

JUDICIAL

Item 0250 from the General Fund and the State Transportation Fund

Budget p. LJE 7

Requested 1987-88	\$87,636,000
Estimated 1986-87	80,557,000
Actual 1985-86	69,650,000
Requested increase (excluding amount for salary increases) \$7,079,000 (+8.8 percent)	
Total recommended reduction	551,000

1987-88 FUNDING BY ITEM AND SOURCE

Item—Description	Fund	Amount
0250-001-001—Support	General	\$87,274,000
0250-001-044—Support/Local Assistance	Transportation	60,000
0250-101-001—Local Assistance	General	243,000
Reimbursements		59,000
Total, State Funds		\$87,636,000

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis page

1. **Judicial Secretary Salary Increase. Reduce Item 0250-001-001 by \$551,000.** Recommend deletion of \$551,000, because the proposed salary increase is not justified.

8

GENERAL PROGRAM STATEMENT

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

The Supreme Court and the six courts of appeal are entirely state supported. The remaining courts are supported primarily by the counties, although the state (1) pays from 88 percent to 93 percent of each superior court judge's salary, (2) provides an annual \$60,000 block grant for most superior court judgeships created after January 1, 1973, and (3) pays the employer's contribution toward health and retirement benefits for each superior and municipal court judge.

Fines, fees, and forfeitures collected by the trial courts are deposited in each county's general fund, and then distributed to the cities, the county, districts, and state special funds, as required by law. Fees collected by the courts of appeal and the Supreme Court are deposited in the state's General Fund.

The Chief Justice of the Supreme Court serves as the chairperson of the Judicial Council, and is responsible for equalizing the work of judges and expediting judicial business.

JUDICIAL—Continued**Judicial Council**

The Judicial Council consists of the Chief Justice, one other Supreme Court justice, three court of appeal justices, five superior court judges, three municipal court judges, two justice court judges, four members of the State Bar and one member of each house of the Legislature. The council is staffed by the Administrative Office of the Courts. As required by the State Constitution, the council seeks to improve the administration of justice by (1) surveying judicial business, (2) making appropriate recommendations to the courts, the Governor, and the Legislature, and (3) adopting rules for court administration, practice, and procedure. The council also operates the Center for Judicial Education and Research, which provides education for both newly appointed and continuing judges.

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.

The state judicial functions will utilize an estimated 744.3 personnel-years in the current year.

OVERVIEW OF THE BUDGET REQUEST

The budget proposes expenditures totaling \$87,636,000 from the General Fund (\$87,517,000), the State Transportation Fund (\$60,000), and reimbursements (\$59,000) for the support of judicial functions in 1987-88. This is an increase of \$7,079,000, or 8.8 percent, above estimated current-year expenditures.

Table 1 shows the budget program for judicial functions in the prior, current, and budget years.

Table 1
State Judicial Functions
Budget Summary
1985-86 through 1987-88
(dollars in thousands)

	<i>Actual</i> 1985-86	<i>Est.</i> 1986-87	<i>Prop.</i> 1987-88	<i>Percent</i> Change From 1986-87
<i>Program Expenditures</i>				
Supreme Court	\$9,037	\$11,051	\$11,373	2.9%
Courts of Appeal	44,848	54,232	59,260	9.3
Judicial Council	15,138	14,537	15,856	9.1
Commission on Judicial Performance	496	494	904	83.0
Local Assistance	131	243	243	—
Totals	\$69,650	\$80,557	\$87,636	8.8%
<i>Personnel-years</i>				
Supreme Court	99.8	109.7	111.2	1.4%
Courts of Appeal	518.1	537.2	556.2	3.5
Judicial Council	122.1	120.1	142.5	18.7
Commission on Judicial Performance	5.6	7.3	12.3	68.5
Totals	745.6	774.3	822.2	6.2%

Supreme Court. The budget proposes an appropriation of \$11,373,000 from the General Fund for support of the Supreme Court in 1987-88. This is \$322,000, or about 3 percent, above estimated current-year expenditures. Most of this amount is for personal services, including \$79,000 for an additional court clerk, \$53,000 for salary increases for Supreme Court secretaries, and \$48,000 for merit salary adjustments. The proposed budget also includes \$102,000 for increases in general expenses and price adjustments.

Courts of Appeal. For support of the six courts of appeal, the budget proposes total expenditures of \$59,260,000 in 1987-88. This is an increase of \$5,028,000, or about 9 percent, over estimated current-year expenditures for these courts.

Much of the growth (\$2,853,000) is due to the increased cost of appointed counsel in criminal appeals. Additionally, the proposal includes 17 new positions (\$483,000), including staff support for temporary judges, computer operators, and clerical support. The proposed budget also includes \$476,000 to increase salaries of appellate court secretaries, \$377,000 to adjust judicial salary savings, and \$253,000 for merit salary adjustments. Finally, the proposed budget includes \$441,000 for equipment repair and cost increases.

Judicial Council. The budget proposes \$15,856,000 for support of the Judicial Council in 1987-88, including \$15,796,000 from the General Fund, and \$60,000 from the State Transportation Fund. The proposed amount is \$1,319,000, or 9.1 percent, above estimated current-year expenditures.

The council requests an additional \$536,000 to continue two major automation projects, which started in the current year. In addition, the budget proposes funding to implement various legislative requirements, including \$238,000 for the Trial Court Delay Reduction Act, \$200,000 for an eight-person civil jury experiment, and a net increase of \$327,000 for the Family Law program. The requested amount includes funding for various cost increases, a proposed salary adjustment for judicial secretaries, and merit salary adjustments. Associated with the requests is a total of 27.4 proposed new positions—additional attorneys, analysts, and clerical staff. The proposed increases are offset in part by a reduction in various personnel costs.

Commission on Judicial Performance. The budget requests \$904,000 for the Commission on Judicial Performance, an increase of \$410,000, or 83 percent, above estimated current-year expenditures. This increase primarily is for support of five new staff positions (\$346,000). In addition, the proposed budget includes \$54,000 for increased facilities cost and postage.

No Funds to Implement AB 19 (State Funding of the Trial Courts)

In 1985, the Legislature enacted the Trial Court Funding Act (Ch 1607/85) which opens the way for a major restructuring of court financing in California. Generally, the measure authorizes the state to assume the costs and revenues associated with county trial courts, at each county's option. The provisions of the act relating to court financing, however, do not become operative until the effective date of a statute appropriating funds to implement them.

The 1987-88 Budget Bill does *not* contain an appropriation to implement the act.

Fiscal Effect. If legislation is enacted appropriating funds to implement this act, we estimate that the *net* cost to the state's General Fund,

JUDICIAL—Continued

on an annual basis, would be a maximum of \$378 million based on current year estimates. In subsequent years, state General Fund costs would increase beyond this level because the act provides that state block grants and the state's share of the judges' salaries would grow by the percentage increase in salaries provided to state employees. Costs would be offset by an unknown amount to the extent various claims for reimbursement of state-mandated local program costs are waived by participating counties.

Current-Year Expenditures Are Understated

The 1987-88 Governor's Budget estimates that current-year expenditures will total \$80,557,000 for judicial functions. This estimate does not take into account costs that will be incurred in the current year as a result of the recent *Olson v. Cory III* decision. This decision held that under a combination of prior court decisions, and legislative statutes, the state's most senior judges have been entitled to higher annual pay raises since fiscal year 1981-82.

The Controller's Office estimates that one-time expenditures for retroactive pay for the affected Supreme Court and appellate court judges will exceed the budgeted amount by about \$476,000 in the current year as a result of this court decision. The Judicial Council advises that these additional expenses may be paid either from a direct appropriation from the General Fund, pursuant to Article III, Section 4 of the State Constitution which states that the laws which set judges salaries are appropriations or from a deficiency appropriation.

Analysis and Recommendations**Proposed Reclassification for Judicial Secretaries Not Justified**

We recommend deletion of \$551,000 requested from the General Fund to increase the salaries of judicial secretaries because the request has not been justified (Reduce Item 0250-001-001 by \$551,000).

The budget proposes to reclassify judicial secretaries in the Supreme Court and the Courts of Appeal, and adjust their salaries and benefits, at a cost of \$551,000 from the General Fund in 1987-88. The proposal includes \$449,000 for increased secretarial salaries, and \$102,000 for corresponding benefit adjustments. Table 2 shows projected salaries for judicial secretaries in the current and budget year.

As shown in Table 2, nearly all of the 89 secretaries are proposed to receive salary increases of about 15 percent or more in the budget year. This would increase further by the amount of any salary or staff benefit increase approved for state employees in the budget year.

Table 2
Judicial Branch Secretaries
Salary Increase Proposal^a
1987-88

Position	Number	Current Salaries	Proposed Salaries	Proposed Change	
				Amount	Percent
Secretary to Chief Justice	1	\$37,476	\$43,059	\$5,583	14.9%
Office Supervisor	1	34,080	41,046	6,967	20.4
Administrative Secretary	17	33,225	39,806	6,581	19.8
Supervising Judicial Secretary	1	32,700	33,779	1,079	3.3
Secretary to Appellate Court Judge	69	31,826	36,985	5,160	16.2

^a Reflects average salaries and increases for each classification.

According to the Judicial Council, the proposal is based on a review of compensation levels for eight judicial branch secretary and deputy clerk classifications. This study was commissioned by the council at the request of the Courts of Appeal. A private consulting firm conducted the review.

At the time this analysis was written, the Judicial Council informed us that it had not yet received approval of the study from the courts, and therefore was unable to provide us with the study. Accordingly, because we have received no documentation to justify this proposal, we recommend deletion of the requested funds, for a General Fund savings of \$551,000.

CONTRIBUTIONS TO JUDGES' RETIREMENT FUND

Item 0390 from the General Fund	Budget p. LJE 13
Requested 1987-88	\$25,664,000
Estimated 1986-87	23,066,000
Actual 1985-86	23,096,000
Requested increase (excluding amount for salary increases) \$2,598,000 (+11.3 percent)	
Total recommended reduction	None

1987-88 FUNDING BY ITEM AND SOURCE

Item—Description	Fund	Amount
0390-001-001—Supreme and Appellate Court		
Judges		
—Budget Act Appropriation	General	\$1,214,000
—Government Code Section 75101	General	647,000
0390-101-001—Superior and Municipal Court		
Judges		
—Budget Act Appropriation	General	15,531,000
—Government Code Section 75101	General	8,272,000
Total		\$25,664,000

GENERAL PROGRAM STATEMENT

The Judges' Retirement Fund (JRF) provides benefits for those municipal, superior, appellate and supreme court judges, and their survivors, who are members of the Judges' Retirement System (JRS). This system is administered by the Public Employees' Retirement System (PERS).

The primary revenues deposited in the fund come from the following sources:

- *Active members' contributions*, equal to 8 percent of members' salaries;
- *Fees on civil suits* filed in municipal and superior courts; and
- *State General Fund appropriations*, which are equivalent to:
 - (a) 8 percent of judicial salaries, *plus*
 - (b) any amount necessary to cover JRS benefit payments made in a given year.

The JRF will pay out almost \$42 million in benefits in the budget year.

CONTRIBUTIONS TO JUDGES' RETIREMENT FUND—Continued**OVERVIEW OF THE BUDGET REQUEST**

The budget proposes four General Fund appropriations (under two items) totaling \$25,664,000 as the state's contribution to the JRF in 1987-88. This amount consists of \$8,919,000 (equivalent to 8 percent of judicial salaries) in statutory contributions and \$16,745,000 in Budget Bill appropriations needed to meet the cost of projected benefit payments during 1987-88. Without the latter amount, the JRF—which has no reserve funding—would be insolvent. This is because receipts anticipated from other revenue sources will finance only about 61 percent of the benefit payments projected for the budget year.

Revenues and expenditures for the JRF in the prior, current and budget years are shown in Table 1.

Table 1
Judges' Retirement Fund
Revenues and Expenditures
1985-86 through 1986-87
(dollars in millions)

	<i>Expenditures</i>			<i>Percent Change from 1986-87</i>
	<i>Actual 1985-86</i>	<i>Est. 1986-87</i>	<i>Prop. 1987-88</i>	
<i>Beginning Reserves</i>	\$2.8	\$4.4	\$3.8	-14.5%
<i>Revenues</i>				
State Contributions:				
Statutory 8 Percent	\$8.0	\$8.5	\$8.9	5.2%
Budget Act (deficiency)	14.9	14.4	16.6	15.0
Budget Act (administration)	0.2	0.2	0.2	—
Subtotals, State Contributions	(\$23.1)	(\$23.1)	(\$25.7)	(11.3%)
Nonstate Contributions:				
Judges' Contributions	\$7.8	\$8.5	\$8.9	5.1%
Other ^a	4.7	5.1	5.1	—
Subtotals, Nonstate Contributions	(\$12.5)	(\$13.6)	(\$14.0)	(3.2%)
Totals, Revenues	\$35.5	\$36.6	\$39.7	8.3%
<i>Expenditures</i>				
Benefits and others (net)	\$33.8	\$37.0	\$41.4	11.7%
Administrative costs	0.2	0.2	0.2	—
Totals, Expenditures	\$34.0	\$37.3	\$41.6	11.7%
<i>Ending Resources</i>	\$4.4	\$3.8	\$1.8	-51.6%

^a Includes filing fees and investment income.

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

The proposed \$25.7 million in General Fund appropriations is necessary to finance the cost of benefits expected to be paid by the JRS during 1987-88. Because the state must make these payments, we recommend the proposed amount be approved.

Unfunded Liability Continues to Grow

The JRS has accumulated a large *unfunded liability* (that is, the cost of benefits already earned is in excess of the value of assets on hand), because annual contributions to the fund have not covered the ongoing (or "normal") costs of the plan benefits. The latest actuarial valuation of the JRS (published in March 1985) estimated that the unfunded liability was \$620 million on June 30, 1984. This amount has grown over the last two years. It will continue to grow in the budget year because annual contributions to the fund are insufficient to cover the ongoing costs of benefits.

Statutory changes would be required in order to reduce or eliminate this unfunded liability. There are at least two basic options for the Legislature to consider, either singly or in combination:

- First, establish a lower-tier benefit program for *new judges* which is more along the lines of the state's other employee retirement systems in order to bring benefit costs in line with annual contributions, or
- Second, increase annual contributions to the Judges' Retirement Fund in order to reduce the unfunded liability and place the fund on an actuarially sound basis.

SALARIES AND BLOCK GRANTS FOR SUPERIOR COURT JUDGES

Items 0420-0440 from the General Fund

Budget p. LJE 14-15

Requested 1987-88	\$67,579,000
Estimated 1986-87.....	66,857,000
Actual 1985-86	59,885,000
Requested increase (excluding amount for salary increases) \$722,000 (+1.1 percent)	
Total recommended reduction	None

1987-88 FUNDING BY ITEM AND SOURCE

Item—Description	Fund	Amount
0420-101-001—Judges Salaries and Benefits	General	\$54,079,000
0440-101-001—Block Grants	General	13,500,000
Total		\$67,579,000

GENERAL PROGRAM STATEMENT

The state pays from 88 percent to 93 percent of the salaries, plus the full cost of health benefits, for the state's 724 superior court judges.

Currently, each county contributes either \$5,500, \$7,500, or \$9,500 per year toward each judge's salary, depending on the county's population. The state pays the balance of each judge's salary, which is now set at \$81,505. The counties' share of total salary cost has not changed since 1955, when the program began.

SALARIES AND BLOCK GRANTS FOR SUPERIOR COURT JUDGES—Continued**ANALYSIS AND RECOMMENDATIONS**

We recommend approval.

Table 1 summarizes expenditures for superior court judges' salaries and health benefits, as well as expenditures for block grants to counties for the past, current, and budget years.

Table 1
State Expenditures for
Salaries, Health Benefits, and Block Grants
for Superior Court Judgeships
1985-86 through 1987-88
(dollars in thousands)

<i>Program Expenditures</i>	<i>Actual</i> <i>1985-86</i>	<i>Est.</i> <i>1986-87</i>	<i>Prop.</i> <i>1987-88</i>	<i>Percent</i> <i>Change From</i> <i>1986-87</i>
Salaries.....	\$47,519	\$52,404	\$52,306	-0.2%
Health Benefits.....	1,699	1,773	1,773	0.0
Superior Court Assignments.....	—	—	700	NMF ^a
Salary Savings.....	(613)	(880)	(700)	-20.5
Subtotals, (Item 0420).....	\$48,605	\$53,297	\$54,079	1.5%
Block Grants, (Item 0440).....	11,280	13,560	13,500	-0.4
Totals, Expenditures.....	\$59,885	\$66,857	\$67,579	1.1%

^a Not a meaningful figure.

As shown in Table 1, the budget proposes an appropriation of \$54,079,000 from the General Fund to cover the state's share of superior court judges' salaries and health benefits, as well as specified costs of judges assigned to the superior court. This amount is \$782,000, or about 1.5 percent, more than estimated current-year expenditures for salaries and benefits.

Most of the proposed budget increase is due to the addition of \$700,000 for specified costs of judges assigned to the superior court. The Constitution requires the Chief Justice to equalize the work of judges and to expedite judicial business by temporarily assigning judges to courts requesting assistance. The need for assigned judges typically arises when workload increases beyond the capabilities of permanent judges, or when a permanent judge is absent or unable to perform his or her duties. In the current year, no funds are appropriated in this item specifically for temporary assignments to the superior court. However, provisions of the 1986 Budget Act allow expenses for assigned judges to be paid from this item from funds which are unexpended due to vacancies in judgeships, as specified. These provisions are not proposed to be continued in the 1987 Budget Bill.

The budget also proposes an appropriation of \$13.5 million from the General Fund to provide block grants to counties in support of 225 superior court judgeships. This amount is \$60,000, or less than 1 percent, below estimated current-year expenditures for this item. This decrease is due to the elimination of one superior court judgeship in the current year, pursuant to Ch 1520/86 (SB 2082).

Current-Year Expenditures are Understated. The budget document

(Pg. LJE 14) estimates that *current-year* expenditures will be \$53,297,000 for superior court judges' salaries and benefits. However, this estimate does not take into account *one-time* costs that will be incurred for providing back pay to judges as a result of the recent *Olson v. Cory III* decision. This decision held that under a combination of prior court decisions and legislative statutes, the state's most senior judges have been entitled to higher annual pay raises since 1981-82. The Controller's Office estimates that expenditures from this item will exceed the budgeted amount by \$979,000 in the current year, as a result of this court decision. The Controller's Office advises that these additional expenses will be paid from a direct appropriation from the General Fund pursuant to Article III, Section 4 of the State Constitution which states that the laws which set judges' salaries are appropriations.

NATIONAL CENTER FOR STATE COURTS

Item 0460 from the General Fund	Budget p. LJE 15
Requested 1987-88	\$99,000
Estimated 1986-87	100,000
Actual 1985-86	50,000
Requested decrease \$1,000 (-1 percent)	
Total recommended reduction	None

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The budget proposes an appropriation of \$99,000 from the General Fund to finance California's membership in the National Center for State Courts. This is \$1,000, or 1 percent, less than the amount appropriated for this purpose in the current year. The budget has been reduced by this amount as a Special Adjustment.

Members of the center include all 50 states, four territories, and the District of Columbia. The \$99,000 requested in this item is approximately 44 percent of the amount which California is assessed by the center. This assessment is based primarily on the state's population.

Membership in the center 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.