

LEGISLATIVE COUNSEL BUREAU—Continued
1991-92 FUNDING BY ITEM AND SOURCE

Item—Description	Fund	Amount
0160-001-001—Support	General	\$43,713,000
Reimbursements	—	131,000
Total		\$43,844,000

GENERAL PROGRAM STATEMENT

The Legislative Counsel Bureau drafts bills, provides legal opinions and legal counsel, and supplies attorney support for legislative committee hearings. It also prepares indices and tables to identify legislative measures, and compiles and indexes statutes and codes. In addition, the bureau operates a data center.

The bureau has 433.5 personnel-years in the current year.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The budget proposes total expenditures of \$43.8 million for the Legislative Counsel Bureau in 1991-92. This amount includes a General Fund appropriation of \$43.7 million and \$131,000 in reimbursements.

Proposed expenditures are \$561,000, or 1.3 percent, higher than estimated expenditures in the current year. This increase primarily represents salary increase adjustments. The budget proposes no increase in personnel or operating expenses and equipment for the budget year.

JUDICIAL

Item 0250 from the General

Fund

Budget p. LJE 7

Requested 1991-92.....	\$152,015,000
Estimated 1990-91	140,217,000
Actual 1989-90	123,187,000
Requested increase \$11,798,000 (+8.4 percent)	
Total recommended reduction.....	3,128,000
Recommendation pending	10,682,000

1991-92 FUNDING BY ITEM AND SOURCE

Item—Description	Fund	Amount
0250-001-001—Support	General	\$151,868,000
0250-001-044—Support/Local assistance	Motor Vehicle Account, State Transportation	123,000
0250-101-001—Local assistance	General	10,000
Reimbursements	—	14,000
Total		\$152,015,000

SUMMARY OF MAJOR FINDINGS AND RECOMMENDATIONS	<i>Analysis page</i>
1. Court-Appointed Counsel Program. Withhold recommendation on \$7.7 million increase requested for program, pending receipt and review of an estimate of number of cases by type of case and the number of attorney hours required by nonprofit organizations.	11
2. <i>Salary Savings. Reduce Item 0250-001-001 by \$1,733,000.</i> Recommend reduction because request for adjustment to salary savings rate is not justified.	12
3. <i>Operating Expenses. Reduce Item 0250-001-001 by \$926,000.</i> Recommend reduction for various operating expenses because requested amounts are overbudgeted.	13
4. Supreme Court Central Staff. Withhold recommendation on \$590,000 requested for additional positions in civil central and habeas corpus units, pending receipt of information relating to the workload and productivity of proposed positions.	14
5. Child Support Guidelines. Withhold recommendation on \$166,000 requested for study of child support guidelines, pending determination on the availability of federal funds for this purpose.	15
6. <i>Assigned Judges Program. Reduce Item 0250-001-001 by \$183,000.</i> Recommend reduction because requested amount is overbudgeted.	15
7. Computer. Withhold recommendation on \$2 million requested for computer hardware and software, pending receipt of feasibility study, needs projection, and other analyses and evaluations of proposed system.	16
8. Leased Space. Withhold recommendation on \$228,000 requested for additional leased space for the Judicial Council, pending review of the facility space needs by the Department of General Services.	16
9. <i>Unjustified Positions. Reduce Item 0250-001-001 by \$119,000.</i> Recommend reduction because court management analyst positions are not justified.	17
10. <i>Technical Issue. Reduce Item 0250-001-001 by \$167,000.</i> Recommend reduction to grant programs because of a technical budgeting error.	17

GENERAL PROGRAM STATEMENT

The California Constitution vests the state's judicial power in the Supreme Court, the courts of appeal, and the superior, municipal, and justice courts. The Supreme Court and the courts of appeal hear appeals from the trial courts, and have original jurisdiction over certain writs, such as habeas corpus.

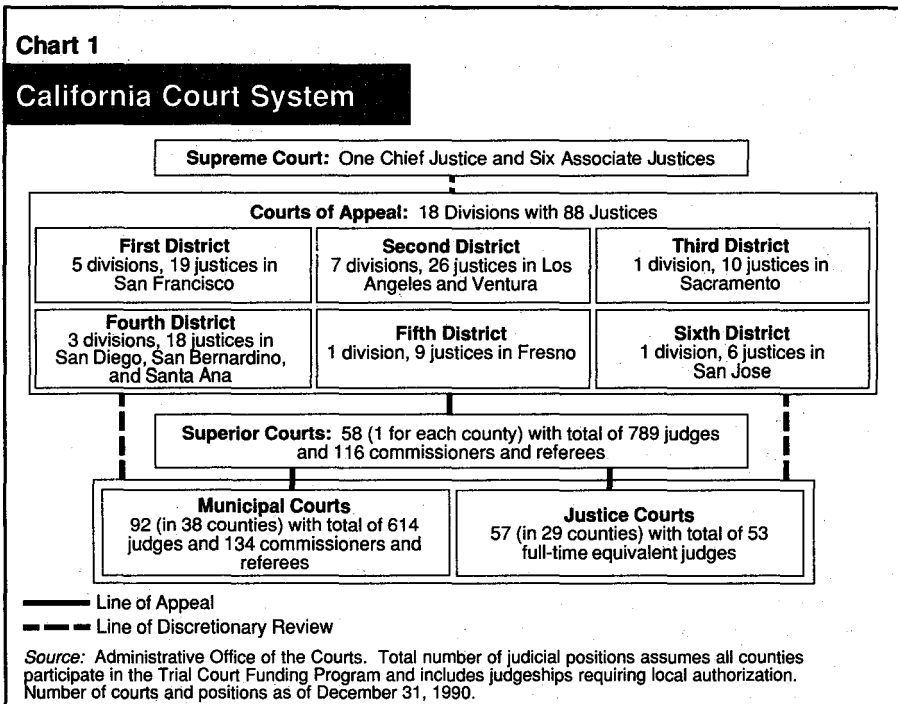
The Supreme Court and the six courts of appeal are entirely state supported. Under the Trial Court Funding Program, the state also

JUDICIAL—Continued

provides a significant amount of funding for the trial courts in participating counties, while the counties bear the remainder of these costs.

Fines, fees, and forfeitures collected by the trial courts are currently deposited in each county's general fund, and then distributed to the county, cities, special 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.

Chart 1 displays the structure of the California court system. The chart also shows the lines of appeal and review within the courts.



The Trial Court Funding Program

The Trial Court Funding Program, enacted by Ch 945/88 (SB 612, Presley), the Brown-Presley Trial Court Funding Act, provides for the state to assume primary responsibility for funding the operations of the trial courts in counties that choose to participate in the program. This program was originally established by Ch 1607/85 (AB 19, Robinson) and modified by Ch 1211/87 (SB 709, Lockyer). Chapter 944, Statutes of 1988 (AB 1197, Willie Brown), appropriated funding to implement the program on January 1, 1989. The Governor's Budget estimates that in 1991-92, the state will incur General Fund costs of approximately \$399.5 million for this program. The increased state assistance takes the form of block grants to fund trial court operating expenses and increased state

participation in the funding of judges' salaries and benefits. Proposed funding for these purposes is included in Item 0450-101-001.

Chapter 945 also provided for an annual Budget Act appropriation to the Trial Court Improvement Fund, from which the Judicial Council would award grants for projects to improve court management and efficiency. In 1990-91, there was no appropriation for this fund. Similarly, the proposed budget does not include an appropriation for this purpose in 1991-92.

As a condition of participating in the Trial Court Funding Program, counties must forgo state payment of existing annual \$60,000 block grants for superior court judgeships. Participating counties must also agree to forgo state reimbursement for state-mandated programs in the trial courts, and to waive their rights to seek reimbursement funding for other existing but not yet funded mandated programs.

Judicial Council

The Judicial Council consists of the Chief Justice (chairperson), 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 provides education for both newly appointed and continuing judges through the Center for Judicial Education and Research.

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 programs have 1,009.3 personnel-years in the current year.

OVERVIEW OF THE BUDGET REQUEST

The budget proposes appropriations of \$152 million from the General Fund (\$151.9 million), the State Transportation Fund (\$123,000), and reimbursements (\$14,000) for support of judicial functions in 1991-92. This is an increase of \$11.8 million, or 8.4 percent, above estimated current-year expenditures. The Governor's Budget includes an unallocated trigger-related reduction of \$4.1 million in funding for the judiciary.

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MAJOR ISSUES

- Judiciary's request for additional funds to reflect lower staff vacancy rates is not consistent with historical vacancy data.
- Several elements of the Judicial Council's operating expenses are overbudgeted.

This reduction is included in the proposed budget for the judiciary in lieu of the reduction that would otherwise be made pursuant to Ch 458/90 (AB 2348, Willie Brown).

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

Table 1
State Judicial Functions
Budget Summary
1989-90 through 1991-92
(dollars in thousands)

Program	Actual 1989-90	Estimated 1990-91	Proposed 1991-92	Change from 1990-91	
				Amount	Percent
Supreme Court.....	\$13,351	\$15,486	\$17,277	\$1,791	11.6%
Courts of Appeal.....	83,923	95,028	107,383	12,355	13.0
Judicial Council.....	24,841	28,309	29,971	1,662	5.9
Commission on Judicial Performance.....	1,072	1,204	1,481	277	23.0
Local Assistance.....	—	190	10	-180	-94.7
Unallocated reduction.....	—	—	-4,107	-4,107	— ^a
Totals.....	\$123,187	\$140,217	\$152,015	\$11,798	8.4%
Funding Sources					
General Fund.....	\$122,330	\$138,431	\$151,878	\$13,447	9.7%
Special Account for Capital Outlay.....	223	1,360	—	-1,360	-100.0
Motor Vehicle Account, State Transportation Fund.....	119	119	123	4	3.4
Reimbursements.....	317	307	14	-293	-95.4
Natural disaster reimbursements — Loma Prieta Earthquake.....	198	—	—	—	—
Personnel-Years					
Supreme Court.....	116.0	125.0	130.8	5.8	4.6%
Courts of Appeal.....	616.7	630.4	648.4	18.0	2.9
Judicial Council.....	197.5	241.4	265.2	23.8	9.9
Commission on Judicial Performance.....	11.8	12.5	12.9	0.4	3.2
Totals.....	942.0	1,009.3	1,057.3	48.0	4.8%

^a Not a meaningful figure.

Table 2 identifies (by funding source) the changes in the Judiciary's expenditure levels proposed for 1991-92.

Table 2
Judiciary
Proposed 1991-92 Budget Changes
(dollars in thousands)

	<i>General Fund</i>	<i>Special Funds</i>	<i>Reimburse- ments</i>	<i>Total</i>
1990-91 Expenditures (Revised)	\$138,431	\$1,479	\$307	\$140,217
<i>Workload Adjustments</i>				
Appointed counsel	\$7,708	—	—	\$7,708
Facilities operations	2,247	—	—	2,247
Courts of Appeal staffing	93	—	—	93
Subtotals	(\$10,048)	(—)	(—)	(\$10,048)
<i>Cost Adjustments</i>				
Employee compensation	\$3,815	—	—	\$3,815
One-time cost reductions	-1,588	—	—	-1,588
Merit salary adjustments	927	—	—	927
Other adjustments	-2,106	—	-293	-2,399
Unallocated reduction	-4,107	—	—	-4,107
Subtotals	(-\$3,059)	(—)	(-\$293)	(-\$3,352)
<i>Program Adjustments</i>				
Assigned judges	\$521	—	—	\$521
Family law	184	—	—	184
Vexatious litigants	41	—	—	41
Court interpreters	385	—	—	385
Child support guidelines	166	—	—	166
Family court services	543	—	—	543
Salary savings	2,188	—	—	2,188
Information systems	1,990	—	—	1,990
Expiring legislation	-355	-1,356	—	-1,711
Judicial Council staffing	411	—	—	411
Limited-term programs	-388	—	—	-388
Supreme Court staffing	693	—	—	693
Courts of Appeal staffing	79	—	—	79
Subtotals	(\$6,458)	(-\$1,356)	(—)	(\$5,102)
1991-92 Expenditures (Proposed)	\$151,878	\$123	\$14	\$152,015
Changes from 1990-91				
Amount	\$13,447	-\$1,356	-\$293	\$11,798
Percentage	9.7%	91.7%	-95.4%	8.4%

As Table 2 indicates, workload adjustments represent \$10 million, or 85 percent, of the net change in the proposed Judicial budget. Most of this increased workload is in the Court-Appointed Counsel Program (\$7.7 million). Table 2 also shows an increase of \$6.5 million for program adjustments. Several of the proposed adjustments are discussed in more detail below.

ANALYSIS AND RECOMMENDATIONS

Workload Data Needed for Court-Appointed Counsel Proposal

We withhold recommendation on \$7.7 million requested from the General Fund for the Court-Appointed Counsel Program, pending receipt and review of additional information, including an estimate of the number of cases by type of case and the number of attorney hours required by nonprofit organizations.

JUDICIAL—Continued

The budget requests \$41.3 million from the General Fund for the Court-Appointed Counsel Program in 1991-92. This is an increase of \$7.7 million, or 23 percent, above estimated current-year expenditures for the program. The Court-Appointed Counsel Program uses private attorneys working under the supervision of nonprofit organizations to provide appellate defense services for indigent persons. The proposed increase is driven largely by an expected increase in caseload requiring the appointment of private attorneys in the budget year. The caseload is expected to increase from 7,645 private appointments in the current year to 8,484 in the budget year.

Estimate of Caseload by Type of Case Needed. There are two types of private appointments that can be made in the program. "Assisted cases" are cases where a private attorney receives substantial assistance from the nonprofit organizations to complete the case. "Independent cases" are cases where a private attorney receives relatively little assistance from the nonprofit organizations. Independent cases are usually handled by more experienced attorneys who require little supervision or assistance.

The designation of a case as "assisted" or "independent" is important because the amount of assistance for which the nonprofit organizations bill the state is significantly different. In an assisted case, the nonprofit organizations budget 16 hours of assistance. By contrast, the nonprofit organizations budget only three hours of assistance in independent cases.

Our review of the budget proposal indicates it did not contain caseload estimates which were broken down by type of assistance. The Legislature needs this information in order to determine the number of nonprofit organization attorney hours required for the budget year and to make sure that the level of contract authority provided to the organizations matches the estimated caseload for the budget year.

Thus, we withhold recommendation on the request pending receipt and review of additional information on the estimated number of cases by type of case and the number of attorney hours required for the budget year by the nonprofit organizations.

Request for Lower Salary Savings Rate Not Justified

We recommend a General Fund reduction of \$1.7 million because the request to adjust the salary savings rate of the judiciary is not justified. (Reduce Item 0250-001-001 by \$1,733,000.)

The budget proposes a General Fund appropriation of \$2.2 million to adjust the judiciary's baseline level of salary savings. Salary savings reflect personnel cost savings from vacancies and reclassifications of positions due to employee turnover. The effect of the budget's proposal is to reduce the rate of required salary savings.

The council requests that the baseline salary saving rates for the Supreme Court, Courts of Appeals, Judicial Council, and Commission on Judicial Performance be reduced. At present, the salary savings rate for judiciary ranges from a low of 6 percent for the Supreme Court to a high of 7.5 for the Judicial Council. The council maintains that its current

salary savings rate is attributable to a series of extraordinary events, such as the creation of new judgeships, vacant judicial positions, the Loma Prieta earthquake, and hiring freezes. The council seeks to lower the salary savings rate for all of the judiciary to 3 percent.

Our analysis indicates that the judiciary's request for an across-the-board salary savings rate of 3 percent is not justified. The historical vacancy rates for the judiciary indicate that the following rates are more appropriate: 5.6 percent for the Supreme Court, 5.7 percent for the Courts of Appeal, and 7.1 percent for the Judicial Council. The current rate for the Commission on Judicial Performance (6.5 percent) appears reasonable. These rates result in an adjustment of \$455,000, or \$1.7 million less than the requested amount.

In addition, notwithstanding the earthquake, our review indicates some of the events which the council maintains generated a high salary savings rate, such as vacant judgeships, may not be "extraordinary" events.

For these reasons, we recommend that the level of funding requested by the council be reduced to \$455,000, for a General Fund savings of \$1.7 million.

Operating Expenses for Judicial Council Overbudgeted

We recommend a General Fund reduction of \$926,000 for in-state travel (\$719,000) and printing services (\$207,000) of the Judicial Council because the requested amount is overbudgeted. (Reduce Item 0250-001-001 by \$926,000.)

The budget proposes \$2.5 million from the General Fund for in-state travel (\$1.9 million) and printing services (\$567,000) of the Judicial Council. This amount represents an increase of \$314,000, or 14 percent, above the amount budgeted for 1990-91. Our analysis indicates that the requested amounts are overbudgeted.

In-State Travel. The in-state travel amount of \$1.9 million is an increase of \$272,000, or 17 percent, above the amount budgeted for 1990-91.

Our analysis indicates that the council has consistently overbudgeted in this area. As a result, the funds budgeted for in-state travel have been either transferred for other, unbudgeted uses, or reverted to the General Fund. Since 1985-86, the council has not spent more than \$1.1 million for in-state travel. Based on information provided by the council, we know of no reason to expect that the council would spend significantly more in the budget year than it has in previous years.

Consequently, we recommend that the amount requested be reduced by \$719,000 to bring the amount more in line with actual expenditure patterns.

Printing Services. The council requests \$567,000 from the General Fund for this purpose in 1991-92. This represents an increase of \$42,000, or 8 percent, from the amount budgeted for 1990-91. Our review indicates that the council has not spent more than \$360,000 for this purpose since 1985-86. Based on information provided by the council, we know of no reason to expect that the council would spend significantly more in the

JUDICIAL—Continued

budget year than it has in previous years. Consequently, we recommend that the amount be reduced by \$207,000.

In summary, we recommend that the amounts budgeted for in-state travel and printing be reduced to \$1.6 million to bring the amount more in line with actual expenditure patterns. This represents a General Fund savings of \$926,000.

Justification Incomplete for Supreme Court Staff Attorney Request

We withhold recommendation on eight positions and \$590,000 requested from the General Fund for the Supreme Court civil central staff and habeas corpus unit pending receipt of information relating to the workload and productivity of the proposed positions.

The budget requests \$590,000 from the General Fund and eight staff attorney positions for the Supreme Court. The request is comprised of two elements.

First, the budget requests permanent status for five limited-term staff attorneys authorized by the 1990 Budget Act and to add two additional permanent positions to the court's civil central staff unit. This unit prepares conference memoranda in civil cases where parties file petitions seeking the discretionary review of the Supreme Court. The request follows a report submitted to the Legislature in December 1990 pursuant to the *Supplemental Report of the 1990 Budget Act* which requested the Judicial Council to report to the Legislature on the need to establish the five positions on a permanent basis.

Second, the budget also requests one additional attorney for the criminal central staff habeas corpus unit. The habeas corpus unit reviews habeas corpus writ applications filed with the court. We have two concerns with this proposal.

Incomplete Data for Civil Central Staff. At the time this analysis was written, the Judicial Council had not provided the workload information we requested on the level of civil case filings in the Supreme Court, the number of conference matters in the Supreme Court, and the productivity of the civil central staff. The Legislature needs this information to review, among other things, the effectiveness and efficiency of the civil central staff and its effect on the Supreme Court's workload.

Incomplete Data for Habeas Corpus Attorney. At the time this analysis was written, the Judicial Council also had not provided information we requested on workload standards for the habeas corpus unit, the current backlog of habeas corpus petitions, and current data on the level of habeas corpus petitions. The Legislature needs this information to determine, among other things, the need for the requested position and the effect the requested position will have on the current inventory of habeas corpus petitions.

Without the data outlined above, we have no analytical basis to determine whether the proposal is reasonable. Consequently, we withhold recommendation on the request pending receipt of the data requested to justify the need for the proposed positions.

Federal Funds May Be Available for Child Support Guidelines Study

We withhold recommendation on \$166,000 requested from the General Fund for the cost of a study of child support guidelines pending a determination by the Judicial Council and the Department of Social Services (DSS) on the availability of federal funds for this purpose.

The budget proposes \$166,000 from the General Fund for the Judicial Council to conduct a study and make recommendations to the Legislature on permanent child support guidelines. The budget proposes to spend the requested funds on consulting services (\$83,000), in-state travel (\$45,000), and other expenses (\$38,000).

In March 1990, the federal Office of Child Support Enforcement notified the state of its intent to disapprove the state's plan for child support guidelines because of their lack of uniformity. Chapter 1493, Statutes of 1990 (AB 3974, Assembly Committee on Judiciary), directs the Judicial Council to conduct a study and report to the Legislature on or before December 1, 1991 on recommendations concerning permanent child support guidelines to comply with federal law. Chapter 1493 also requires the council to consult with a broad cross-section of groups involved in child support issues and to seek public comment on the permanent guidelines.

Federal Reimbursement is Possible. While the proposed expenditures appear reasonable, the council advises that at least two-thirds of the costs of the study may be reimbursable by the federal government.

At the time this analysis was completed, however, the council had not held discussions with the DSS regarding the procedures necessary to ensure reimbursement. Similarly, the DSS advised that it had not discussed the study with the council and that it was unclear to what extent the costs incurred by the council would be reimbursable.

To the extent that costs of the study are reimbursable by the federal government, the more appropriate method of budgeting for this purpose would be to use the General Fund to support only that portion of the costs of the study that are not reimbursed. Thus, we withhold recommendation on the request, pending a determination by the council and the DSS on the availability of federal funds.

Funds Requested for Assigned Judges Program Not Justified

We recommend a General Fund reduction of \$183,000 and one position for the Assigned Judges Program because the requested amount is overbudgeted. (Reduce Item 0250-001-001 by \$183,000.)

The Governor's Budget proposes \$521,000 from the General Fund and three positions for the Assigned Judges Program. The proposal has two elements. The Judicial Council requests \$131,000 and two positions to provide accounting and clerical support to the accounting unit. The council also requests an additional \$390,000 to provide funds to cover the estimated costs of salaries of the assigned judges in the budget year.

The Constitution provides the Chief Justice of the California Supreme Court with the authority to assign active and retired judges for a variety of reasons. The council, which administers the program, assigns judges on

JUDICIAL—Continued

a temporary basis due to the illness or disqualification of permanent judges, or due to court calendar congestion. Chapter 1389, Statutes of 1989 (SB 1350, Lockyer), centralized the payment of salaries and expenses of assigned judges within the council. We have two concerns with the proposal.

New Position. Based on the workload standards provided by the accounting unit and the level of claims to be processed, our review indicates that only one additional accounting position is justified on a workload basis. Thus, we recommend that one proposed position be deleted, for a savings of \$41,000.

Additional Funds. The proposal also requests \$390,000 to provide funds for an anticipated shortfall of funding necessary to pay for the services of assigned judges in 1991-92. The council used an *estimate* of the program payments for the first half of the current year and then used this data to derive its 1991-92 estimate.

Our analysis indicates that the council's estimate is too high. The actual amount of program payments for the first half of the current year was less than the council's estimate. Based on this actual data, we estimate that funds needed for the budget year are \$248,000, or \$142,000 less than the amount requested.

In view of the above, we recommend elimination of one position for the accounting unit (\$41,000) and \$142,000 for payment of services to judges, for a total General Fund reduction of \$183,000.

More Information Needed on Computer Request

We withhold recommendation on three positions and \$2 million requested from the General Fund for the purchase of computer hardware and software, pending receipt of the Judicial Council's feasibility study, needs projection, and other analyses and evaluations of the proposed system.

The Judicial Council requests \$2 million from the General Fund for the purchase of computer hardware and software. The request is part of a multi-year plan to implement a comprehensive information system for the judiciary.

Studies Not Completed. At the time this analysis was completed, the council had not completed the feasibility study, needs projections, and other analyses and evaluations for the anticipated system. The council advises that some of these studies will be completed later in the spring.

The Legislature needs the information contained in these documents to review, among other things, the full scope, specifications, requirements, and future costs of the proposed system. Thus, we withhold recommendation on the request pending receipt of the information noted above to support the proposal.

Request for Additional Space Incomplete

We withhold recommendation on \$228,000 requested from the General Fund for additional leased space for the Judicial Council in San

Francisco, pending review of the council's facility space needs by the Department of General Services.

The budget requests \$1.5 million for new leased space for the Judicial Council in San Francisco. This amount includes \$228,000 for additional space which the council estimates it will need for projected future growth. During the current year, the council will relocate its offices in San Francisco to private leased space, along with the offices of the Supreme Court and First District Court of Appeals. The council advises that there will be no room for expansion in the new leased facility.

The Department of General Services' Office of Real Estate and Design Services (OREDS) reviews agency requests for new space and determines the need for additional space based on, among other things, the current amount of space available and the projected level of future staffing. Our review indicates that the OREDS has not completed its review of the council's request. Depending on the results of the OREDS review, the projected need and costs for additional space may change.

For this reason, we withhold recommendation on the request, pending completion of the review by OREDS of the space needs for the council.

Positions Not Justified

We recommend a General Fund reduction of \$119,000 and two court management analyst positions because the positions are not justified. (Reduce Item 0250-001-001 by \$119,000.)

The budget requests \$119,000 from the General Fund for two positions to collect and analyze trial court fiscal data and prepare reports concerning implementation of the Trial Court Funding Program. These positions would analyze various categories of expenditure data of the trial courts, including salaries and benefits and operating expenses. We recommend deletion of these positions because the Legislature eliminated funding for this purpose in the State Controller's Office in the 1990 Budget Act and existing law does not provide that this function should be performed by the Judicial Council.

Technical Issue

We recommend a General Fund reduction of \$167,000 for the Judicial Council's grant programs because of a technical error. (Reduce Item 0250-001-001 by \$167,000.)

The budget requests \$765,000 from the General Fund for various grant programs operated by the council. Our review indicates that this item is overbudgeted by \$167,000 due to a calculation error. Thus, we recommend a General Fund reduction of \$167,000.

CONTRIBUTIONS TO JUDGES' RETIREMENT FUND

Item 0390 from the General

Fund

Budget p. LJE 13

Requested 1991-92.....	\$47,972,000
Estimated 1990-91	39,557,000
Actual 1989-90	32,420,000
Requested increase \$8,415,000 (+21 percent)	
Total recommended reduction.....	None

1991-92 FUNDING BY ITEM AND SOURCE

Item—Description	Fund	Amount
0390-001-001—Supreme and Appellate Court Judges		
—Budget Act Appropriation	General	\$2,266,000
—Government Code Section 75101	General	889,000
0390-101-001—Superior and Municipal Court Judges		
—Budget Act Appropriation	General	33,818,000
—Government Code Section 75101	General	<u>10,999,000</u>
Total		<u>\$47,972,000</u>

SUMMARY OF MAJOR FINDINGS AND RECOMMENDATIONS

*Analysis
page*

1. *JRS Funding Alternatives.* Find that enactment of legislation to increase specified court filing fees and contribution rates would reduce General Fund costs for the JRS. 20

GENERAL PROGRAM STATEMENT

The Judges' Retirement Fund (JRF) provides benefits for those justice, 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' actual salaries.
- *Fees on civil suits* filed in municipal and superior courts.
- *State General Fund appropriations*, which are equivalent to:
 - (a) 8 percent of judicial salaries based on authorized positions, *plus*
 - (b) *any amount necessary to cover the JRS benefit payments made in a given year.*

The JRF will pay out \$63 million in benefits in the budget year.

MAJOR ISSUES

- Enactment of legislation authorizing an increase in specified fee revenues and contribution rates would reduce General Fund costs.

OVERVIEW OF THE BUDGET REQUEST

The budget proposes four General Fund appropriations totaling \$47,972,000 as the state's contribution to the JRF in 1991-92. This amount consists of a continuous appropriation of \$11,888,000 (equivalent to 8 percent of judicial salaries) in statutory contributions and \$36,084,000 in Budget Bill appropriations needed to meet the cost of projected benefit payments during 1991-92. Without the latter amount, the JRF — which is estimated to end the current fiscal year with a reserve of \$1.9 million — would be insolvent. This is because receipts anticipated from other revenue sources will finance only about 43 percent of the benefit payments projected for the budget year. The proposed increase in benefit payments is \$7.8 million, or 14 percent, more than the estimated payments in the current year.

Table 1 shows the revenues and expenditures for the JRF in the prior, current, and budget years.

Table 1
Judges' Retirement Fund
Budget Summary
1989-90 through 1991-92
(dollars in thousands)

Program	Expenditures			Change From 1990-91	
	Actual 1989-90	Est. 1990-91	Prop. 1991-92	Amount	Percent
Beginning Reserves	\$1,226	\$1,116	\$1,857	\$741	66.4%
Revenues					
<i>State Contributions</i>					
Statutory 8 Percent of salaries.....	\$10,841	\$11,322	\$11,888	\$566	5.0%
Budget Act	21,317	27,958	35,807	7,849	28.1
Budget Act (administration)	262	277	277	—	—
Subtotals, state contributions.....	\$32,420	\$39,557	\$47,972	\$8,415	21.3%
<i>Nonstate Contributions</i>					
Judges' contributions	\$10,857	\$11,346	\$11,916	\$570	5.0%
Other ^a	5,161	5,289	5,445	156	2.9
Subtotals, nonstate contributions.....	\$16,018	\$16,635	\$17,361	\$726	4.4%
Totals, revenues	\$48,438	\$56,192	\$65,333	\$9,141	16.3%
<i>Expenditures</i>					
Benefits and others (net)	\$48,286	\$55,174	\$63,011	\$7,837	14.2%
Administrative costs	262	277	277	—	—
Totals, expenditures.....	\$48,548	\$55,451	\$63,288	\$7,837	14.1%
Ending Resources	\$1,116	\$1,857	\$3,902	\$2,045	110.1%

^a Includes filing fees, investment income, and contributions from employers.

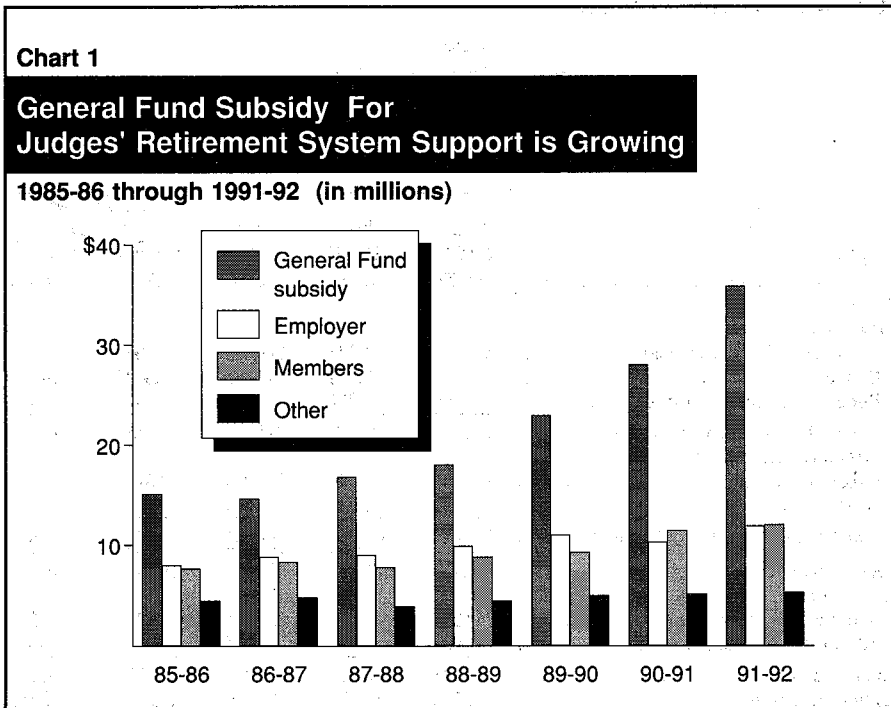
**CONTRIBUTIONS TO JUDGES' RETIREMENT FUND—Continued
ANALYSIS AND RECOMMENDATIONS**

We find that the enactment of legislation increasing specified court filing fees and contribution rates would reduce General Fund costs for the JRS.

Background

The Judges' Retirement System (JRS) has a two-fold problem. As a pay-as-you-go retirement system, the JRS currently is not actuarially sound. State law requires it to be actuarially sound by 2002. The PERS indicates, however, that this is unlikely. The system cannot meet expected benefit payments in 1991-92 without major General Fund subsidies through Budget Bill appropriations of approximately \$36 million. Given the state's current fiscal situation and the actuarial condition of the system, the Legislature may wish to consider alternative methods for funding the JRS.

Chart 1 displays the funding trends for the system over the last five years and projects them for the current and budget years. The proportion of the JRS revenues provided by the General Fund subsidy has increased sharply while the revenues contributed by employees (members) and employer (the state) has increased moderately. Fees and investment earnings (other) have remained flat. Since contribution rates and filing



fees are fixed in statute, the financial burden on the state's General Fund subsidy will continue to increase as the pension fund's benefit obligation grows. According to the PERS, the General Fund subsidy will continue to grow at approximately 30 percent *annually* beyond the budget year, or an increase of \$11 million more in 1992-93.

Normal Costs and the Unfunded Liability

The financial structure of the JRS has two components. The current or ongoing cost of benefits being earned by active JRS members is called the normal cost. The accumulated cost of benefits previously earned by active and retired members which has not yet been paid for is called the unfunded liability. The Legislature must consider financing each of these components properly if the JRS is to be actuarially sound.

Financing the Normal Costs

In past *Analyses*, we have recommended that the normal costs of the JRS be fully funded each year so as to not increase the unfunded liability of the system. The current rates prescribed in statute total 16 percent (8 percent each for employers and employees). The most recent actuarial study (1989) indicates that a normal cost rate of 29 percent would be required to completely fund this cost. Therefore, the unfunded liability of the system is increasing every year by the difference — 13 percent — or \$19 million in 1991-92.

Every two years, the PERS updates its actuarial assumptions based on a variety of factors such as benefit enhancements, mortality rates, and retiree longevity. Any changes in these factors produces an adjustment in the normal cost rate. Since the contribution rates are fixed in statute, however, and there is not authority for the PERS to adjust these rates to fund the revised normal cost, the annual shortfall in contributions continues to grow and adds to the system's unfunded liability.

Financing the Unfunded Liability

The unfunded liability may be financed using different time frames and revenues sources, such as those outlined below.

Extend the Amortization Period. If the unfunded liability were funded actuarially under existing law, the most recent actuarial study and audit of the system indicate that the annual JRS revenues required in the budget year would total \$118 million — \$113 million from the General Fund and \$5 million from court fees and investment earnings. However, if the amortization period were extended from 2002 to an industry standard maximum of 40 years, or the year 2030, then the contribution rate for the unfunded liability would drop from 79 percent to 33 percent of payroll, or \$49 million.

While the actuarially based General Fund subsidy described above would grow by approximately 6 percent annually, versus about 30 percent under the present method, this actuarially based rate by itself would require total General Fund outlays substantially higher than the Governor's Budget under the present pay-as-you-go method. Consequently, to make the JRS actuarially sound without increasing the current

CONTRIBUTIONS TO JUDGES' RETIREMENT FUND—Continued

financial burden on the General Fund or decreasing benefits, other JRS revenues would have to be increased.

Increasing Filing Fees. The Legislature may increase other JRS revenue sources by one or more of the following methods: (1) increase filing fees in superior court civil cases, (2) increase filing fees in municipal court civil cases, and (3) add a filing fee for small claims civil proceedings. Current law provides for civil case filing fees of \$3 in superior court and \$2 in municipal court for support of the JRS. These fees have not been increased since 1971, and are collected concurrently with other fees at the time cases are filed. It is also interesting to note that, despite the increase in the number of civil cases filed since 1984-85, the amount of revenue generated by filing fees on these cases has remained fairly constant. According to the state Judicial Council, this is because judges increasingly grant waivers to petitioners due to the indigent status of the parties involved in the litigation. Under existing law, there are no filing fees levied for the benefit of the JRS on small claims cases.

If the Legislature chose to increase these fees to make up the annual payment on the unfunded liability in 1991-92 and thereby reduce the burden on the General Fund, fees would have to be raised to \$25 per superior court civil case, \$23 for municipal court cases, and \$15 for small claims cases, or an alternative schedule that yields the same increase in total revenues.

Alternative Approaches

The Legislature may select any number of options to make the JRS actuarially sound — to finance both the normal cost and the unfunded liability on an annual basis. In the following paragraphs, we describe four components of the JRS's funding structure where policy decisions are required in order to achieve this goal: (1) the amortization period for the unfunded liability, (2) the contribution rates to cover the normal costs, (3) fee increases to cover the unfunded liability, and (4) benefit reductions to reduce the normal costs and/or the unfunded liability.

Extend Amortization Period for the Unfunded Liability. In setting an amortization period for paying the unfunded liability, the policy trade-off is between making the annual payment on the unfunded liability manageable in the short run, versus spending as few dollars as possible in the long run. For example, prior to the current year, the PERS had used a 30-year amortization period for the unfunded liability of the PERS. That amortization period was extended by the PERS to 40 years, as a result of Ch 473/90 (SB 1809, Kopp). This action reduced General Fund costs by \$15 million annually for 27 years, but will potentially mean 13 years of additional payments of hundreds of millions of dollars annually in today's dollars, beginning in 2019-2020.

In the case of the JRS, by extending the amortization period beyond 2002 (the current deadline stipulated under existing law), the state would avail itself of a more manageable annual payment to retire the obligation. For example, if a 40-year amortization period were used, a General Fund

subsidy of \$49 million would be needed. In contrast, the current amortization period would require a subsidy of \$118 million.

Increase Contribution Rates to Cover the Normal Costs. The key policy decisions to achieve actuarially sound contribution rates are whether (1) an increase for employees and employers should be shared equally or differently and (2) PERS should be granted the authority it has in administering other systems to adjust rates on an annual basis. If employee and employer rates were raised equally, these rates would give JRS members the highest employee contribution rate among state retirement systems, and would require the average judge to increase his/her monthly retirement contribution from \$638 to \$1,156. On the other hand, if the state were to assume the full burden of the required contribution rate increases, the resulting rate of 20.99 percent would be comparable to those paid for the California Highway Patrol and State Safety retirement groups — presently the groups with the highest state contributions.

In addition to adopting the appropriate employee and employer contribution rates, the Legislature should consider giving the PERS the authority to periodically adjust these rates as the funding needs of the JRS changes. Current law already authorizes the PERS to adjust rates annually (subject to legislative approval in the annual Budget Act) for virtually all other PERS retirement categories.

Increase Filing Fees to Cover Payments on the Unfunded Liability. The key policy decisions are how high to raise specific fees and whether to incorporate small claims cases into the fee structure. In order to cover the annual payment on the unfunded liability, we estimate that fees would have to be raised to \$25 per superior court civil case, \$23 for municipal court cases, and \$15 for small claims cases. This would increase superior court fees, which range from \$80 to \$150, to \$105 to \$175; municipal court fees from \$50 to \$75; and small claims fees from \$10 to \$25. If the JRS fees had been adjusted by the California Consumer Price Index (CPI) since their inception in 1971, the current rates would be \$11 for superior court and \$8 for municipal court. CPI-adjusted rates would raise an additional \$12 million annually — \$32 million short of the increased amount required to cover the \$44 million annual payment on the unfunded liability.

An actuarially based fee structure would raise an additional \$44 million annually, assuming no change in civil case filings. When coupled with an increase in contribution rates to cover normal costs as described above, these fee increases would eliminate the need for the General Fund subsidy in 1991-92.

Reduce Benefits to Decrease the Normal Costs and/or the Unfunded Liability. The last alternative is to reduce benefits. Current law explicitly reserves the Legislature's "...right to reduce any benefits applicable to any person who becomes a judge on or after January 1, 1980." We estimate that over one-half of the active (contributing) members of the JRS fall into this category. If benefits were reduced for these members

CONTRIBUTIONS TO JUDGES' RETIREMENT FUND—Continued

and all new members, then the amount of the unfunded liability and the annual normal cost deficit would be reduced accordingly.

Conclusions

In conclusion, the JRS is becoming less solvent. The unfunded liability cannot be funded by the current statutorily required date of 2002, absent a massive commitment of General Fund resources on an annual basis. The present contribution rates set by statute do not cover the system's normal cost, so the unfunded liability grows steadily. New or enhanced benefits enacted by the Legislature, or other adjustments to actuarial assumptions, add to that liability.

Based on our review, we conclude that the solution to the system's actuarial problems lies in considering adjustments to all four of the factors discussed above — amortization period, contribution rates, fee increases, and benefit reductions. A multifaceted approach has the best chance of making the system actuarially sound.

SALARIES OF SUPERIOR COURT JUDGES

Item 0420 from the General
Fund

Budget p. LJE 14

Requested 1991-92.....	\$73,502,000
Estimated 1990-91	71,531,000
Actual 1989-90	66,198,000
Requested increase \$1,971,000 (+2.8 percent)	
Total recommended reduction.....	None

GENERAL PROGRAM STATEMENT

The state provides approximately 90 percent of the salaries, plus the full cost of health benefits, to the state's superior court judges.

Currently, each county contributes \$5,500, \$7,500, or \$9,500 per year toward each of these judge's salary, depending on the county's population. Counties pay their share directly or reimburse the state for payment of the county contribution. The state pays the balance of each judge's salary, which increased from \$94,344 to \$99,297 in January 1991. The counties' share of total salary cost has not changed since 1955, when the program began.

OVERVIEW OF THE BUDGET REQUEST

The budget proposes an appropriation of \$73.5 million from the General Fund to pay approximately 90 percent of the salaries and the full benefits of the 789 authorized superior court judgeships. This is an increase of \$2 million, or 2.8 percent, above estimated current-year expenditures. This increase is the result of salary adjustments which

reflect the full-year costs of salary increases granted in the current year.

Table 1 summarizes expenditures for superior court judges' salaries and benefits and reimbursements from counties for the past, current, and budget years.

Table 1
State Expenditures for
Salaries and Health Benefits
for Superior Court Judgeships
1989-90 through 1991-92
(dollars in thousands)

<i>Expenditure Category</i>	<i>Actual</i> 1989-90	<i>Estimated</i> 1990-91	<i>Proposed</i> 1991-92	<i>Percentage</i> <i>Change</i> <i>from</i> <i>1990-91</i>
Superior court salaries	\$65,133	\$69,087	\$71,041	2.8%
Superior court health benefits	3,022	3,671	3,698	0.7
Salary savings	-1,957	-1,227	-1,237	0.8
Reimbursements from counties	(1,124)	(1,190)	(1,190)	—
Totals	\$66,198	\$71,531	\$73,502	2.8%

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Our analysis indicates that the amount budgeted for the salaries and benefits of the 789 superior court judgeships is appropriate.

STATE BLOCK GRANTS FOR SUPERIOR COURT JUDGESHIPS

Item 0440 from the General
Fund

Budget p. LJE 15

Requested 1991-92	\$1,000
Estimated 1990-91	—
Total recommended reduction	None

GENERAL PROGRAM STATEMENT

The State Block Grants for Superior Court Judgeships Program provides for state payment of annual \$60,000 block grants for superior court judgeships. The block grants are in addition to the funds the state provides for the salary and benefits of superior court judgeships in Item 0420.

The Trial Court Funding Program enacted by Ch 945/88 (SB 612, Presley), the Brown-Presley Trial Court Funding Act, provides for the state to assume primary responsibility for funding the operations of the trial courts in counties that choose to participate in the program. The Trial Court Funding Program provides (1) block grants to fund trial court operating expenses, (2) block grant supplements for specified new judgeships, (3) contributions toward the salaries of municipal court

STATE BLOCK GRANTS FOR SUPERIOR COURT JUDGESHIPS—Continued

judges, and (4) contributions toward the salaries of justice court judges. As a condition of participating in the Trial Court Funding Program, counties must forgo state payment of the annual superior court block grants.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The budget proposes total expenditures of \$1,000 for the State Block Grants for Superior Court Judgeships Program in 1991-92. According to the Department of Finance, the amount proposed is necessary so that, if any counties decline to participate in the Trial Court Funding Program in the budget year, this budget item can be used to fund the superior court block grants counties would be eligible to receive from the state.

STATE BLOCK GRANTS FOR TRIAL COURT FUNDING

Item 0450 from the General
Fund

Budget p. LJE 15

Requested 1991-92.....	\$399,460,000
Estimated 1990-91	399,647,000
Actual 1989-90	433,486,000
Requested decrease —\$187,000 (—0.05 percent)	
Total recommended reduction.....	None
Recommendation pending	399,460,000

SUMMARY OF MAJOR FINDINGS AND RECOMMENDATIONS

*Analysis
page*

1. Funding Requirements for 1991-92. Withhold recommendation on \$399.5 million, pending receipt and review of additional information and revised estimates of funding levels necessary to meet statutory requirements.

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GENERAL PROGRAM STATEMENT

The Trial Court Funding Program, enacted by Ch 945/88 (SB 612, Presley), the Brown-Presley Trial Court Funding Act, requires the state to assume primary responsibility for funding the operations of the trial courts in counties that choose to participate in the program. This program was originally established by Ch 1607/85 (AB 19, Robinson) and modified by Ch 1211/87 (SB 709, Lockyer). Chapter 944, Statutes of 1988 (AB 1197, Willie Brown), appropriated funding to implement the program on a half-year basis beginning January 1, 1989.

The increased state assistance to the trial courts consists of four components:

- Block grants to fund trial court operating expenses.

- Block grant supplements for specified new judgeships.
- Contributions toward the salaries of municipal court judges.
- Contributions toward the salaries of justice court judges.

State block grants are disbursed to counties for superior, municipal, and justice court judges, and superior and municipal court commissioners and referees. The block grant amount increases annually at the same rate as the average percentage increase in state employees' salaries in the previous year. In 1991-92, the budget proposes a block grant of \$203,864 per judge, commissioner, or referee.

Supplements to the block grants are available to certain counties for specific judgeships created by Chapter 1211. That measure authorized 98 additional trial court judgeships. Participating counties that gained more than 10 judgeships in Chapter 1211 (Los Angeles, San Diego, and Santa Clara) receive a block grant supplement for each judgeship in excess of that number. The supplement represents the difference between the county's average appropriation for court operations per judicial position in 1987-88 and the base year block grant amount. This supplement, calculated by the State Controller, is available for four years and decreases by 25 percent each year.

The Trial Court Funding Program also extends the current system of state participation in the salaries of superior court judges to the salaries of municipal and justice court judges. Each county that participates in the program will contribute \$5,500, \$7,500, or \$9,500 toward the salary of each judge, depending on the county's population. The state will pay the balance of each judge's salary which is currently \$90,680. The state contribution will be prorated according to the full-time equivalency of each position.

As a condition of participating in the program, counties must forgo previous state funding for certain judgeships. In addition, they must waive reimbursement for existing and future state-mandated costs relating to the trial courts and all other state-mandated costs for which they had not submitted claims by September 16, 1988.

OVERVIEW OF BUDGET REQUEST

The budget proposes expenditures of \$399.5 million to provide block grants for trial court operating expenses, block grant supplements for new judgeships, and contributions toward the salaries of municipal and justice court judges. The budget includes an unallocated trigger-related reduction of \$16.6 million in funding for the program. This reduction is included in the proposed budget for the program in lieu of the reduction that would otherwise be made pursuant to Ch 458/90 (AB 2348, Willie Brown).

The Governor's Budget assumes that all 58 counties will participate in the Trial Court Funding Program in 1991-92, and is based on an estimate of 1,708 judicial positions statewide, as follows:

- 789 superior court judgeships.
- 113 superior court commissioners and referees.
- 614 municipal court judgeships.

STATE BLOCK GRANTS FOR TRIAL COURT FUNDING—Continued

- 135 municipal court commissioners and referees.
- 57 justice court judgeships.

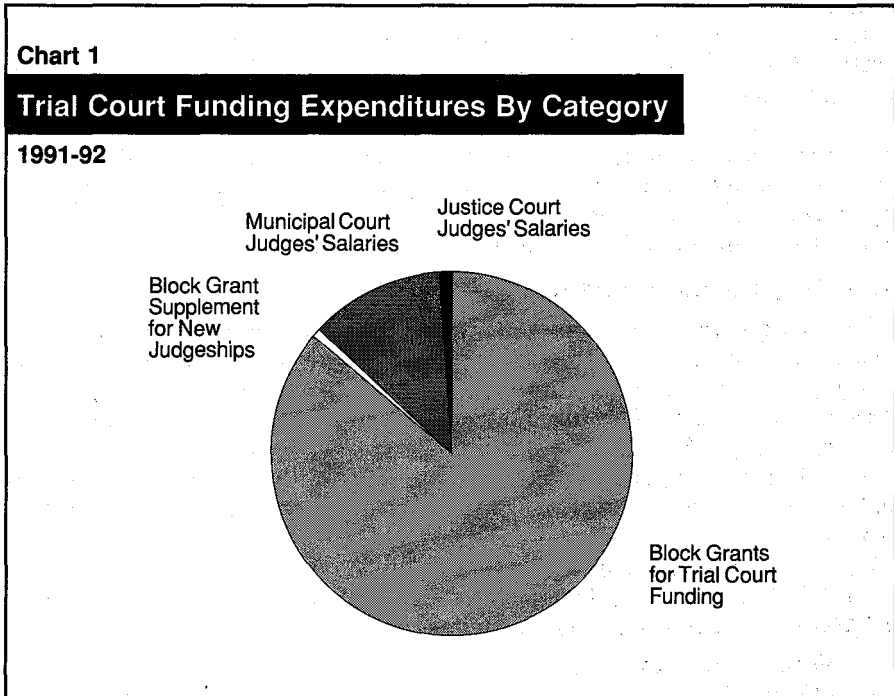
Table 1 displays proposed expenditures for the Trial Court Funding Program in the prior, current, and budget year, by category.

Table 1
Trial Court Funding Program
General Fund
1989-90 through 1991-92
(dollars in thousands)

Expenditure Category	Actual 1989-90	Estimated 1990-91	Proposed 1991-92	Change From 1990-91	
				Amount	Percent
Block grants for trial court funding	\$378,586	\$340,727	\$357,912	\$17,185	5.0%
Block grant supplement for new judge- ships.....	7,895	5,758	3,512	-2,246	-39.0
Salaries of municipal court judges.....	43,748	48,556	49,945	1,389	2.9
Salaries of justice court judges.....	3,257	4,606	4,735	129	2.8
Unallocated reduction	—	—	-16,644	-16,644	— ^a
Totals.....	\$433,486	\$399,647	\$399,460	-\$187	-0.05%

^a Not a meaningful figure.

As Table 1 indicates, proposed state expenditures for the Trial Court Funding Program are \$187,000 less than the estimated expenditures for



the current year. The main reason for the decrease is the effect of the \$16.6 million unallocated reduction.

Chart 1 shows the proposed expenditures for the budget year by expenditure category.

As Chart 1 shows, the block grants for the operating expenses of trial court funding comprise the largest portion, 86 percent, of the proposed expenditures for the budget year. Salaries for municipal court judges comprise the next largest category of expenditure at 12 percent.

ANALYSIS AND RECOMMENDATIONS

Significant Budget Cuts in Program in 1990-91

Deliberations on the 1990-91 budget resulted in a significant reduction in the Trial Court Funding Program. As introduced in January 1990, the Governor's Budget for 1990-91 proposed total expenditures of \$454.9 million. As the state fiscal picture worsened, the Legislature reduced the program in order to bridge the funding gap between revenues and expenditures. The reduction was comprised of two elements and implemented through Ch 466/90 (SB 2557, Maddy).

First, the annual adjustment of the block grants for trial court funding, which would have been 5 percent in 1990-91, was suspended. This resulted in a General Fund savings of \$18.9 million. Second, the base amount budgeted for block grants for trial court funding was reduced by 10 percent. This action produced an additional General Fund savings of \$37.9 million. Taken together, the Trial Court Funding Program was reduced by \$56.8 million in 1990-91.

The reductions resulted in counties receiving lower block grants for trial court operations. In the absence of Chapter 466 and the corresponding budget reductions, the annual block grant per judicial position would have been \$235,956. The final 1990 Budget Act provided block grants of \$202,248 per position.

We discussed the impact of the reductions on the local courts with the Administrative Office of the Courts as well as officials in a number of counties. Most indicated that local officials perceive that the Trial Court Funding Program may not be a stable and predictable source of funding. Among other things, court officials indicated that they may be less willing to devote funds to programs designed to improve court operations that require additional personnel, such as arbitration and mediation programs, because of the uncertainty regarding the level of funding they will receive from year to year.

Current-Year Deficiency Likely for Block Grant Supplement for New Judgeships

Data provided by the State Controller's Office (SCO) indicate that the amount budgeted to provide the block grant supplements for new judgeships is not sufficient for the current year. The 1990 Budget Act appropriated \$5.8 million for this purpose. Due to changes in block grant amounts enacted in Ch 466/90 (SB 2557, Maddy), the SCO estimates total expenditures in the current year of \$5.9 million, or \$165,000 more than the

STATE BLOCK GRANTS FOR TRIAL COURT FUNDING—Continued

amount budgeted. This will likely result in a deficiency of \$165,000 in the current year.

Funding Requirements for 1991-92 Are Uncertain

We withhold recommendation on \$399.5 million requested from the General Fund, pending receipt and review of additional information and revised estimates of funding levels necessary to meet the existing statutory requirements.

The budget proposes \$399.5 million from the General Fund for support of the Trial Court Funding Program in 1991-92. In reviewing the proposal, we identified a number of concerns with the proposed funding level, including (1) technical problems in the amounts proposed for block grants for trial court funding and block grant supplements for new judgeships, (2) uncertainties regarding the number of counties likely to participate in the program in 1991-92, and (3) uncertainties regarding the level of county contributions for municipal and justice court judges' salaries. These uncertainties could mean the level of funding required for this program is greater or less than the amount budgeted.

As a result of these concerns, which we discuss in more detail below, we withhold recommendation on the requested amount, pending receipt and review of additional information and revised estimates of the funding necessary to meet the statutory requirements of the program. This information includes the number of counties that will opt into the program for the budget year and revised census data, both of which will be available in March.

Proposed Funding is Underbudgeted

Based on the administration's assumptions, our analysis indicates that the amount proposed for this item is not sufficient to finance the Trial Court Funding Program in 1991-92, as required under current law. We estimate that the level of underfunding is approximately \$1.1 million, and is due to two factors.

First, the annual adjustment to the block grants for trial court funding made in the Governor's Budget is too low. Under existing law, the block grants are adjusted by the average percentage increase in state employee salaries for the previous fiscal year. The Governor's Budget for the Trial Court Funding Program is based on a 5 percent increase adjustment. The actual increase for state employees (including equity adjustments) was 5.25 percent. As a result, this expenditure category is underfunded by \$1 million.

Second, the amount budgeted for the block grant supplement for new judgeships is too low by about \$100,000, due to a calculation error.

We do not recommend that the Legislature make these adjustments to the budget at this time because of additional uncertainties outlined below.

Other Factors Make Funding Requirements Uncertain

Our analysis indicates that two other factors make the amount of funding necessary for the program during 1991-92 uncertain.

Counties Have Later Opt-In Date. Chapter 816, Statutes of 1990 (SB 1943, Lockyer), changed the date by which a county must notify the state of its decision to opt into the Trial Court Funding Program for the next fiscal year. Under prior law, a county had to opt in on or before November 15 of the preceding fiscal year. Chapter 816 allows counties to opt in on or before March 1 of the preceding fiscal year, or almost four months later. Chapter 816 also requires the Director of Finance to advise the Joint Legislative Budget Committee of those counties that have opted in for the budget year by March 15, 1991.

The Governor's Budget assumes that all 58 counties will participate in the budget year. At the time this analysis was prepared, the SCO advised that it had received 20 notifications from counties opting in for the budget year. Depending on the number of counties finally opting into the program for the budget year, the amount of funding necessary for this program may change.

State Share of Municipal and Justice Court Judges' Salaries May Change. The Trial Court Funding Program provides for state participation in the salaries of municipal and justice court judges. Each county that participates in the program will contribute \$5,500, \$7,500, or \$9,500 toward the salary of each judge, depending on the county's population. The state will pay the balance of each judge's salary which is currently \$90,680.

Chapter 323, Statutes of 1983 (AB 223, Vasconcellos), requires that for the purpose of determining the amount of the county contribution, the county population be based on the results of the last preceding U.S. decennial census. The Department of Finance advises that 1990 U.S. census data for counties will not be available until March 1991. Depending on the results of the census, the amount of funding necessary for this program may change.

GOVERNOR'S OFFICE

Item 0500 from the General
Fund

Budget p. LJE 16

Requested 1991-92.....	\$9,085,000
Estimated 1990-91.....	8,858,000
Actual 1989-90.....	7,908,000
Requested increase \$227,000 (+2.6 percent)	
Total recommended reduction.....	None

GENERAL PROGRAM STATEMENT

The California Constitution grants the executive power of the state to the Governor, who is responsible for administering and enforcing state law. The Governor is elected to a four-year term, and receives an annual salary of \$120,000.