fund provides retirement benefits for municipal, superior, appellate and supreme court judges and their survivors. Its receipts consist of (1) contributions equal to 8 percent of salary from both the judges and the state, (2) filing fees on specified civil suits and (3) annual General Fund appropriations. Because annual income from contributions and filing fees is insufficient to fund the annual disbursements from the fund, General Fund appropriations are required to cover the annual deficit. In recent years, the size of this deficit has been growing because of increasing membership and retirement program costs, coupled with static filing-fee revenues.

The annual deficit has increased from \$1 million in 1973-74 to \$3.4 million in 1978-79, and an estimated \$5.6 million will be needed to fund the deficit in 1979-80. For 1977-78 and 1978-79, even these annual deficit appropriations proved to be inadequate, requiring \$1.1 million and \$629,094, respectively, in Emergency Fund allocations to cover retirement program costs.

Unfunded Liability Problem Continues

In our *Analysis of the 1978-79 Budget Bill*, we discussed the reasons behind the fund's unfunded liability problem and called attention to the rapid escalation in the magnitude of that liability in recent years. We reported that during the 1974-1977 period, the unfunded liability grew from \$110 million to \$400 million. According to the latest actuarial valuation, total annual contributions equal to 84.4 percent of judges' payroll would be required to fully fund the Judges' Retirement System by the year 2002—the deadline established by the Legislature in Section 75110 of the Government Code.

Judges' Contribution Should be Raised

We recommend legislation to increase the judges' contribution rate from the current 8 percent of salary to 11 percent of salary, in order to have the judges assume a share of the annual deficit in retirement benefit costs of the Judges' Retirement System.

Table 1 shows the annual state appropriations needed during the 1974-75 to 1979-80 period to pay the annual retirement program costs not covered by revenue under existing law. These appropriations are in addition to the 8 percent of judicial salary that the state must pay toward judges' retirement benefits.

Table 1
State Deficiency Appropriations to the Judges' Retirement System

<i>Fiscal Year</i>	<i>Deficiency^a Appropriations</i>	<i>Judges' Payroll^b</i>	<i>Deficiency Appropriation as Percent of Judges' Payroll</i>
1974-75	\$1,781,860	\$35,236,462	5.1%
1975-76	1,750,000	40,539,562	4.3
1976-77	2,755,626	47,464,612	5.8
1977-78	1,661,313	49,163,687	3.4
1978-79 (est.)	4,117,146	53,446,762	7.7
1979-80 (est.)	5,681,394	56,956,075	9.9

^a Includes both direct Budget Act appropriations and Emergency Fund allocations.

^b Represents total salaries of filled judgeships.

The table indicates that a significant increase in the size of deficiency appropriation requirements is anticipated for the current and budget years. Earlier retirements, longer retirement periods and growing survivor benefit-costs are believed to be responsible for this significant growth which is expected to continue at an increasing rate in future years.

With the size of the required deficiency appropriation growing rapidly, the state's share of judges' retirement costs is also growing. In the budget year, for instance, the state will be required to contribute an estimated 17.9 percent of salaries toward judges' retirement without any amortization of the unfunded liability.

The judges enjoy substantially more generous retirement benefits than other state employees. These include (1) a pension equal to 75 percent of an active judge's salary for most judges with 20 years of service, (2) a generous cost of living provision which is tied to increases in salaries of active judges and (3) a survivor benefit that provides one-half continuance for a spouse who marries a judge after retirement.

Because the judges enjoy more generous retirement benefits than other state personnel, we believe the judges should contribute toward the annual retirement-cost deficits that the state is now fully funding. Specifically, we believe that, until a more permanent solution to the unfunded liability problem is adopted, the judges' contribution as a percent of payroll should be increased by 3 percent. This would require an increase in the judges' contribution rate from 8 percent to 11 percent of payroll. The 3 percentage point increase would yield \$1.7 million in 1979-80 and yet undetermined, but higher, annual amounts in future years, assuming a continued growth in judicial payroll.

Need for Full Funding

This proposal does not address the larger issue of the unfunded liability. It is directed solely at reducing the growing state obligation for pay-as-you-go funding of the annual deficit. However, we continue to believe that a policy of full, actuarial funding of retirement benefits is both fiscally responsible and equitable from the standpoint of the taxpayers. It is fiscally responsible because it does not conceal from the public the full cost of providing government services and does not confront future Legislatures with contractual obligations for which there is no funding. It is equitable because the total cost for judges' services (including retirement costs) are paid by those benefiting from their services and are not shifted to future

CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND—Continued

generations that do not benefit from them.

However, the cost of putting the system on a sound actuarial basis, given its current benefit levels, would be substantial. The consulting actuary has indicated that an annual amount in excess of 84 percent of payroll is needed. Including judges contributions and filing-fee income, the proposed pay-as-you-go funding in the 1979-80 budget represents about 32 percent of payroll. Thus, an increased annual amount representing over 50 percent of payroll (over \$28 million in 1979-80) would be needed to fund the consulting actuary's recommendation.

We believe that, in addition to increasing judges' contributions (as recommended above), the Legislature should consider increasing filing fees as well as reducing benefits for new judges, before committing the state to such a substantial fiscal obligation.

NATIONAL CENTER FOR STATE COURTS

Item 25 from the General Fund	Budget p. 14
Requested 1979-1980	\$14,000
Estimated 1978-1979.....	14,000
Actual 1977-1978	14,000
Requested increase—None	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The National Center for State Courts encourages judicial reform, recommends standards for fair and expeditious judicial administration and seeks solutions to state judicial problems. Membership entitles California to judicial research data, consultative services and information on the views of the various states on federal legislation and national programs affecting the judicial system.

The National Center's program is supported by federal grants, donations from private foundations and state membership fees. In 1977, membership fees were paid by 52 member states, territories and the District of Columbia while three states did not contribute. The amount requested provides California's membership fee and is based on the state's population. The amount is approximately 7 percent of the membership fees paid by all states.