

**COMMISSION ON UNIFORM STATE LAWS**Item 0180 from the General  
Fund

Budget p. LJE 10

Requested 1982-83 .....	\$49,000
Estimated 1981-82.....	46,000
Actual 1980-81 .....	43,000
Requested increase \$3,000 (+6.5 percent)	
Total recommended reduction .....	None

**GENERAL PROGRAM STATEMENT**

The Commission on Uniform State Laws sponsors the adoption by California of uniform codes or statutes developed by the National Conference of Commissioners wherever compatibility with the laws of other jurisdictions is considered desirable. The commission consists of seven members—four appointed by the Governor, two members of the Legislature (one selected by each house), and the Legislative Counsel.

**ANALYSIS AND RECOMMENDATIONS***We recommend approval.*

The budget proposes an appropriation of \$49,000 from the General Fund for support of the commission in 1982-83. This is \$3,000, or 6.5 percent, more than estimated current-year expenditures. The increase will cover projected increases in travel costs and annual membership dues that the state pays to the national organization.

**JUDICIAL**Item 0250 from the General  
Fund and the State Transportation Fund

Budget p. LJE 11

Requested 1982-83 .....	\$41,074,000
Estimated 1981-82.....	34,815,000
Actual 1980-81 .....	28,988,000
Requested increase (excluding amount for salary increases) \$6,259,000 (+18.0 percent)	
Total recommended reduction .....	\$3,967,000

**1982-83 FUNDING BY ITEM AND SOURCE**

Item	Description	Fund	Amount
0250-001-001	Judicial Support	General	\$38,424,000
0250-001-044	Judicial Support	State Transportation	52,000
0250-101-001	Legislative Mandates	General	2,598,000
	Total		\$41,074,000

**SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS**

	<i>Analysis page</i>
1. <i>Salary Savings. Reduce Item 0250-001-001 by \$1,258,000.</i> Recommend salary savings be included in budgets of Supreme Court and Judicial Council, and increased for the courts of appeal, based on historical experience.	12
2. <i>Consulting Funds. Reduce Item 0250-001-001 by \$371,000.</i> Recommend deletion of consulting funds for which no justification has been provided.	13
3. <i>Judicial Secretaries. Reduce Item 0250-001-001 by \$83,000.</i> Recommend deletion of three additional judicial secretaries for the Supreme Court, because positions are not justified by workload.	14
4. <i>Research Attorneys. Reduce Item 0250-001-001 by \$59,000.</i> Recommend deletion of 2.4 attorney positions for the Supreme Court, because positions are not justified by workload.	14
5. <i>Civil Jury Trial Study. Reduce Item 0250-001-001 by \$100,000.</i> Recommend deletion of funding to comply with legislative intent.	15
6. <i>Judicial Impact Analyses. Reduce Item 0250-001-001 by \$42,000.</i> Recommend deletion of funding to comply with legislative intent.	15
7. <i>In-State Travel. Reduce Item 0250-001-001 by \$90,000.</i> Recommend deletion of proposed travel expense payments for externs, because the request fails to consider savings to the courts that would result if the request is approved.	15
8. <i>Staffing for Additional Judgeships. Reduce Item 0250-001-001 by \$474,000.</i> Recommend deletion of 13.5 positions proposed to support new divisions in the courts of appeal because workload can be handled within existing resources.	16
9. <i>Clerks—Courts of Appeal. Reduce Item 0250-001-001 by \$47,000.</i> Recommend deletion of two additional clerical positions, because workload can be handled within existing resources.	17
10. <i>Second Law Clerks—Courts of Appeal. Reduce Item 0250-001-001 by \$1,163,000.</i> Recommend deletion of 29 additional law clerks and one typist for the courts of appeal, because these positions have not been shown to be cost-effective.	17
11. <i>Law Clerks—Supreme Court. Reduce Item 0250-001-001 by \$235,000.</i> Recommend deletion of six law clerks for the Supreme Court, because positions are not justified based on existing workload.	18
12. <i>Legislative Mandate. Reduce Item 0250-101-001 by \$45,000.</i> Recommend reduction of funding for circuit justice court judges' salaries, based on historical experience.	19

**GENERAL PROGRAM STATEMENT**

The California Constitution vests the state judicial power in the Supreme Court, the courts of appeal and the superior, municipal and justice courts. The Supreme Court and the six courts of appeal are wholly state

**JUDICIAL—Continued**

supported. The remaining courts are supported primarily by the counties. The state, however, provides a major portion of each superior court judge's salary, an annual \$60,000 block grant for each superior court judgeship created after January 1, 1973, and the employer contributions to the Judges' Retirement Fund for superior and municipal judges. Fines, fees, and forfeitures collected by the courts are paid into each county's general fund to be distributed to the cities, the county, districts and state special funds, as required by law.

The Supreme Court and courts of appeal hear appeals from the trial courts and have original jurisdiction over certain writs, such as habeas corpus, mandamus, and prohibition.

**Judicial Council**

The Judicial Council consists of the Chief Justice; one other Supreme Court justice; three courts of appeal, 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 council's purpose is to improve the administration of justice by surveying the judicial business, making recommendations to the courts, the Governor and the Legislature relative to the judicial functions, and adopting rules for the orderly administration of the courts.

The Judicial Council also receives grants through the Office of Criminal Justice Planning to fund studies and demonstration projects designed to improve judicial administration.

**Commission on Judicial Performance**

The Commission on Judicial Performance receives, investigates, holds hearings on, and makes recommendations to the Supreme Court on complaints relating to the qualifications, competency and conduct of the judiciary. It may recommend to the Supreme Court that a judge be retired for disability, censured or removed for any of the causes set forth in the State Constitution.

The Legislature has authorized 528.1 personnel-years for state judicial functions in the current year.

**ANALYSIS AND RECOMMENDATIONS**

The budget proposes appropriations totaling \$41,074,000 from the General Fund (\$41,022,000) and the State Transportation Fund (\$52,000) for the support of judicial functions in 1982-83. This is an increase of \$6,259,000, or 18.0 percent, over current-year estimated expenditures. This amount will increase by the amount of any salary or staff benefit increase approved for the budget year.

Table 1 shows the budget program and source of funds for judicial functions in 1982-83.

Table 1 shows an overall increase in the Judicial budget, including reimbursements, of \$6,000,000. This amounts to a 17.6 percent increase over current-year estimated expenditures. The net increase results from (1) a General Fund increase of \$6,259,000, or 18.0 percent, and (2) a reduction of \$259,000, or 100 percent, in reimbursements due to the completion of five grant-funded projects during the current year.

**Judicial Council.** The budget proposes \$11,400,000 for support of the Judicial Council in 1982-83, including \$11,348,000 from the General Fund and \$52,000 from the State Transportation Fund. The proposed amount is

**Table 1**  
**State Judicial Functions**  
**Budget Summary**  
**(in thousands)**

	<i>Estimated</i> 1981-82	<i>Proposed</i> 1982-83	<i>Change</i>	
			<i>Amount</i>	<i>Percent</i>
<i>Funding</i>				
General Fund .....	\$34,763	\$41,022	\$6,259	18.0%
State Transportation Fund .....	52	52	—	—
Reimbursements .....	259	—	-259	-100
Totals.....	\$35,074	\$41,074	\$6,000	17.6%
<i>Program</i>				
Judicial Council .....	\$7,272	\$11,400	\$4,128	56.8%
Supreme Court.....	4,375	5,143	768	17.6
Courts of Appeal .....	20,562	21,657	1,095	5.3
Commission on Judicial Performance .....	266	276	10	3.8
Legislative Mandates .....	2,599	2,598	-1	—
Totals.....	\$35,074	\$41,074	\$6,000	17.6%
Personnel-years .....	528.1	606	77.9	14.8

56.8 percent more than the level of 1981-82 expenditures shown for the council in the budget document. This is misleading, however, because part of the increase is due to the unusual budgetary practice of including several items of expense for the courts of appeal in the Judicial Council budget. This has not been done in the past, and thus tends to artificially inflate the percentage increase in the council's budget.

**Supreme Court.** The budget proposes an appropriation of \$5,143,000 from the General Fund for support of the Supreme Court in 1982-83. This is \$768,000, or 17.6 percent, above estimated current-year expenditures, and reflects various program changes that are discussed below.

**Courts of Appeal.** For support of the five established courts of appeal, the budget proposes total expenditures of \$21,657,000 in 1982-83. This is an increase of \$1,095,000, or 5.3 percent, over estimated current-year expenditures for these five courts. The increase is due to routine merit salary and price adjustments and the proposed addition of five new positions, which are discussed later in the analysis. The cost of a new court of appeal district and certain other expenditures for the courts of appeals are not included in the budget for the courts of appeal, but instead are included in the Judicial Council's budget. We believe these funds should be budgeted for the courts of appeal directly. If these funds were included in the courts of appeal budget, it would result in their budget increasing by \$5,016,000, or 24.4 percent, above estimated current-year expenditures.

**Commission on Judicial Performance.** The budget requests \$276,000 for the Commission on Judicial Performance, an increase of \$10,000, or 3.8 percent, above current-year expenditures. This increase is due to routine merit salary and price adjustments.

#### **Staffing and Start-Up Costs for New Judgeships**

The 1981 Budget Act included funds for 15 new courts of appeal judgeships to be distributed among the five existing courts at their existing locations. Assembly Bill 1538, which became Chapter 959, Statutes of 1981, was introduced to authorize these judgeships. As signed by the Governor,

**JUDICIAL—Continued**

the bill authorized 18 new judgeships, as well as new divisions of the second and fifth districts to be established at new locations (Santa Barbara and Santa Ana, respectively) and a new sixth district in San Jose. Table 2 compares the request for new judges proposed by the Judicial Council and reflected in the Governor's Budget for 1981-82, with the provisions of AB 1538, as enacted.

**Table 2**  
**Courts of Appeal**

<i>District</i>	<i>Number of Judges in 1981</i>	<i>Administration Proposal</i>	<i>Ch 959/81</i>
First			
San Francisco.....	16	19	19
Second			
Los Angeles.....	20	26	23
Santa Barbara.....	—	—	3
Third			
Sacramento.....	7	7	7
Fourth			
San Diego.....	5	7	6
San Bernardino.....	5	7	4
Santa Ana.....	—	—	4
Fifth			
Fresno.....	6	8	8
Sixth			
San Jose.....	—	—	3
Totals.....	59	74	77

In addition to requesting full-year support for the 15 judges which were funded for six months in the 1981 Budget Act, the courts are requesting funding for the three additional judges authorized by Chapter 959 and their personal staffs. In addition, the courts are requesting 18.5 positions on the basis of increased workload and the need for staffing at the new locations. These positions and their associated costs are displayed in Table 3.

**Table 3**  
**Judicial Council**  
**Additional Positions for the Courts of Appeal**

<i>Position</i>	<i>Number Requested</i>	<i>Cost</i>
Senior attorney.....	4	\$175,000
Librarian.....	1	35,000
Court clerk.....	1	51,000
Chief deputy clerk.....	1	36,000
Deputy clerk II.....	2	69,000
Deputy clerk I.....	3	78,000
Senior clerk.....	4	74,000
Clerk typist.....	1	16,000
Temporary help (deputy clerk I).....	1.5	39,000
Totals.....	18.5	\$573,000
Operating Expenses and Equipment.....		707,000
Grand Total.....		\$1,280,000

Our analysis of the need for these positions appears in a later section of this discussion.

### **Second Law Clerks**

The budget requests \$1,135,000 to fund 29 new law clerks for the courts of appeal. This is phase I of a proposed two-year plan to provide a second law clerk to each judge in the courts of appeal. Currently, each judge has one law clerk and one secretary.

The budget also proposes the addition of six law clerks for the associate justices of the Supreme Court, at a cost of \$235,000. Currently, each associate justice is assisted by three attorneys. Our review of these proposals appears later in this analysis.

### **Appointed Counsel Fees**

#### *We recommend approval.*

The budget requests \$2,788,000 for the courts of appeal and \$291,000 for the Supreme Court to provide fees for appointed counsel in criminal appeals. This is an increase of \$140,000 (5.3 percent) for the courts of appeal, and \$250,000 (over 600 percent) for the Supreme Court.

In July 1981, the Supreme Court issued guidelines for the payment of appointed counsel fees. In the past, appointed counsel often were paid \$400–\$800 per case, regardless of the actual cost of the defense. Generally, this amount was not sufficient to cover the attorneys' expenses. The new guidelines provide for a payment of 30 percent to 40 percent of the prevailing hourly rate charged in the community. Additionally, the guidelines allow attorneys to be paid at intervals during the case, rather than when the case has been concluded (possibly years after the case began).

The courts of appeal project a caseload of 3,114 appeals in the budget year. Based on this projection, the requested appropriation should be sufficient to fund fees for appointed counsel averaging approximately \$895 per case (about the same amount as in the current year).

The requested increase of \$250,000 for the Supreme Court would be used to pay legal fees for appointed counsel in death penalty cases. There are 42 death penalty cases currently pending before the court, for which it expects to make partial or full payments by the end of the budget year. The court also expects another 42 cases to reach the court during 1982–83. Under the new payment policy discussed above, some of these cases will require payment in the budget year. The court estimates that full reimbursement will average about \$18,500 per case. Thus, the costs for appointed counsel in these cases could be as much as \$1,054,000. The court indicates that a deficiency bill will be introduced if actual costs exceed the \$291,000 included in the budget.

Our analysis indicates that the court's request is adequately documented, and is consistent with the payment policy adopted by the courts.

### **New Positions Which We Recommend Be Approved**

**Supreme Court Reporter's Office.** The court requests one senior attorney and one clerical position to meet workload increases in the Reporter's Office. This office prepares official reports of court opinions for the Supreme Court and the courts of appeal. During the past seven years, the staffing level of this office has been constant at four positions, while the number of published opinions has increased from 6.9 volumes in 1973 to 13.5 volumes in 1980. Our analysis indicates that the new positions are warranted on a workload basis.

**JUDICIAL—Continued**

**Supreme Court Clerk Typist.** The budget requests one clerk typist position in the Office of the Secretary to the Supreme Court to reduce backlogs. Although court workload overall has not increased significantly, our analysis indicates this position is necessary to address the existing clerical backlog.

**Data Processing Services.** The budget requests \$78,000 for two positions to assist in converting the Supreme Court and the courts of appeal from a manual to an automatic docketing system. The courts expect that this will increase the accuracy and timeliness of court information reporting. The positions will assist in implementing an automated case management and information system and in improving the utilization of existing word and data processing capabilities through various modifications. A recent review by the Department of General Services recommended a staffing level of between five and seven positions on an ongoing basis to maintain and improve the courts' information management system. This request would increase the staffing level from two to four positions. Our analysis indicates the increase is justified.

**Underbudgeted Salary Savings**

*We recommend that salary savings be budgeted for the Supreme Court and the Judicial Council, and that the budget amount of salary savings for the Courts of Appeal be increased, based on past experience for a General Fund savings of \$1,258,000 (Item 0250-001-001).*

Experience indicates that salary and benefit expenditures generally are less than the full cost of supporting all authorized positions due to staff turnover and delays in refilling positions. Therefore, to prevent overbudgeting, an estimate of salary savings is reflected in the budget. Salary savings generally is expressed as a percentage reduction in the gross salary and wage amount.

Table 4 displays the actual salary savings rate for the judiciary in recent years.

**Table 4**  
**Judicial**  
**Actual Versus Budgeted Salary Savings**

	1977-78		1978-79		1979-80		1980-81		Average Actual Percent Rate
Supreme Court									
Budgeted .....	—	—	—	—	—	—	—	—	
Actual .....	\$16	(0.7%)	\$67	(2.9%)	\$50	(1.9%)	\$127	(4.3%)	2.5%
Courts of Appeal									
Budgeted .....	59	(0.7%)	35	(0.4%)	35	(0.4%)	35	(0.3%)	
Actual .....	594	(7.3%)	366	(4.3%)	480	(4.9%)	347	(3.1%)	4.9%
Judicial Council									
Budgeted .....	—	—	—	—	—	—	—	—	
Actual .....	301	(15.1%)	224	(11.8%)	256	(11.6%)	213	(8.6%)	11.8%

As shown above, the Judicial Council has had an average salary savings rate of 11.8 percent, and the Supreme Court has had an average rate of 2.5 percent. In neither case, however, has any salary savings been budgeted. Our analysis of actual experience during the last four years indicates

that for 1982-83, the Judicial Council is overbudgeted by \$311,000 and the Supreme Court by \$75,000.

The courts of appeal have budgeted \$40,000 for salary savings in the budget year, the same amount as in the current year. This is equal to 0.3 percent of salary and wage expenditures. Table 4 shows that during the last four years, salary savings for these courts have averaged 4.9 percent. Based on their recent experience, these courts should be budgeted for salary savings equal to \$672,000, or \$632,000 more than the amount budgeted. Therefore, we recommend that salary savings be budgeted on the basis of recent historical experience, for a General Fund savings of \$1,251,000, as shown in Table 5.

**Table 5**  
**Judicial**  
**Analyst's Recommended Salary Savings Reductions**  
**(in thousands)**

	<i>Supreme Court</i>	<i>Courts of Appeal</i>	<i>Judicial Council</i>	<i>Total</i>
Budgeted salary and wages <sup>a</sup> .....	\$3,018	\$13,722	\$2,632	\$19,372
Projected salary savings.....	65	672	311	1,058
Budgeted salary savings.....	—	—40	—	—40
Additional salary savings.....	\$75	\$632	\$311	\$1,018
Benefit Savings .....	18	126	89	233
Total additional savings.....	\$93	\$758	\$400	\$1,251

<sup>a</sup> Excluding adjustments for additional proposed positions.

None of the new positions proposed for the judiciary have been budgeted for salary savings in 1982-83. In the event the Legislature approves any of these staff increases, we recommend that the amount budgeted for these positions be reduced to reflect salary savings at the minimum rate of 5 percent, as prescribed by the Department of Finance budget preparation instructions. For those new positions for which we recommend approval, salary savings total \$7,000.

In summary, we recommend that total salary savings be budgeted for the Supreme Court, the courts of appeal, and the Judicial Council on the basis of recent historical experience, for a General Fund savings of \$1,258,000.

#### **Unjustified Consulting Funds**

*We recommend a reduction of \$371,000 requested for consultant and professional services on the basis that no justification has been presented on the need for these funds, for a corresponding savings to the General Fund (Item 0250-001-001).*

The budget requests \$502,000 for the Judicial Council and \$11,000 for the Supreme Court to be used for consultant and professional services during the budget year. This amount includes two new projects costing \$142,000, that are discussed later in this analysis.

For the current year, the Legislature appropriated \$748,000 to the Supreme Court and the Judicial Council for consultant services. Of this amount, \$245,000 is for five federally reimbursed grant projects, which will be completed prior to June 30, 1982. At the time this *Analysis* was prepared, the council had not responded to our requests for information as to how the remaining \$503,000 will be expended in the current year.

**JUDICIAL—Continued**

Similarly, the council has been unable to identify the projects that would be financed in the budget year with that portion of its \$513,000 request not earmarked for the two new projects (\$371,000). Nor has it documented a need or purpose for obtaining these funds. Lacking justification for these expenditures, we recommend that they be deleted, for a General Fund savings of \$371,000.

**Additional Judicial Secretaries**

*We recommend deletion of three proposed judicial secretary positions because the need for the additional positions to handle the court's workload in 1982-83 has not been demonstrated, for a General Fund savings of \$83,000 (Item 0250-001-001).*

The Supreme Court is requesting three additional judicial secretaries to be distributed among the six associate justices. Currently, each associate justice is authorized one secretary. The request is based on the premise that filings with the Supreme Court will increase as a result of the additional judgeships authorized for the courts of appeal in 1981.

While we agree that an increase in workload may eventually result from the new judgeships, it is not clear that a substantial workload increase will materialize in 1982-83. Furthermore, our analysis suggests that the court may be able to absorb some additional workload within existing resources. Supreme Court filings have increased only slightly since 1974-75, when 3,668 cases were filed. In 1979-80 (the most recent year for which the court has made data available) filings totaled 3,858, or 5.2 percent more than the number filed five years earlier. The number of written opinions during this period *declined*, from 189 to 140. In contrast, 206 written opinions were issued in 1968-69.

In the absence of a documented increase in workload that cannot be absorbed, we recommend deletion of the three new positions, for a General Fund savings of \$83,000.

**Research Attorneys**

*We recommend deletion of 2.4 attorney positions that have not been justified by documented workload, for a General Fund saving of \$59,000 (Item 0250-001-001).*

During the current year, the Supreme Court has had two vacant positions, a principal attorney III and a bailiff. The budget proposes to delete the two positions and redirect the funds to establish 3.4 research attorney positions and provide for related operating expenses. The net effect would be an increase of 2.4 attorney positions, and elimination of a bailiff position.

This request, as was the request for three additional secretaries, is based on anticipated workload increases resulting from the 18 new appellate judgeships. As we indicated above, the additional judgeships may result in increased workload at some point in the future, but we do not expect this increase to materialize in the budget year. On this basis, we recommend deletion of 2.4 attorney positions and related general expenses, for a General Fund savings of \$59,000. If this recommendation is adopted, the court will continue to have the same number of research attorney positions available as it has in the current year.

**Civil Jury Trial Study**

*We recommend that funding for the civil jury trial study be deleted to reflect legislative intent, for a General Fund savings of \$100,000 (Item 0250-001-001).*

Chapter 884, Statutes of 1981, established a pilot project in municipal and justice courts in Los Angeles County. Under this project, all civil trial juries from July 1, 1982 to July 1, 1985 will consist of eight persons. The act requires the Judicial Council to make the arrangements necessary to collect and evaluate data on the project before July 1, 1982, and to report its findings to the Legislature on or before December 30, 1985. It also declared that any costs imposed on the Judicial Council "be paid from existing appropriations for the support" of the council.

The budget requests \$100,000 to finance the study, despite the Legislature's directive that the costs of the study be absorbed. Furthermore, the council indicates that the \$100,000 request was based on a proposed study design which the council states is unlikely to be adopted.

Because the Legislature specifically stated that the costs of the study are to be absorbed, and because the requested amount has not been justified, we recommend that the request be deleted, for a General Fund savings of \$100,000.

**Judicial Impact Reports**

*We recommend that funding for judicial impact analyses be deleted to reflect legislative intent that these analyses be prepared within existing resources for a savings of \$42,000 to the General Fund (Item 0250-001-001).*

Chapter 716, Statutes of 1981, which became effective January 1, 1982, requires the Legislative Analyst, on a nine-month trial basis, to prepare judicial impact analyses of bills referred to the Judiciary Committees of the Assembly and Senate, or to the Assembly Criminal Justice Committee. The act requires the Analyst to select bills for analysis based on the bill's potential impact on court workload and costs, but only to the extent that existing resources are available for this purpose. Chapter 716 specified that the Analyst's office is not to add staff to undertake these analyses. The act also requires the Department of Finance and the Judicial Council to assist us.

In compliance with the provisions of Chapter 716, we are not proposing to increase staff for this function. Nor has the Department of Finance requested additional staffing to assist us. The Judicial Council, however, is requesting \$42,000 in consultant services for this purpose.

Our analysis indicates that the request should not be approved. Given that Chapter 716 directs our office, which has the primary responsibility for the analyses, not to add staff, it would not be consistent with legislative intent for the council, which has a supporting role under Chapter 716, to increase its budget for this purpose. Accordingly, we recommend that the funds requested for consultant services be deleted, for a General Fund savings of \$42,000.

**Law School Externs**

*We recommend that \$90,000 requested for the travel of law school externs be deleted because the courts have not reflected the savings that they would realize from this proposal in their own budgets, for a corresponding savings to the General Fund (Item 0250-001-001).*

The budget proposes an augmentation of \$90,000 to allow courts to pay

**JUDICIAL—Continued**

transportation expenses for approximately 325 legal externs participating in a one-semester work-study program with the Supreme Court and the courts of appeal. The externs are students who receive credit from their law schools for participating in this program, but who receive no salary, per diem, or other reimbursement for expenses.

In past years, each court has reimbursed its externs for travel expenses, based on its own priorities and available resources. The Judicial Council has requested \$90,000 to standardize reimbursement for these externs. The council has not, however, offset the amounts currently being paid to externs against the amount requested. Thus, approval of the request would allow the courts to use funds now going to externs for other purposes, effectively augmenting their budgets.

Absent offsetting adjustments to the court's budget to reflect the savings that would result from this proposal, we recommend that the funds be deleted, for a General Fund savings of \$90,000.

**Staffing and Start-Up Costs for 18 New Judgeships**

*We recommend the deletion of 13.5 proposed positions which are not justified on a workload basis, for a General Fund savings of \$474,000 (Item 0250-001-001).*

As shown in Table 3, the courts of appeal are requesting 18.5 positions to support the additional locations and judges authorized by Chapter 959. These positions are in addition to the judges themselves and their personal staffs. The increase consists of 1 librarian, 4 attorneys, 1 court clerk for the new district in San Jose, and 12.5 clerical positions.

**Clerical Staffing.** In past years, the court has determined the number of clerks required on the basis of the number of appeals filed. Historically, the courts used a standard of 250 appeals per clerk as the basis for their budget requests. This standard was used by the courts to justify their request for 1981-82. This year, however, the courts have modified the standard. While the 250:1 ratio is maintained, workload would be based on the filing of both appeals and original proceedings, rather than just appeals alone. This would require a significant increase in clerk staffing.

Our analysis indicates that such an increase is not justified by workload. Based on data provided by the courts, the average clerk has handled approximately 343 filings of appeals and original proceedings per year, for the last five years. We know of no reason why their productivity should be lowered by 27 percent in 1982-83.

For the budget year, the courts are requesting 13.5 new positions, consisting of 12.5 clerical positions and one court clerk. The five districts currently are authorized 50 clerical positions, including the five district court clerks. Based on workload projections provided by the court, four more clerical positions are justified using the standard of 343 filings per clerk. On this basis, we recommend deletion of 9.5 of the requested clerical positions, for a General Fund savings of \$251,000.

**Attorneys.** In recent years, court attorneys have handled approximately 87 appeals per attorney. In 1980-81, this ratio ranged from 74:1 in the Third District to 96:1 in the Second District. Because of the new attorney position added for each of the 18 new judges, the overall caseload/attorney ratio will decline to 75:1 in the budget year. The budget proposes to reduce this ratio further, by adding four central research attorneys.

Again, we know of no basis to budget for such a significant drop in

attorney productivity from the 87:1 ratio experienced in recent years. On this basis, we recommend deletion of the four proposed attorney positions, for a General Fund savings of \$175,000.

**Librarian for New District.** Based on standard staffing of the courts, the new Sixth District requires a librarian position. We recommend approval.

**Start-up Costs.** The budget includes \$1,664,000 for start-up costs, related operating expenses, and rent for the three new locations. The request includes \$150,000 for 10 word processing machines at \$15,000 each. The proposed vendor indicates, however, that the unit price of the machines is \$11,500. Therefore, the court's request can be reduced by \$35,000.

Table 6 shows total costs for the 18 new judgeships as proposed by the courts and as recommended by the Analyst.

**Table 6**  
**Judicial**  
**Costs for New Judgeships**  
**(in thousands)**

	<i>Budget Proposal</i>	<i>Analyst's Proposal</i>	<i>Reduction</i>
Total salaries and wages .....	\$783	\$470	\$313
Salary savings .....	—	-23	23
Staff benefits .....	171	76	95
Total personal services .....	\$954	\$523	\$431
Operating expenses and equipment .....	708	708	—
Net One-time costs .....	956	913	43
Santa Barbara .....	(347)	(335)	(12)
Santa Ana .....	(149)	(130)	(19)
San Jose .....	(460)	(448)	(12)
Totals .....	\$2,618	\$2,144	\$474
Personnel-years .....	(27.5)	(14)	(13.5)

#### **Additional Courts of Appeal Positions**

*We recommend the deletion of two clerical positions which are not justified on a workload basis, for a General Fund savings of \$47,000 (Item 0250-001-001).*

The budget requests two clerk typists, one for the Third District, and one for the San Diego Division of the Fourth District.

As we have discussed above, our analysis indicates that four additional clerical positions should be sufficient to enable the courts of appeal to meet anticipated workload in the budget year. Furthermore, with the establishment of an Orange County Division in the Fourth District, workload for the San Diego division will actually decrease by an amount sufficient to permit one position to be transferred to Orange County. Based on the lack of workload justification for either position, we recommend that they be deleted, for a General Fund savings of \$47,000.

#### **Law Clerks for the Courts of Appeal**

*We recommend deletion of 29 law clerks and one legal typist because the cost-effectiveness of the position has not been demonstrated, for a General Fund savings of \$1,163,000 (Item 0250-001-001).*

The Judicial Council is requesting 29 second law clerks for judges of the courts of appeal, at a cost of \$1,135,000. These clerks would be assigned to

**JUDICIAL—Continued**

judges on a priority basis. The request indicates that funds for 40 additional second law clerks will be requested in the 1983–84 budget.

In 1978–79, a two-year pilot project was funded to determine the effect of a second law clerk on the productivity of a judge. The pilot project, which had a scheduled June 30, 1980, completion date, was designed to determine whether the additional law clerks could provide more economical research assistance than that provided by central research attorneys.

In approving the 1980 Budget Act, the Legislature deleted funds requested to provide a second law clerk for each judge because the preliminary data from the demonstration project did not demonstrate that the second clerk was cost-effective. At the same time, the Legislature approved continuation of the eight positions in the pilot project until June 30, 1981.

In April 1981, the council submitted a final report on the project. Our analysis of this report indicates that the second law clerk has not been shown to increase output sufficiently to justify its cost. As for the impact of the second clerk on the *quality* of judicial opinions, the evidence is mixed. Some of the judges participating in the study indicated that the second clerk gave them more time to review other judges' opinions and to stay more current on recent trends in the law. Others found that the extra clerk had little impact on their work product, and noted that, in their opinion, quality could not be measured by the study. All judges reported that the drafts prepared by the second law clerks required more time to edit than those prepared by research attorneys.

According to the council, no additional evidence is available to strengthen the claims of cost-effectiveness and improved quality made on behalf of the second law clerks.

Lacking documentation that the second law clerks are cost-effective, we recommend that the 29 positions be deleted, for a General Fund savings of \$1,135,000.

In addition to the 29 clerks, the budget requests funds for a senior legal typist for the Third District because of projected workload resulting from the addition of the new law clerks. No other district requested additional staffing to handle workload related to the second law clerks. Consistent with our recommendation on the 29 positions, and because the position cannot be justified on the basis of workload, we recommend that the senior legal typist position be deleted, for a General Fund savings of \$28,000.

**Law Clerks for the Supreme Court**

*We recommend that the six proposed law clerks for the Supreme Court be deleted because neither workload nor cost-effectiveness data documents the need for these positions, for a General Fund savings of \$235,000 (Item 0250-001-001).*

The budget proposes six new law clerks for the Supreme Court, at a cost of \$235,000. This proposal would provide each associate justice with a fourth personal research attorney. A similar proposal was made last year by the court, but it was not approved by the Legislature.

The court determines staffing requirements, based on the number of filings. This workload indicator has not increased significantly since 1974–75. Moreover, as is the case with the second law clerks for appellate court judges, there is no evidence that such attorneys are cost-effective. Lacking

documented increases in workload or evidence that staffing augmentation would be cost-effective, we recommend that these positions be deleted, for a savings of \$235,000 to the General Fund.

### LEGISLATIVE MANDATES

*We recommend that funding to reimburse the counties for costs mandated by Ch 1355/76 be reduced by \$45,000 (Item 0250-101-001).*

The budget proposes \$2,598,000 from the General Fund to reimburse local government for court-related state-mandated programs, as shown in Table 7.

**Table 7**  
**Judicial Council**  
**Legislative Mandates**

<i>Program</i>	<i>Estimated 1981-82</i>	<i>Proposed 1982-83</i>
1. Circuit Justice Court Judges' Salaries (Chapter 1355, Statutes of 1976) .....	\$58,000	\$58,000
2. Economic Litigation Study Project (Chapter 960, Statutes of 1976) .....	31,000	30,000
3. Court Interpreter Services (Chapter 158, Statutes of 1978) .....	10,000	10,000
4. Judicial Arbitration (Chapter 743, Statutes of 1978) .....	2,500,000	2,500,000
Totals.....	\$2,599,000	\$2,598,000

*Compensation of Circuit Justice Court Judges Overbudgeted.* The budget requests \$58,000 to reimburse counties for the mandate related to compensation of circuit justice court judges.

While the budget indicates expenditures of \$58,000 annually in 1980-81 and 1981-82, this represents the amount *encumbered* by the Controller, and not the amount actually *paid* for local claims. In the most recent three years for which actual data is available (1978-79 through 1980-81), only \$14,000, \$12,000, and \$9,000 have been expended for claims. Based on these disbursements, we recommend that Item 0250-101-001 be reduced by \$45,000.

### CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND

Item 0390 from the General  
Fund

Budget p. LJE 17

Requested 1982-83 .....	\$13,828,000
Estimated 1981-82.....	10,568,000
Actual 1980-81 .....	12,280,000
Requested increase \$3,260,000 (+30.8 percent)	
Total recommended reduction .....	\$516,000

### 1982-83 FUNDING BY ITEM AND SOURCE

Item	Description	Fund	Amount
0390-001-001—Supreme and Appellate Court Judges		General	\$511,000
— —Government Code Section 75101		General	405,000
0390-101-001—Superior and Municipal Court Judges		General	7,206,000
— —Government Code Section 75101		General	5,706,000

## CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND—Continued

## SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis  
page

- 1 *State's supplemental appropriation. Reduce Item 0390-001-001 by \$205,000, and Item 0390-101-001 by \$311,000.* Recommend reduction of \$516,000 in the state's Budget Act appropriation to the system because statutory contributions for new judgeships were omitted from projected fund revenues.

21

## GENERAL PROGRAM STATEMENT

The Judges' Retirement Fund provides retirement benefits for municipal, superior, appellate and supreme court judges and their survivors under the Judges' Retirement System. This system is administered by the Public Employees' Retirement System.

Primary receipts of the fund consist of (1) state General Fund contributions equal to 8 percent of the payroll for all authorized judgeships, (2) contributions equal to 8 percent of salary from the active judges, (3) fees on civil suits filed in municipal and superior courts and (4) annual Budget Act appropriations from the state General Fund that are needed to keep the fund solvent on a year-to-year basis.

During the current year, the fund will receive contributions from approximately 1,200 active judges, and will pay benefits to approximately 425 retired judges and 260 surviving spouses.

Table 1  
Judges' Retirement Fund  
Fund Condition  
(in millions)

	Actual 1980-81	Estimated 1981-82	Proposed 1982-83	Change	
				Amount	Percent
Beginning Resources .....	\$1.9	\$3.2	\$1.2	-\$2.0	-62%
1. State Contribution					
a. Statutorily required .....	5.4	5.8	6.1	0.3	5%
b. Budget Act appropriations .....	6.8	4.7	7.7	3.0	61
Totals, State Contributions .....	\$12.2	\$10.5	\$13.8	\$3.3	30%
2. Other Receipts:					
a. Judges' contributions .....	\$5.7	\$5.7	\$6.0	\$0.3	5%
b. Filing fees .....	3.8	3.7	3.8	0.1	3
c. Other receipts <sup>b</sup> .....	0.7	0.7	0.7	—	—
Totals, Other Receipts .....	\$10.2	\$10.1	\$10.5	\$0.4	4%
Grand Totals, Receipts .....	\$22.4	\$20.6	\$24.3	\$3.7	18
Totals, Resources .....	\$24.3	\$23.8	\$25.5	\$1.7	7%
Less Disbursements					
1. Retirement allowances, death benefits and refunds .....	\$20.5	\$22.8	\$25.4	\$2.6	11%
2. Assignments .....	-0.5	-0.5	-0.5	—	—
3. <i>Olson v. Cory</i> retroactive <sup>a</sup> .....	1.1	0.3	—	-0.3	-100
Totals, Disbursements .....	\$21.1	\$22.6	\$24.9	\$2.3	10%
Ending Resources, June 30 .....	\$3.2	\$1.2	\$0.6	-\$0.6	-50%

<sup>a</sup> For retroactive benefits due to retired members. A decision of the California Supreme Court in *Olson v. Cory* resulted in cost-of-living salary adjustments for some sitting and retired judges.

<sup>b</sup> Consists of interest income on temporary cash flow and county contributions (as employers of judges).

## **ANALYSIS AND RECOMMENDATIONS**

The budget proposes appropriations of \$13,828,000 from the General Fund to the Judges' Retirement Fund in 1982-83. This is an increase of \$3,260,000, or 30.8 percent, over General Fund support anticipated in the current year. The \$13.8 million request includes \$6.1 million for statutorily required contributions (8 percent of judges' salaries) and \$7.7 million to keep the fund solvent. A Budget Act appropriation is needed because statutory revenues will provide only 62.7 percent of what is needed to meet the fund's obligations. This appropriation is \$3.0 million, or 61.6 percent, larger than the Budget Act appropriation for the current year. Table 1 shows the receipts and disbursements projected for the fund during the prior, current, and budget years.

The reason why the proposed Budget Act appropriation is so much larger than the one for 1981-82 is that certain one-time revenues were used during the current year to finance benefits. Budget Act appropriations in prior years have provided more money than was needed to make benefit payments, resulting in a surplus of \$3.2 million at the beginning of 1981-82. A total of \$2 million from the surplus will be used in the current year, leaving \$1.2 million at year-end. The system proposes to use \$0.6 million of the remaining surplus to finance benefits in 1982-83.

### **Underestimated Contributions**

*We recommend a reduction of \$205,000 in Item 0390-001-001 and \$311,000 in Item 0390-101-001, because retirement contributions from non-judges will reduce the need for supplemental state funding in the Budget Act.*

In 1981 the Legislature approved 18 new appellate judgeships, 14 new superior court judgeships, and 20 new municipal court judgeships. Most of the new positions will be established by July 1, 1982. The budget, however, does not recognize the additional contributions that the state and the new judges will be required to make in 1982-83. Allowing for vacancies, and assuming no salary increase, the additional revenues to the Judges' Retirement Fund will be approximately \$516,000 in the budget year. We recommend a corresponding reduction of \$516,000 in the Budget Act appropriation to the fund. When allowance is made for the increase in the state's statutory contribution to the Judges' Retirement Fund (JRS), the net savings to the General Fund will be \$253,000.

### **The Growth of the Unfunded Liability Continues**

A fully funded retirement system has sufficient assets to meet its estimated future benefit obligations to members who have earned the benefits through past service. If the system's assets and the interest these assets will earn are not sufficient to meet these obligations, the system has an unfunded liability. In the *Analysis of the 1981-82 Budget*, we reported that the last actuarial analysis of the JRS found an unfunded liability of approximately \$400 million.

Since the 1981-82 *Analysis* was prepared, a new actuarial valuation has been issued. The actuary estimates that the June 30, 1980 unfunded liability was \$448 million. (The actual fund balance on that date was \$1.4 million.) No funds have been appropriated to reduce that liability, and based on the assumptions used by the actuary, we estimate that it will grow to

**CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND—Continued**

\$523 million by June 30, 1982.

Existing law requires that this unfunded liability be eliminated by January 1, 2002. The actuary estimated that to do so would require an annual state contribution equal to 42.1 percent of the judges' salaries. For 1982-83 this would amount to \$33.6 million.

The cost to the state of putting the system on a sound actuarial footing would be even higher. The state is not fully funding the benefits that currently are being earned, causing the unfunded liability to increase steadily. To fund these benefits, an annual contribution equal to 34 percent of the judge's salary, instead of the 8 percent currently required by statute, would be required. This can be considered the "normal cost" of the system.

We estimate that a General Fund contribution in excess of \$60.7 million would be required in 1982-83 if the JRS is to be made actuarially sound by January 1, 2002. This compares with the \$13.8 million requested in this budget.

The judges' system is the most costly of all state retirement systems. In our *Analysis* for prior years, we have listed specific changes in the benefit structure which could decrease the system's cost to the taxpayers. Unfortunately, reductions in benefits cannot help reduce the unfunded liability because the benefits earned to date by judges are viewed as a contractual right. The "normal cost" of the system, however, could be reduced significantly by tying benefits earned in the future to length of service, increasing the minimum age for retirement with full benefits for new judges, linking benefits earned in the future to final salary, and raising filing fees to increase fund revenue.

The Public Employees' Retirement System has proposed a series of changes to the JRS benefit structure that would reduce the normal cost of the system from 34 percent to 21.26 percent of salary. Another proposal, which was recommended by the actuary who last evaluated the JRS, would reduce normal cost to 22.84 percent of salary.

**SALARIES OF SUPERIOR COURT JUDGES**

Item 0420 from the General Fund	Budget p. LJE 17
Requested 1982-83 .....	\$35,779,000
Estimated 1981-82.....	35,067,000
Actual 1980-81 .....	32,860,000
Requested increase (excluding amount for salary increases) \$712,000 (+2.0 percent)	
Total recommended reduction .....	None

**GENERAL PROGRAM STATEMENT**

The state pays a portion of the salaries and benefits earned by the 642 superior court judges. Currently, counties contribute funds to pay each judge's salary. The amount contributed by an individual county is either \$5,500, \$7,500, or \$9,500 per year, depending on the county's population. The state pays the balance of each judge's salary, which is now set at \$63,267.

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The budget proposes an appropriation of \$35,779,000 from the General Fund to cover the state's share of superior court judges' salaries and benefits. This is an increase of \$712,000, or 2.0 percent, above estimated current-year expenditures. The increase results from the addition of 14 new judge-ships, which were authorized in 1981.

Funding for 1982-83 salary and benefit increases for superior court judges is requested in Item 9800 of the Budget Bill.

**STATE BLOCK GRANTS FOR SUPERIOR COURT JUDGESHIPS**

Item 0440 from the General  
Fund

Budget p. LJE 18

Requested 1982-83 .....	\$9,060,000
Estimated 1981-82 .....	8,460,000
Actual 1980-81 .....	8,400,000
Requested increase \$600,000 (+7.1 percent)	
Total recommended reduction .....	None

**GENERAL PROGRAM STATEMENT**

The state provides the counties with an annual block grant of \$60,000 for each superior court judgeship established after January 1, 1973. This subvention assists the counties in providing the necessary fiscal and staff support for the additional judges.

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The budget requests \$9,060,000 to provide block grants on behalf of 151 superior court judgeships in 1982-83, including 10 judgeships approved during the 1981 legislative session. Four additional judgeships were approved in 1981, but the authorizing legislation specified that block grants would not be paid because the judgeships were created in lieu of referees or commissioners, which were fully county-supported. The state also contributes towards the salary, retirement, and health benefits for superior court judges.

**NATIONAL CENTER FOR STATE COURTS**

Item 0460 from the General Fund	Budget p. LJE 20
Requested 1982-83 .....	\$14,000
Estimated 1981-82.....	14,000
Actual 1980-81 .....	14,000
Requested increase—None	
Total recommended reduction .....	None

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The budget proposes an appropriation of \$14,000 from the General Fund as California's membership fee in the National Center for State Courts. This is the same amount appropriated for the current year. Members of the center include all 50 states, four territories, and the District of Columbia. The \$14,000 fee is based on the state's population, and amounts to approximately 7 percent of the membership fees paid by the states. Membership entitles California to judicial research data, consultative services, and information on the views of the various states on federal legislation and national programs affecting the judicial system.

**GOVERNOR'S OFFICE**

Item 0500 from the General Fund	Budget p. LJE 21
Requested 1982-83 .....	\$4,929,000
Estimated 1981-82.....	4,929,000
Actual 1980-81 .....	4,491,000
Requested increase (excluding amount for salary increases)—None	
Total recommended reduction .....	None

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The budget proposes an appropriation of \$4,929,000 from the General Fund for support of the Governor's office in 1982-83. This amount is the same as estimated current-year expenditures. The request, however, makes no allowance for any salary or staff benefit increase that may be approved for the budget year.

The Governor's office has 87.6 authorized personnel-years in the current year. No increase is proposed for 1982-83.

**Community Services Representatives**

The 1981 Budget Act appropriated \$180,000 to the Employment Development Department (EDD) for eight contracted community service representatives. The Budget Act also included language directing the administration to request any funds proposed to continue the contracts with the community representatives in the budget for the Governor's