



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

June 7, 2010

Hon. Alberto Torrico, Chair
Assembly Public Employees, Retirement
& Social Security Committee
State Capitol, Room 3160
Sacramento, California 95814

Subject: SB 1425 (Simitian), as amended May 4, 2010 – Oppose Unless Amended
Hearing: Assembly Public Employees, Retirement & Social Security Committee – June 23, 2010

Dear Assembly Member Torrico:

The Judicial Council regrets that it must oppose SB 1425 dealing with public retirement, unless it is amended to exclude judicial officers from the provisions requiring a bonafide period of separation.

The Judicial Council typically does not weigh in on proposals in which the Legislature is considering a change in the substantive policy governing the role of the state and local entities as employers. The primary exception is when the legislative proposal seeks to treat the branch in an inequitable fashion or creates a significant burden on court operations and a direct impediment to judicial independence or court operations.

SB 1425 would have a significant and unique impact on court administration, by prohibiting retired judicial officers from serving for a period of at least six months from their retirement date. Such a requirement would dramatically disrupt court calendars and increase the existing backlog in criminal and civil cases.

Hon. Alberto Torrico

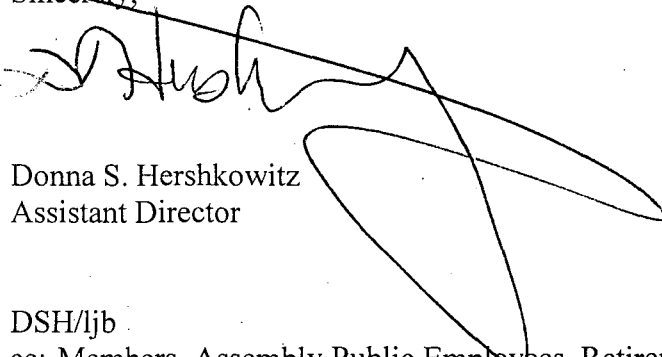
June 7, 2010

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When a judicial vacancy occurs due to the retirement of a judge or the conversion of a subordinate judicial officer position, the court has no ability to control the length of time to fill that position as that authority rests solely with the Governor. To bridge the gap of time between the vacancy and the new appointment, many courts rely on the retired judge or subordinate judicial officer until the time when an appointment takes effect. Unlike other positions, no degree of succession planning can protect against the problem, as judges are appointed by the Governor, and not brought up through the ranks of the courts. SB 1425 would substantially interfere with the ability of the courts to fill behind vacancies to ensure that the administration of justice does not come to a standstill.

We would respectfully request that SB 1425 be amended to exclude judicial officers from the provision requiring at least six months separation before an individual covered by a state or local pension system may return to service. The Judicial Council has no position regarding the provision of the bill related to the final calculation of retirement benefits.

Sincerely,



Donna S. Hershkowitz
Assistant Director

DSH/ljb

cc: Members, Assembly Public Employees, Retirement & Social Security Committee
Hon. Joe Simitian, Member of the Senate
Ms. Karon Green, Chief Consultant, Assembly Public Employees, Retirement
& Social Security Committee
Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research
Mr. Terry Mast, Consultant, Assembly Republican Office of Policy



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Director, Office of Governmental Affairs

June 15, 2010

Hon. Joe Simitian
Member of the Senate
State Capitol, Room 2080
Sacramento, California 95814

Subject: SB 1425 (Simitian)

Dear Senator Simitian:

Thank for you for taking the time to meet with me last Thursday to hear the concerns of the Judicial Council and the California Judges Association regarding the impact of your SB 1425 on judicial administration. I appreciated your willingness to listen to and weigh the concerns of the judiciary. Although SB 1425 applies to the Public Employees' Retirement Law and to the State Teachers' Retirement Law, Government Code section 75505 can be interpreted to extend its provisions to the Judges Retirement Law as well. Government Code section 75505 provides that, absent a conflict, the Judges' Retirement Law "shall be administered and governed pursuant to the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions were contained in" the Judges' Retirement Law.

I appreciate that SB 1425 seeks to treat all public employees equally. I do strongly believe that the impact of the bill on the judiciary is unique as it applies to judges and subordinate judicial officer positions which are converted to judgeships. Unlike other public employment positions, including other positions in the judicial branch itself, we do not have the ability to do succession planning or otherwise immediately fill behind these particular positions once they become vacant. As you know, the appointing power belongs solely to the Governor. No matter how much planning we may do,

whenever a judge retires or a subordinate officer position is converted to a judgeship, we will always have a vacancy that will remain until the Governor fills it, or it ultimately goes on the ballot.

You were of course correct in your observations that we have a successful assigned judges program to help fill in when judges are ill, in training, or have retired. However important the numbers of retired judges in the program may be, at least equally important is their geographic location. If we have 400 members of the assigned judges program, but none from Del Norte or Modoc, for example, no matter how many of the assigned judges are theoretically available to sit on assignment, we often must rely on the newly retired judge in those counties to sit on assignment until such time as the vacancy is filled by appointment or election. It is often the case that other members of the assigned judges program are not willing or able to travel longer distances, especially for an extended period of time, to fill an assignment. And if they were, the program would be responsible for costs of travel, lodging, and other per diem expenses that would not be expended if there were an assigned judge from the area available to sit on assignment. The 180 separation requirement will make it considerably more difficult to meet the needs of our assigned judges program, which already does not have the resources to satisfy all the needs for assigned judges throughout the state.

Additionally, our most recent study found that California has a shortage of 325 judges. Assigned judges help bridge that gap, being assigned not just where there are vacancies, but also to courts with severe judicial shortages. If California had sufficient judges to meet the need, the 180 day separation requirement might not be so onerous. In the current environment, however, it will significantly impact the judiciary's ability to meet the needs of Californians.

With regard to the subordinate judicial officer (SJO) positions converted to judgeships pursuant to Government Code section 69615, the problem is similar, though not identical. Unlike judges, SJOs are court employees, and not subject to vetting by the Judicial Nominees Evaluation (JNE) Commission, appointment by the Governor, or election by the voters. There is no assigned commissioner program, and courts have their own criteria for hiring and assessing the competency of SJOs. A commissioner deemed qualified in one court may not meet the requirements to serve as a commissioner in another court. Courts would not typically hire a retired commissioner from one court to sit until such time as the Governor fills a judgeship converted from an SJO position. The impact of not filling this position on a temporary basis until the Governor appoints a judge to this new judgeship is the same as described above. An SJO position is converted to a judgeship is the same as any other judgeship: the judicial branch has no ability on its own to fill that position, and no degree of succession planning can change that. Absent the ability to have the position filled by the recently retired commissioner pending the Governor's appointment of a judge to that position, in many instances the court will have no ability to fill a critically needed position. Additionally, it should be noted that courts are prohibited from creating new SJO positions, so cannot escape this problem. Again, I would note that the shortage of judges in California magnifies these issues, and makes implementation of SB 1425 extraordinarily difficult for the administration of justice in California.

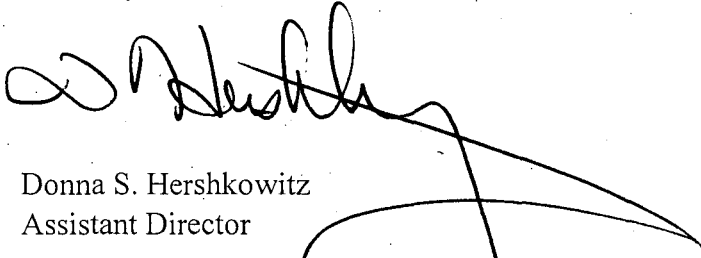
Hon. Joe Simitian

June 15, 2010

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Thank you again for your consideration of this matter. If you have any questions, please do not hesitate to contact me at 916-323-3121, or donna.hershkowitz@jud.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna S. Hershkowitz", with a large, sweeping flourish extending from the end of the signature.

Donna S. Hershkowitz
Assistant Director

DSH/ljb

cc: Ms. Annette Porini, Chief of Staff, Office of Senator Joe Simitian
Mr. Mike Belote, California Judges Association
Ms. Karon Green, Chief Consultant, Assembly Public Employees, Retirement and Social
Security Committee
Mr. Terry Mast, Consultant, Assembly Republican Office of Policy



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CURTIS L. CHILD
Director, Office of Governmental Affairs

June 22, 2010

Hon. Alberto Torrico, Chair
Assembly Public Employees, Retirement & Social Security Committee
State Capitol, Room 3160
Sacramento, California 95814

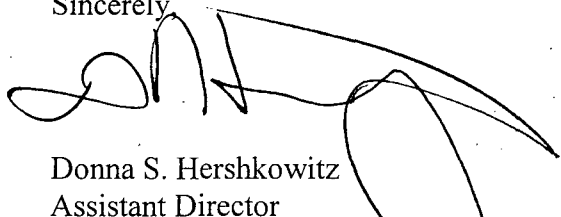
Subject: SB 1425 (Simitian), as amended May 4, 2010 – Removal of Opposition
Hearing: Assembly Public Employees, Retirement & Social Security Committee – June 23, 2010

Dear Assembly Member Torrico:

The Judicial Council is pleased to be able to remove its opposition to SB 1425 (Simitian). The Judicial Council appreciates the receptivity of the author and your committee staff to the unique issues that impact on the state judiciary. Based on the commitment from all parties to address these issues separately, the Judicial Council now takes no position on SB 1425.

If you have any questions, please feel free to contact me at 916-323-3121 or donna.hershkowitz@jud.ca.gov.

Sincerely,



Donna S. Hershkowitz
Assistant Director

cc: Members, Assembly Public Employees, Retirement & Social Security Committee
Hon. Joe Simitian, Member of the Senate
Ms. Karon Green, Chief Consultant, Assembly Public Employees, Retirement & Social Security Committee
Mr. Terry Mast, Consultant, Assembly Republican Office of Policy
Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research
Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor



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Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

April 2, 2010

Hon. Joe Simitian
Member of the Senate
State Capitol, Room 2080
Sacramento, California 95814

Subject: SB 1425 (Simitian), as introduced – Oppose Unless Amended

Dear Senator Simitian:

The Judicial Council regrets that it must oppose your SB 1425 dealing with public retirement.

The Judicial Council typically does not weigh in on proposals in which the Legislature is considering a change in the substantive policy governing the role of the state and local entities as employers. The primary exception is when the legislative proposal seeks to treat the branch in an inequitable fashion or creates a significant burden on court operations and a direct impediment to judicial independence or court operations.

SB 1425 would have a significant and unique impact on court administration, by prohibiting retired judicial officers from serving for a period of at least six months from their retirement date. Such a requirement would dramatically disrupt court calendars and increase the existing backlog in criminal and civil cases.

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Hon. Edward P. Hernandez

April 2, 2010

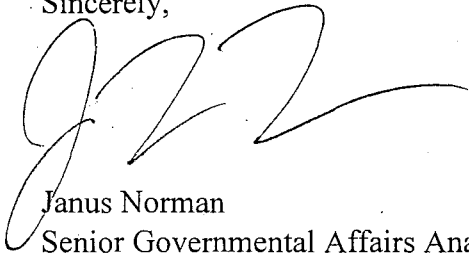
Page 2

authority rests solely with the Governor. To bridge the gap of time between the vacancy and the new appointment, many courts rely on the retired judge or subordinate judicial officer sitting on assignment immediately until the time when an appointment takes effect. SB 1425 would substantially interfere with the ability of the courts to fill behind temporary and permanent vacancies to ensure that the administration of justice does not come to a standstill.

We would respectfully request that SB 1425 be amended to exclude judicial officers from the provision requiring at least six months separation before an individual covered by a state or local pension system may return to service.

To be clear, the Judicial Council has no position regarding the provision of the bill related to the final calculation of retirement benefits. If you have any questions, please feel free to contact me at (916) 323-3121.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Norman', with a long, sweeping horizontal stroke extending to the right.

Janus Norman
Senior Governmental Affairs Analyst

cc: Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Kristen Kolpitcke, Deputy Director of Legislation, Governor's Office of Planning and Research



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CURTIS L. CHILD
Director, Office of Governmental Affairs

April 6, 2010

Hon. Lou Correa, Chair
Senate Public Employment and Retirement Committee
State Capitol, Room 5052
Sacramento, California 95814

Subject: Senate Bill 1425 (Simitian), as amended April 5, 2010 – Oppose Unless Amended
Hearing: Senate Public Employment and Retirement Committee – April 12, 2010

Dear Senator Correa:

The Judicial Council regrets that it must oppose SB 1425 dealing with public retirement, unless it is amended to exclude judicial officers from the provisions requiring a bonafide period of separation.

The Judicial Council typically does not weigh in on proposals in which the Legislature is considering a change in the substantive policy governing the role of the state and local entities as employers. The primary exception is when the legislative proposal seeks to treat the branch in an inequitable fashion or creates a significant burden on court operations and a direct impediment to judicial independence or court operations.

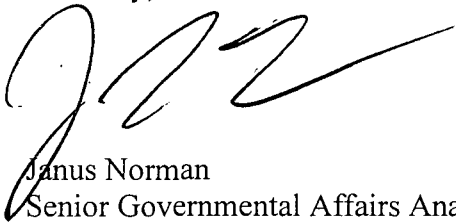
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When a judicial vacancy occurs due to the retirement of a judge or the conversion of a subordinate judicial officer position, the court has no ability to control the length of time to fill that position as that authority rests solely with the Governor. To bridge the gap of time between the vacancy and the new appointment, many courts rely on the retired judge or subordinate judicial officer sitting on assignment immediately until the time when an appointment takes effect. SB 1425 would substantially interfere with the ability of the courts to fill behind temporary and permanent vacancies to ensure that the administration of justice does not come to a standstill.

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To be clear, the Judicial Council has no position regarding the provision of the bill related to the final calculation of retirement benefits.

Sincerely,



Janus Norman
Senior Governmental Affairs Analyst

JN/ljb

cc: Members, Senate Public Employment and Retirement Committee

Hon. Joe Simitian, Member of the Senate

Mr. Michael Bolden, Principal Consultant, Senate Public Employment and Retirement Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitzke, Deputy Director of Legislation, Governor's Office of Planning and Research

Ms. Therese Twomey, Consultant, Senate Republican Office of Policy



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Director, Office of Governmental Affairs

April 22, 2010

Hon. Christine Kehoe, Chair
Senate Appropriations Committee
State Capitol, Room 5050
Sacramento, California 95814

Subject: SB 1425 (Simitian), as amended April 5, 2010 – Oppose Unless Amended
Hearing: Senate Appropriations Committee – April 26, 2010

Dear Senator Kehoe:

The Judicial Council regrets that it must oppose SB 1425 dealing with public retirement, unless it is amended to exclude judicial officers from the provisions requiring a bonafide period of separation.

The Judicial Council typically does not weigh in on proposals in which the Legislature is considering a change in the substantive policy governing the role of the state and local entities as employers. The primary exception is when the legislative proposal seeks to treat the branch in an inequitable fashion or creates a significant burden on court operations and a direct impediment to judicial independence or court operations.

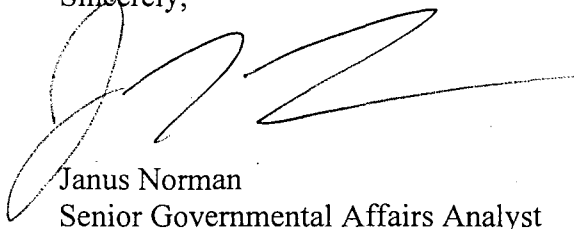
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Sincerely,



Janus Norman
Senior Governmental Affairs Analyst

JN/ljb

cc: Members, Senate Appropriations Committee

Hon. Joe Simitian, Member of the Senate

Ms. Jacqueline Wong-Hernandez, Consultant, Senate Appropriations Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitcke, Deputy Director of Legislation, Governor's Office of Planning and Research

Ms. Therese Twomey, Consultant, Senate Republican Office of Policy



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April 22, 2010

Hon. Christine Kehoe, Chair
Senate Appropriations Committee
State Capitol, Room 5050
Sacramento, California 95814

Subject: SB 1425 (Simitian), as amended April 5, 2010 – Oppose Unless Amended
Hearing: Senate Appropriations Committee – April 26, 2010

Dear Senator Kehoe:

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Hon. Christine Kehoe

April 22, 2010

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Janus Norman

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