

Legislators' Retirement Fund—Continued

Output and Growth

During fiscal year 1969-70, the system paid benefits to 85 service and 3 disability retirees. In addition, it paid benefits to 17 beneficiaries of deceased members. In 1969-70 the system earned \$77,685 on investments with a book value at \$1,108,152, for an earnings rate of 7 percent.

During the 10-year period 1960-61 to 1969-70, the state contributions to the system have risen 350 percent and expenditures have risen 337 percent. Table 1 summarizes selected items of the system's most recent five-year growth pattern.

Table 1
Selected Data, Legislators' Retirement System

Detail	1965-66	1966-67	1967-68	1968-69	1969-70
Active members -----	126	129	131	127	130
Inactive members -----	64	68	64	66	59
Retirees and beneficiaries ---	68	96	99	101	105
Deaths during year -----	3	4	2	6	7
State contribution -----	\$360,000	\$370,000	\$510,000	\$540,000	\$550,000
Interest income -----	\$32,349	\$41,031	\$51,118	\$61,395	\$77,685
Total benefits paid -----	\$321,339	\$411,393	\$473,182	\$555,633	\$598,690
Investments (book value) as of 6/30 -----	\$607,616	\$740,273	\$873,406	\$960,594	\$1,108,152

JUDICIAL

Item 18 from the General Fund and
Item 19 from the Motor Vehicle Fund

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Requested 1971-72 -----	\$8,438,702
Estimated 1970-71 -----	8,289,044
Actual 1969-70 -----	7,764,215
Requested increase \$149,658 (1.8 percent)	
Total recommended increase -----	\$350,741

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

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1. We recommend that data on court filings and business transactions be projected for the current and budget years in future state budget submissions. 9
2. We recommend that the Judicial Council adopt and include in future budget submissions a weighted caseload method of reporting dispositions and backlog by district and division. 14
3. We recommend an increase of \$147,741 in the criminal appeal fees category. 13
4. We recommend that the Legislature consider the establishment of a state Public Defender's office. 13
5. We recommend that extra compensation, expenses, and staff for assigned judges be increased \$203,000. 17

GENERAL PROGRAM STATEMENT

Section 1, Article VI of the California Constitution vests the judicial power of the state in the Supreme Court, courts of appeal, superior, municipal, and justice courts. The Supreme Court and courts of appeal are wholly state supported. Except for the major portion of the superior court judges' salaries and employer contributions to the Judges' Retirement Fund for superior and municipal court judges, the remaining courts are supported by the counties and by fees and costs collected by the courts.

Section 6, Article VI of the State Constitution created the Judicial Council and provided for its membership and duties. The objective of the council is to improve the administration of justice by surveying judicial workload and making appropriate recommendations; adopting rules for court administration, practice and procedure not inconsistent with statutory provisions; and performing other duties as prescribed by statute.

The state-supported courts hear appeals alleging errors in procedure or interpretation of law in the trial courts, resolve conflicting interpretations of law between trial courts; interpret the provisions of the State Constitution when appropriate constitutional issues are raised on appeal; hold hearings on and grant or deny writs of habeas corpus, mandamus, etc.; and process other motions and orders authorized by law. The law also provides for appeals from decisions of the justice and municipal courts to the superior court.

The state-supported portion of the court system provides for five courts of appeal, each of which serves a distinct geographic area and hears appeals from superior courts within its district, and a Supreme Court, which is the final arbiter on the interpretation and application of state law except in cases involving the U.S. Constitution and federal laws, in which case the final decision is made by the U.S. Supreme Court.

The total state judicial budget request for 1971-72 is \$8,573,671, an increase of \$138,359 or 1.6 percent over estimated current-year expenditures. This expenditure program is proposed to be funded as follows:

<i>Item no.</i>	<i>Amount</i>	<i>Source</i>
18-----	\$8,425,000	General Fund
19-----	13,702	Motor Vehicle Fund
	134,969	Federal funds
	\$8,573,671	

ANALYSIS AND RECOMMENDATION

I. SUPREME COURT

Program Description

As California's court of final appeal, the Supreme Court is responsible for deciding important questions of law and maintaining uniformity of decisions. Its specific functions and powers include the following:

1. Holds hearings on writs of habeas corpus, mandamus, prohibition, and certiorari.
2. Hears appeals in all cases involving death sentences.

Judicial—Continued

3. Hears appeals from decisions of the courts of appeal in civil and criminal cases involving interpretation of state law.
4. Transfers cases to the courts of appeal to relieve its workload pressures.
5. Hears executive clemency applications of persons who have had two or more felony convictions.
6. Admits qualified applicants to the practice of law.
7. Passes on disciplinary recommendations of the Board of Governors of the State Bar.
8. Appoints counsel for indigent criminal appellants.
9. Provides for the filing of cases and preparation of case records.
10. Ascertains, through its office of "reporter of decisions," that its decisions (and those of the courts of appeal and superior courts deemed of sufficient importance to be published) have been accurately printed. The decisions are published by a private printer.

Organization and Program

The Supreme Court, consisting of the Chief Justice and six associate justices, is assisted by a clerk of the court and 70 staff members including attorneys, deputy court clerks, a reporter of decisions and various technical and clerical personnel.

The court's workload is measured primarily by the number of cases and other matters which are filed with it for review and disposition. Table 1 summarizes this workload experience for the most recent five-year period. We note that the total number of filings in fiscal year 1969-70 was 250 under the number originally estimated for that year.

Table 1
California Supreme Court
Summary of Filings
Fiscal Years 1965-66 Through 1969-70

Detail	Fiscal				
	1965-66	1966-67	1967-68	1968-69	1969-70
Total filings -----	2,522	2,716	2,959	3,322	3,400
Appeals					
Civil -----	222	189	19	0	0
Criminal -----	31	22	30	15	17
Original proceedings					
Civil -----	74	91	83	84	84
Criminal -----	983	1,026	1,057	1,349	1,235
Petitions to review cases decided by courts of appeal -----	1,205	1,379	1,769	1,874	2,064
Other -----	7	9	1	0	0

Source: Annual report of the Judicial Council.

Table 1 reflects a continuing increase in the number of filings before this court, the greatest rate of increase being in petitions to hear cases previously decided by the courts of appeal. Total filings have substantially increased since 1960-61 when a total of 1,403 matters were filed with the court. The nature of the filings has also changed significantly in recent years. For example, civil appeals have decreased from 222 in 1965-66 to 0 in 1969-70 as a result of a constitutional amendment which shifted this appellate jurisdiction to the courts of appeal. Orig-

inal proceedings in criminal matters have increased from 983 in 1965-66 to 1,235 in 1969-70. In contrast, there were 304 civil appeals and 176 criminal original proceedings filed in 1958-59.

It was largely due to the dramatic increase in criminal original proceeding filings that the court two years ago established a central staff of research attorneys to provide initial screening of these filings as a means of enabling the court, with its limited number of justices, to handle the workload increase. The new staffing pattern and procedural changes permitting disposition of some cases by memorandum rather than fully drawn opinions appear to have enabled the court to process more efficiently its increasing caseload.

Budget Request

To support its operations in the budget year, the court is requesting a General Fund appropriation of \$1,842,811 which represents an increase of \$33,930 or 1.9 percent over estimated current-year expenditures of \$1,808,881. The increase consists of judicial and merit salary increases, added costs for rent and staff benefits, such as social security, and normal increases in operating costs. The budget proposes continuation of the court's presently authorized staff of 77.5 man-years. The amount requested appears sufficient to support the currently approved program. Added workload is to be absorbed within the current program structure and resources.

Table 2 shows a substantial increase in the total number of court actions (from 4,124 in 1968-69 to 4,772 in 1969-70), most of which was due to a rise in miscellaneous orders from 551 to 997. The number of appeals, original proceedings and hearings (which are more time consuming) either declined or increased at a much lower rate than the miscellaneous orders category.

Need to Project Workload Data

We recommend that workload statistics on filings and business transacted be projected for the current and budget years in future budget submissions along with data on the last full-year's workload experience.

The workload information contained in the program budget of the judicial system shows only the actual workload experience of the courts as compiled by the Administrative Office of the Courts and published in its annual report.

The Supreme Court disposed of 114 appeals by written opinion in 1969-70. Except for death penalty cases, these dispositions represented cases which the Supreme Court had granted a petition to hear after decision by a court of appeal. The total business transacted by the court is reflected in Table 2. More meaningful budgetary decisions could be made if the caseload and backlog information for the last actual year were projected for the current and budget years and included in the program budget. Such information would be especially helpful in reviewing the support needs of the courts of appeal wherein a serious increase in case backlog and delay would occur if the centralized legal research staff were not augmented or procedural improvements implemented to handle increasing workload.

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Table 2
California Supreme Court
Business Transacted

Detail	Fiscal years				
	1965-66	1966-67	1967-68	1968-69	1969-70
Total actions -----	4,016	4,135	4,296	4,124	4,772
Appeals -----	124	148	124	142	114
Original proceedings (including habeas corpus)					
Written opinion -----	62	58	56	66	91
Nonwritten opinion -----	1,120	1,028	1,048	1,180	1,121
Hearings					
Granted -----	127	157	168	158	191
Denied -----	1,078	1,222	1,601	1,716	1,873
Rehearings					
Granted -----	5	1	1	5	0
Denied -----	87	106	66	93	95
Orders					
Transfers and retransfers --	908	749	452	157	177
Miscellaneous -----	474	608	717	551	997
Other actions -----	31	53	63	56	113

Source: Annual report of the Judicial Council.

II. COURTS OF APPEAL

Program Description

Each of the five courts of appeal has appellate jurisdiction over all cases filed in the trial courts within its district. Subject to final appeal to the Supreme Court, each has original jurisdiction (i.e., cases may be initiated in these courts without prior adjudication in the superior, municipal and justice courts) over certain criminal matters (writs of habeas corpus) and civil causes (writs of mandamus, prohibition, and administrative review). Mandamus is an order directing performance of a generally affirmative nature, whereas prohibition is usually negative in form.

Organization and Workload

Each court of appeal consists of one or more divisions. Except for one division which has five judges, each division has three or four judges who sit as a single court to hear cases and issue opinions. While the cases are heard and decided en banc (that is, by the full court), the opinions are usually written by one judge with the concurrence of the remaining judges or a majority of them. There may be written dissenting opinions when the decision of the court is not unanimous.

Each judge is assisted by a research attorney and a secretary. Centralized staffs of research attorneys have been provided the First, Second, and Third Appellate Districts to provide an initial screening of matters brought before the courts. This added staffing was authorized by the 1970 Legislature as a means of handling the workload and improving the efficiency of these courts. We recommended such action. As these positions were established in the last quarter of 1970, sufficient data are not yet available for evaluating their impact on the court's productivity.

The workload of the courts of appeal is represented by the number of cases filed and transactions handled as reflected in Table 3.

Table 3
California Courts of Appeal
Summary of Filings and Business Transacted
(Including Transfers from the Supreme Court)

<i>Detail</i>	<i>Fiscal years</i>				
	1965-66	1966-67	1967-68	1968-69	1969-70
Filings -----	5,013	5,538	6,411	6,874	8,039
Transactions -----	9,664	10,293	13,403	12,808	14,500

Source: Annual report of the Judicial Council.

The number of transactions exceeds the number of filings because miscellaneous orders, of which there were 4,647 in 1968-69, are counted as transactions completed but are not listed as filings. The gross figures in Table 3 do not reflect the nature of the workload increase because the various types of cases filed require different amounts of court effort and time. For this reason, the Judicial Council has developed a weighted caseload reporting system which provides a more precise measure of workload. The system is based on a survey of average court time required to process various types of cases. Through observation and experience, it was determined that 1,200 work units per judge or 3,600 units for a three-judge court was the level at which the average court of appeal was working.

While the weighted caseload measurements were derived from specific workload experience, the Judicial Council has recognized a need to improve and refine the accuracy of the system. Therefore, the council plans to have such a refinement study made in the budget year with funding provided from federal sources.

The total filings in the courts of appeal on a weighted unit basis are shown in Table 4.

Table 4
California Courts of Appeal
Filings on a Weighted-Unit Basis

<i>Filings per district</i>	<i>Fiscal years</i>				
	1967-68	1968-69	1969-70	1970-71 ¹	1971-72 ¹
First District					
Weighted units -----	15,695	17,077	19,172	20,900	22,800
Average per judge -----	1,308	1,423	1,598	1,742	1,900
Second District					
Weighted units -----	24,498	24,744	30,819	33,700	36,900
Average per judge -----	1,633	1,237	1,541	1,685	1,845
Third District					
Weighted units -----	5,794	5,966	6,244	6,800	7,400
Average per judge -----	1,931	1,492	1,561	1,700	1,850
Fourth District					
Weighted units -----	8,991	9,705	11,058	12,200	13,400
Average per judge -----	1,499	1,618	1,229	1,356	1,488
Fifth District					
Weighted units -----	2,439	2,995	3,305	3,800	4,400
Average per judge -----	813	998	1,102	1,267	1,467
Totals all districts					
Weighted units -----	57,417	60,487	70,598	77,400	84,900
Average per judge -----	1,472	1,344	1,471	1,613	1,769

¹ Based on average of three of last five years dropping highest and lowest years.
 Source: Administrative Office of the Courts.

Judicial—Continued

Table 4 represents the workload per authorized judge and does not reflect the contribution made by judges temporarily assigned to the courts of appeal. Judges are temporarily assigned, to the extent funds are available, to fill vacancies and to assist when the workload is deemed sufficient to warrant such action by the Chief Justice.

Table 4 shows that filings on a weighted-unit basis are continuing to increase in all appellate districts. In an effort to handle the added workload, a centralized legal research staff has been established and procedural changes are being implemented in the current fiscal year. The current plan is to assess the ability of these changes to improve productivity and reduce the rate of increase in new judgeships. The Judicial Council does not propose to request new appellate judgeships in the budget year.

Early reports indicate that the central research staff, implemented in November 1970, is resulting in increased productivity, but more experience is needed before reaching final conclusions on the impact of this staffing arrangement. It is clear, however, that, unless the courts are able to improve their productivity, the case backlog will increase and lengthen the delay in obtaining appeals court review.

Proposed Budget and New Positions

The courts of appeal propose a budget-year expenditure of \$5,924,117 consisting of \$27,383 in reimbursements and a \$5,896,734 appropriation from the General Fund. This is an increase of \$358,149 or 6.4 percent over the 1970-71 estimated expenditures. A staff of 235.1 man-years (an increase of 25 positions above the currently authorized level) is proposed in the budget year on the basis of previously approved staffing standards. Twenty-one of the requested positions (12 attorneys and 9 secretarial) were established administratively in the current year.

The four new positions, having a salary cost of \$45,822, consist of one attorney IV, two deputy clerks, and one janitor. The attorney IV is to provide central research services for the fourth appellate district in the same manner as previously approved for the first, second, and third districts. The deputy clerk positions are proposed for the first and second districts to handle increased case filings, and the janitor is requested to maintain additional floor space to be utilized by the second district due to recent expansion. The attorney IV position would be assigned to the fourth district in lieu of requesting two additional judges based on the increase in weighted case units. The courts are also requesting the equivalent of one position at a cost of \$9,036 to provide several temporary help positions due to workload increases.

The proposed budget increase of \$358,149 consists of the following:

1. Merit salary increases	\$53,651
2. Full-year cost of part-year positions authorized in 1970-71	165,936
3. Proposed new positions	54,858
4. Decrease salary savings	39,173
5. Increase staff benefits	40,176
6. Decrease in operating expenses	4,764
7. Increased reimbursements expended in program	541
Total	\$358,149

The \$5,896,734 requested from the General Fund appears adequate to support the appellate court program with the exception of the amount budgeted for criminal appeal fees.

Additional Funding Needed for Criminal Appeal Fees

We recommend an increase of \$147,741 in this expenditure category.

The budget proposes an expenditure of \$532,529 (including the Supreme Court portion) to cover criminal appeal fees for indigents. This is identical to the estimated current-year expenditure, but approximately \$95,000 above the actual cost of this function in 1969-70. The Administrative Office of the Courts has indicated that an additional \$147,741 will be needed in the budget year due to an expected increase in appointments of counsel and the necessity of increasing the fee per case to obtain adequate counsel for indigents.

Since the courts require that counsel be provided for indigents, if the funds budgeted for this purpose are inadequate, either the fee per counsel must be reduced or added funds obtained from the Emergency Fund or from a deficiency appropriation.

The courts are required by Section 1241 of the Penal Code to pay a "reasonable compensation" and necessary expenses of appointed counsel, the fee in each appeal being determined by the court on the basis of its evaluation of the reasonableness of the attorney's claim and the nature of the case. Because there is an average time interval of one year between the appointment of an attorney and completion of the case, the cost of this program in the budget year is based primarily on the number of appointments made during the current year. The courts have been reasonably accurate in estimating the number of appointments to be compensated.

The average payment to appointed counsel in the current year is \$335, but the courts anticipate that due to increasing attorney fees and expenses, the average fee in the budget year will be \$358, an increase of \$23 or 6.9 percent per case. Based on the present level of counsel appointments, the Administrative Office of the Courts estimates that the amount proposed for criminal appeal fees will permit an average payment of only \$301 per case or \$34 less than the present average payment. The amount requested should be increased by \$147,741.

Need for State Public Defender

We recommend that the Legislature consider the establishment of a State Public Defenders' office.

The appellate courts have repeatedly noted the difficulty of providing adequate counsel for indigent criminal appellants and have advised that there is a need for a staff of attorneys who are more knowledgeable in this specialized field than the average practitioner. The Judicial Council, in its 1970 Annual Report, recommended the establishment of such an office, but estimated that the cost of the office would exceed current expenditures for appointed counsel. It anticipated, however, that this cost differential would narrow due to the continuing increase in fees paid to appointed counsel. This proposal merits further consideration and could be implemented on an experimental basis in one of the appellate districts as a means of evaluating its effectiveness.

Judicial—Continued
Program Accomplishments

The accomplishments of the courts of appeal are summarized in Table 5.

Table 5
California Courts of Appeal
Business Transacted

Detail	Fiscal years				
	1965-66	1966-67	1967-68	1968-69	1969-70
Total (all causes) -----	9,664	10,293	13,403	12,808	14,500
Appeals -----	3,108	3,258	3,885	4,886	4,834
Original proceedings (writs of habeas corpus, mandamus, prohibition, etc.) -	1,662	1,762	2,270	2,674	3,118
Motions (miscellaneous) -----	201	223	302	324	317
Orders (miscellaneous) -----	4,125	4,346	6,134	4,647	5,446
Rehearings -----	568	704	803	827	785

We recommend that the Judicial Council adopt and include in future budget submissions a weighted caseload method of reporting dispositions and backlog by district and division. We further recommend that such data be projected for the current and budget years in the budget document.

The workload increases reflected in the various categories in Table 5 are difficult to evaluate because the transactions recorded require significantly differing amounts of judicial effort. These output data should be presented on a weighted basis (similar to the filings data in Table 4) to reflect more accurately the output of the courts. Such data, collected by each court district and division thereof (i.e., the smallest operative unit consisting of three or four judges) would provide the Judicial Council with a better means of analyzing the productivity of each division and district and, along with weighted caseload filings and backlog data, would permit more accurate evaluation of budgetary needs. This information would also be useful in determining the need to transfer cases between districts and in making other management decisions.

Backlog and Delay

Appeals pending as of June 30, 1970, totaled 3,977, an increase of 8 percent over the previous year. While there were 164 fewer ready-but-unheard appeals on June 30, 1970, than in the previous year, the large number of appeals which were on file but not ready to be heard, plus the filings reported for the beginning of the 1970-71 fiscal year portends a serious increase in backlog and delayed decisions unless the courts' productivity can be increased.

The previously mentioned additional legal research staff which the Legislature authorized in 1970 plus improved procedural changes, such as memorandum opinions, are expected to increase productivity and possibly prevent increases in case backlog and delay.

The median time delays in various appellate courts are shown in Table 6.

Table 6
California Courts of Appeal
Delay in Handling Appeals—by Months

	<i>Notice of appeal to filing of opinion</i>		<i>Ready for calendar to filing of opinion</i>	
	<i>Civil</i>	<i>Criminal</i>	<i>Civil</i>	<i>Criminal</i>
District I				
Division 1 -----	22	16	10	4
Division 2 -----	22	17	10	3
Division 3 -----	23	12	12	2
Division 4 -----	18	17	7	4
District II				
Division 1 ¹ -----	15	14	3	1
Division 2 ¹ -----	17	16	5	2
Division 3 ¹ -----	14	13	4	2
Division 4 ¹ -----	17	17	5	2
Division 5 ¹ -----	22	16	10	5
District III¹ -----	22	9	14	3
District IV				
Division 1 ¹ -----	16	12	9	3
Division 2 ² -----	22	13	12	5
District V -----	22	16	10	6

¹ Divisions with four authorized judges.

² Division with five authorized judges.

Table 6 shows that the median time between the filing of an appeal and the courts' opinion for cases completed in the quarter ending June 30, 1970, ranges from 14 to 23 months in civil cases and from 9 to 17 months in criminal cases. Criminal appeals are handled more expeditiously because they are given priority over civil matters. The median time between the date when attorneys have a case ready to be heard by the court and the filing of the opinion ranges from 3 to 12 months in civil cases and from 1 to 6 months in criminal cases.

Compared to the lagtime for the prior year, three court divisions reported no change, eight reported less, and two reported more delay. When this appeal period is added to the trial time expended on a case in the superior court, it is apparent that the administration of justice is not swift. If the improved administrative procedures and additional legal research staff authorized last year do not increase productivity and reduce backlog and delay, other methods to improve the efficiency of the judicial process will have to be devised.

III. JUDICIAL COUNCIL

Program Description

The Judicial Council consists of the Chief Justice as chairman; one other judge of the Supreme Court; five superior, three municipal, and two justice court judges; four members of the State Bar; and one member of each house of the Legislature. The purpose of the council, as set forth in Section 6, Article VI, of the California Constitution is as follows:

“To improve the administration of justice, the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and the Legislature, adopt rules for court administration, practice and procedure, not incon-

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sistent with statute, and perform other functions prescribed by statute.”

Section 6 provides that the chairman of the council shall seek to expedite judicial business and equalize the work of judges. He may assign judges from one court to another, but not to a lower court without the consent of the judge. He may also appoint consenting retired judges to temporary judicial duties.

The council appoints the Administrative Director of the Courts who heads the Administrative Office of the Courts. This administrative office provides the staff to carry out the functions of the council.

The Judicial Council engages in the following activities:

1. Conducts continuous statistical surveys of court operations to determine court needs.

2. Publishes an annual report containing recommendations for improvement of court administration and statistical data on court workload and accomplishments.

3. Reports to the Legislature on the need for additional judges in specific courts.

4. Conducts studies relating to changes in statutes or the California Rules of Court to improve court operations and administration.

5. Conducts institutes and workshops for judges as a means of providing continuous education and improvement.

6. Conducts studies and develops recommendations for improvement in the organization of county courts.

7. Administers qualifying examinations to candidates for justice court judgeships.

8. Conducts studies of court and court-related problems utilizing federal funds.

9. Improves workflow of the courts by temporary assignments of active or retired judges to courts having a vacancy or to relieve the caseload burden of the court.

To carry out its program, the Judicial Council employs a staff of 31.2 man-years in the Administrative Office of the Courts in addition to the director of that office.

Program Plan and Budget Request

The Judicial Council is proposing a total expenditure program of \$836,126 to provide for the support of the Administrative Office of the Courts at its presently authorized staffing level, expenses of judges' institutes, and costs of the assigned judges' program. This represents a reduction of \$253,179 or 23.2 percent under estimated expenditures in the current year. The decrease reflects a reduction of \$293,124 in the temporary assignment of judges' expenditure category partially offset by price and workload increases in other operating expenses. The total proposed expenditure consists of \$685,455 from the General Fund, \$13,702 from the Motor Vehicle Fund, \$134,969 federal funds and \$2,000 in reimbursements. The federal funds will be used to support two new activities, one to update the *Justice Court Manual* to reflect appellate court decisions and statutory changes which have occurred

since its original publication, and the second to conduct an organizational study of the municipal and justice courts. In addition, the council is seeking federal funding for a study to validate and improve the weighted caseload method of determining the need for new judge-ships.

The \$13,702 requested from the Motor Vehicle Fund helps finance a program which coordinates and promotes uniformity in the statewide traffic court system.

More Money Needed for Temporary Assignment of Judges

We recommend that the budget request for this function be increased by \$203,000.

The function of the expenditure category, "extra compensation, expenses and staff for assigned judges," is to provide funds for the temporary assignment of active judges of one county or court to another county or court and to pay the costs of retired judges who are assigned to fill temporary vacancies or relieve excessive workload pressures on particular courts until new appointments are made or workload declines. The proposed funding for this function consists of a \$46,876 allocation in the General Fund budget item and such savings as may occur in the separate budget item for the state's share of superior court judges' salaries.

The total expenditure for this function in 1969-70 was \$359,100, consisting of \$235,000 appropriated in the General Fund item and \$124,000 in savings from the separate salary item. The Administrative Office of the Courts estimates that a General Fund allocation of \$249,876 will be needed for the budget year, which is \$203,000 more than the amount proposed. Failure to provide for the temporary assignment of judges as needed will result in additional case backlog and delay in court decisions unless court productivity can be increased beyond presently anticipated levels.

We are aware of no procedural changes or other factors now being contemplated to reduce the need for temporary judicial assignments. While there has been a substantial increase in the number of judges in recent years, the caseload has been increasing at an ever faster rate. In the superior courts, for example, where the assigned judges' program is most needed, the number of judges has been increased from 300 in 1960 to 418 in mid-1970, an increase of 118 judges or 39.3 percent. However, during that same period, case filings in these courts increased from 330,000 (1,098 filings per judge) to 508,000 (1,222 per judge), an increase of 53.9 percent in total cases and 11.3 percent per judge. The judges are also improving their productivity as evidenced by the increase in case dispositions per judge, from 897 in 1961-62 to 1,016 in 1968-69, an increase of 119 cases or 13.3 percent per judge.

While this measure of productivity is subject to distortion because it fails to recognize differences in the complexity of cases, data collected by the Administrative Office of the Courts indicates that the major workload growth is in the type of filings, such as personal liability cases, which create a greater workload impact. Also, changes in criminal and juvenile court proceedings necessitated by appellate court decisions are placing an increasing workload burden on the trial courts.

Judicial—Continued
 Program Accomplishments

The Judicial Council conducted the following five institutes and workshops in 1970:

1. Sentencing institute for superior court judges.
2. Institute for juvenile court judges and referees.
3. Institute for municipal and justice court judges.
4. Workshop for court of appeal justices.
5. Workshop for presiding judges of metropolitan superior courts.

These meetings of one to two-day duration are called to seek solutions for current problems of the courts and to discuss other matters relating to their work. For example, the workshop for presiding judges of metropolitan superior courts was called to discuss improvement of security procedures in the courts.

The council's staff developed six new uniform legal forms, and assisted in the formulation of uniform local rules for the 23 superior courts of the Third Appellate District. The council also approved the recommendation of a task force of judges, court clerks, and other state staff relative to improving the procedures and uniformity of clerks' offices in the courts of appeal.

The council's staff prepared 24 reports on judgeship needs for the 1970 Legislature and the Governor's office. These reports are used by the Legislature in determining whether to authorize additional superior court judgeships.

COMMISSION ON JUDICIAL QUALIFICATIONS

Item 20 from the General Fund

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Requested 1971-72	\$44,000
Estimated 1970-71	43,926
Actual 1969-70	49,178
Requested increase \$74 (0.2 percent)	
Total recommended reduction	None

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

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We recommend legislation to implement the following changes in the judges' retirement law as proposed by the Commission on Judicial Qualifications:

1. Amend Government Code Section 75033 to provide that a judge who is removed by the Supreme Court shall not be entitled to the special retirement benefit provided under this section. 19
2. Amend Government Code Section 75060 to (a) require some minimum period of service, such as three or four years, as a prerequisite for any disability pension for a judge whose disability is not directly related to his judicial service, and (b) provide a graduated schedule of disability retirement benefits based on length of service in lieu of the present flat allowance of 65 percent without regard to length of service. 19

GENERAL PROGRAM STATEMENT

The Commission on Judicial Qualifications is authorized by Section 8, Article VI, of the State Constitution and consists of nine members: five judges appointed by the Supreme Court, two attorneys appointed by the State Bar, and two public members appointed by the Governor. The commission's duties, set forth in Section 18 of Article VI, include receiving, investigating, and hearing complaints concerning the qualifications and conduct of the judiciary. It may recommend to the Supreme Court that a judge be retired for disability, censured, or removed from office for any of the causes set forth in Section 18.

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

The \$44,000 requested represents a continuation of the presently authorized level of service as adjusted for salary increases provided in the 1970-71 fiscal year, some operating cost increases, and equipment replacement. Travel costs are estimated to increase slightly in the budget year to cover the expenses of a new commission member whose predecessor did not claim travel expenses. The commission has an authorized staff of 2.1 positions.

During 1970, the commission received 181 complaints concerning the judiciary. Most of these complaints were disposed of as being unfounded or involving matters not within the jurisdiction of the commission, but in 33 instances an inquiry or investigation took place, and there was one resignation and one censure.

The commission's annual report contained two recommendations relating to the Judges' Retirement System which should be given legislative consideration. The recommendations are as follows:

The commission has noted two areas which seem to it to deserve legislative attention. Under Government Code Section 75033, a judge whose judicial service is discontinued before retirement in most instances may, with eight years' judicial service, receive up to 40 percent of his salary at age 65. A judge who resigns for any reason is excluded from the benefits of that provision, yet a judge who is removed by the Supreme Court after proceedings under Article VI, Section 18, is not excluded and thus is eligible for the Section 75033 benefits. The commission feels this is an injustice and that, if the service of a judge is discontinued by removal, he should be excluded from the benefits of this section.

The second area noted by the commission is in the exercise of its responsibilities under Section 75060, passing upon requests for retirement due to permanent disability. A judge who is retired for disability receives a pension of 65 percent of his salary. This is altogether proper and fair for a judge with considerable judicial service and is a good feature of the judicial retirement program. However, the commission questions the wisdom and fairness of such a large allowance for a judge who is disabled after very brief judicial service. There have been a number of disabilities, not connected with judicial service, occurring rather soon after taking office—one within three months. As an alternative to the straight 65 percent in the present law, there would seem to be merit in providing some minimum period of service as a prerequisite to any

Salaries of Superior Court Judges

Item 21

Commission on Judicial Qualifications—Continued

disability pension for one whose disability was not a direct result of his judicial service, and a graduation of such retirement benefits upon the basis of periods of service.

SALARIES OF SUPERIOR COURT JUDGES

Item 21 from the General Fund

Vol. I p. 17 Budget p. 8

Requested 1971-72 -----	\$10,910,220
Estimated 1970-71 -----	10,484,809
Actual 1969-70 -----	9,163,695
Requested increase \$425,411 (4.1 percent) .	
Total recommended reduction -----	None

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

1. Consideration should be given to revising the state-county formula for sharing the cost of superior court judges' salaries.

GENERAL PROGRAM STATEMENT

Under the provisions of Government Code Section 28206, the state and the counties share in the salary of each superior court judge in the following proportions determined by county population.

County population	State share	County share	Total salary
250,000 or more	\$23,907	\$9,500	\$33,407
40,000 to 250,000	25,907	7,500	33,407
40,000 or less	27,907	5,500	33,407

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The \$10,910,220 requested in this item is the state's share of the salaries of 445 superior court judges authorized for 1971-72. This represents an increase of \$425,411 or 4.1 percent over the 1970-71 expenditure level. The increase is attributable to the full-year salary cost of new judges previously authorized for the current and budget years, and a 5-percent increase in judges' salaries effective September 1, 1970.

Judges' salaries automatically are adjusted annually on September 1 to reflect the prior calendar-year increase in the California Consumer Price Index. As the county share of the judges' salaries is set in a separate code section, it is not subject to escalation under the CPI formula. Thus, all salary increases for superior court judges are solely a state obligation and result in these salaries becoming more disproportionately a state rather than a county cost. For example, in 1955, when this sharing ratio was established as a means of standardizing salaries, a superior court judge in counties of over 250,000 population earned \$18,000 per year (judges in smaller counties were paid less) of which the county paid \$9,500 or 52.8 percent. The present \$9,500 county share represents only 28.4 percent of each judge's

salary. Subsequent salary increases will continue to increase the state's share of each judge's salary under present statutory provisions. If the salaries of the 445 superior court judges were shared equally by the state and the counties, the state expenditure would be \$7,433,058, a reduction of \$3,477,162 under the amount requested for 1971-72.

GOVERNOR'S OFFICE

Items 22-25 from the General Fund	Vol. I p. 19	Budget p. 9
Requested 1971-72 -----		\$1,705,632
Estimated 1970-71 -----		1,594,588
Actual 1969-70 -----		1,594,236
Requested increase \$111,044 (6.9 percent)		
Total recommended reduction -----		None

GENERAL PROGRAM STATEMENT

The State Constitution vests the supreme executive power of the State of California in the Governor and assigns him responsibility for seeing that the law is faithfully executed. He is invested with broad powers, among which are the following:

1. To plan, organize, reorganize and direct the activities of state agencies and to appoint various state officers and members of boards and commissions.
2. To prepare and present to the Legislature the annual State Budget outlining programs and the means by which they are to be financed.
3. To report to the Legislature on the condition of the state and make proposals for legislation.
4. To approve or veto legislation adopted by the Legislature.
5. To act as required with reference to other responsibilities such as granting pardons to convicted criminals and commanding the state militia.

The Governor's Budget request consists of four elements as shown in Table 1.

**Table 1
Governor's Budget Request**

Detail	Actual 1969-70	Estimated 1970-71	Proposed 1971-72
1. Governor's office -----	\$1,561,836	\$1,547,188	\$1,658,232
2. Residence—support -----	17,400	17,400	17,400
3. Residence—rent -----	—	15,000	15,000
4. Contingency expense -----	15,000	15,000	15,000

Staff for the Governor's office is currently authorized at 86.4 positions and is proposed for continuation at this level in the budget year.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Expenditures proposed for fiscal year 1971-72 amount to \$1,705,632, which is \$111,044 or 6.9 percent over the estimated current level. All of the increase is in the Governor's office budget, and \$69,044 of the