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Hitting the Wall

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SACRAMENTO — During his annual address to the state Legislature last week, Chief Justice Ronald George insisted that the judiciary, while fiscally challenged, remains "robust and resilient."

But as George approaches his 14th anniversary as California's top judge, his vision for the nation's largest judicial branch seems far more vulnerable. A slew of challenges emerging from both inside and outside the courts threaten to stall, if not completely derail, plans he has so carefully crafted.

Los Angeles County Superior Court leaders are threatening mass layoffs and courthouse closures if they aren't allowed to dip into a growing pool of courthouse construction fees. A fledgling coalition of judges has publicly questioned the chief's governance, the workings of the Administrative Office of the Courts and the dominance of the Judicial Council he leads. Critics want to ice a long-planned computer program that George has promoted. And angry employee unions, provoked by monthly courthouse closures and furloughs, have gained a sympathetic audience among legislative allies in Sacramento.

George shrugs off most of the criticisms as cyclical symptoms of the state's latest economic troubles. Judges and court workers are still coping, he said, with last year's deep funding cuts as well as the significant changes he's shepherded through the branch. Push-back is a periodic part of the job, something that every chief justice has had to endure, he added.

"Times were a lot worse before," George said in a recent interview in his San Francisco office. "There was more dissension. Bitter dissension. And from people who were real players and not just on the fringe of the judicial branch."

But such assuredness belies the fact that the Legislature, with the ultimate control of the state's purse strings, has taken a renewed interest in vetting its sister-branch.

In previous years, legislative leaders largely deferred to the chief justice on matters of the judiciary. They listened to his pleas for more funding or judgeships and often gave him both, including an 8.5 percent pay raise for judges in 2006.

That deference has waned, however, amid the perfect storm of a state budget meltdown, judges and labor groups publicly questioning the Judicial Council's priorities, and highly visible monthly court closures.

"This is different," said San Diego County Superior Court Judge Daniel Goldstein, one of the directors of the new Alliance for California Judges. "The branch as a whole has never closed. Now we're shutting our entire branch one day a month."

In October, AOC executives endured a daylong legislative committee hearing that scrutinized the judiciary's spending and transparency. A steady stream of judges and court employees blasted the Judicial Council and its vote to close courthouses.

After AOC officials could not provide precise details about spending on the Court Case Management System, the committee asked for additional financial information. The committee's chairman, Hector De La Torre, D-South Gate, said in a pointed editorial published last week in the *Los Angeles Daily News* that the AOC had not yet provided the documents.

"The AOC claims that it has no funds available to keep the courts open," De La Torre wrote. "But the Legislature does not have enough access to fiscal information to provide an independent analysis of this claim."

Soon after the October hearing, two assemblywomen introduced legislation to give AOC employees whistle-blower protections after workers complained about retaliation for red-flagging problems. And just last month, the Legislature ordered an audit of the court's progress on a billion-dollar case management system despite heavy lobbying against the vote by the chief justice and his deputies.

The Alliance of California Judges also continues to shop legislation that would make wholesale changes to the branch's administration by shifting more decision-making power to the trial courts. The group hasn't found a permanent legislative author yet. But their campaign has clearly frustrated George, who has urged lawmakers to ignore alliance members in favor of the more established California Judges Association.

The judiciary needs a single voice, George said.

"When I first became chief justice I was literally told by some legislators, 'You know, we don't know who speaks for you folks ... and frankly if we don't know who speaks for you, we're not going to listen to any of you,'" George said.

To beat back the opposition, the chief justice has employed a three-fold strategy of discrediting detractors, leveraging allies and lobbying decision-makers. He surprised some

onlookers when, during his State of the Judiciary speech, he dismissed the Alliance of California Judges as "a few strident and uninformed voices." He's touted his court construction plans as a massive jobs-creator, and he's won the backing of construction trade unions — traditional friends of legislative Democrats — in the process. And he continues to meet regularly with the governor and lawmakers, both in San Francisco and Sacramento.

Charming and politically savvy, the chief justice has worked well with three governors during his tenure. He's found friends, too, in the Legislature, dating back to the days of then-Sens. Bill Lockyer and Phil Isenberg, who co-authored legislation to put the state, and not counties, in charge of trial court funding.

Isenberg praised the chief justice and suggested the current criticism is just recurring grumbling from local judges who don't like state-level dictates.

"I look at this and I laugh because the fight is exactly the same one we went through," he said.

But term limits have forced Isenberg, now a lobbyist, and many other George allies from the Legislature. In his years as chief justice, George has seen seven Assembly speakers come and go. Speaker No. 8, John Perez, is scheduled to be sworn in today.

And the dwindling numbers of lawyers in the Legislature's ranks has created a smaller natural constituency for the chief judge.

Gerald Uelmen, a professor at Santa Clara University School of Law, called George "masterful" at building relationships with politicians. But he attributed the recent spate of potentially hostile legislation at least in part to term limits.

"It's almost like a full-time job to keep up with all the changes in the Legislature, with who's pulling the strings," Uelmen said.

In a tacit acknowledgment of his branch's strained relationships in Sacramento, the chief late last year recruited former state Sen. Joe Dunn to act as an emissary and smooth relations with unhappy labor groups and lobbyists. The move seems to have done little to mollify dissenters.

And it's done nothing to solve George's problems with the Los Angeles trial court. Presiding Judge Charles "Tim" McCoy has steadfastly argued that the branch should tap a fund set aside for 41 courthouse construction projects statewide. The chief and construction trade unions want the money left alone. The resulting disagreement has played out in dueling op-eds.

With its sheer size and the large number of lawmakers who represent at least a part of L.A. County, the trial court enjoys particular sway in the Legislature. In the past, George has worked to keep L.A. court leaders happy, or at least not unhappy. He lobbied the

Legislature for an emergency bill last year that allowed judges to keep receiving county-paid perks. Although many judges receive some extra benefits from their local counties, L.A.'s perks are by far the most lucrative.

George is keeping his strategy for appeasing Los Angeles close to the vest. It may include new fees to generate more revenues. Whether or not that's the case, the chief justice has said that court leaders need to step back from the brink of making major spending cuts.

"We're not going to let that court or any court go asunder," he said. "It's far too early to in effect give up and say let's lay off people right now ... there's always time to do things and I think if you go ahead and you raid your infrastructure funding, in effect you make it a self-fulfilling prophecy. The Legislature will not provide sufficient funds to operate the trial courts because they're looking for money wherever they can."

George is also adamant that the policy-making Judicial Council should not be an elected body. After receiving recommendations from an executive committee, the chief justice appoints 14 of the council's 21 voting members. Dissent is rare, but that's because members often hash out details prior to each meeting, George said.

For years, critics have said the council's composition doesn't adequately represent the views of local judges. But George said the current appointment process ensures that council members vote in the best interests of the branch and not individual constituencies.

The Judicial Council, he said, "isn't to be a popularity or an ideological contest."

For all the criticisms and calls for change, George insists that the state judiciary today largely reflects the independent branch he envisioned 14 years ago. Municipal and superior courts are unified. Operation of courthouses has shifted from counties to the state. And battles for funding now take place in the state Capitol instead of 58 county supervisors' chambers.

The rest of what he wants to do — securing a steady stream of financing from the state is (again) at the top of his wish list — is just "sort of solidifying things," he said.

"When I first went up to Sacramento I literally had questions from people like, 'Which agency are you part of?'" George said. "You don't hear that any more. Everybody knows who we are and they treat us with respect. We're not treated like the DMV any more."