

Supreme Court

Item 15

Contribution to Legislator's Retirement Fund—Continued

budget year needs is increased by \$105,000 over that amount appropriated for the current fiscal year based on revised estimates of the cost of statutory allowances and benefits.

We recommend approval of the item as budgeted.

SUPREME COURT

ITEM 15 of the Budget Bill

Budget page 8

FOR SUPPORT OF THE SUPREME COURT FROM THE GENERAL FUND

Amount requested	\$1,008,918
Estimated to be expended in 1962-63 fiscal year	954,240
Increase (5.7 percent)	\$53,678

TOTAL RECOMMENDED REDUCTION

None

GENERAL SUMMARY

The California Supreme Court is the highest court of appeal in the State. It consists of a Chief Justice and six associate justices assisted by a supporting clerical and research staff of 58 positions.

The Supreme Court is headquartered in San Francisco but holds sessions in Sacramento and in Los Angeles.

This court hears appeals in cases of equity, in cases at law involving title or possession of real estate, in taxation and probate matters and in death penalty cases. It has jurisdiction to review all cases decided by the five district courts of appeal and to issue writs of habeas corpus, mandamus, prohibition and certiorari. This court is the body which admits qualified applicants to the practice of law in California. It considers all executive clemency applications submitted to the Governor where the applicant has suffered two or more felony convictions. It is the current practice of the court to transfer to the district courts of appeal all appeals which are not within or closely allied to its exclusive jurisdiction.

ANALYSIS

Expenditures proposed for the Supreme Court for fiscal year 1963-1964 total \$1,008,918 which is an increase of \$53,678, or 5.7 percent, over estimated expenditures for the current year.

The work of the Supreme Court and the five district courts of appeal is integrated to the extent that it may be considered a single effort to dispose of appeals from the judgments or orders made by the trial courts of the State.

Statistics published by the Judicial Council show that the volume of business of the combined appellate courts has increased between fiscal year 1950-1951 and fiscal year 1960-1961 as follows:

Filings	65.21 percent
Dispositions	51.13 percent

The increase in matters presented to these courts through the years has been met by increasing the number of justices in the district courts

Item 16**Judicial Council****Supreme Court—Continued**

of appeal. The 1961 addition of nine new appellate justice positions was an increase of 32.14 percent in the total number of top appellate justices.

1 Attorney IV (budget page 8, line 39)----- \$16,212
 2 Legal secretary (budget page 8, line 40)----- 11,664

The court supports its request for the proposed legal position on the basis that since there have been a number of new justices appointed to the Supreme Court, the probability of these justices being disqualified to sit in appeals on recent cases is great and it is anticipated that practically a full-time justice pro tem will be needed. The attorney requested will assist the pro tempore justice.

The court proposes two new secretarial positions, one for San Francisco and one for Los Angeles where no secretarial help is now provided.

The Supreme Court presently has 18 authorized lawyer positions, more than two for each justice. In addition to the lawyers, there are eight authorized research positions. As the staff of the court is now constituted, there are approximately three technical positions to each secretarial position authorized.

We recommend approval as budgeted.

JUDICIAL COUNCIL**ITEM 16 of the Budget Bill**

Budget page 9

**FOR SUPPORT OF THE JUDICIAL COUNCIL
FROM THE GENERAL FUND**

Amount requested-----	\$390,446
Estimated to be expended in 1962-63 fiscal year-----	377,193
Increase (3.2 percent)-----	\$13,253

TOTAL RECOMMENDED REDUCTION----- None

GENERAL SUMMARY

The Judicial Council is a constitutional agency. It is composed of the Chief Justice of the Supreme Court as chairman, 12 judges representing all court levels, 4 lawyers and 2 legislators. The Supreme Court Clerk serves as council secretary and the council appoints an administrative director of the courts to serve at its pleasure and perform such duties as may be delegated to him. Council headquarters is located in San Francisco.

The primary functions of the Judicial Council are to survey the condition of court business, to make suggestions for improvements, to make recommendations to the Governor and to the Legislature and to adopt rules of procedure for the courts.

The chairman is given authority to expedite the business of the State's courts by assigning added judges to courts where calendars are congested or to courts where vacancies exist.

The council has now delegated broad authority to the administrative director who with his staff of 26 persons is performing legal, managerial

Judicial Council

Item 17

Judicial Council—Continued

and clerical functions for the council and is gathering and analyzing statistics of court workload and operation.

ANALYSIS

The Judicial Council is scheduled to spend \$390,446 for its general operations during fiscal year 1963-1964, an increase of \$13,253, or 3.2 percent, over estimated expenditures for the current year.

Approximately three-quarters of the American states have provided themselves with a judicial council to work on the great problem of improving the administration of justice through the courts. California established its Judicial Council in 1926 with authority to review the court problem continuously, move judges into areas of congestion, and to make recommendations to the Legislature and the Governor for action.

Since its inception, the council has sponsored new rules of court, an administrative procedure act, a revised organization for the courts below the superior courts, and rules for pretrial conferences looking to the speeding up of civil trials by narrowing the issues to be tried. Effective January 1, 1963, amendments to the current pretrial procedure will provide that settlement conferences may be held prior to pretrial conferences and that small and limited cases may be exempt from pretrial requirements.

Constitutional amendment in 1960 increased the council's membership to its present number by adding lawyers and legislators to the complement of judges at the same time that it provided also for establishing the Administrative Director of the Courts. In its first year of operation during fiscal year 1962-1963, the new office has been reorganized to include staff divisions to deal with legal matters, research and statistics, and the problem of management and administration of business affairs of the courts. The office has published court rules. It arranged an institute for juvenile court judges under provisions of a new law. It has published statistics on a more timely basis.

The principal increases in expenditures proposed for the budget year appear to be for merit salary raises, added printing and the new item of expense for institutes and seminars for judges.

We recommend approval of this item as budgeted.

ADDITIONAL SUPPORT OF THE JUDICIAL COUNCIL

ITEM 17 of the Budget Bill

Budget page 9

FOR ADDITIONAL SUPPORT OF THE JUDICIAL COUNCIL FROM THE GENERAL FUND

Amount requested	\$42,000
Estimated to be expended in 1962-63 fiscal year.....	42,000

Increase	None
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TOTAL RECOMMENDED REDUCTION.....	None
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GENERAL SUMMARY

The Constitution requires that the Chief Justice of the Supreme Court, as chairman of the Judicial Council, shall seek to expedite judi-

Additional Support of the Judicial Council—Continued

cial business and to equalize the workload of the judges by the assignment of judges from other courts to assist a court or a judge whose calendar is congested, or where a judge is disqualified or a vacancy exists.

Judges must accept the assignments made. In addition to travel and other expenses, assigned judges receive the same compensation as judges in the court to which they are assigned. The funds provided by this budget item are required to pay the State's share of the judges' salaries when lower court judges are assigned to the superior courts and to pay the added salary where superior court judges are assigned to higher courts or to counties which pay salaries higher than those of the county supplying the judge.

ANALYSIS

Expenditures proposed to defray added salaries for assigned judges for fiscal year 1963-1964 total \$42,000, an amount which is identical with the estimated expenditures for this purpose in the current year.

The amount estimated for expenditure during the current and budget years is less than amounts expended for assigned judges' salaries prior to the creation of the Fifth Appellate District Court and the addition of a substantial number of new judges to the superior courts by legislative acts in 1961 as is shown in the table below.

State Cost, Extra Compensation and Expenses for Assigned Judges

<i>Fiscal year</i>	<i>Amount requested</i>	<i>Amount actually spent</i>
1956-1957	\$25,000	\$34,000
1957-1958	25,000	47,000
1958-1959	30,000	47,000
1959-1960	45,000	52,000
1960-1961	50,000	75,100
1961-1962	62,000 ¹	30,481
1962-1963	42,000	42,000 Est.

¹ The requested sum of \$62,000 was reduced by legislative action to \$32,000, the amount appropriated by the Budget Act of 1961.

The amount of \$42,000 requested in the 1962-1963 fiscal year included the sum of \$30,000, approximately the amount spent under the reduced program in fiscal year 1961-1962 plus an amount of \$12,000 for payment of compensation and expenses of retired judges who might be assigned temporarily to active service.

Legislation was provided in the 1961 General Session to make possible the use of retired judges. Section 68543.5 of the Government Code, however, contains a proviso that if the compensation to be received by a retired judge for his services on the bench exceeds his retirement allowance, the allowance is to be suspended and he is to receive full compensation. Full compensation will, in many cases, exceed retirement allowances. A recent opinion of the Attorney General holds that a retired judge may waive his compensation and continue to draw his retirement allowance while he acts temporarily on an assignment.

Judicial Qualifications

Item 18

Additional Support of the Judicial Council—Continued

It appears that the use of retired judges will be limited normally by (1) the amounts appropriated to the Judicial Council and particularly by (2) the difficulty of securing compensation waivers.

The sum of \$42,000 estimated to be spent in the current year exceeds the amount actually spent for compensation and expenses of assigned judges in the base fiscal year 1961-1962 by \$11,519 or 37.79 percent. While it is not possible to anticipate the business of the courts at present with complete accuracy, it would appear that expenditures under this item should be more closely estimated.

We recommend approval of this item as budgeted.

COMMISSION ON JUDICIAL QUALIFICATIONS

ITEM 18 of the Budget Bill

Budget page 10

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

Amount requested	\$34,133
Estimated to be expended in 1962-63 fiscal year	32,775
Increase (4.1 percent)	\$1,358
TOTAL RECOMMENDED REDUCTION	\$1,500

Summary of Recommended Reductions

	Amount	Budget	
		Page	Line
Traveling—in-state	\$1,500	11	13

GENERAL SUMMARY

The Commission on Judicial Qualifications is a constitutional agency approved at the November 8, 1960, elections. The commission consists of five judges selected by the Supreme Court, two lawyers selected by the State Bar and two citizens appointed by the Governor. The commission has its headquarters in San Francisco and currently employs a staff of two persons.

The Constitution gives the commission authority to hear charges against any judge and to recommend to the Supreme Court the removal of a judge for willful misconduct in office, willful and persistent failure to perform his duties or habitual intemperance or his retirement for permanent disability seriously interfering with the performance of his duties. In the furtherance of its duties the commission may conduct confidential investigations.

During 1961 the commission received 68 complaints involving 75 judges mostly serving in the lower trial courts. The bulk of the complaints are reported to have been from dissatisfied litigants and well over half could be classed as trivial. Four trial judges resigned or retired, however, during the course of investigation. Other judges' practices have noticeably improved. We are told by commission staff that there are usually under study at any given time four or five important cases. As yet no recommendations for removal have been made to the Supreme Court.

Commission on Judicial Qualifications—Continued

ANALYSIS

Expenditures proposed by the commission for fiscal year 1963-1964 total \$34,133, an increase of \$1,358 or 4.1 percent over estimated expenditures for the current year.

This is a new commission. The current fiscal year is its first complete year of activity. The number of charges which may be brought against members of the bench is not easily ascertainable. While the methods of impeachment or recall are also available for removal of judges for misconduct or disability, they are difficult to employ and it is likely that the procedure prescribed for this commission will be the one normally chosen. There are presently less than 1,000 judges serving at all California court levels and it is, therefore, unlikely that the volume of complaints to be dealt with by this agency will ever be large.

Traveling—in-state (budget page 11, line 13)----- \$6,000

No justification has been presented to us in support of an increase in this item to the level requested.

We recommend the deletion of \$1,500 from this item to reduce it to \$4,500.

In the commission's initial year of 1961-1962, it spent the sum of \$2,705 for in-state travel. It estimates its expenditures for this purpose in the current year at \$4,500. It does not appear that there is any increase in staff, program or workload which would require a 33.3-percent increase in travel expenditures for the budget year.

DISTRICT COURT OF APPEAL, FIRST APPELLATE DISTRICT

ITEM 19 of the Budget Bill

Budget page 11

FOR SUPPORT OF THE DISTRICT COURT OF APPEAL, FIRST APPELLATE DISTRICT, FROM THE GENERAL FUND

Amount requested-----	\$536,926
Estimated to be expended in 1962-63 fiscal year-----	528,397
Increase (1.6 percent) -----	\$8,529

TOTAL RECOMMENDED REDUCTION----- None

GENERAL SUMMARY

The First District Court of Appeal is located in San Francisco and consists of three divisions of three justices each together with a clerical and research staff of 27.

This court hears appeals originating from the Superior Courts of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma Counties. This court also hears cases transferred to it from the Supreme Court and those cases which may come to it on appeal from municipal and justice courts. It has original jurisdiction to issue writs of habeas corpus, mandamus, prohibition and review.

District Court of Appeal, First Appellate District—Continued

ANALYSIS

Requested for expenditure during fiscal year 1963-1964 by the First District Court of Appeal is the sum of \$536,926, an increase of \$8,529, or 1.6 percent, over estimated expenditures for the current year.

This budget request continues the existing level of service. The principal increased item is that of merit salary increases.

We recommend approval as budgeted.

DISTRICT COURT OF APPEAL, SECOND APPELLATE DISTRICT

ITEM 20 of the Budget Bill

Budget page 12

FOR SUPPORT OF THE DISTRICT COURT OF APPEAL, SECOND APPELLATE DISTRICT, FROM THE GENERAL FUND

Amount requested	\$717,902
Estimated to be expended in 1962-63 fiscal year	686,484
Increase (4.6 percent)	\$31,418

TOTAL RECOMMENDED REDUCTION None

GENERAL SUMMARY

The Second District Court of Appeal sits in Los Angeles. Since 1961 it has consisted of four divisions of three justices each and has a supporting staff presently authorized at 39 positions. This is now the largest of the district courts of appeal in cost of operation, personnel employed, and in filings and dispositions of matters presented to it.

This court has appellate jurisdiction on cases arising from the superior, municipal and justice courts in Los Angeles, San Luis Obispo, Santa Barbara and Ventura Counties and hears those cases transferred to it by the Supreme Court. As is the case in the other district courts of appeal, this court has original jurisdiction to issue writs of habeas corpus, mandamus, prohibition and certiorari.

ANALYSIS

Proposed expenditures for the Second District Court of Appeal for fiscal year 1963-64 total \$717,902, an increase of \$31,418 or 4.6 percent over estimated expenditures for the current year.

Proposed New Positions

1 Accounting technician II (budget page 13, line 6)	\$4,788
1 Court reporter-secretary (budget page 13, line 7)	9,036

The court is requesting the two proposed new positions on the basis of a 10 percent increase in workload attributed to the increased number of superior court judges in the district and the new system under which appeals now may come up from municipal and justice courts in the district. The accounting position will handle accounting, budgeting and personnel transactions. The reporter-secretary will provide the fourth division of this court with a position comparable to similar positions already authorized for the other three divisions and one which was omitted from the staffing complement when the fourth division was created in 1961.

District Court of Appeal, Second Appellate District—Continued

The proposed accounting position is new for this court and for the appellate court structure as well. The Supreme Court and three of the five district courts of appeal contract with the Department of Finance for fiscal services. The second district court and the fourth district court have heretofore depended upon the court clerks to perform accounting and other related services.

The justices in the second district court are now requesting that a position be provided which will relieve the clerk of the technical duties of accounting, budgeting and personnel transactions on the ground that with a complement of 12 justices and 39 employees, fiscal and allied duties have become sufficiently heavy to require an additional staff position or its equivalent to handle them efficiently. We have looked at the workload in this court and in view of the present size of its operation, the addition of a new administrative position appears justified.

The secretary-reporter position appears justified on the basis of the existing technical staffing pattern in this court.

With the exception of the item of criminal appeal fees, increases in the remainder of the operating expense items appear to be due to increased workload. The increase in criminal appeal fees is due to recent appeal court decisions that all indigent appellants are entitled to legal representation on appeal. The fees for such representation are set and paid by the court.

We recommend approval as budgeted.

DISTRICT COURT OF APPEAL, THIRD APPELLATE DISTRICT

ITEM 21 of the Budget Bill

Budget page 13

FOR SUPPORT OF THE DISTRICT COURT OF APPEAL, THIRD APPELLATE DISTRICT, FROM THE GENERAL FUND

Amount requested	\$206,109
Estimated to be expended in 1962-63 fiscal year	203,837
Increase (1.1 percent)	\$2,272

TOTAL RECOMMENDED REDUCTION	None
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GENERAL SUMMARY

The Third District Court of Appeal holds its sessions in Sacramento and consists of one division of three justices and a clerical and technical staff of 12 persons.

This court hears appeals arising from the superior, municipal and justice courts situated in Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo, and Yuba Counties. The court hears all matters transferred to it by the Supreme Court and has original jurisdiction to issue writs of habeas corpus, mandamus, prohibition and certiorari.

District Court of Appeal, Third Appellate District—Continued

ANALYSIS

The third district court requests expenditures totaling \$206,109 during fiscal year 1963-1964 which amount is \$2,272 or 1.1 percent over estimated expenditures for the current year.

The proposed budget continues the existing level of service.

We recommend approval as budgeted.

DISTRICT COURT OF APPEAL, FOURTH APPELLATE DISTRICT

ITEM 22 of the Budget Bill

Budget page 14

FOR SUPPORT OF THE DISTRICT COURT OF APPEAL, FOURTH APPELLATE DISTRICT, FROM THE GENERAL FUND

Amount requested.....	\$226,002
Estimated to be expended in 1962-63 fiscal year.....	227,606
Decrease (0.7 percent).....	\$1,604

TOTAL RECOMMENDED REDUCTION	None
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GENERAL SUMMARY

The Fourth District Court of Appeal has its headquarters at San Diego but sits during alternate months in San Bernardino. The court consists of one division of three justices with a supporting staff of nine persons.

Cases and matters arising from courts situated in Inyo, Orange, Riverside and San Bernardino counties are normally heard at San Bernardino. Those arising from Imperial and San Diego Counties are heard at San Diego.

The court has appellate jurisdiction in cases and matters arising from the superior, municipal and justice courts located in the named counties and in cases referred to it by the Supreme Court. It likewise has jurisdiction to issue writs of habeas corpus, mandamus, prohibition and review.

ANALYSIS

Proposed expenditures for the Fourth District Court of Appeal for fiscal year 1963-1964 total \$226,002, a decrease of \$1,604, or 0.7 percent, from estimated expenditures for the current year.

Proposed New Positions

1 Legal secretary (budget page 15, line 10).....	\$5,259
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This position was administratively approved on the basis of increased workload shortly after the current budget year began. We recommend the continuance of this position.

We have looked at the workload in this court. The establishment of the fifth district court in Fresno did not relieve the workload generated by new trial court judges added within this court's present district. The court notes an increase of 34 percent in filings during the first six months of the current year over the same period of the previous year. This court currently has the highest ratio of superior judges to appellate justices among the district courts. Pro tempore judges are still being used to relieve workload.

District Court of Appeal, Fourth Appellate District—Continued

The decrease in expenditures is caused by reason of a drop in equipment costs since the furnishings for the court's quarters in the new state building in San Diego were provided for the most part in the current budget. Other expenditure proposals in the budget request reflect current price increases for the existing level of services.

We recommend approval of this item as budgeted.

DISTRICT COURT OF APPEAL, FIFTH APPELLATE DISTRICT

ITEM 23 of the Budget Bill

Budget page 15

FOR SUPPORT OF THE DISTRICT COURT OF APPEAL, FIFTH APPELLATE DISTRICT, FROM THE GENERAL FUND

Amount requested	\$185,249
Estimated to be expended in 1962-63 fiscal year	182,556

Increase (1.5 percent)	\$2,693
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TOTAL RECOMMENDED REDUCTION	None
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GENERAL SUMMARY

The Fifth District Court of Appeal is located in Fresno. It consists of one division of three justices and a supporting clerical and technical staff of eight persons.

This court is the latest addition to the State's appellate court structure. Legislation in 1961 split Fresno off as one of the three circuit cities then covered by the fourth district court out of San Diego. The fifth district court has jurisdiction over appeals originating out of superior, municipal and justice courts in Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tuolumne and Tulare Counties. This court also hears matters transferred to it from the Supreme Court and has jurisdiction to issue writs of habeas corpus, mandamus, prohibition, and review. This court currently has the lowest ratio of superior judges to appellate justices of any of the five district courts.

ANALYSIS

The request of the fifth district court calls for the expenditure of \$185,249, during fiscal year 1963-1964, an increase of \$2,693 or 1.5 percent over estimated expenditures for the current year.

We recommend approval of this item as budgeted.

GOVERNOR

ITEM 24 of the Budget Bill

Budget page 17

FOR SUPPORT OF THE GOVERNOR FROM THE GENERAL FUND

Amount requested	\$877,877
Estimated to be expended in 1962-63 fiscal year	839,015

Increase (4.6 percent)	\$38,662
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TOTAL RECOMMENDED REDUCTION	None
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