



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 17, 2013

Title	Agenda Item Type
Judicial Council Legislative Priority for 2013: New Judgeships	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	January 17, 2013
Recommended by	Date of Report
Policy Coordination and Liaison Committee Hon. Marvin R. Baxter, Chair Administrative Office of the Courts (AOC) Office of Governmental Affairs	January 11, 2013
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Executive Summary

Each year, the Judicial Council sponsors legislation to further key council objectives and set its legislative priorities for the upcoming legislative year. At the December 14, 2012, Judicial Council meeting, the council reviewed the Policy Coordination and Liaison Committee (PCLC) recommendations for the 2013 legislative session and approved all but one recommendation. The council directed PCLC to reconsider its recommendation that the council sponsor legislation to create 50 new judgeships in light of the fact that the previous set of 50 judgeships has not been funded. In light of this direction, PCLC has revised this recommendation to advise the council to defer action on judgeships until the following fiscal year. While the creation and funding of critically needed judgeships remains a branch priority, in the current economic environment, it is prudent for the council to defer action on judgeships at this time and focus on its other budget-related legislative priorities.

Recommendation

The Policy Coordination and Liaison Committee and the Administrative Office of the Courts (AOC), Office of Governmental Affairs, recommend that, effective January 17, 2013, the

Judicial Council defer, for one year, sponsoring legislation to create the third set of 50 new judgeships and to seek funding for the second set of judgeships.

Previous Council Action

The council has acted repeatedly in recent years to authorize the sponsorship of legislation to secure the 150 most critically needed judgeships. The most recent action was taken by the council in December 2011, to continue sponsorship of AB 1405 (Assem. Judiciary Comm.) to establish the third set of 50 new judgeships.

On December 14, 2012, the council did not act on PCLC's recommendation to include as a 2013 legislative priority sponsorship of legislation for 50 new judgeships. The council directed PCLC to reconsider also recommending pursuit of funding for judgeships previously authorized.

Rationale for Recommendation

In 2005, the Judicial Council sponsored Senate Bill 56 (Dunn; Stats. 2006, ch. 390), which authorized the first 50 of the most critically needed 150 judgeships. Full funding was provided in the 2007 Budget Act, and judges were appointed to each of the 50 judgeships created by SB 56.

In 2007, the council sought and secured the second set of 50 new judgeships (Assem. Bill 159 [Jones]; Stats. 2007, ch.722). Initially, funding for the second set of new judgeships would have allowed appointments to begin in June 2008. Because of budget constraints, the funding was delayed until July 2009. This allowed the state to move the fiscal impact from FY 2007–2008 to FY 2009–2010. The Governor included funding for the second set of 50 judgeships in the proposed 2009 Budget Act, but the funding ultimately was made subject to what has since been called the “federal stimulus trigger.” This trigger was “pulled,” and the funding for the 50 new judgeships and the various other items made contingent on the trigger was not provided. Funding for this second set of judgeships was also not provided in the 2010 Budget Act.

In 2008, the council sponsored SB 1150 (Corbett) to secure the third set of 50 new judgeships. With the delay of the funding for the second set of 50 judgeships and the state's worsening fiscal condition, SB 1150 was held in the Senate Appropriations Committee. At its October 25, 2008, meeting, the council approved the 2008 update of the Judicial Needs Assessment. At the same time, the council affirmed the need for the Legislature to create the third set of 50 judgeships, completing the initial request for 150 new judgeships, based on the allocation list approved by the Judicial Council in 2007. In 2009, the council sponsored SB 377 (Corbett) to authorize the third set of 50 judgeships to become effective when funding was provided for that purpose. That legislation was also held in the Senate Appropriations Committee.

On October 29, 2010, the council received the 2010 update of the Judicial Needs Assessment, which concluded that, counting the 50 judgeships authorized but not yet funded, California had a shortage of 330 judgeships, a 14 percent shortfall. Without including these unfunded positions, the net need for new judgeships would increase to 380, a 16.2 percent shortfall in total judicial

positions as compared against need. As a result, in 2011 and 2012, the council sponsored AB 1405 to establish the third set of 50 judgeships. Even though the legislation did not direct funding for those positions, because of the state's continuing fiscal crisis and the fact that the second set of 50 judgeships had yet to be appointed due to lack of funding, that legislation did not move.

At the October 26, 2012, Judicial Council meeting, the council received the 2012 update of the Judicial Needs Assessment. That report shows that there remains a significant, critical need for new judgeships in the superior courts. Despite a modest decline in the assessed judicial need in 2012, the report notes the number of new judgeships needed is 13 percent greater than the number of authorized judicial positions (specifically identifying a need for 264 additional judgeships). When judgeships that were authorized but never funded under AB 159 are factored into the equation, the statewide need for new judgeships rises to 314, or almost 16 percent.

While the branch is suffering from a chronic need for new judgeships, it has become increasingly difficult to pass legislation establishing new judgeships. Further, it has become even more difficult to get these judgeships funded once they have been established. The second set of 50 judgeships, established in 2007, still remains unfunded. The difficulty of establishing and funding new judgeships is compounded by the fact that the judicial branch has taken increasing budget cuts in recent years. The current year's budget reduced state General Fund support for the judicial branch by \$544 million. Coupled with yearly reductions starting with the 2008–2009 fiscal year, judicial branch cuts total more than \$1.2 billion (including both one-time and on-going cuts). In light of this budget climate, the branch has to look more and more at its budget priorities.

Comments, Alternatives Considered, and Policy Implications

On January 10, 2013, the Governor released his proposed budget, which did not restore previous cuts to the trial courts' base budget and included further transfers of funds from the court construction funds. Due to these other budgetary concerns, PCLC recommends postponing legislation seeking funding for the second set of 50 judgeships and authorization for the third set of 50 judgeships for one year. PCLC realizes that these judgeships are critical to the branch, which is why it is advisable to defer addressing the question of judgeships for only one year. This way, the branch can focus entirely on its other legislative priorities, which primarily center around the branch's budget. Right now, it is necessary to balance critical judicial needs against other areas within the branch that are suffering from the budget deficit. The branch must place seeking new judgeships temporarily on hold while it pursues other branch budget priorities.

Implementation Requirements, Costs, and Operational Impacts

Adoption of this recommendation will allow AOC staff to advocate for other budget priorities related to the branch.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendation supports Goal I: Access, Fairness, and Diversity, by prioritizing budgetary needs in order to secure adequate funding to provide access to the courts for all Californians and Goal II: Independence and Accountability, by prioritizing efforts to seek secure sufficient judicial branch resources to ensure accessible, safe, efficient, and effective services to the public.