



The Capitol Connection

ADMINISTRATIVE OFFICE OF THE COURTS • OFFICE OF GOVERNMENTAL AFFAIRS

In this Issue

<i>Court Construction Revenue Bill Faces Final Critical Stretch</i>	1
<i>Access to Justice Priority for Incoming Assembly Judiciary Chair Mike Feuer</i>	1
<i>Judicial Council-Sponsored Legislation</i>	2
<i>Legislative Review</i>	3
<i>Legislature Rejects Permanent Budget Reductions for Judicial Branch</i>	4
<i>BBC Members Hold District Outreach Meetings</i>	4
<i>2008 New Laws Workshops</i>	5
<i>OGA Welcomes New Team Members</i>	12

Legislative Calendar

August 31
Last day for any bill to be passed

COURT CONSTRUCTION REVENUE BILL FACES FINAL CRITICAL STRETCH

SB1407 (Perata) creates a framework to support the issuance of up to \$5 billion in revenue bonds to fund some of the most urgent needs for courthouse construction and renovation. The bill has passed the Senate and policy and fiscal committees in the Assembly and will be facing a critical floor vote in the Assembly in the remaining weeks of the legislative session, which ends August 31 if there is a budget.

In March, as part of his State of the Judiciary speech to a joint session of the Legislature, Chief Justice Ronald George reminded legislators of the critical condition of many of the courthouses throughout the state. There is insufficient room in many courthouses to provide safe and adequate space for jurors, witnesses, lawyers, and litigants. Opposing parties in family court matters, and victims, defendants, and witnesses in criminal matters often must share limited hallway space with

one another, thereby heightening the risk of violent confrontation and intimidation. Similarly, those appearing to pay a traffic ticket or reporting for jury duty may find themselves waiting with defendants and witnesses in an unsecured hallway or needing to move aside as in-custody defendants are led through the hallway to a courtroom or lock-up.

SB 1407 includes fee and fine increases to support the debt service on bonds to be issued, including a \$30 assessment imposed on misdemeanor and felony criminal convictions, a \$35 assessment imposed on infractions, increases of \$20-\$30 in first paper civil filing fees, a \$3 increase in the State Court Construction Parking Penalty, a \$25 increase in the traffic violator school fee, a \$250 fee for out-of-state attorneys participating in California cases, and an

(Continued on page 6)

ACCESS TO JUSTICE PRIORITY FOR INCOMING ASSEMBLY JUDICIARY CHAIR MIKE FEUER

On June 5, 2008, Assembly Speaker Karen Bass announced that the Assembly Judiciary Committee will be chaired by Assembly Member Mike Feuer (D-Los Angeles) beginning in December 2008. The current chair, Assembly Member Dave Jones, is going to chair the Assembly Health Committee. Assembly Member Feuer was elected to represent the 42nd Assembly District in November 2006, and has served on the Judiciary Committee throughout his first term.

Feuer was a member of the Los Angeles City Council from 1995 to 2001, and is a Harvard educated attorney with a wide range of legal practice experience. He began as a judicial clerk for California Supreme Court Justice Joseph Grodin, and has also served as a litigator at Hufstedler, Miller, Carlson & Beardsley, and Morrison & Foerster. Feuer developed a keen appreciation for access to justice issues during his eight-year tenure as the Executive Director of Bet

(Continued on page 7)



Assembly Member Mike Feuer (D-Los Angeles) to chair the Assembly Judiciary Committee. *(Photo courtesy of Asm. Feuer)*

JUDICIAL COUNCIL-SPONSORED LEGISLATION

COURT FACILITIES

Assembly Bill 1491 (Jones) – Court facilities.

Extends the statutory deadline for the transfer of court facilities from counties to the state until December 31, 2009. To expedite facility transfers and ensure a joint continuing dedication to the transfer process, the bill imposes a tiered payment structure for facilities that transfer after certain dates, but before the final deadline. This bill was signed into law on April 23 (Stats. 2008, ch. 9), and as an urgency measure, took effect on that date. *For more information, contact Donna Hershkowitz at donna.hershkowitz@jud.ca.gov or (916) 323-3121.*

AB 3052 (Jones) – Court facilities.

Standardizes the process for evaluating the potential benefit of utilizing Performance Based Infrastructure (PBI) as an alternative delivery method for courthouse construction. The bill requires the development of performance expectations and benchmarks for evaluating a proposed PBI project prior to submittal to the Department of Finance and the Legislature. *For more information, contact Janus Norman at (916) 323-3121 or janus.norman@jud.ca.gov*

SB 1407 (Perata) – Court facilities: financing.

States legislative intent to authorize the issuance of \$5 billion in lease-revenue bonds to fund a major capital outlay program for court projects. Increases civil and criminal fees, fines, and traffic-related penalties to provide revenue to finance the issued bonds. It is anticipated that the bond proceeds will support up to 40 court facilities projects identified by the Judicial Council as

“Immediate and Critical Needs” projects. *For more information, contact Curtis Child at curtis.child@jud.ca.gov or Henry Sepulveda at henry.sepulveda@jud.ca.gov or call (916) 323-3121.*

COURT FUNDING/OPERATIONS

Assembly Bill 1876 (de León) – Superior court security.

Co-sponsored by the Judicial Council and the California State Sheriffs’ Association, AB 1876 requires a standardized MOU for contracting of security services between the court and the sheriff, and requires quarterly reporting of security services and expenditures to the court and the Administrative Office of the Courts. *For more information, contact Donna Hershkowitz at (916) 323-3121 or donna.hershkowitz@jud.ca.gov*

Assembly Bill 1949 (Evans) – Court operations.

Makes several technical and clarifying changes to improve court operations. The bill updates the law on trial preferences to remove obsolete references, and provides additional time for the processing of local court rules. AB 1949 clarifies the definition of a subordinate judicial officer and the law governing relocation costs for court commissioners. The bill clarifies the law pertaining to the payment of civil jury fees and jury deposits by governmental entities. AB 1949 also shifts the revenues from the night/weekend session assessment from the county treasury to the State Court Facilities Trust Fund in an amount proportional to the counties’ shift of court facilities to state responsibility. This bill was signed into law on August 1 (Stats. 2008, ch. 218) and will take effect on January 1, 2009. *For more*

information, contact Dan Pone at daniel.pone@jud.ca.gov or (916) 323-3121.

JUDICIAL OFFICERS

Senate Bill 1150 (Corbett) – Courts: judgeships.

Establishes the authority for the third set of the 50 new judgeships, upon appropriation in fiscal year 2009–2010. As a result of budget actions that delayed the second set of 50 judgeships to fiscal year 2008–09, concerns about committing dollars for future budgets, and the fact that legislative action does not need to occur in this legislative session in order to authorize and fund this third set of judgeships for 2009–2010, action has been delayed during this legislative session. *For more information, contact Donna Hershkowitz at donna.hershkowitz@jud.ca.gov or (916) 323-3121.*

CIVIL & SMALL CLAIMS

Assembly Bill 926 (Evans) – Civil discovery: electronic discovery.

Among other things, adds definitions of “electronic” and “electronically stored information” to the Civil Discovery Act. Amends the act to expressly authorize the discovery of electronically stored information, and authorizes the “copying, testing or sampling” of such information. Allows a party to specify the form in which electronically stored information is to be produced, and if no form is specified, the responding party must produce the information in the form or forms in which it is ordinarily maintained or in a form that is reasonably usable. Establishes procedures for motions to compel and motions for protective orders relating to the

(Continued on page 6)

LEGISLATIVE REVIEW

The following is an update on selected bills of interest to the courts in the second year of the 2007-2008 legislative session, as of August 15, 2008.

CIVIL & SMALL CLAIMS

AB 2193 (Tran), Civil discovery: out-of-state proceedings.

Enacts the Interstate and International Depositions and Discovery Act, effective January 1, 2010. Broadens the range of documents issued by an out-of-state court pursuant to which a California court would be authorized to issue a subpoena. Establishes a process for obtaining the subpoena, which would require paying a fee (to be deposited in the Trial Court Trust Fund) and submitting the subpoena issued by the out-of-state court with a specified application. Permits an active member of the California State Bar who is retained by a party to an out-of-state proceeding to issue a deposition subpoena. Creates a process for the resolution of a dispute regarding discovery conducted in California in connection with an out-of-state proceeding, and provides that a request for relief in this regard would be filed in the superior court in the county in which the discovery is sought, with payment of specified fees. Permits a party to appeal court orders in connection with a dispute by extraordinary writ to the appropriate court of appeal. Requires the Judicial Council, on or before January 1, 2010, to prepare a specified application form and to either create new subpoena forms, or modify existing subpoena forms for issuance pursuant to the bill's provisions.

Status: Signed into law August 1, 2008 (Stats. 2008, ch. 231)

JC Position: Support.

AB 2846 (Feuer), Common interest developments: assessments.

Provides, among other things, that if a dispute exists between the owner of a separate interest and a homeowners' association regarding any disputed charge or sum levied by the association, and the amount in dispute does not exceed the jurisdictional limits of the small claims court, the owner of the separate interest may pay under protest the disputed amount and all other amounts levied, including certain fees, costs, and other specified amounts, and commence an action in small claims court.

Status: To enrollment

JC Position: Support.

SB 1432 (Margett), Contractors: small claims.

Among other things, increases the jurisdiction of the small claims court from \$4,000 to \$6,500 for any action brought by a natural person against a defendant guarantor that charges a fee for its guarantor or surety services.

Status: Signed into law July 21, 2008 (Stats. 2008, ch. 157)

JC Position: Support.

COURT INTERPRETERS

AB 3050 (Judiciary Committee), as amended August 12, 2008. Civil Interpreting.

Requires the Judicial Council to establish a working group to develop best practices for increasing the usage of court interpreters in civil proceedings. Authorizes up to 5 courts to participate in a pilot to create models for the statewide expansion of interpretation in civil proceedings by implementing best practices identified by the working group. Requires the

Judicial Council to enter into master agreements with one or more vendors to standardize the administration of telephonic court appearances. Requires vendors to pay \$15 per telephonic appearance to the Trial Court Trust Fund to support the civil interpreting pilot project.

Status: Senate Floor

JC Position: Sponsor.

COURT REPORTING

AB 2884 (Portantino), as amended June 18, 2008. Court reporters: rough draft transcript.

Treats "real time" transcripts (referred to in the legislation as "the instant visual display of testimony") in the same manner as rough draft transcripts by providing that real time transcripts cannot be used, cited, or transcribed as the official certified transcript, and cannot be used or cited to rebut or contradict the official certified transcript.

Status: Senate Inactive File

JC Position: Support.

CRIMINAL LAW & PROCEDURE

AB 1771 (Ma), Domestic violence: convictions.

Authorizes a court, when determining whether good cause exists to issue a criminal protective order in a domestic violence case, to consider the underlying nature of the offense charged, and the criminal history information regarding the defendant which is currently provided to the court by the District Attorney's office.

Status: Signed into law July 10, 2008 (Stats. 2008, ch. 86)

JC Position: No position, as amended.

(Continued on page 9)

LEGISLATURE REJECTS PERMANENT BUDGET REDUCTIONS FOR JUDICIAL BRANCH

In January, the Governor called for a \$246 million ongoing reduction in General Fund support for the Judicial Branch. The multi-million dollar cut was included in the Governor's proposal to reduce General Fund support for all state agencies by ten percent and as part of the overall effort to resolve a \$14.5 billion structural shortfall (re-calculated as a \$15.2 billion short fall with the May Revision).

The Legislative Analyst published a review of the Governor's proposal in February, criticizing the plan because it relied on across-the-board cuts instead of prioritizing state activities and expenditures. In response, the Legislative Analyst took the extraordinary step of issuing an alternative budget in order to provide the Legislature with options to close the structural shortfall. The Legislative Analyst's alternative contained no reduction to the Supreme Court, Courts of Appeal, and the Administrative Office of the Courts (AOC), but reduced the budget for superior courts by \$128.5 million by suspending the State Appropriation Limit (SAL) growth factor.

The SAL growth factor is the statutory methodology for

increasing the annual appropriation for trial court operations. The methodology multiplies the prior year's appropriation by a calculated percentage based on per capita income and state population. The Legislative Analyst's alternative would have permanently reduced the base funding upon which SAL is calculated, resulting in a decreased appropriation for trial court operations.

The AOC began meeting with the legislators and staff of the Assembly and Senate budget committees to discuss the impacts of both the Governor's and Legislative Analyst's proposals. Throughout February, March, and April, the Administrative Director of the Courts, William C. Vickrey, testified in numerous budget hearings describing how permanent reductions would limit the public's access to justice, increase backlogs in caseloads, and hinder the development of statewide administrative infrastructure. To that end, Mr. Vickrey advocated that all reductions to the judicial branch be one-time in nature and fully restored in the 2009 Budget Act.

Heading into legislative budget conference committee,

(Continued on page 8)

BBC MEMBERS HOLD DISTRICT OUTREACH MEETINGS; WILL MEET AT STATE BAR CONFERENCE

With the state budget at an apparent impasse and little time left in the legislative session, Bench-Bar Coalition (BBC) members were not deterred from their goal of convincing legislators of the need to formulate a judicial branch budget that is fiscally responsible and that protects access to the courts for Californians. To carry out their mission, BBC members held "Day in the District" meetings with key legislators and district office staff June 13 through June 24.

A departure from the BBC's twice annual "Day in Sacramento" legislative visits, the Day in the District outreach provided an opportunity for BBC members throughout the state to visit their local legislative offices, meet district office directors and staff, and lay the groundwork for future communications and collaboration. "This

was a very productive meeting," one Central Valley participant wrote in a meeting summary. "We all left feeling we had established a connection with [the district director] that we had not previously had with the legislator from this district."

In all, BBC members — judges, attorneys, and legal services representatives — met with 25 legislative offices, briefing members and staff on the impact that potential one-time and permanent cuts to the judicial branch budget could have on local court operations. At the conclusion of the meetings, BBC members noted the significant need for additional outreach and education on the structure and administration of the judicial branch budget to give legislators and staff a better under-

(Continued on page 5)

BBC MEMBERS HOLD DISTRICT OUTREACH MEETINGS; WILL MEET AT STATE BAR CONFERENCE

(Continued from page 4)

standing of how trial courts are funded, how that funding is distributed among the courts, and how local courts fund their various operations and programs.

In addition to the budget, topics discussed included continued support for SB 1407 (Perata), which would fund much-needed new construction and renovation to California courthouses. BBC members vowed to keep legislators up to date on developments in their respective districts. Legislators and staff were also invited to participate in "Day on the Bench" visits at their local courts to observe firsthand the day-to-day operations and challenges facing court leaders.

Overall, BBC members found the district meetings to be an effective means of engaging legislators on local issues and sharing information with district staff previously

only communicated to staff in Capitol offices. New relationships were formed with district directors and field representatives that can be strengthened through future district office and local court visits.

The next BBC meeting will take place in Monterey on Friday, September 26, 2008, during the Annual Meeting of the State Bar of California. For more information, BBC members may contact Katie Asher by email at katie.asher@jud.ca.gov or Dia Poole by email at dia.poole@jud.ca.gov in the Office of Governmental Affairs or call (916) 323-3121. The registration deadline is **September 12, 2008. Register Now!** ■

2008 NEW LAWS WORKSHOPS COMING IN NOVEMBER

The Administrative Office of the Courts (AOC) is pleased to announce the 2008 New Laws Workshops, sponsored jointly by the AOC, the California Court Association, and the Coalition of Trial Court Clerk Associations Legislation Committee. These educational workshops are designed to facilitate discussion of court procedures necessary to implement new laws enacted in 2008 that affect the trial courts.

The one-day workshops are open to all trial court managers, supervisors, and court staff responsible for developing and implementing new procedures.

Registration information will be posted in the fall on the AOC's Serranus Web site and announced in Court News Update.

Space at each workshop is limited, so we encourage you to register early to secure your space. Due to space limitations, a cap may be placed on the number of staff sent by each court.

Dates and Locations:

Thursday, November 13, 2008

10:00 a.m. – 3:00 p.m.

Bay Area/Northern Coastal Region

Administrative Office of the Courts
Milton Marks Conference Center, Lower Level
455 Golden Gate Avenue
San Francisco, California 94102-3688

Tuesday, November 18, 2008

10:00 a.m. – 3:00 p.m.

Northern/Central Region

Administrative Office of the Courts
Northern/Central Regional Office
Conference Center
2850 Gateway Oaks Drive
Sacramento, California 95833

Wednesday, November 19, 2008

10:00 a.m. – 3:00 p.m.

Southern Region

Ayers Hotel
1400 Hindry Avenue
Hawthorne, CA 90250 ■

SB 1407—COURTHOUSE CONSTRUCTION BILL

(Continued from page 1)

increase of \$15 fee on proof-of-correction tickets, which, under the bill, will be imposed on each violation rather than on each citation. SB 1407 prohibits using any money from the state's General Fund to support the bonds.

SB 1407 has received bipartisan support. The bill passed off the Senate floor in May on a 28-8 vote. It was passed in June by the Assembly Judiciary Committee on an 8-0 vote and the Assembly Public Safety Committee on a 6-1 vote. In August, the Assembly Appropriations Committee passed the bill on a 13-1 vote. SB 1407 is currently pending on the Assembly floor where it needs 54 votes to pass. If passed off the Assembly floor, it will return to the Senate for concurrence in the Assembly amendments and then will be sent to the Governor. These votes must occur before the scheduled end of the legislative session on August 31, 2008.

Major newspapers, including the Los Angeles Times, San Francisco Chronicle, San Diego Union Tribune, Riverside Press-Enterprise, and Fresno Bee, have called upon the Legislature to pass, and the Governor to sign, SB 1407. All have agreed that the need for courthouse construction is critical and the bill's financing plan avoids further strain on the State's General Fund. As the *Fresno Bee* noted, "in the current climate of state finances, this may be the best we can get. The courts are an essential part of the justice system, every bit as important as police, sheriff's deputies, prosecutors and defense attorneys. Any mechanism we can find to improve the physical conditions of courthouses will be welcome."

Watch for more news on SB 1407 in future issues of *The Capitol Connection*. ■

JUDICIAL COUNCIL-SPONSORED LEGISLATION

(Continued from page 2)

discovery of electronically stored information. Sets forth a procedure for handling disputes over the production of electronically stored information that is subject to claims of privilege or attorney work-product protection. For more information, contact Daniel Pone at daniel.pone@jud.ca.gov or (916) 323-3121.

Assembly Bill 1873 (Lieu) — Small claims court.

Clarifies the law governing post-judgment and postponement fees in small claims court. Clarifies that an American Sign Language interpreter may be included on the Judicial Council's Court Interpreters Advisory Panel, and clarifies the ability of courts to be reimbursed for the costs associated with providing minor's counsel in dependency cases. For more information, contact Daniel Pone at daniel.pone@jud.ca.gov or (916) 323-3121.

FEES, FINES, AND PENALTIES

Assembly Bill 1826 (Beall) — Seized property: fees.

Clarifies that the filing fee for filing an action seeking return of seized property in connection with controlled substance offenses or domestic violence cases is the first

paper filing fee for unlimited civil cases. This bill was signed into law on August 1 (Stats. 2008, ch. 214) and takes effect January 1, 2009. For more information, contact Henry Sepulveda at henry.sepulveda@jud.ca.gov or (916) 323-3121.

MISCELLANEOUS

Assembly Bill 2448 (Feuer) — Courts: access to justice.

Revises and redrafts the existing statute governing court fee waivers to ensure that indigent litigants have an opportunity to access the courts in a timely manner, and to provide for recovery of those fees in appropriate cases. Requires that waived fees be added to most judgments in favor of a fee waiver recipient. Places a lien on settlement proceeds of \$10,000 or more if the party receiving the settlement obtained a fee waiver. Adds specified public benefit programs to the existing list that entitles a party to an automatic fee waiver. For more information, contact Tracy Kenny at tracy.kenny@jud.ca.gov or (916) 323-3121. ■

INCOMING ASSEMBLY JUDICIARY CHAIR MIKE FEUER

(Continued from page 1)

Tzedek Legal Services. Feuer's wife, the Honorable Gail Ruderman Feuer, was appointed to the Los Angeles Superior Court by Governor Arnold Schwarzenegger in 2005.

This year, Assembly Member Feuer is the author of AB 2448, a Judicial Council-sponsored bill to revise the court fee waiver process consistent with the recommendations of the council's Fee Waiver Working Group, chaired by Judge Carolyn Kuhl of Los Angeles. Last year, Feuer received significant press coverage for AB 1471 (Stats. 2007, ch. 572), which requires, beginning in 2010, that certain semiautomatic weapons contain micro-stamping technology so that bullets discharged from those weapons have a unique marking that allows them to be traced to the gun. His legislative interests are broad, and he has authored legislation affecting public health, the environment, transportation, and public safety. Recently Assembly Member Feuer sat down for an interview with *The Capitol Connection* regarding his upcoming term as the Assembly Judiciary Committee Chair.

Q: What are your key objectives as chair of the Judiciary Committee?

A: The issues that I will focus on will include access to justice. I want to continue to advance the rights of the most vulnerable people in our society. Those include kids, seniors, and other low-income people without access to the court system. Also, I want to build on what I anticipate will be the successes of this session with regard to court infrastructure. We have a revenue-bond measure pending in the Legislature (SB 1407, Perata) which will be very important towards that goal. There will be other issues on which I intend to focus on as well, but those will be the foundations of what I hope to be the agenda for the committee moving forward.

Q: What issues do you see as posing the most significant challenges or opportunities for the Judiciary Committee in the next legislative session?

A: Well, it's often difficult to anticipate specific issues or particular challenges. For example, since I've served on the committee, end-of-life issues and death with dignity issues have become very important and we didn't anticipate those several years ago. We have dealt with marriage equality issues

and other key social issues of the moment and those will continue to evolve over the course of my tenure and beyond. I am sure issues like the state of the court system in very challenging budget times will be in the forefront of what we focus on in the near term. There is no question that there are inadequate resources for so many elements of our society today. We see that in everything from healthcare to environmental protection, but it is also true with respect to the court system. Clearly, there are many people who don't have a sense of the gravity of the issues that confront the court system until that one case comes along and they have a problem. Then suddenly they are very aware of the few resources we have devoted to our court system, particularly to the most vulnerable Californians. More broadly, I am very concerned about the lack of judges and diversity on the bench, as well as court infrastructure. I will take these issues very seriously as the chair of the committee.

Q: Which issues of significance to the judicial branch are you most interested in?

A: We have a continuing challenge in the access of justice to the court system and what that truly means. Having been the director of Bet Tzedek Legal Services, I am acutely aware of how far we have to go in ensuring that equal access to the court system is truly meaningful. We've made important strides, but they haven't nearly been sufficient. Focusing on the issues of foster kids and accessibility for senior citizens regarding conservatorship reform, which current chair Assembly Member Dave Jones has been working on, would clearly be significant.

Q: What have been the highlights of your last two years as a member of the Assembly and/or the Judiciary Committee?

A: First of all, I love public service. I have a real passion for changing the world as a lawmaker. As a legislator, I was very pleased to be the author of major gun violence legislation regarding micro-stamping of handguns. This bill has been a catalyst for similar action across the nation. It is being introduced in Congress and Barack Obama recently mentioned the importance of this law. I'm also working this year on a number of bills on an array of areas including breaking the link between toxics and cancer, enhancing California's water quality and supply, and building transportation infrastructure. I also will continue to

(Continued on page 8)

INCOMING ASSEMBLY JUDICIARY CHAIR MIKE FEUER

(Continued from page 7)

emphasize public safety. I like to work on issues that will have a direct connection to the every day lives of people. My agenda as a legislator has been very practical, but I hope I bring a sense of vision and the bigger picture to what I do as a lawmaker.

Q: The chairs of the Legislature's judiciary committees traditionally serve as members of the Judicial Council. What do you hope to achieve as a council member?

A: First of all, it will be an honor to serve in that capacity. Since I haven't served on the council before, I want to take a very open approach to that service and learn more about how the committee will truly operate before I outline an agenda for my service. I would, of course, like to continue to work on the issues that I have been working on with the Judicial Council thus far. [Feuer is the author of AB 467 and AB 2448, which are Judicial Council-sponsored bills to improve the current court fee waiver process and improve access to justice.] ■

LEGISLATURE REJECTS PERMANENT BUDGET REDUCTIONS FOR JUDICIAL BRANCH

(Continued from page 4)

both houses of the Legislature agreed in large part with the one-time approach sought by the AOC. The Assembly version of the budget reduced the Governor's permanent reduction from \$246 million to \$60 million, while the Senate adopted all one-time reductions.

The discussion at the conference committee primarily centered around three points: 1) whether to provide funding to projects and proposals that have not been fully implemented, such as the Omnibus Conservatorship and Guardianship Act of 2006; 2) whether to allocate a reduction to the state judiciary, which does not have the ability to maintain or build a budgetary reserve; and 3) the best use of statewide fund balances. In the end, the conference committee maintained a commitment to one-time reductions by limiting the ongoing reduction to \$56 million.

Below are the major components of the judicial branch budget at the conclusion of the conference committee.

- Delay of funding for the second set of 50 new superior court judgeships (created in AB 159, Stats. 2007, ch. 722) until July 1, 2009
- One-time General Fund reduction for the superior courts, saving \$92 million
- \$70 million new General Fund support for superior court operations
- One-time General Fund reduction for the Courts of

Appeal, saving \$5.3 million

- One-time General Fund reduction for the Judicial Council/Administrative Office of the Courts, saving \$4.7 million
- \$6 million in Judicial Administration Efficiency and Modernization Fund support for the deployment of the Phoenix project
- \$20 million in Trial Court Trust Fund support to fill the statewide shortfall in court security costs
- Rejection of funding for the 2006 Omnibus Probate Conservatorship Act, saving \$17.4 million
- \$119.7 million from the State Court Facilities Construction Fund to support the continuation of 11 courthouse construction projects.

The entire state budget is now subject to a vote on the floors of the Senate and Assembly. The budget needs 27 votes to pass the Senate floor and 54 votes to pass the Assembly. If approved, the budget bill will be delivered to the Governor for signature or veto.

For more information, contact Janus Norman in the Office of Governmental Affairs at (916) 323-3121 or janus.norman@jud.ca.gov. ■

LEGISLATIVE REVIEW

(Continued from page 3)

AB 2166 (Tran), as introduced. Bail forfeiture: appeals.

Clarifies appellate jurisdiction in bail forfeiture proceedings to allocate these cases between the Courts of Appeal and the Superior Court Appellate Divisions the same way they were allocated before unification of the municipal and superior courts.

Status: Failed passage

JC Position: Support.

AB 2609 (Davis), Vandalism: penalties: community service.

Requires a court, when appropriate and feasible, to order defendants convicted of vandalism to clean up, repair, and replace the damaged property or keep the damaged property or another in the community free of graffiti for up to one year.

Status: Signed into law July 30, 2008 (Stats. 2008, ch. 209)

JC Position: Neutral, as amended.

SB 1342 (Cogdill), as introduced. Sentencing.

Eliminates the sunset date on provisions enacted last year in response to *Cunningham v. State of California* (2007), 127 S. Ct. 856, authorizing the choice of the appropriate sentencing term to rest “within the sound discretion of the court.” Also authorizes the choice of sentence enhancements consisting of a triad of terms to rest within the sound discretion of the court.

Status: Senate Public Safety Committee

SB 1356 (Yee), Contempt: victim of domestic violence.

Extends existing law applicable to victims of sexual assault to victims of domestic violence by prohibiting the incarceration of a domestic violence

victim witness for contempt when contempt consists of refusing to testify concerning the violence.

Status: Signed into law July 1, 2008 (Stats. 2008, ch. 49)

SB 1651 (Steinberg), as amended April 15, 2008. Mentally ill offenders.

Authorizes superior courts to develop and implement mental health courts.

Status: Died in Senate Appropriations Committee

SB 1701 (Romero), as amended March 27, 2008. Sentencing.

Extends until January 1, 2011, the sunset on provisions enacted last year in response to *Cunningham v. State of California* (2007) 127 S. Ct. 856, authorizing the choice of the appropriate sentencing term to rest “within the sound discretion of the court.”

Status: To enrollment

FAMILY LAW

AB 2304 (Plescia), as amended July 3, 2008. Name changes.

Provides that the current legal name of a petitioner seeking a confidential name change because he or she is participating in the Secretary of State’s Safe at Home program shall be kept confidential and not published in any calendars, indexes, or register of actions by any means or in any public forum, including a hardcopy or an electronic copy, or any other type of public media or display. Also authorizes a petitioner to request that the records be sealed and would require the Judicial Council to develop, on or before January 1, 2010, rules of court and forms for that purpose.

Status: To enrollment

AB 2553 (Solorio). Domestic violence: ex parte orders.

Requires the court to set a hearing for any jurisdictionally adequate application for an ex parte DVPA order that is denied, and to state the reasons for the denial in its order. Requires the Judicial Council to adopt new forms to implement this provision by January 1, 2010.

Status: Signed into law August 4, 2008 (Stats. 2008, Ch. 263)

JC Position: No position.

AB 2736 (Cook and Beall), as amended May 6, 2008. Indian children: parental rights: tribal customary adoptions.

Provides an additional exception to the termination of parental rights for parents of Indian children who have been adjudicated as dependents of the court to allow the parents, Indian custodian, extended family member, or tribe to place the Indian child for customary adoption, as defined. Provides that once the tribe elects customary adoption and the court makes its finding not to terminate parental rights, the tribe has 120 days to file a customary adoption order that will set forth the legal rights and responsibilities of the birth and adoptive parents. Requires the court to set an adoption hearing and enter the customary adoption order filed by the tribe, unless the court finds, by clear and convincing evidence, that entry would be detrimental to the child. Adds a sunset date of January 1, 2012, and requires a report by the Judicial Council.

Status: Senate Floor

JC Position: Neutral, as amended.

JUDGES

AB 1725 (Lieu), as amended August 13, 2008. Evaluation of judicial appointments.

(Continued on page 10)

LEGISLATIVE REVIEW

(Continued from page 9)

Requires the State Bar, upon the Governor's appointment of a judge to a trial court, to make public whether that person was rated "qualified" or "not qualified" by the Commission on Judicial Nominees Evaluation.

Status: Senate Floor

AB 2095 (Davis), as amended July 7, 2008. Courts: judicial appointments.

Requires the Governor to post on his Web site the names of all persons who have been provided judicial application materials to assist in the Governor's decision whether to submit an application to the Commission on Judicial Nominees Evaluation or whether to appoint an applicant. Intended to make public the names of the members of the Governor's local committees, the bill expressly does not apply to employees of the Governor.

Status: Assembly Floor for concurrence in Senate amendments

JURIES

AB 1769 (Galgiani), Jury service: peace officer exemption.

Exempts community college and school district police from jury duty in criminal matters.

Status: Vetoed

JC Position: Oppose.

AB 1828 (Huff), as introduced. Jury service: precinct workers.

Excuses from jury service, upon request, a prospective juror who has served as a precinct officer or precinct board member on a statewide or local election during the previous 12 months.

Status: Failed passage

JC Position: Oppose.

JUVENILE DEPENDENCY

AB 2117 (Evans), as amended March 28, 2008. Foster youth: psychotropic medication.

Expands the authority of the court to approve dispensing of psychotropic medications to children who have been detained but not found to be dependent children. Requires that the physician requesting the medication have examined the child and requires that the court make a finding that the child and the child's caregiver have been informed of the expected results of the medication, significant side effects, and any other recommended treatments, and that the child has been informed of the right to request a hearing. Requires that a child be present at a hearing unless the child waives that right after consulting with counsel, or the court finds good cause for the child's absence.

Status: Held in Senate Appropriations Committee

AB 3051 (Committee on Judiciary), Family law: court appearances.

Requires a juvenile dependency court to allow a child who is the subject of a proceeding and is present in court to address the court and participate in the hearing. Requires the court to determine whether a child 10 or older who is not present was given an opportunity to attend, and if the child wished to be present, requires the court to continue the hearing for the period necessary to secure the attendance of the child, unless the court finds that it is not in the best interest of the child to continue the hearing. Also provides that the court may make any orders necessary to ensure that the child has an opportunity to attend.

Status: Signed into law July 21, 2008 (Stats. 2008, ch. 166)

JC Position: Support.

MISCELLANEOUS

AB 2544 (Mullin), as amended May 23, 2008. Model civic education staff development program.

Requires the Superintendent of Public Instruction to develop a plan and make recommendations to the Legislature and the Governor on the development of a model civic education staff development program that provides formal instruction in government, history, law, and democracy for the purpose of increasing civic knowledge, and incorporating and discussing current local, national, and international issues and events in the classroom.

Status: Held in Senate Appropriations Committee

JC Position: Support.

PROBATE

AB 171 (Beall), Graduated probate filing fee.

Codifies the decision of the Court of Appeal in *Burkey v. State of California* (2008) 161 Cal.App.4th 465, by eliminating the graduated first paper filing fee in probate matters with estates over \$250,000, and instead setting the fee at \$320.

Status: To enrollment

JC Position: Support.

AB 1340 (Jones), as amended August 13, 2008. Guardians and conservators: accountings.

Requires a guardian or conservator, in a first accounting filed with the court, to provide all account statements showing the account balance as of, rather than through, the closing date of the first court account-

(Continued on page 11)

LEGISLATIVE REVIEW

(Continued from page 10)

ing. Requires notice be given 5 court days prior to a hearing on the appointment of a temporary guardian or temporary conservator.

Status: Senate Floor

JC position: Support.

AB 1880 (Tran), as amended March 11, 2008. Guardians and conservators: bonds.

Requires a guardian or conservator to post a separate recovery bond for the benefit of the ward or conservatee and any person interested in the guardianship or conservatorship estate who may bring a surcharge action against the guardian or conservator for breach of duty. Requires the recovery bond to be given by an admitted insurer for the recovery of reasonable attorney's fees and costs as approved by a court in a successful surcharge action. Provides that these fees and costs shall be recovered against the surety on the recovery bond only, and not against the guardian's or conservator's bond. Provides that, unless the court increases or decreases the amount upon a showing of a good cause, the amount of the bond shall be calculated as provided in rule 7.207 of the California Rules of Court.

Status: Died in Assembly Judiciary Committee

JC Position: Oppose.

AB 2248 (Spitzer), Wills: requirements.

Requires a witness to a will to sign the will within the testator's lifetime. Allows a printed will that fails to meet current statutory requirements to be probated if the proponent of the will establishes by clear and convincing evidence that the testator, at the time he/she signed the will, in-

tended the document to be his/her will.

Status: Signed into law July 1, 2008 (Stats. 2008, ch. 53)

SB 800 (Corbett), as amended March 29, 2007. Conservators and guardians: care plans.

Requires a conservator or guardian to submit to the court within 90 days of appointment a plan for the care, custody, control, and, if applicable, the education of the ward or conservatee. As part of this plan, the bill would require an assessment of the strengths of the conservatee's or ward's family, an assessment of appropriate residential placement, and a schedule of visits between the ward or conservatee and the conservator or guardian, as well as visits between the ward or conservatee and his or her family. Requires the Judicial Council to develop an implementing form.

Status: Held in Assembly Appropriations Committee

JC position: Support if funded.

SB 1264 (Harman), Wills and trusts: no contest clauses.

Revises, recasts, and clarifies the law governing no contest clauses in wills and trust instruments beginning January 1, 2010. Among other things, eliminates declaratory relief petitions. Defines a no contest clause as a provision in an otherwise valid instrument that, if enforced, penalizes a beneficiary for filing a pleading in any court. Provides that a no contest clause is enforceable against the following contests: (1) a direct contest that is brought without probable cause; (2) if the no contest clause so provides, a pleading to challenge a transfer of property on the grounds it was not the transferor's property at the time of the transfer; (3) if the no contest

clause so provides, the filing of a creditor's claim, or prosecution of an action based on the claim. Defines a direct contest as an attempt to invalidate an instrument on one or more of the following grounds: forgery; lack of due execution; lack of capacity; menace; duress; fraud or undue influence; revocation of the instrument; or disqualification of a beneficiary. Provides that probable cause exists if, at the time of filing a contest, the facts known to the contestant would cause a reasonable person to believe that there is a reasonable likelihood that the requested relief will be granted given the opportunity for further investigation or discovery.

Status: Signed into law July 22, 2008 (Stats. 2008, ch. 174)

JC Position: Support.

TRAFFIC

SB 1388 (Torlakson), as amended June 26, 2008. Vehicles: DUI: ignition interlock.

Requires DMV rather than the courts, upon notice of conviction, to inform a person convicted of driving on a DUI-related suspended license of ignition interlock requirements. Requires DMV to advise the court if a person has failed to show proof within 30 days of DMV notifying the person he or she is required to install an interlock device.

Status: Assembly Floor ■



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Looking for a past issue of *The Capitol Connection*? Find it online at www.courtinfo.ca.gov/courtadmin/aoc/capconn.htm.

OGA WELCOMES NEW TEAM MEMBERS!

KATIE ASHER

Katie Asher is an Administrative Coordinator with the Office of Governmental Affairs (OGA). Prior to joining the AOC, Ms. Asher worked for Electronic Data Systems (EDS). While employed with EDS she worked as a public affairs coordinator for its Office of Governmental Affairs, as an administrative coordinator for Global Marketing Operations, and as a regional coordinator for the Americas Communications division. In her new role with OGA, Katie will support all liaison and outreach activities. Katie has a degree in communications from UC Davis.



LARISSA BROTHERS

Larissa Brothers is a Secretary with the Office of Governmental Affairs. She supports office operations as well as special projects for individual advocates. Prior to joining the AOC, Ms. Brothers worked in an administrative capacity for Telpro Products, Inc. and Dish Network. For several years, Ms. Brothers ran a home-based confectionery business while pursuing a degree in Paralegal Studies.



News from the AOC

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California Courts Review is a quarterly magazine by, for, and about the state judicial branch. See the current edition at <http://www.courtinfo.ca.gov/reference/ccr.htm>

