

Legislators' Retirement Fund

Items 14-15

CONTRIBUTION TO LEGISLATORS' RETIREMENT FUND

ITEM 14 of the Budget Bill

Budget page 6

FOR STATE'S CONTRIBUTION TO THE LEGISLATORS' RETIREMENT FUND FROM THE GENERAL FUND

Amount requested	\$370,000
Estimated to be expended in 1965-66 fiscal year	360,000
Increase (2.7 percent)	\$10,000
TOTAL RECOMMENDED REDUCTION	None

ANALYSIS AND RECOMMENDATION

Section 9358 of the Government Code provides that "the state shall contribute annually to the Legislators' Retirement Fund, an amount as estimated by the Board of Administration (of the State Employees' Retirement System), equal to so much of the benefits to be paid from the fund during the year as is not provided by the accumulated contributions of the members receiving such benefits."

The 1965-66 budget proposes to continue the present program of retirement benefits for retired legislators and those constitutional officers who elected to be members of the Legislators' Retirement System.

The Legislators' Fund is administered by one position in the State Employees' Retirement System. The sum of \$370,000, which is \$10,000 or 2.7 percent more than was appropriated for the current fiscal year, is proposed for appropriation to the Legislators' Retirement Fund for the 1966-67 fiscal year. After the payment of benefits during the budget year it is estimated there will be an accumulated surplus in the fund of \$656,786 on June 30, 1967.

We recommend approval as budgeted.

SUPREME COURT

ITEM 15 of the Budget Bill

Budget page 8

FOR SUPPORT OF THE SUPREME COURT FROM THE GENERAL FUND

Amount requested	\$1,245,131
Estimated to be expended in 1965-66 fiscal year	1,223,919
Increase (1.7 percent)	\$21,212
TOTAL RECOMMENDED REDUCTION	None

GENERAL PROGRAM STATEMENT

The Supreme Court is the state's highest court of appeal. It consists of the chief justice and six associate justices who are assisted by a currently authorized staff of 71 positions. The court holds its sessions in San Francisco, Los Angeles and Sacramento. Headquarters are in San Francisco. Staff is assigned 61 to San Francisco, two to Los Angeles, and one to Sacramento.

We classify all activity of the Supreme Court into two programs—administration and judicial.

Supreme Court—Continued

ANALYSIS AND RECOMMENDATIONS

The court proposes a total expenditure of \$1,245,131 for budget year 1966-67. This amount exceeds estimated current year expenditures by \$21,212 or 1.7 percent.

The proposed budget year expenditures exceed those of the most recently completed fiscal year of 1964-65 by \$151,090 or 13.8 percent.

To its 1964-65 budget appropriation of \$1,026,031 a salary increase of \$96,566 was added while for the same year savings are estimated at \$28,556.

For the current fiscal year an emergency fund item of \$7,800 was added to the \$1,175,177 budget appropriation to cover salary of an administratively added deputy clerk; \$32,149 was added to cover salary increases; and an allocation of \$12,450 came from 1965 Budget Item 15.1 to cover fees paid to counsel for indigent appellants.

The Supreme Court is supported by the General Fund. It collects fees for filing the various matters brought to it in amounts tabulated below.

<i>Fiscal year</i>	<i>Fees received</i>
1961-62	\$8,629
1962-63	8,494
1963-64	27,705
1964-65	33,051
1965-66 (est.)	34,000
1966-67 (est.)	35,000

Administration Program

In this program are included the work of the clerks, the court secretary and the reporter of decisions.

The 1965 session of the Legislature enacted Chapter 410, Statutes of 1965, which removed the limit on the number of deputy clerks the court might appoint. The old limit, effective for many years, was six deputies, a number which the court considered inadequate under present workload. A new deputy position was added administratively during the current year and the court now seeks to make the position permanent.

1 Deputy clerk (budget page 8, line 38) ----- \$9,948

We recommend approval of the proposed new position.

The six-deputy limitation has been in existence for more than 40 years. The new statute will enable the court to adjust its clerk staff to workload.

Judicial Program

The judicial program consists of five types of action by the court which are listed below by type.

1. The hearing of appeals from the superior courts in matters of equity, real property, taxation, probate and criminal death penalty cases.
2. Issuance of writs of habeas corpus, mandamus, prohibition and such other writs as may be necessary to the exercise of its jurisdiction.
3. Hearing and disposition of motions.
4. Admission of attorneys to practice.

Supreme Court—Continued

5. Consideration of applications for executive clemency where defendant has been twice convicted of felony.

We have tabulated below the number of items filed under the above program categories except for admissions to the bar, a formal proceeding which does not require much court time.

<i>Fiscal year</i>	<i>Appeals filed</i>	<i>Writs</i>	<i>Motions</i>	<i>Executive clemency</i>
1961-62-----	318	308	9	14
1962-63-----	312	326	17	10
1963-64-----	257	641	29	23
1964-65-----	278	1,165	15	6

It is apparent that the filings of petitions for writs is one area of considerable increase in workload with petitions for criminal writs predominating. Much of the appeal workload in California is absorbed by the five district courts of appeal.

We recommend approval as budgeted.

JUDICIAL COUNCIL

ITEMS 16 and 17 of the Budget Bill

Budget page 9

FOR SUPPORT OF THE JUDICIAL COUNCIL FROM THE GENERAL FUND

Amount requested -----	\$595,176
Estimated to be expended in 1965-66 fiscal year -----	583,512
Increase (1.9 percent) -----	\$11,664

TOTAL RECOMMENDED REDUCTION----- None

GENERAL PROGRAM STATEMENT

The Judicial Council is a constitutional agency. It consists of the Chief Justice of the Supreme Court who is chairman, 11 judges appointed by the Chief Justice, 4 lawyers and 2 members of the Legislature, 18 members in total. Headquarters is in San Francisco.

The Clerk of the Supreme Court is council secretary. The council appoints an Administrative Director of the Courts, who supervises the council staff, which consists of 22.6 authorized positions. Two positions are assigned to Los Angeles and one to Sacramento.

ANALYSIS AND RECOMMENDATIONS

For budget year 1966-67 the council proposes expenditures for support at \$595,176 which exceeds estimated expenditures for the current year by \$11,664 or 1.9 percent. For the assigned judges program the request for \$150,000 is identical with that of the current year.

When the 1966-67 proposals are compared with actual expenditures for 1964-65, the most recently completed fiscal year, it is noted that the support budget for 1966-67 exceeds the past actual expenditures by \$59,530 or 11.1 percent.

In the past year of 1964-65 the council's support budget appropriation was \$386,990, to which was added a salary increase augmentation of \$26,233. The separate budget act appropriation for compensation of

Judicial Council—Continued

assigned judges amounted to \$70,000. In addition, \$59,500 was secured from the Emergency Fund for the assigned judge program for a total of \$129,500. Savings are estimated at \$7,067.

For the current year the support budget appropriation was \$420,411. Salary increases added \$13,101. The assigned judge appropriation amounted to \$120,000. An amount of \$30,000 is credited to the council as being a transfer of unexpended salaries to be applied to costs of the assigned judge program.

We identify three programs of the Judicial Council described as follows:

1. The court administration program which comprises the activities undertaken by the Administrative Office of the Courts.
2. The improvement of justice program which includes the list of responsibilities of the council for bettering court procedures.
3. The assigned judge program which includes the council chairman's duty of assigning judges to serve in courts where extra help is needed.

Court Administration Program

This program provides legal, managerial and clerical assistance to council committees and institutes. Management methods and techniques are considered for application to court operations within the state.

The council's request for the budget year 1966-67 includes two proposed positions.

1 Personnel and budget officer (budget page 9, line 57)	-----\$12,096
1 Judicial secretary I (budget page 9, line 58)	----- 5,688

With the approval of the Director of Finance a new procedure has been initiated under which all personnel and fiscal documents relating to the state judicial system are routed to the Chief Justice for his review and recommendation prior to submission to the Department of Finance. The council states that it will be the duty of the new position to develop uniform personnel and fiscal policies for the state courts and to process for the Chief Justice the documents required by the new procedure.

As the basis for a possible improvement in the level of service of the appellate courts the council requests \$15,000 for a management study of recordkeeping and procedures.

Recordkeeping procedures study (budget page 9, line 79) \$15,000

This study is proposed as the result of a report by the Audits Division of the Department of Finance that the Supreme Court and the five district courts of appeal do not maintain uniform records and that the systems used were not efficient or economical. It is proposed to contract with a professional management consulting firm to conduct the study. The projected study would be directed toward uniformity between the courts.

Improvement of Justice Program

In this program are located the constitutional duties of the Judicial Council. Specific responsibilities are listed below:

1. Continuing statistical surveys of the condition of business in all state courts as a basis for action.

Judicial Council—Continued

2. Submission of suggestions to the courts in the pursuit of uniformity and expedition of business.
3. Reports to the Governor and to the Legislature with recommendations for indicated changes in the law.
4. Adoption of rules of practice and procedure for the court system.

Assigned Judges Program

The Chief Justice is required to perform the function of expediting judicial business and equalizing judges' workload by assigning available judges to courts where there is calendar congestion, a judge disqualification, or where there is a vacant judgeship. Assignments must be accepted. Retired judges are increasingly being called upon for these assignments.

The money appropriated for this program is used to make up differences in pay where a lower court judge is assigned to a court with a higher pay level.

A 1965 Budget provision permits unexpended amounts budgeted for judges' salaries to be transferred by the Director of Finance for payment of salaries of assigned judges. This is a source of salary funds in addition to the specific appropriation to the council for that purpose. The amount estimated for the budget year is \$30,000.

The following table indicates the actual number of assignments made to the various courts for the last three fiscal years.

<i>Fiscal year</i>	<i>Supreme Court</i>	<i>District courts</i>	<i>Superior courts</i>	<i>Municipal courts</i>	<i>Justice courts</i>
1961-62 -----	7	21	539	566	1,239
1962-63 -----	7	21	638	610	1,456
1963-64 -----	3	16	698	689	1,604

We recommend approval as budgeted.

COMMISSION ON JUDICIAL QUALIFICATIONS

ITEM 18 of the Budget Bill

Budget page 10

FOR SUPPORT OF THE COMMISSION ON JUDICIAL QUALIFICATIONS FROM THE GENERAL FUND

Amount requested -----	\$36,456
Estimated to be expended in 1965-66 fiscal year -----	36,349

Increase (0.3 percent) -----	\$107
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TOTAL RECOMMENDED REDUCTION -----	None
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GENERAL PROGRAM STATEMENT

The Commission on Judicial Qualifications is given legal authority to investigate complaints against judges with reference to willful misconduct, habitual intemperance, or serious disability and to make appropriate recommendations to the State Supreme Court.

This commission is established by Section 1b of Article VI of the Constitution and consists of five judges, two lawyers, and two public members appointed respectively by the Supreme Court, the State Bar, and the Governor. The agency is the only one of its kind in the United

Commission on Judicial Qualifications—Continued

States and was created in 1960. Commission headquarters is in San Francisco. The currently authorized staff consists of 2.1 positions.

ANALYSIS AND RECOMMENDATION

The commission proposes to spend the sum of \$36,456 during fiscal year 1966-67, which exceeds estimated expenditures for the current year by \$107 or 0.3 percent. The proposed budget year expenditure exceeds actual expenditures for the last actual year of 1964-65 by \$9,224 or 33.8 percent.

Budget appropriations both for 1964-65 and for the current year were augmented to cover salary increases, \$1,831 in 1964-65 and \$1,079 in the current year. Savings are estimated at \$7,969 in 1964-65 and \$968 for the current year.

This commission has only one program. It operates a "complaint desk" available for consideration of complaints relating to alleged willful misconduct, failure to attend to duties, habitual intemperance or serious disability. Such complaints may be investigated. The commission has the authority to recommend removal or retirement of a judge.

Reports for two completed calendar years list the items set forth in the table below:

	1963	1964
Approximate number of judges -----	1,000 (est.)	933 (act.)
Number of complaints -----	114	67
Number investigated -----	40	32
Judges retired or resigned as result -----	10	6
Recommendations to Supreme Court -----	None	1

No increased level of service is proposed. We believe the commission is an effective part of the broad program of court administration and *recommend approval as budgeted.*

DISTRICT COURTS OF APPEAL

FIRST, SECOND, THIRD, FOURTH AND FIFTH APPELLATE DISTRICTS

ITEMS 19 through 23 of the Budget Bill

Budget page 11

FOR SUPPORT OF THE DISTRICT COURTS OF APPEAL, FIRST, SECOND, THIRD, FOURTH AND FIFTH APPELLATE DISTRICTS FROM THE GENERAL FUND

Total amount requested-----	\$2,580,032
Estimated total to be expended in 1965-66 fiscal year-----	2,372,880
Increase (8.7 percent)-----	\$207,150

TOTAL RECOMMENDED REDUCTION----- None

GENERAL PROGRAM STATEMENT

Between its trial courts and the Supreme Court, California has established an intermediate appellate court system which consists of five separate district courts of appeal. Each court accepts appeals only from a legally described series of counties. A district court consists of one or more divisions of three justices together with supporting staff.

In exercising its jurisdiction each of the courts follows two programs, (1) that of court administration which consists of the activity

District Courts of Appeal—Continued

of the court clerk staff and (2) that of judicial decision which consists of the work of the justices and legal staff.

ANALYSIS AND RECOMMENDATIONS

For the 1966-67 fiscal year the district courts are requesting the amounts set forth in the following table:

<i>Court</i>	<i>Budget request</i>	<i>Estimated current expenditure</i>	<i>Over current year</i>	<i>Percent increase</i>
1st District -----	\$666,936	\$642,118	\$24,818	3.9
2nd District -----	923,771	883,339	40,432	4.6
3rd District -----	259,105	251,453	7,652	3.0
4th District -----	499,693	369,611	130,082	35.2
5th District -----	230,527	226,359	4,168	1.8

As part of its 1966-67 budget request the 2nd district court seeks the following positions:

- 1 Deputy clerk (budget page 13, line 14) ----- \$9,480
- 1 Judicial secretary II (budget page 13, line 15) ----- 6,600

These are workload requests. We have examined the operation of the 2nd district court's office and in our judgment the workload exists and the positions are justified.

In its budget request the 4th district court seeks the following positions to establish the 2nd division and implement 1965 legislation.

- 1 Presiding justice (budget page 15, line 48) ----- \$30,000
- 2 Associate justices (budget page 15, line 49) ----- 60,000
- 1 Legal research associate (budget page 15, line 50) ----- 12,096
- 1 Deputy clerk (budget page 15, line 51) ----- 9,488
- 1 Court reporter-secretary (budget page 15, line 52) ----- 9,034
- 2 Legal research assistant (budget page 15, line 53) ----- 17,212
- 2 Judicial secretary II (budget page 15, line 54) ----- 13,180

We recommend approval of the requested positions and of the five district court of appeal items as budgeted.

Court Administration Program

The following tabulation indicates the number of personnel in the five courts:

<i>Court</i>	<i>Headquarters</i>	<i>Number of justices</i>	<i>Number of employees other than justices</i>
1st District	San Francisco -----	9	27.7
2nd District	Los Angeles -----	12	40
3rd District	Sacramento -----	3	12.1
4th District *	San Diego/San Bernardino -----	3	11
5th District	Fresno -----	3	8.1

* Provision is made in the budget request to increase the 4th district staff by 10 positions to establish the 2nd division in San Bernardino as noted above.

Significant budget changes for the individual courts for 1964-65, the last complete fiscal year, and as estimated for the current year are as follows:

District Courts of Appeal—Continued

<i>Court</i>	<i>Budget act appropriation</i>	<i>From emergency fund</i>	<i>Add salary increases</i>	<i>Allocation, criminal appeals</i>	<i>Estimated savings end of fiscal year</i>
1st District					
1964-65 -----	\$547,317	--	\$58,513	--	\$1,727
1965-66 -----	622,452	--	12,196	\$7,470	--
2nd District					
1964-65 -----	772,040	--	83,538	--	37,755
1965-66 -----	868,174	\$11,704	14,543	--	11,082
3rd District					
1964-65 -----	205,572	--	22,550	--	4,519
1965-66 -----	233,102	--	4,673	14,000	322
4th District					
1964-65 -----	231,499	3,373	17,976	--	3,536
1965-66 -----	281,957	81,917*	4,446	4,000	2,709
5th District					
1964-65 -----	192,459	--	20,868	--	2,118
1965-66 -----	219,206	--	6,353	800	--

* We call attention to the Emergency Fund allocation for the 4th district court for fiscal year 1965-66. At the 1965 General Session the Legislature created a second division of three justices and supporting staff for the 4th district court and made an appropriation of sufficient funds for a 9-month operation. The Governor signed the bill but vetoed the appropriation. Now in the current fiscal year, use is made of the Emergency Fund to finance the second division for the last half of the year. Provision is made in the 1966-67 budget request for an appropriation to establish the second division of this court on a permanent basis.

Judicial Program

Filings for the five district courts for the last four completed fiscal years are tabulated below:

<i>Court</i>	<i>1961-62</i>	<i>1962-63</i>	<i>1963-64</i>	<i>1964-65</i>
1st District				
Appeals -----	508	522	510	659
Writs -----	280	278	321	545
2nd District				
Appeals -----	1,070	1,213	1,334	1,304
Writs -----	400	485	471	587
3rd District				
Appeals -----	200	200	230	240
Writs -----	113	97	161	272
4th District				
Appeals -----	300	313	336	401
Writs -----	99	117	189	189
5th District				
Appeals -----	59	118	87	118
Writs -----	24	81	38	36

One measure of workload for the several district courts of appeal is filings. Filings are roughly proportioned to the number of superior courts in an appellate district and also reflect economic activity in the area served by the court. Filings, however, measure only the workload presented to a given court. They do not measure productivity nor are they a base for comparing courts one with another as to efficiency and as an explanation of developing backlog which may call for creation of another court or for the adding a new division of three judges to an existing court.

We are informed that the Judicial Council is developing a set of proposals for measuring production by the courts. Such proposals are not yet in effect. It is our view that greater progress must be made in

District Courts of Appeal—Continued

developing these guidelines so that the Legislature may have some reasonably firm and demonstrable basis on which to determine the need for sufficient judges to insure promptness in reaching decisions on appealed court judgments.

We recommend approval of the amounts requested for the several district courts of appeal.

GOVERNOR

ITEMS 24 and 25 of the Budget Bill

Budget page 19

**FOR SUPPORT OF THE GOVERNOR
FROM THE GENERAL FUND**

Amount requested -----	\$1,178,819
Estimated to be expended in 1965-66 fiscal year -----	1,100,056

Increase (7.2 percent) -----	\$78,763
TOTAL RECOMMENDED REDUCTION -----	\$55,000

Summary of Recommended Reductions

	<i>Amount</i>	<i>Page</i>	<i>Line</i>
Delete Internship Program -----	\$55,000	19	30

GENERAL PROGRAM STATEMENT

The Governor is the Chief Executive of the State of California.

The Constitution of the state grants broad powers to the Governor to conduct the following programs:

1. Plan, organize, direct, and coordinate the activities of state agencies and to appoint various state officers and members of boards and commissions.
2. Prepare and present to the Legislature the state budget outlining anticipated programs and the means by which they will be financed.
3. Report to the Legislature on the condition of the state and make various legislative proposals.
4. Approve or disapprove legislation adopted by the Legislature.

ANALYSIS AND RECOMMENDATION

The budget proposes an expenditure of \$1,178,819 for the 1966-67 fiscal year which is \$78,763, or 7.2 percent, above the \$1,100,056 estimated to be expended during the current fiscal year.

Although \$1,100,056 is shown as estimated to be expended during the current fiscal year, only \$989,007 was appropriated by the legislature for the support of the Governor's office during the 1965-66 fiscal year. The balance of \$111,049 came from two sources: (1) \$12,642 was allocated from the salary increase fund and (2) \$98,407 was allocated from the Emergency Fund.

The Emergency Fund allocation of \$98,407 was used to fund the establishment of six new positions plus operating expenses authorized by the Department of Finance at the start of the 1965-66 fiscal year. The six positions consist of two staff secretary positions and four clerical positions. These positions were not included in the proposed budget presented to the Legislature during the 1965 budget hearings.