

**Legislators' Retirement Fund—Continued**

retirement allowances or death benefits. It is estimated that a total of 71 persons will receive comparable benefits during the 1965-66 fiscal year at a total cost of \$368,280.

**ANALYSIS AND RECOMMENDATIONS**

The budget proposes \$360,000 for the 1965-66 fiscal year which is an increase of \$10,000 or 2.8 percent above that which is available for the current fiscal year. This amount appears reasonable to provide for the estimated increase in number of retired members.

*We recommend approval of the amount budgeted.*

**SUPREME COURT**

ITEM 15 of the Budget Bill

Budget page 7

**FOR SUPPORT OF SUPREME COURT  
FROM THE GENERAL FUND**

Amount requested -----	\$1,175,177
Estimated to be expended in 1964-65 fiscal year -----	1,135,097
Increase (3.5 percent) -----	\$40,080

**TOTAL RECOMMENDED REDUCTION -----** None

**PROGRAM PLANS AND BUDGET**

The Supreme Court is the state court of highest appeal. It consists of a chief justice and six associate justices appointed by the Governor and an authorized staff of 70.5 man-year positions. Sessions of the court are held in San Francisco, Los Angeles and Sacramento.

The Supreme Court exercises the jurisdiction bestowed upon it by the Constitution through the following programs:

1. It hears appeals from the superior courts in matters of equity, real property, taxation, probate and in criminal cases wherein the death penalty has been imposed as judgment. It may grant petitions for the rehearing of appeals previously heard before it. It may and does transfer matters to the district courts and from the district courts to itself for hearing.

No budget year projection of workload anticipated under this program has been published by the court and no specific portions of the budget request are allocated to the program. The same statement holds true for the following four programs:

2. The court issues writs of habeas corpus, mandamus, prohibition and certiorari and such other writs as may be necessary to the exercise of its jurisdiction.

3. It hears and disposes of such motions as are presented to it.

4. It admits attorneys to the practice of the law.

5. It considers executive clemency applications to the Governor where the applicant has been twice convicted of felony.

The Supreme Court proposes to maintain the current level of service during the budget year.

The court proposes a total expenditure for the budget year 1965-66 in the sum of \$1,175,177 covering all programs. This is an increase of

## Supreme Court—Continued

\$40,080 or 3.5 percent over estimated expenditures for the current year. The major factor in the proposed expenditure increase appears to be that of merit salary raises.

## REVIEW OF AGENCY ACCOMPLISHMENTS

As indicated above the Supreme Court does not publish projections or current estimates of workload nor does it allocate portions of its budgets to the various functions by which the court is identified. The following statistics, however, indicate the magnitude of the workload for the most recently completed fiscal year of 1963-64. To this figure we have added two previous years of performance to show trend.

## 1. Appeals

	Fiscal years		
	1961-62	1962-63	1963-64
Appeals filed directly .....	318	312	257
Petitions for rehearing .....	803	907	257
Matters transferred .....	295	281	294

The number of appeals filed was less in the past year but the number of requests to the court for rehearings in cases already heard continued to show an increase. The district courts handle the bulk of the appellate business in the first instance and as this bulk continues to grow it is our judgment that the total number of items presented to the court likewise will continue to grow. The rate of transfers of cases to the district court remained constant.

## 2. Writs

	Fiscal years		
	1961-62	1962-63	1963-64
Original writs sought .....	308	326	641

The number of writs issued in the past year showed a gain of 96.5 percent. A high percentage of writs sought and issued are writs of habeas corpus. As cases broadening the procedures in favor of defendants are decided at the state and federal level many individuals now in prison are by writ questioning whether or not they were properly treated during the court process.

## 3. Motions

	Fiscal years		
	1961-62	1962-63	1963-64
Motions filed .....	9	17	29

While this program is an identifiable program of the court it is so variable in nature that trends and performance description are not feasible.

## 4. Admission to practice of the law.

No performance statistics are available. However, it may be noted that this portion of the court's workload occupies the court's attention briefly twice a year on the average.

## 5. Applications for executive clemency.

	Fiscal years		
	1961-62	1962-63	1963-64
Applications processed .....	14	10	23

Supreme Court—Continued

We have no measure as to the amount of time allocated to this function of the Supreme Court. The number of applications showed a sharp increase in the past year.

In maintaining its ongoing activity the Supreme Court has made the following record with respect to budget expenditures:

*Expenditure performance*

<i>Fiscal year</i>	<i>Budget request</i>	<i>Amount expended</i>	<i>Difference</i>
1961-62 -----	\$886,105	\$905,012 (act.)	+\$18,907
1962-63 -----	916,299	953,853 (act.)	+ 37,554
1963-64 -----	1,008,918	1,026,689 (act.)	+ 17,771
1964-65 -----	1,026,031 (est.)	1,135,097 (est.)	+109,066
1965-66 -----	1,175,177 (est.)	-	-

The increases in actual over estimated expenditures result from some small addition to staff, substantial salary increases and some increase attributable to the increase in amounts necessary to compensate assigned counsel in criminal appeals by indigent appellants.

*Revenue received*

The court collects certain filing fees prescribed by law. The collection record appears below. The amounts are credited to the General Fund.

<i>Fiscal years</i>	<i>Amount</i>
1961-62 -----	\$8,629
1962-63 -----	8,494
1963-64 -----	27,705 (act.)
1964-65 -----	35,000 (est.)
1965-66 -----	35,000 (est.)

The sharp increase in revenue noted in fiscal year 1963-64 resulted from an increase in the fee schedule enacted by the Legislature in Chapter 573, Statutes of 1963.

The foregoing statistics and records indicate to us that the court maintained its previous level of service during the last complete fiscal year.

**ANALYSIS AND RECOMMENDATIONS**

We find no reason for recommending a reduction in the level of service provided by this court. Since there is no request for an increase in the level of service, *we recommend approval of the item as budgeted.*

**POLICY OPTIONS**

The programs and functions of the Supreme Court are carefully provided for in detail by the Constitution. Tradition bears great weight in court processes. Rules of procedure are long established and difficult to change. Therefore, there appears no alternative method at this time by which the court might conduct its business. Simplification of law over a period of time could reduce the actual workload of the court.

The management procedures now being developed by the Administrative Office of the Courts and the Judicial Council under the supervision of the Chief Justice hopefully will result in a more equitable distribution of business between the appellate tribunals, as well as promote management efficiency of the courts.

## JUDICIAL COUNCIL

ITEM 16 of the Budget Bill

Budget page 8

FOR SUPPORT OF THE JUDICIAL COUNCIL  
FROM THE GENERAL FUND

Amount requested	\$420,411
Estimated to be expended in 1964-65 fiscal year	413,213
Increase (1.7 percent)	\$7,198

TOTAL RECOMMENDED REDUCTION	None
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## PROGRAM PLANS AND BUDGET

The Judicial Council consists of the Chief Justice of the Supreme Court who is chairman, 11 judges appointed by him, 4 lawyers, and 2 members of the Legislature. In discharge of the responsibilities placed upon it by the Constitution, the council pursues the following program activities:

1. It surveys the condition of business in the state's courts in an effort to improve the administration of justice.
2. It submits suggestions to the courts seeking uniformity and the expedition of business.
3. It reports to the Governor and the Legislature and recommends changes in procedural laws.
4. It adopts rules of practice and procedure for the courts.

The Judicial Council is a constitutional agency. The Clerk of the Supreme Court is its secretary. The council appoints an administrative director of the courts who supervises the council staff which consists of 26.2 authorized man-year positions.

The council surveys the business of the courts through the collection of statistics. It is increasingly suggesting procedural methods to the courts through institutes and seminars of judges. The council has not published estimates of workload and it has not allocated specific amounts of its budget request to its various programs.

For the budget year 1965-66 the Judicial Council proposes support expenditures of \$420,411 covering all programs. This is an increase of \$7,198, or 1.7 percent, over estimated expenditures for the current year.

The budget request for fiscal year 1965-66 indicates that the council proposes to maintain its current level of service during the budget year.

## REVIEW OF AGENCY ACCOMPLISHMENTS

The Judicial Council does not publish or provide estimates or projections of workload. Its biennial report covering the most recently completed fiscal year of 1963-64 is not available as of the writing date of this analysis. The nature of the council's work as outlined in the programs defined above, does not readily lend itself to quantitative measurement.

For fiscal year 1963-64 the council had requested a budget appropriation of \$390,446. In that year it actually expended the sum of \$369,368 which was \$21,078, or 5.7 percent, less than anticipated. The amount requested for the budget year of 1965-66 is an increase over the past actual year of \$51,043, or 13.8 percent, for the two-year period covered. For the past two years that represents an annual increase of

## Judicial Council—Continued

approximately 7 percent, which we judge to be sufficient to cover cost and workload increases.

## ANALYSIS AND RECOMMENDATIONS

We have noted above that in our judgment the budget request for 1965-66 maintains the current level of service provided by the Judicial Council.

*We recommend approval of this item as budgeted.*

## ADDITIONAL SUPPORT OF THE JUDICIAL COUNCIL

ITEM 17 of the Budget Bill

Budget page 8

FOR ADDITIONAL SUPPORT OF THE JUDICIAL COUNCIL  
FROM THE GENERAL FUND

Amount requested .....	\$120,000
Estimated to be expended in 1964-65 fiscal year .....	125,000
Decrease (4.0 percent) .....	\$5,000

TOTAL RECOMMENDED REDUCTION .....

None

## PROGRAM PLANS AND BUDGET

This is a single purpose function which the Chief Justice of the Supreme Court as Chairman of the Judicial Council is required to perform.

To expedite judicial business and equalize judges' workload the chairman assigns judges to courts where there is calendar congestion, judge disqualification, or vacancies in judgeships. Assignments must be accepted by active judges. In addition retired judges are being increasingly called upon to accept these assignments.

The amount budgeted for this function represents the estimated differences in salaries where a judge is assigned to a higher salary level court or where retired judges must be wholly compensated. Retirement benefits are suspended while a retired judge is serving on the bench.

The Judicial Council does not issue projections of the special assignment workload.

The amount proposed for expenditure for budget year 1965-66 is \$120,000, which is \$5,000 or 4.0 percent under estimated expenditures for the current year. Such rate of expenditure would appear to maintain the current level of service.

## REVIEW OF AGENCY ACCOMPLISHMENTS

As we have stated above the Judicial Council does not publish projections of the judge assignment workload to which we might refer in assessing accomplishments for the most recently completed fiscal year of 1963-64. The following table, however, illustrates the scope of the assignment activity:

Court	Number of assignments	
	1961-62	1962-63
Supreme .....	7	7
District courts of appeal .....	21	21
Superior courts .....	539	688
Municipal courts .....	566	610
Justice courts .....	1,239	1,456

**Item 18****Judicial Qualifications****Judicial Council—Continued**

The budget request to cover the cost of judge assignment for fiscal year 1963-64 was \$42,000. Actual expenditures for that year amounted to \$56,400, an increase of \$14,400 over the estimate. Allocation was made from the Emergency Fund to cover the increase. The budget request for the current year was \$70,000 but it is now estimated that the program cost for the current year will reach \$125,000, an increase of 78.5 percent over the estimate for the year. Again the overage is to be covered by an allocation from the Emergency Fund.

The greatly increased level of expenditure is attributed by the agency to three factors, (1) an approximate 20 percent increase in judges' salaries, (2) an increase in workload and (3) greater use of retired judges whose salary costs must be met since retirement benefits are suspended during the period of assigned service in accordance with the law.

The increase in level of expenditure is occurring in the current year as contrasted with the past year of 1963-64. The new level is to be continued into the budget year with a slight reduction in estimated cost.

**ANALYSIS AND RECOMMENDATIONS**

If we agree that the clearing of court calendars with expedition and the provision of speedy justice to parties litigant or charged with crime is a major objective, there is no apparent reason for recommending any reduction in the level of service now being provided by this program.

*We therefore recommend that this item be approved as budgeted.*

The problem of leveling and equalizing trial and appellate court workload is one which must seek cooperation not only from the courts each of which is a unique unit under the law but also from the bar whose members should be encouraged to readily agree to shifts of trial venue when requested.

*While we recognize that much has been accomplished we urge the Judicial Council to continue its studies looking toward a more efficient trial court operation, which could result in a reduction in the cost of assigning judges.*

**COMMISSION ON JUDICIAL QUALIFICATIONS**

ITEM 18 of the Budget Bill

Budget page 9

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

Amount requested .....	\$36,238
Estimated to be expended in 1964-65 fiscal year .....	35,201
Increase (2.9 percent) .....	\$1,037

<b>TOTAL RECOMMENDED REDUCTION</b> .....	None
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**PROGRAM PLANS AND BUDGET**

The Commission on Judicial Qualifications, established by the Constitution, consists of five judges, two lawyers, and two public members. It is headquartered in San Francisco and has a staff of 21 authorized positions.

## Judicial Qualifications—Continued

The commission is given a single program by law, that of receiving information about conduct of judges which may allege willful misconduct, failure to perform duties, habitual intemperance, or serious disability. The commission considers such information, investigates the matter and in the appropriate case makes its recommendation to the Supreme Court for removal or retirement of the particular judge.

The commission does not publish estimates of its workload or projections of workload anticipated for future years.

For the budget year 1965-66 the commission proposes to spend the sum of \$36,238 which is an increase of \$1,037 or 2.9 percent over estimated expenditures for the current year.

The budget request for fiscal year 1965-66, with its increase over current year estimates of approximately 3 percent reflects merit salary increases and an increment of temporary help needed when the stenographer is absent. In our judgment the commission's request maintains the present level of service.

## REVIEW OF AGENCY ACCOMPLISHMENTS

As we have noted above, the commission does not publish estimates on projections of workload. It maintains its records on a calendar rather than a fiscal year basis. The following table illustrates the current magnitude of the commission's activity during the year 1963.

Approximate number of judges subject to jurisdiction	1,000
Number of complaints	114
Number of complaints investigated	40
Number of judges who resigned or retired as result of charges	10
Number of recommendations to Supreme Court	None

The agency's budget request for fiscal year 1963-64, the last complete fiscal year, was \$34,133. Its actual expenditures for the year were \$31,937. This amount is \$2,196 or 6.8 percent less than the request. The request for the current year 1964-65 was \$33,370 and the agency now estimates its expenditure for the year at \$35,201 which exceeds the estimate by \$1,831 or 5.4 percent. This increase over estimate is largely in the item of investigation and hearing expense which appears to be a variable amount difficult to control and dependent largely upon whether or not complaints require such investigation.

## ANALYSIS AND RECOMMENDATIONS

The level of service provided by the commission consists primarily in its being "available" as a "complaint desk" and upon the judgment of the commissioners in screening complaints for investigation and hearing. Any recommendation for reduction in service might hamper what is considered generally to be a much needed service.

*We recommend that this item be approved as budgeted.*

## POLICY OPTIONS

This is a relatively new agency, created only in 1960. The agency provides a unique method by which pressure for resignation or retirement or actual orders by the Supreme Court may be exerted or secured by the public. In our judgment any suggested alternative methods of operation by the commission would be premature at this time. We need a longer span of time before such suggestions can be formulated.

**DISTRICT COURT OF APPEAL, FIRST APPELLATE DISTRICT**

ITEM 19 of the Budget Bill

Budget page 10

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

Amount requested .....	\$622,452
Estimated to be expended in 1964-65 fiscal year .....	605,774
Increase (2.8 percent) .....	\$16,678

**TOTAL RECOMMENDED REDUCTION** ..... None**PROGRAM PLANS AND BUDGET**

The District Court of Appeal, First Appellate District, one of five such districts, consists of three divisions of three justices each together with 27.7 man-years of authorized employee assistance.

The court holds its sessions in San Francisco. In exercising the jurisdiction conferred upon it by the State Constitution, the court pursues the following programs of activity:

1. It hears certain appeals from judgments of the superior, municipal and justice courts located in the Counties 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 together with such other appeals as may be transferred to it by the Supreme Court.

2. It issues writs of mandamus, certiorari, prohibition, habeas corpus, and such other writs as may be necessary to the exercise of its appellate jurisdiction.

3. It hears and disposes of such petitions, motions, stipulations and other miscellaneous matters as may be presented to it.

The courts of appeal do not publish estimates or projections of workload or allocate any specific portions of their budgets to the defined programs of activity. It is not possible therefore for us to establish work and cost units for future comparison purposes.

The First District Court proposes to spend \$622,452 during 1965-66, an increase of \$16,670, or 2.8 percent, over estimated expenditures for the current year. The increase reflects merit salary raises.

**REVIEW OF AGENCY ACCOMPLISHMENTS**

The Judicial Council in its measurement of court business generally employs filing figures as indicating a given court's workload. The filing figures for the First District Court as set forth below represent the work which the court must do at some time. We have used three fiscal years to show trend.

Program Item	Filings by fiscal year		
	1961-62	1962-63	1963-64
Appeals .....	508	522	510
Writs .....	280	278	321
Motions .....	52	61	66
Per judge .....	93.3	95.6	99.6

The number of case dispositions made by a court in a given year is not a good criterion of work since this figure is deceptive. A dismissal, for example, is a disposition representing virtually no workload as compared to a written opinion granting relief sought on appeal.

District Court of Appeal, First Appellate District—Continued

For fiscal year 1963-64, the most recently completed fiscal year, this court requested a budget of \$536,926. It actually spent \$520,034 which is \$16,892 or 0.3 percent less than the request. The amount sought for the current year was \$547,317. Expenditures for the current year are now estimated at \$605,774 which exceeds the request by \$58,457 or 10.6 percent, due almost entirely to substantial salary increases for the judges.

In accordance with the law the court charges filing and related fees in partial support of its activities and these fees are revenue for the General Fund.

Fiscal year	Revenue Collection	Amount
1963-64		\$16,856 (actual)
1964-65		18,000 (estimated)
1965-66		20,000 (estimated)

A principal accomplishment of the court for fiscal year 1963-64 in the face of the number of filings received was the maintenance of its immediate accessibility to litigants requiring its services without accumulating an increasing backlog of unfinished work and a consequent increase in time for reaching the court's hearing calendar.

ANALYSIS AND RECOMMENDATIONS

*We recommend no reduction in the existing level of service and since there is no request for an increase in the level of service provided by this court, we recommend approval of the item as budgeted.*

DISTRICT COURT OF APPEAL, SECOND APPELLATE DISTRICT

ITEM 20 of the Budget Bill

Budget page 11

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

Amount requested	\$868,174
Estimated to be expended in 1964-65 fiscal year	851,260
Increase (2.0 percent)	\$16,914
TOTAL RECOMMENDED REDUCTION	None

PROGRAM PLANS AND BUDGET

The Second District Court is the largest of the district courts. It holds its sessions in Los Angeles. It is composed of four divisions of three justices each. Authorized employee positions total 40.

In the exercise of its constitutional jurisdiction the court follows the programs set forth below.

1. It hears certain appeals from judgments of the superior, municipal and justice courts located in the following counties: Los Angeles, San Luis Obispo, Santa Barbara and Ventura.

2. It issues writs of mandamus, certiorari, prohibition, habeas corpus and such other writs as may be necessary to the exercise of its appellate jurisdiction.

**District Court of Appeal, Second Appellate District—Continued**

3. It hears and disposes of such petitions, motions, stipulations and other miscellaneous matters as may be presented to it.

The court does not make formal projections of its anticipated work load and does not allocate any specific amounts out of its total budget to its assigned programs. We point out certain "after the fact" workload characteristics of the court in a following portion of this analysis.

The Second District Court in its budget request for 1965-66 proposes to expend the sum of \$868,174 which is \$16,914 or 2.0 percent above estimated expenditures for the current year. The increase covers merit salary raises.

**REVIEW OF AGENCY ACCOMPLISHMENTS**

The number of action items filed in a court has now become one of the principal measurements of a court's workload. Each of these items may require research and clerical time, conferences, perhaps oral argument and in many instances the writing of an opinion. Filings therefore represent work to be done. Dispositions as a measure of workload are deceptive. Many dispositions are more statistics than workload, a dismissal, for example.

Below are listed filings with this court for the past three complete fiscal years:

<i>Program item</i>	<i>Filings by fiscal year</i>		
	<i>1961-62</i>	<i>1962-63</i>	<i>1963-64</i>
Appeals -----	1,070	1,213	1,334
Writs -----	400	485	471
Motions -----	96	89	87
Per justice -----	130.5	149.9	157.6

For fiscal year 1963-64, the last completed fiscal year the court requested the sum of \$717,902. It actually expended \$720,966 which is \$3,064 or only 0.4 percent in excess of the estimate. For the current year the budget request was \$772,040. Current year expenditures are now estimated at \$851,260. The latter amount exceeds the request by \$79,220 or 10.2 percent, due primarily to a substantial increase in justices' salaries which has become effective in the current year.

Revenue to the General Fund collectable by the court as filing fees in accordance with the law is noted below:

<i>Fiscal year</i>	<i>Revenue</i>	<i>Amount</i>
1963-64 -----		\$25,303 (actual)
1964-65 -----		28,000 (estimated)
1965-66 -----		30,000 (estimated)

The court was able in fiscal year 1963-64 to maintain its authorized level of service.

**ANALYSIS AND RECOMMENDATIONS**

We have been informed by representatives of this court that its backlog of cases is now proportionately greater than it was at the time of the creation of the fourth division in 1961. Most of the filings made with this court came from Los Angeles County. On the average each justice in this court is completing 60 cases a year.

**District Court of Appeal, Second Appellate District—Continued**

Any reduction in the current level of service rendered by the court would result in substantial delays in the administration of justice in this district.

*We recommend approval as budgeted.*

**DISTRICT COURT OF APPEAL, THIRD APPELLATE DISTRICT**

ITEM 21 of the Budget Bill

Budget page 12

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

Amount requested .....	\$233,102
Estimated to be expended in 1964-65 fiscal year .....	223,883
Increase (4.1 percent) .....	\$9,219

**TOTAL RECOMMENDED REDUCTION** ..... None

**PROGRAM PLANS AND BUDGET**

The District Court of Appeal, Third Appellate District, is one segment of the state's appellate court structure. It consists of one division composed of three justices and 12.1 authorized employee positions.

This court sits in Sacramento. In exercising the jurisdiction defined in the State Constitution the court pursues three programs outlined as follows:

1. It hears certain appeals from judgments of the superior, municipal and justice courts situated in the Counties of Alpine, Amador, Butte, Calaveras, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo and Yuba.

2. It issues writs of mandamus, certiorari, prohibition, habeas corpus and such other writs as may be necessary to the exercise of its appellate jurisdiction.

3. It hears and disposes of such petitions, motions, stipulations and other miscellaneous matters as may be presented to it.

The appellate courts do not at present make public any projections of workload. Neither do they allocate definite budget sums to the various activities in which they engage. We are unable therefore to establish court workload and cost units for comparison from year to year.

The Third District Court to cover all of its estimated costs for budget year 1965-66 is requesting the sum of \$233,102 which is \$9,219 or 4.1 percent greater than estimated expenditures for the current year. The increase reflects merit salary raises and new furnishings for the office of a recently appointed justice.

**REVIEW OF AGENCY ACCOMPLISHMENTS**

Filings, used to measure the amount of business being presented to the court for action, for the Third District are set forth through fiscal year 1963-64 in the table below:

Program Item	Filings by fiscal year		
	1961-62	1962-63	1963-64
Appeals .....	200	200	230
Writs .....	113	97	161
Motions .....	14	10	13
Items per judge .....	109	102.3	134.6

**District Court of Appeal, Third Appellate District—Continued**

This court requested the sum of \$206,109 for 1963-64 and actually spent \$1,999 less than its appropriation. For the current year the court's request was for \$205,572 and the estimated expenditure for the current year is now \$223,883. The increase of \$18,311 or 8.9 percent resulted from salary increases enacted by the Legislature and which became effective in the current year.

Revenues received by this court for fiscal year 1963-64 and estimated for the current and budget years is tabulated below:

<i>Fiscal year</i>	<b>Fees Revenues</b>	<i>Amount</i>
1963-64 -----		\$6,011 (actual)
1964-65 -----		7,000 (estimated)
1965-66 -----		7,000 (estimated)

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval of this item as budgeted.*

**DISTRICT COURT OF APPEAL, FOURTH APPELLATE DISTRICT**

ITEM 22 of the Budget Bill

Budget page 13

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

Amount requested -----	\$281,957
Estimated to be expended in 1964-65 fiscal year -----	256,899
Increase (9.8 percent) -----	\$25,058

**TOTAL RECOMMENDED REDUCTION** ----- None

**PROGRAM PLANS AND BUDGET**

The District Court of Appeal, Fourth Appellate District, has its headquarters in San Diego but meets at San Bernardino on alternate months. It is composed of one division of three justices with a staff of 11 authorized employees. Clerk's office, law library and court room facilities are maintained in both San Diego and San Bernardino.

In the exercise of the jurisdiction established in the Constitution the court carries forward the following activities or programs:

1. It hears certain appeals from judgments of the superior, municipal and justice courts situated in the following counties: Imperial, Inyo, Orange, Riverside, San Bernardino and San Diego.

2. It issues writs of mandamus, certiorari, prohibition, habeas corpus and such other writs as may be necessary to the exercise of its appellate jurisdiction.

3. It hears and disposes of such petitions, motions, stipulations and other miscellaneous matters as may be presented to it.

As is the case with the other four district courts of appeal this court, while attempting to forecast its advance workload for its own purposes, does not publish its estimated workload. Neither does it allocate portions of its budget for specific program support. As a result we have few points of comparison on which program needs can be analyzed.

District Court of Appeal, Fourth Appellate District—Continued

The Fourth District Court in its budget request for 1965-66 proposes to spend \$281,957 which exceeds the estimate of current year expenditures by \$25,058 or 9.8 percent. In particular the court asks for continuance of a legal research position established July 1, 1964 administratively, for moving expense and the furnishing of court facilities in San Bernardino in the new state building which will be completed late in the budget year.

REVIEW OF AGENCY ACCOMPLISHMENTS

As a measure of this court's performance, particularly in the most recently completed fiscal year of 1963-64, we list below the record of filings.

Program item	Filings by fiscal year		
	1961-62	1962-63	1963-64
Appeals -----	304	313	336
Writs -----	99	117	189
Motions -----	25	45	21
Filings per judge -----	142.6	158.3	182

For fiscal year 1963-64 the court's budget request totaled \$226,002. Actual expenditures for 1963-64 amounted to \$224,522 which is \$1,480 or 0.6 percent below the estimate. The court's request for the current year amounted to \$231,499 and current year expenditures are now estimated at \$256,899. The increase over the estimate in the request amounting to \$25,400 is attributable to the emergency fund salary provision for the research assistant and to increased personnel salaries particularly those of the justices as provided in 1964 legislation.

Court revenues are tabulated as follows:

Fiscal year	Amount
1963-64 -----	\$11,381 (Actual)
1964-65 -----	12,590 (Estimated)
1965-66 -----	13,590 (Estimaed)

ANALYSIS AND RECOMMENDATIONS

The Fourth District Court originally met on a circuit consisting of San Diego, San Bernardino and Fresno. In 1961 the Fifth District Court was established in Fresno. Court attachés estimate that the Fourth District's workload was reduced only about 25 percent when the Fresno district was split off. The Fourth District's workload continues to grow as evidenced by the following table of filings.

Fourth District Workload Trends		
Fiscal year	Total filings	Filings per judge
1961-62 -----	428	142.6
1962-63 -----	475	158.3
1963-64 -----	546	182

## District Court of Appeal, Fourth Appellate District—Continued

Filings as evidence of workload as between the five district courts for fiscal year 1963-64 are indicated as follows:

1963-64 District Court Workload			
Court	Number of judges	Total filings	Filings per judge
1st District	9	897	99.6
2nd District	12	1,892	157.6
3rd District	3	404	134.6
4th District	3	546	182
5th District	3	133	44.3

It is immediately apparent that the number of filings per judge in the Fourth District is approaching double that of the First District. The workload in the Fourth District Court is such that pro tempore justices are being used almost constantly and yet even with this assistance civil cases ready for court hearing cannot now be reached for one year. The case completion rate in this court is 60 per year per judge including pro tem justices.

Proposed for continuance is the following position:

1 Legal research assistant (budget page 13, line 67)----- \$8,196

The court is using this position for two purposes (1) to research appeals assigned to the pro tem justices and (2) to devote as much time as remains to the analysis of petitions for writs.

*We recommend approval as budgeted.*

Since the Fourth District research staff is presently provided at a level for three justices the presence of a fourth justice requires added research assistance.

New furnishings and other equipment for the facilities in the San Bernardino State Building will replace the equipment acquired in 1929 when the San Bernardino court office was first established. The old equipment will be surveyed off.

#### POLICY OPTIONS

The growth of the Fourth District Court workload continues unabated. The problem is under study by the Judicial Council. Pro tem judges and the agreed transfer of cases to Fresno for hearing are only temporary palliatives. It appears to us that the creation of a new division of three judges will be requested at some point in the near future. The basic alternatives are (1) the creation of a Sixth District Court or (2) addition of a second division to the Fourth District Court. Other alternatives such as a shift of counties in districts or adding divisions to the Los Angeles based court would appear to create more problems than they solve.

**DISTRICT COURT OF APPEAL, FIFTH APPELLATE DISTRICT**

ITEM 23 of the Budget Bill

Budget page 14

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

Amount requested	\$219,206
Estimated to be expended in 1964-65 fiscal year	213,327
	-----
Increase (2.8 percent)	\$5,879

**TOTAL RECOMMENDED REDUCTION**-----None

**PROGRAM PLANS AND BUDGET**

The Fifth District Court of Appeal is the newest unit of the state's appellate court structure. It consists of one division of three justices and an authorized staff of 8.1 positions and holds its sessions in Fresno.

In discharging its constitutional responsibilities the court engages in three programs described as follows:

1. It hears certain appeals arising from judgments of the superior, municipal and justice courts located in Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tuolumne and Tulare Counties.

2. It issues writs of mandamus, certiorari, prohibition, habeas corpus and such other writs as may be necessary to the exercise of its appellate jurisdiction.

3. It hears and disposes of such petitions, motions, stipulations and other miscellaneous matters as may be presented to it.

Estimates of workload and projections of future activity are not formally made by the appellate courts. Specific program allocations are not made in the budget. We are not therefore able to identify workload and cost units for comparison purposes.

For projected total expenditure during budget year 1965-66 the court now requests the sum of \$219,206 which exceeds estimates of expenditure during the current year by \$5,879 or 2.8 percent. The principal element of increase is that of merit salary raises. No expansion of activity is proposed.

**REVIEW OF AGENCY ACCOMPLISHMENTS**

The number of cases filed with this court has not yet reached the point where the load is as heavy as that of the other district courts. In some effort to equalize workload justices from this court have been assigned to assist the Fourth District Court in San Diego and are also hearing San Diego cases in Fresno where the parties have consented in writing to such procedure. Filings with the Fresno court are set forth below:

**Filings by Fiscal Year**

Program item	1961-62	1962-63	1963-64
Appeals	59	118	87
Writs	24	21	38
Motions	6	8	8
Items per judge	17.8	49	44.3

For fiscal year 1963-64, the most recently completed year, the court requested \$185,249 and actually expended \$186,645, an increase of \$1,396 or 0.7 percent. This represented salary increases in the main. For the current year the court's budget request totaled \$192,459. Cur-

**District Court of Appeal, Fifth Appellate District—Continued**

rent year's expenditures are now estimated at \$213,327, which is an increase of \$20,868 or 10.8 percent attributable to the substantial salary increase for judges granted by 1964 legislation.

Revenues received by the court for fiscal year 1963-64 and estimated for the current and budget years are as follows:

Fee Revenues	
<i>Fiscal year</i>	<i>Amount</i>
1963-64	\$2,131 (actual)
1964-65	3,000 (estimated)
1965-66	3,000 (estimated)

**ANALYSIS AND RECOMMENDATIONS**

Since the level of service now provided by this court is to be continued into the budget year *we recommend approval as budgeted.*

**POLICY OPTIONS**

The San Diego and Fresno courts present opposite problems. The first has too much business, the latter too little. The Los Angeles court is reaching toward a point of expansion to accommodate increasing Los Angeles County business and cannot be of assistance to the other two courts.

*We recommend therefore that the Judicial Council expedite its studies from which equalization of the workload of the appellate courts hopefully may come.*

**GOVERNOR**

ITEM 24 of the Budget Bill

Budget page 17

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

Amount requested	\$989,007
Estimated to be expended in 1964-65 fiscal year	963,978
Increase (2.6 percent)	\$25,029

**TOTAL RECOMMENDED REDUCTION** None

**PROGRAM PLANS AND BUDGET**

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

The budget proposes an expenditure of \$989,007 for the 1965-66 fiscal year for the support of 78.9 positions and the maintenance of offices in Sacramento, Los Angeles and San Francisco.

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

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