

**COMMISSION ON UNIFORM STATE LAWS**

Item 16 from the General Fund

Budget p. LJE 9

|   |          |
|---|----------|
| Requested 1980-81 .....                   | \$43,142 |
| Estimated 1979-80.....                    | 39,395   |
| Actual 1978-79 .....                      | 39,095   |
| Requested increase \$3,747 (+9.5 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 California commissioners attend the annual conference of the national body, at which time the various uniform codes developed or modified by it in the past year are reviewed and submitted to the total membership for consideration and recommendation. The recommended uniform codes deemed by the California members to be appropriate for implementation in California are then presented to the Legislature for consideration.

The California commission consists of seven members—four appointed by the Governor, two members of the Legislature (one selected by each house), and the Legislative Counsel. All seven members must belong to the California State Bar.

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The commission's budget request of \$43,142 for 1980-81 is \$3,747, or 9.5 percent, higher than current year estimated expenditures. The increase consists of \$447 in travel and a 10 percent increase, from \$33,000 to \$36,300, in the annual membership dues to the national organization.

**JUDICIAL**

Items 17, 18 and 20 from the General Fund and Item 19 from the Motor Vehicle Account, State Transportation Fund

Budget p. LJE 10

|   |              |
|---|--------------|
| Requested 1980-81 .....   | \$29,135,163 |
| Estimated 1979-80.....  | 28,821,593   |
| Actual 1978-79 .....  | 20,891,834   |
| Requested increase (excluding amount for salary increases) \$313,570 (+1.1 percent) |              |
| Total recommended reduction .....   | \$858,108    |

**JUDICIAL—Continued****1980-81 FUNDING BY ITEM AND SOURCE**

| Item | Description  | Fund                 | Amount       |
|------|--|----------------------|--------------|
| 17   | Judicial   | General              | \$25,273,821 |
| 18   | Assignment of Municipal Court Judges to Superior Court | General              | 230,750      |
| 19   | Judicial   | State Transportation | 44,778       |
| 20   | Legislative Mandates                                   | General              | 2,588,408    |
|      | Judicial   | Reimbursements       | 997,406      |
|      | Total  |                      | \$29,135,163 |

**SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS***Analysis  
page*

1. *Additional Law Clerks. Reduce by \$858,108.* Recommend deletion of 43 law clerk positions proposed for the courts of appeal. 8

**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 five courts of appeal are wholly state 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 federal grants directly from the federal government and 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 judi-

ciary. 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.

### ANALYSIS AND RECOMMENDATIONS

The budget proposes 1980-81 appropriations of \$28,137,757 in state funds for support of several judicial functions. This is an increase of \$510,963, or 1.9 percent, over the current year estimated expenditure. The total expenditure will increase by the amount of any salary or staff benefit increase approved for the budget year. In addition, the courts will expend \$997,406 in reimbursements which are primarily federal funds. Table 1 shows the budget program and source of funds for judicial functions in 1980-81.

**Table 1**  
**Budget Summary**

|  | <i>Estimated</i><br>1979-80 | <i>Proposed</i><br>1980-81 | <i>Change</i> |                |
|--|-----------------------------|----------------------------|---------------|----------------|
|  |                             |                            | <i>Amount</i> | <i>Percent</i> |
| <i>Funding</i>                         |                             |                            |               |                |
| General Fund.....                      | \$27,582,051                | \$28,092,979               | \$510,928     | 1.9%           |
| State Transportation Fund.....         | 44,743                      | 44,778                     | 35            | 0.1            |
| Reimbursements.....                    | 1,194,799                   | 997,406                    | -197,393      | -16.5          |
| Totals.....                            | \$28,821,593                | \$29,135,163               | \$313,570     | 1.1%           |
| <i>Program</i>                         |                             |                            |               |                |
| Supreme Court.....                     | \$3,766,569                 | \$3,751,767                | \$-14,802     | -0.4%          |
| Courts of Appeal.....                  | 14,986,367                  | 16,119,909                 | 1,133,542     | 7.6            |
| Judicial Council.....                  | 6,852,458                   | 6,536,458                  | -316,000      | -4.6           |
| Commission on Judicial Performance.... | 441,964                     | 138,621                    | -303,343      | -68.6          |
| Legislative Mandates.....              | 2,774,235                   | 2,588,408                  | -185,827      | -6.7           |
| Totals.....                            | \$28,821,593                | \$29,135,163               | \$313,570     | 1.1%           |
| Personnel-years.....                   | 470.4                       | 508.4                      | 38            | 8.1            |

### SUPREME COURT

The \$3,751,767 proposed for the Supreme Court is \$14,802, or 0.4 percent, below current-year expenditures. The request for equipment has been reduced by \$105,649 because current year expenditures for word processing equipment will not be necessary in 1980-81. Partly offsetting the reduction in equipment purchases are increases for merit salary adjustments, staff benefit costs, and price increases. A federally funded management analysis of the Supreme Court is proposed at a cost of \$99,750.

### COURTS OF APPEAL

The budget proposed \$16,119,909 for support of the five courts of appeal. This is an increase of \$1,133,542, or 7.6 percent, over current-year estimated expenditures. Most of this increase would be used to hire 43 additional law clerks, at a salary cost of \$858,108, exclusive of staff benefits. In addition, the Governor's Budget provides funding for three associate justices authorized by Chapter 1018, Statutes of 1979, plus related staff (\$390,000). Each judge is authorized to have one research attorney, who serves as a law clerk, and a secretary.

## JUDICIAL—Continued

**Cost Effectiveness of Additional Law Clerks Not Demonstrated**

*We recommend deletion of 43 law clerk positions for a savings of \$858,108 (Item 17).*

The 43 additional law clerks proposed in the budget at a salary cost of \$858,108, are intended to improve the productivity of the appellate court judges. It is anticipated that staff benefit costs of approximately \$216,900 will be funded by salary savings. The positions are requested on a permanent basis, however, they will be filled by the incumbents for one year only.

*Existing Pilot Project.* The courts of appeal are currently authorized eight law clerk positions for a pilot project designed to test the impact of the additional staffing on the productivity of the courts and to provide more economical research assistance. The two-year pilot project, which will terminate on June 30, 1980, was initially staffed with six positions in the Budget Act of 1978. Two additional positions were authorized in the 1979 Budget Act so that two four-judge divisions could participate in the pilot project.

The project provides for the staffing of two appellate divisions with a second law clerk for each judge. The purpose is to increase productivity of the judges and to provide less expensive research assistance than would otherwise be provided by central research staff. The study will compare the output of these two divisions with two comparable divisions utilizing the normal staffing pattern of one law clerk per judge. In addition, comparisons will be made of the output of the same divisions before and during the pilot project. The analysis will include a review of the nature of the output by considering such factors as the relationship between civil and criminal appeals and published and unpublished opinions. Other factors affecting cost-effectiveness also will be considered.

*Results.* A formal report on this pilot project will be submitted after June 30, 1980. We have reviewed preliminary data from the project, and this data indicates that one of the test divisions produced less output (opinions) than the control division during the test period. Moreover, the test division was only slightly more productive during the test period than it was during an identical period before the test. Data on the second test division were not supplied with the request for these positions.

Table 2 summarizes the data for the test and control divisions.

**Table 2**  
**Preliminary Results of the Pilot Project**  
**to Improve the Efficiency of the Courts of Appeal**

|   | <i>Test Division</i> | <i>Control Division</i> |
|---|----------------------|-------------------------|
| Opinions filed during control period <sup>a</sup> ..... | 471                  | 508                     |
| Opinions filed during test <sup>b</sup> .....           | 474                  | 501                     |
| Civil opinions .....                                    | 155                  | 146                     |
| Published .....   | 65 (41.9%)           | 73 (50%)                |
| Criminal opinions .....                                 | 260                  | 272                     |
| Published .....   | 51 (19.6%)           | 43 (15.8%)              |
| Original proceedings .....                              | 31                   | 29                      |
| Concurring and dissenting opinions .....                | 28                   | 54                      |

<sup>a</sup> July 1, 1977, to June 30, 1978.

<sup>b</sup> September 1, 1978, to September 30, 1979.

*Expansion Premature.* The preliminary data do not provide enough information to allow a comparison of the total costs per opinion for the two divisions. However, given the absence of any data to indicate that additional staffing had a significant impact on output, we believe that it would be premature to expand this project at this time. Therefore, we recommend that the 43 proposed law clerk positions be deleted for a savings of \$858,108.

#### JUDICIAL COUNCIL

The budget proposes \$6,536,458 for support of the Judicial Council in 1980-81, including \$5,509,730 from the General Fund, \$44,778 from the State Transportation Fund, and \$981,950 in reimbursements. This is a decrease of \$316,000, or 4.6 percent, from current-year estimated expenditures. The reduction is due to the completion of various special projects which were funded by reimbursements. Current and budget year costs of assigning municipal court judges to the superior courts was reduced to \$230,750, a reduction of \$100,000 in each year. The justice courts' circuit judges program was reduced by \$200,000 in both years. The reductions in the program reflect more accurate cost projections, on the basis of actual expense in recent years.

The budget proposes to fund the judicial arbitration program authorized by Chapter 743, Statutes of 1978, at \$2,500,000 in 1980-81, the same level as in the current year. These funds reimburse counties for mandated costs of the mandatory arbitration program.

#### COMMISSION ON JUDICIAL PERFORMANCE

The budget request for the Commission on Judicial Performance is \$138,621. This is a decrease of \$303,343, or 68.6 percent, below current-year estimated expenditures of \$441,964. This reduction is made possible by the completion of the commission's hearings on the Supreme Court, and the return to a more normal level of activity. Consultant and professional services for 1978-79 and 1979-80 total \$619,021, primarily due to the Supreme Court hearings. The 1980-81 request for these services is \$17,013.

The budget requests a second clerical position for the commission due to increasing ongoing workload. Complaints filed with the commission have increased from 68 in 1961 to 274 in 1978, while investigations of such complaints have increased from 23 to 72. We recommend approval of this position.

#### Legislative Mandates

The budget requests \$2,588,408 to reimburse local government for court related state-mandated programs as shown in Table 3.

JUDICIAL—Continued

**Table 3**  
**Judicial Council**  
**Legislative Mandates**

| Program   | Estimated<br>1979-80 | Proposed<br>1980-81 | Charge     |         |
|---|----------------------|---------------------|------------|---------|
|   |                      |                     | Amount     | Percent |
| 1. Circuit Justice Court Judges' Salaries .....<br>(Chapter 1355, Statutes of 1976) | \$57,750             | \$57,750            | —          | —       |
| 2. Economic Litigation Study Project .....<br>(Chapter 960, Statutes of 1976)       | 61,315               | 30,658              | \$-30,657  | -50.0%  |
| 3. Small Claims Experimental Project .....<br>(Chapter 968, Statutes of 1979)       | 52,670               | —                   | -52,670    | -100.0  |
| 4. Court Interpreter Services .....<br>(Chapter 158, Statutes of 1978)              | 102,500              | —                   | -102,500   | -100.0  |
| 5. Judicial Arbitration .....<br>(Chapter 743, Statutes of 1978)                    | 2,500,000            | 2,500,000           | —          | —       |
| Totals.....   | \$2,774,235          | \$2,588,408         | \$-185,827 | -6.7%   |

The three reductions for 1980-81 reflect the termination of experimental and study programs which required reimbursement.

**SALARIES OF SUPERIOR COURT JUDGES**

Item 21 from the General Fund

Budget p. LJE 15

|  |              |
|--|--------------|
| Requested 1980-81 .....  | \$28,002,978 |
| Estimated 1979-80.....   | 26,956,289   |
| Actual 1978-79 .....   | 23,856,048   |
| Requested increase (excluding amount for salary<br>increases) \$1,046,689 (+3.9 percent) |              |
| Total recommended increase .....   | \$44,705     |

**SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS**

*Analysis*  
*page*

1. *Fund Authorized Judgeship. Augment by \$44,705.* Recommend the San Diego County judgeship authorized by Chapter 1018, Statutes of 1979, be funded. 11

**GENERAL PROGRAM STATEMENT**

This item funds the state's share of the superior court judges' salaries and benefits. The county contribution to each judge's salary is either \$5,500, \$7,500, or \$9,500 per year, depending on the county's population. The state pays the balance of the total salary which is now set at \$54,205.

Pursuant to Chapter 1018, Statutes of 1979, judges will receive automatic annual salary adjustments equal to the average increase granted state employees or 5 percent, whichever is less. If, however, the average increase for state employees is less than 5 percent in either of two consecutive fiscal years, the judges may receive an increase greater than 5 percent in the following year. Under these circumstances, an increase sufficient to bring the three-year average increase up to 5 percent may be granted, provided it does not exceed the increase granted to state employees. For example, if state employees receive an average of 5 percent, 3 percent, and 8 percent for three consecutive fiscal years, judges would receive 5 percent, 3 percent, and 7 percent in those same years.

**ANALYSIS AND RECOMMENDATIONS**

The budget requests \$28,002,978 to pay the state's share of superior court judges' salaries, which is an increase of \$1,046,687, or 3.9 percent, above the estimated current year expenditure. This amount includes funding for 25 judges authorized for Los Angeles County. These judges cannot be established until a resolution stating that sufficient funds are available for the judgeships is adopted by the board of supervisors. As of January 24, 1980, the required resolution had not been adopted.

We recommend that funding for all authorized judgeships be included in the Budget Bill. This avoids the need to use the Emergency or Contingency Funds for the salaries if a board of supervisors approves a resolution thereby permitting authorized judgeships to be filled after the Budget Bill is enacted.

**One Judge Not Funded**

*We recommend an augmentation of \$44,705 to pay the salary costs of the San Diego County judgeship authorized by Chapter 1018, Statutes of 1979.*

The Governor's Budget does not include funds for an additional judge authorized for San Diego County by Chapter 1018. The budget indicates that legislation will be introduced in 1980 to delete this position. Although San Diego County originally opposed this judgeship, we understand that it now supports the authorization, provided the judgeship will not be filled until such time as the board of supervisors has adopted a resolution stating there are sufficient funds available to cover nonstate funded costs.

All authorized judgeships should be funded in the budget. Should legislation be enacted to delete this judgeship, the same measure could revert any funding provided for it. Consequently, we recommend that Item 21 be augmented by \$44,705 to provide the salary for the San Diego County judgeship authorized by Chapter 1018, Statutes of 1979.

**STATE BLOCK GRANTS FOR SUPERIOR COURT JUDGESHIPS**

| Item 22 from the General Fund    | Budget p. LJE 16 |
|----------------------------------|------------------|
| Requested 1980-81 .....          | \$7,140,000      |
| Estimated 1979-80.....           | 7,140,000        |
| Actual 1978-79 .....             | 4,440,000        |
| Requested increase—None          |                  |
| Total recommended increase ..... | \$60,000         |

**SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS**

*Analysis  
page*

1. *Fund Authorized Judgeship. Augment by \$60,000.* Recommend the San Diego County judgeship authorized by Chapter 1018, Statutes of 1979, be funded. 12

The state provides the counties with an annual block grant of \$60,000 for each new superior court judgeship established after January 1, 1973. This grant is provided in lieu of reimbursements for the county's cost of sup-

**STATE BLOCK GRANTS FOR SUPERIOR COURT JUDGESHIPS—Continued**

porting the judgeship. This item provides block grants of \$7,140,000 for 119 of the 120 new superior court judgeships authorized on or after that date. It includes funding for 25 judgeships (\$1,500,000) in Los Angeles County which cannot be filled until the county board of supervisors adopts a resolution stating that sufficient funds are available for the positions. As of January 24, 1980, the required resolution had not been adopted.

We recommend that funding for all block grants should be included in the Budget Bill (as proposed). This avoids the need to use the Emergency or Contingency Funds for the grants if a board of supervisors approves a resolution thereby permitting authorized judgeships to be filled after the Budget Bill is enacted.

**One Judgeship Not Funded**

*We recommend an augmentation of \$60,000 to fund a block grant to San Diego County for the judgeship authorized by Chapter 1018, Statutes of 1979.*

The Governor's Budget does not include funds for a block grant to San Diego County for the additional judge authorized by Chapter 1018. The budget indicates that legislation will be introduced in 1980 to delete this position. Although San Diego County originally opposed this judgeship, we understand that it now supports the authorization of this judgeship provided the judgeship will not be filled until such time as the board of supervisors has adopted a resolution stating that there are sufficient funds available to cover nonstate funded costs.

Block grants for all authorized judgeships should be funded in the budget. Should legislation be enacted to delete the judgeship, the same measure could revert any funding provided for it. Consequently, we recommend that Item 22 be augmented by \$60,000 to provide the block grant for the San Diego County judgeship authorized by Chapter 1018, Statutes of 1979.

**CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND**

Items 23-24 from the General Fund

Budget p. LJE 16

|  |              |
|--|--------------|
| Requested 1980-81 .....                        | \$11,769,487 |
| Estimated 1979-80.....                         | 10,357,890   |
| Actual 1978-79 .....                           | 8,476,980    |
| Requested increase \$1,411,597 (+13.6 percent) |              |
| Total recommended reduction .....              | None         |



**1980-81 FUNDING BY ITEM AND SOURCE**

| Item | Description                         | Fund    | Amount       |
|------|-------------------------------------|---------|--------------|
| 23   | Supreme and Appellate Court Judges  | General | \$480,328    |
| —    | Government Code Section 75101       | General | 347,159      |
| 24   | Superior and Municipal Court Judges | General | 6,352,214    |
| —    | Government Code Section 75101       | General | 4,589,786    |
|      | Total                               |         | \$11,769,487 |

**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 needed to keep the fund solvent on a year-to-year basis. Table 1 shows these receipts for the past, current and budget years.

**Table 1**  
**Receipts of the Judges' Retirement Fund**  
(in millions)

| Receipts                             | Actual<br>1978-79 | Estimated<br>1979-80 | Proposed<br>1980-81 |
|--------------------------------------|-------------------|----------------------|---------------------|
| 1. State contributions               |                   |                      |                     |
| a. For judges' retirement .....      | \$4.4             | \$4.6                | \$4.9               |
| b. Budget Act appropriations .....   | 3.5               | 5.7                  | 6.8                 |
| c. Emergency Fund allocation .....   | 0.6               | —                    | —                   |
| Totals, State Contributions .....    | \$8.5             | \$10.3               | \$11.7              |
| 2. Judges' contributions .....       | 4.4               | 4.2                  | 4.9                 |
| 3. Filing fees .....                 | 3.0               | 3.1                  | 3.2                 |
| 4. Other receipts <sup>a</sup> ..... | 0.2               | 0.5                  | 0.4                 |
| Grand Totals, Receipts.....          | \$16.1            | \$18.1               | \$20.2              |

a. Consists of interest income on temporary cash flow, county contributions (as employer of judges) and undisbursed receipts at the end of 1978-79.

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The Governor's Budget proposes an appropriation of \$11,769,487 from the General Fund to the Judges' Retirement Fund in 1980-81. This is an increase of \$1,411,597, or 13.6 percent, over the estimated current year expenditures. As shown in Table 2, this increase consists of an additional \$0.3 million in state contributions resulting from judicial salary increases, and an additional \$1.1 million to pay the projected growth in program costs for retired judges, or their survivors. Revised current year and projected budget year state expenditures also include retirement contribution costs for the 54 new judges authorized, effective January 1, 1980, by Chapter 1018, Statutes of 1979 (SB 53). Table 3 shows the allocation of these new judgeships among the various courts, as well as the projected growth in the number of retired judges and survivors.

## CONTRIBUTIONS TO THE JUDGES' RETIREMENT FUND—Continued

**Table 2**  
**Judges' Retirement Fund**  
**Proposed General Fund Increases**  
**(in millions)**

|  | Actual<br>1978-79 | Estimated<br>1979-80 <sup>a</sup> | Change over<br>Previous Year |         | Proposed<br>1980-81 | Change over<br>Previous Year |         |
|--|-------------------|-----------------------------------|------------------------------|---------|---------------------|------------------------------|---------|
|  |                   |                                   | Amount                       | Percent |                     | Amount                       | Percent |
| State contributions for judges' retirement ..... | \$4.4             | \$4.6                             | \$0.2                        | 4.5%    | \$4.9               | \$0.3                        | 6.5%    |
| Budget Act (deficiency) appropriations .....     | 3.5               | 5.7                               | 2.2                          | 62.8    | 6.8                 | 1.1                          | 19.3    |
| Emergency allocation .....                       | 0.6               | —                                 | -0.6                         | —       | —                   | —                            | —       |
| Totals .....                                     | \$8.5             | \$10.3                            | \$1.8                        | 21.2%   | \$11.7              | \$1.4                        | 13.6%   |

<sup>a</sup> Revised estimates, including the program cost of 54 new judgeships.

**Table 3**  
**Membership Increase of the Judges' Retirement System**

| Types of judge           | Actual<br>1978-79 | Estimated<br>1979-80 | Increase over<br>previous year | Proposed<br>1980-81 | Increase over<br>previous year |
|--------------------------|-------------------|----------------------|--------------------------------|---------------------|--------------------------------|
| Supreme .....            | 7                 | 7                    | —                              | 7                   | —                              |
| Appellate .....          | 56                | 59                   | 3                              | 59                  | —                              |
| Superior .....           | 561               | 607                  | 46                             | 607                 | —                              |
| Municipal .....          | 465               | 470                  | 5                              | 470                 | —                              |
| Retired and survivors .. | 617               | 657                  | 40                             | 747                 | 90                             |
| Totals .....             | 1,706             | 1,800                | 94                             | 1,890               | 90                             |

### Nature and Scope of the Funding Problem

Since its establishment in 1937, the Judges' Retirement Fund has operated on a "pay-as-you-go", rather than on a "reserve-funding" basis. Under the "pay-as-you-go" method, the fund's annual revenues are used to pay the ongoing annual benefit-costs of the retired judges and their survivors. No revenues are set aside as reserves to pay for the accumulating benefit costs of the active judges.

1. *Annual pay-as-you-go deficits.* So long as the annual contribution income covered the annual program cost, "pay-as-you-go" financing provided adequate cash-flow on a year-to-year basis. Beginning in the late 1960's, however, rapid wage inflation and costly benefit improvements led to annual deficits in the fund. The law required the state General Fund to cover these deficits. Additional benefit improvements and a significant increase in the ratio of retired-to-active-judges accelerated the growth in the annual deficit during the 1970's. The size of the annual deficit has increased from \$1 million in 1973-74 to \$5.7 million in 1979-80, and an estimated \$6.8 million deficit is projected in 1980-81 (as shown in Table 2). For both 1977-78 and 1978-79, the Budget Act appropriations to cover the annual deficit proved to be inadequate, requiring Emergency Fund allocations of \$1.1 million and \$0.6 million, respectively.

2. *The unfunded liability problem.* The absence of reserve funding has led to a large unfunded liability in the Judges' Retirement System. In

1977, the unfunded liability stood at \$400 million, nearly four times what it had been four years earlier. Increases in judges' salaries and the absence of any reserve which could produce additional revenues to the fund are causing the unfunded liability to increase by an estimated \$30 million per year. According to the most recent actuarial valuation, (1977) annual contributions equal to 84.4 percent of the judicial payroll would be required to fully fund the Judges' Retirement Fund by the year 2002—the deadline established by the Legislature in Section 75110 of the Government Code.

Table 4 shows the amount of funding required to fully fund the system by the year 2002, using the projected 1980-81 judicial payroll.

**Table 4**  
**Funding Requirements of the Judges' Retirement Fund**  
**as a Percent of Judicial Payroll**  
**(in millions)**

|   | <i>1980-81 Costs</i> <sup>b</sup> | <i>Percent</i> |
|---|-----------------------------------|----------------|
| Full funding by 2002 <sup>a</sup> ..... | \$52.1                            | 84.4%          |
| Projected 1980-81 receipts .....        | -20.2                             | -32.7          |
| Total .....                             | \$31.9                            | 51.7%          |

<sup>a</sup> Annual cost of amortizing the existing unfunded liability and maintaining normal retirement program costs.

<sup>b</sup> Based on the projected 1980-81 payroll for all authorized judgeships.

Table 4 shows that an additional contribution representing over 51 percent of judges' payroll, or nearly \$32 million, would be required in 1980-81. The required funding would increase further in subsequent years because of increases in judges' salaries and the absence portfolio earnings.

#### **A New Funding Approach Is Needed**

The Judges' Retirement Fund needs to be put on a sound actuarial basis. Doing so would be both fiscally responsible and more equitable to taxpayers. It is fiscally responsible, because it does not conceal from the public the full cost of providing government services, and does not confront future Legislatures with contractual obligations for which there is no funding. It is equitable, because the total cost for judges' services (including retirement costs) are paid by those benefiting from their services and are not shifted to future generations that do not benefit from them.

While we recognize the need for some state participation in putting the fund on a sound actuarial basis, the state should not bear the entire cost of doing so. We recommend that the Legislature take the following actions before committing additional state funds to the system:

1. *Increase the judges' retirement contribution rate.* Because the judges enjoy substantially more generous (and costly) retirement benefits than other state employees, the judges should contribute more than 8 percent of their salary toward retirement. In our *Analysis of the 1979 Budget Bill*, we also recommended such a contribution increase.

2. *Reduce the level of benefits for new judges.* The first step in this direction has already been taken by Chapter 709, Statutes of 1979 (AB 596). This act limits survivor benefits to spouses married to judges prior

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

to the judges' retirement, and requires two years of judicial service for disability retirement. These provisions will reduce future retirement program costs for the Judges' Retirement Fund. Other generous (and expensive) benefits which deserve legislative review include pensions up to 75 percent of an active judge's salary and cost-of-living increases in pensions that are tied to salary increases for active judges. These and other benefits should be reviewed in terms of (a) the level of benefits needed for the maintenance of a judge's living standard in retirement, when total living costs are reduced and (b) equity with other state retirement systems.

3. *Increase court filing fees and the fund's share of these fees.* Current and projected annual revenues from fees on civil suits filed in municipal and superior courts amount to \$3 million, or 5 percent of the authorized judicial payroll. A 1979 statement by the California Judges' Association estimated that an additional \$14 million could be raised from specified increases in both filing fees and the fund's share of these new fees. Filing fees have not been changed since 1971. Consequently, revenues from this source have steadily declined as a percentage of the judicial payroll. An upward adjustment in both the level of these fees and the percentage going to the fund is appropriate.

**NATIONAL CENTER FOR STATE COURTS**

Item 25 from the General Fund

Budget p. LJE 18

|                                   |          |
|-----------------------------------|----------|
| Requested 1980-81 .....           | \$14,000 |
| Estimated 1979-80.....            | 14,000   |
| Actual 1978-79 .....              | 14,000   |
| Requested increase—None           |          |
| Total recommended reduction ..... | None     |

**ANALYSIS AND RECOMMENDATIONS**

*We recommend approval.*

The National Center for State Courts encourages judicial reform, recommends standards for fair and expeditious judicial administration and seeks solutions to state judicial problems. 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.

The National Center's program is supported by federal grants, donations from private foundations and state membership fees. Current membership includes all 50 states, 4 territories and the District of Columbia. The amount requested provides California's membership fee, and is based on the state's population. The amount is approximately 7 percent of the membership fees paid by all states.