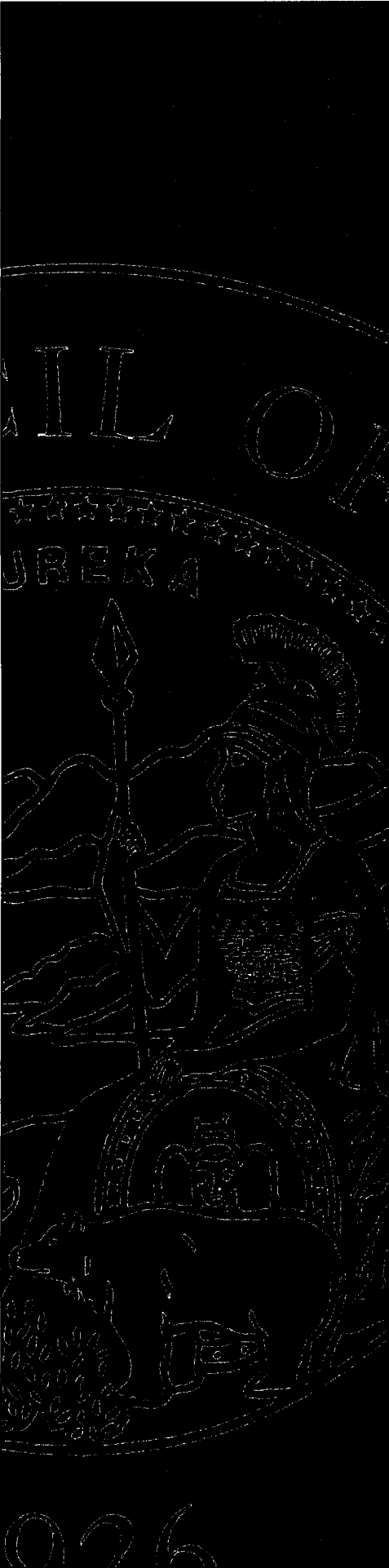




Historical Analysis of Disparities in Judicial Benefits

REPORT TO THE SENATE COMMITTEE ON
BUDGET AND FISCAL REVIEW, THE ASSEMBLY
COMMITTEE ON BUDGET, AND THE SENATE
AND ASSEMBLY COMMITTEES ON JUDICIARY

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Executive Summary

The State of California must maintain its strong, independent, fair, and impartial judicial branch of government with highly qualified judges who reflect the rich diversity of California's population. In order to ensure that the state continues to attract and retain such judges, reasonable compensation must be provided.

Today, compensation for California's judges is consistent throughout the state with respect to salaries but notably inconsistent with respect to benefits. To better understand the breadth of the inconsistencies, the Legislature directed the Judicial Council of California—the constitutionally established policymaking body for California's courts—to submit this report “analyzing the statewide benefits inconsistencies” for judges in California.¹ This report analyzes the inconsistencies in judicial benefits as they exist today within the broader historical context of the evolution of judicial compensation and funding of trial courts from a county-based to a state-funded system. This approach was taken for three reasons:

- The inconsistencies in judicial benefits result from the historical development of judicial compensation and funding of trial courts generally.
- The legislative reforms of judicial salaries over the past 50 years serve as a useful model for considering future legislative reform of judicial benefits.
- A report on inconsistencies in judicial benefits would be incomplete without a discussion of judicial compensation because benefits are an important part of compensation.

The report begins with a brief history of judicial salaries that illustrates how the Legislature reformed a system of disparate salaries primarily funded by the counties into a uniform statewide structure entirely funded by the state. These reforms improved the stability and independence of the judicial branch and continue to help ensure consistent access to justice throughout California.

Next, the current inconsistencies in judicial benefits—including the two-tiered judicial retirement system—are addressed, including their connection to the historical transition from county funding to state funding of judicial salaries and trial court operations. Based on data collected from the 58 superior courts, four broad conclusions can be reached:

1. About 90 percent of superior court judges serve in courts where some form of supplemental benefits is provided, which demonstrates the widespread acceptance of the need for and appropriateness of providing judges with a better benefits package than that currently provided by the state.

¹ Sen. Bill X2 11, Stats. 2009, ch. 9, § 6.

- 2 The variance among supplemental benefits provided to superior court judges in California is the result of the individual history of each court and county and is not based on any rational or consistent statewide plan or formula
- 3 The disparity among judges can be significant. Some judges receive no supplemental benefits while others receive a supplemental benefits package worth approximately \$50,000 a year
- 4 Supplemental benefits make the overall compensation structure for judges inconsistent and, in some cases, result in justices of an appellate court receiving lower compensation than judges of a trial court in the same geographic area

Judicial benefits need the same kind of reform that the Legislature brought to judicial salaries

As part of its operational plan for California's judicial branch, the Judicial Council is committed to improving judicial compensation, including benefits, to attract and retain a diverse judiciary. The council supports further investigation into this issue and a resolution of the inconsistencies that will not reduce the benefits currently provided to any judge. Therefore, the Judicial Council will later submit a second report to the Legislature that provides further information about the impact of the current approach to judicial benefits and, if appropriate, will make recommendations regarding options for reforming judicial benefits in order to move toward a more consistent approach that would better attract the most qualified judicial candidates and maintain the excellence of California's judiciary.

I. Introduction

The powers of California's government are divided among three separate branches the executive, the legislative, and the judicial.² The judicial branch of government is charged with interpreting and applying the laws of the State of California. It provides for the orderly settlement of disputes between parties in controversy, determines the guilt or innocence of those accused of violating laws, and protects the rights and liberties guaranteed by the Constitutions of California and the United States. The branch aspires to accomplish its mission in a fair, effective, and efficient manner to assure justice to all who come before the courts.

The state Constitution vests the judicial power of California in the judges of the superior courts in each of the 58 counties, the Courts of Appeal, and the Supreme Court.³ All judges are state officers, even though, as in the case of most superior court judges, they preside over cases in a single county and are subject to election in only one county.⁴ One of the articulated goals of the judicial branch is to provide equal access to justice for all in the State of California.⁵ In order to accomplish this goal, the state assumed the obligation to fund all trial court operations under the Lockyer-Isenberg Trial Court Funding Act of 1997 (Lockyer-Isenberg Act)⁶ and the funding of and responsibility for trial court facilities under the Trial Court Facilities Act of 2002.⁷ The purpose of state funding was to ensure that the financial condition of a particular county did not adversely affect the quality of justice in the courts of that county. Likewise, in enacting legislation to transfer responsibility for trial court facilities from the counties to the state, the Legislature acknowledged the importance of equal access to justice through its finding that the "state can best ensure uniformity of access to all court facilities in California."⁸ With similar intent that the same high caliber of judges be available in every court in the state, the Legislature over the past 50 years has worked to reform what was an inconsistent approach to funding of judicial salaries by legislating uniformity with respect to judicial salaries and transferring funding responsibility from the counties to the state.

With regard to judicial benefits, however, significant discrepancies and inconsistencies exist throughout the state. These discrepancies were highlighted in the recent case of *Sturgeon v*

² Cal. Const., art. III, § 3. The legislative power of the state is vested in the California Legislature, which consists of the Senate and the Assembly, although the powers of initiative and referendum are reserved to the people (Cal. Const., art. IV, § 1). "The core functions of the legislative branch include passing laws, levying taxes, and making appropriations [Citations omitted]" (*Carmel Valley Fire Protection Dist. v. State* (2001) 25 Cal. 4th 287, 299). The supreme executive power of the state is vested in the Governor, who is required to see that the law is faithfully executed (Cal. Const., art. V, § 1). Persons charged with the exercise of one of these powers may not exercise either of the others, except as permitted by the California Constitution (Cal. Const., art. III, § 3).

³ Cal. Const., art. VI, § 1.

⁴ E.g., the Chief Justice may assign any judge to sit in a court at any location in the state (Cal. Const., art. VI, § 6).

⁵ Goal I in *Justice in Focus: The Strategic Plan for California's Judicial Branch, 2006–2012*.

⁶ Assem. Bill 233, Stats. 1997, ch. 850.

⁷ Sen. Bill 1732, Stats. 2002, ch. 1082.

⁸ Sen. Bill 1732, Stats. 2002, ch. 1082, § 1(c)(4).

County of Los Angeles (Sturgeon),⁹ in which the Court of Appeal found that the Legislature had not sufficiently authorized benefits that the County of Los Angeles provides to the judges of the Superior Court of Los Angeles County. As part of its effort to continue to attract and retain a high-quality judiciary and to maintain and improve access to justice statewide, the judicial branch sought legislation, Senate Bill X2 11,¹⁰ which the Legislature enacted and the Governor signed into law in February 2009. SBX2 11 addressed the immediate problem of authorizing existing county- and court-provided “supplemental”¹¹ benefits to superior court judges.¹² But the Legislature recognized that a long-term solution requires a better understanding of the inconsistencies in judicial benefits throughout the state and instructed the Judicial Council to report on that subject. Section 6 (uncodified) of SBX2 11 includes the following mandate:

The Judicial Council shall report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.

This report is submitted to satisfy this statutory mandate and to support the continuing efforts of all three branches of state government to maintain an equal level of justice throughout the state. As demonstrated in the following section, the statewide inconsistencies in benefits are the result of the long history of shared responsibility for the funding of courts and judicial compensation among the state and counties. Addressing and resolving the inconsistencies and inadequacies of the present system in a responsible manner is clearly in the public interest.

The Legislature can bring to judicial benefits the same stability, uniformity, and processes that it has already brought to judicial salaries, funding of court operations, and responsibility for court facilities, and in doing so will help maintain a strong, fair, and impartial judicial branch, with highly qualified judges who reflect the rich diversity of California. A first step is to understand the history and current status of judicial benefits.

II. History of Judicial Compensation in California

California judges receive compensation in the form of salary and benefits. This section begins with a discussion of judicial salaries and follows with a section on benefits, the latter in two parts.

⁹ *Sturgeon v. County of Los Angeles* (2008) 167 Cal App 4th 630.

¹⁰ Stats. 2009, ch. 9.

¹¹ The term “supplemental” is used in SBX2 11 and in this report to describe benefits provided to judges by either a county or a superior court. The term “local” is also sometimes used to describe these benefits. As used in this report, the term “judicial benefits” includes both supplemental benefits and those provided by the state.

¹² Justices of the Courts of Appeal and the Supreme Court do not receive any supplemental benefits so this report focuses only on superior court judges.

because the unique history of California's dual judicial retirement systems warrants special attention¹³

A Brief History of Judicial Salaries

From 1880 until 1927, superior court judges' salaries were funded half by the state and half by the county in which the judge sat¹⁴ During that same period, salaries of municipal court judges were funded entirely by the counties, which paid salaries with revenue, including traffic and criminal fines, collected within their jurisdiction¹⁵

In 1927, the Legislature established a new system for setting and paying superior court judges' salaries five categories of state contribution were set by statute, depending on the population of the county Salaries also varied depending on the level of contribution by the local county Municipal court judges' salaries continued to be paid by the counties in amounts that varied from county to county The amount in each county was codified in statute and was typically based on resolutions submitted by local boards of supervisors¹⁶

By the 1950s the complexities—and apparent unfairness—of this system of compensating judges had become evident There was no uniformity in the salary amounts and the disparities were great For example, a municipal court judge in Santa Cruz was paid \$8,000 a year, while the annual salary of the judge's counterpart in Oakland was \$15,000¹⁷ The necessity of separate legislation for each county became burdensome During the 1953 session alone, the Legislature was required to consider more than 160 bills proposing increases in judicial salaries¹⁸ The Senate Special Committee on Government Administration prepared a study and concluded that the local variances had

resulted in a salary schedule for superior courts and municipal courts determined by political expediency on the local level with resulting inequalities between counties and between judicial districts [¶] The present salary structure reflects no pattern which can be justified by any recognized standards¹⁹

¹³ This report does not address compensation of subordinate judicial officers such as commissioners and referees Although they perform judicial duties, they are employees of the superior courts, not constitutional officers As employees of the superior courts, their compensation—both salaries and benefits—is determined by the superior court that employs them and, as with other superior court employees, there is no statewide uniformity in their compensation packages

¹⁴ Sen Com on Judiciary, *Rep on Judicial Compensation in California* (Feb 1991), p 340

¹⁵ *Ibid*

¹⁶ Sen Special Com on Gov Admin, Study on Judicial Salaries (Jan 3, 1955), p 12

¹⁷ *Id*, at p 13, table 5

¹⁸ *Id*, at p 5

¹⁹ Sen Special Com on Gov Admin, Study on Judicial Salaries (Jan 3, 1955), p 5

In response to this situation, the Legislature in 1955 enacted reform legislation, adding chapter 15 to title 8 of the Government Code.²⁰ Under this chapter, the Legislature set the salaries of all state judges, each at a fixed amount less than the salary set for the Chief Justice. Thus, associate justices of the Supreme Court were paid \$1,000 a year less than the Chief Justice, presiding justices of the Courts of Appeal earned \$2,000 a year less than the Chief Justice, and so on. Superior court judges were divided into three classifications based on the population of the counties in which they sat, judges in more populous counties were paid more than judges in the less populous counties. Funding was shared between the counties and state with each paying a fixed portion in amounts set by statute, which varied depending on the population of the county. Municipal court judges were also divided into three categories based on county population with salaries set by legislation accordingly, but the counties remained solely responsible for paying those salaries out of locally collected fines and fees. No judge's salary was reduced as a result of this reform.²¹

Legislation enacted in 1964²² established a system under which superior court judges were paid a uniform salary statewide, municipal court judges likewise were paid a uniform salary, although in an amount slightly less than superior court judges. Municipal court judges were still paid entirely by the counties, however,²³ and superior court judges were still paid in part by the state and in part by the counties.²⁴ This reform also did not result in the reduction of any judge's salary.

The 1964 legislation included another, more significant change, no doubt influenced by a study conducted by the State Bar of California that concluded that judicial salaries were well below those paid to judges in other jurisdictions, lawyers in private practice, and lawyers in the public sector. Responding to concerns that lower salaries jeopardized the quality of the judiciary in California, the Legislature raised judicial salaries in all categories and then provided for periodic increases indexed to per capita income in California.²⁵ The frequency of adjustments and the method of calculation have undergone several changes, but for the most part the principle of systematic adjustment remains in place today.²⁶

Changes to trial court funding also affected judicial salaries. Under the Brown-Presley Trial Court Funding Act (Brown-Presley Act),²⁷ each county had the option of receiving state funding

²⁰ Sen Bill 487, Stats 1955, ch 955

²¹ This was consistent with the predecessor to article III, section 4 of the California Constitution, which prohibits the Legislature from reducing the salary of any state officer during his or her term of office.

²² Sen Bill 50, Stats 1964, ch 144

²³ Former Gov Code, § 71220

²⁴ Former Gov Code, § 68206

²⁵ Sen Bill 50, Stats 1964, ch 144

²⁶ Gov Code, § 68203

²⁷ Stats 1988, chs 944 and 945

for trial court operations instead of relying solely on revenues raised within the county²⁸ Beginning July 1, 1989, if a county elected to participate in state funding, it received (as part of its block grant) funding for a significant portion of the salaries for municipal court judges in that county²⁹ Thus, although the county retained full responsibility for *payment* of salaries for municipal court judges, the state for the first time *funded* a portion of those salaries

In 1994, the Legislature ended county funding of judicial salaries, and the state became responsible for funding the salaries of all California judges³⁰ Municipal court judges, however, were still paid lower salaries than superior court judges

The system of inequality between superior court and municipal court judicial salaries began to change in 1998 First, as part of the Lockyer-Isenberg Act, Government Code section 68547 was enacted, which allowed municipal court judges to achieve pay parity with superior court judges under certain circumstances Parity was authorized when a court demonstrated that the maximum use of judicial resources had been systematically implemented, as certified by the Judicial Council—a process known as trial court coordination and a precursor to trial court unification³¹ Later that year, California voters amended the Constitution to authorize full trial court unification³² This involved the merging of the superior and municipal courts in each county into a single, countywide trial court system on a majority vote of the judges within each county Where a municipal court was abolished through unification with the superior court, the municipal court judges became superior court judges³³ By January 2001, all 58 California counties had unified courts and all state trial court judges received the same state salary

The history of judicial salaries is characterized by two distinct developments First was the move from county funding to state funding, a transition that took more than 100 years, during which there was concurrent county and state funding Second was the move from a multiplicity of local salary levels to statewide uniformity within each level of court³⁴ That too, took more than 100 years, but a superior court judge, as an officer of the state, now receives the same salary regardless of where the judge presides³⁵ These two principles—state funding and uniformity of salaries—help ensure the stability and independence of the judicial branch and that the quality of justice is administered at a uniformly high level throughout the state

²⁸ This system was first enacted into law with the Trial Court Funding Act of 1985 (Stats 1985, ch 1607) but was not implemented until Brown-Presley was enacted and sufficient funding was appropriated in 1988

²⁹ Former Gov Code, § 68206(b), as amended in 1988

³⁰ Former Government Code section 68206, which required partial funding by the counties of judicial salaries, was repealed by Assem Bill 2544, Stats 1994, ch 308, § 13

³¹ The Trial Court Realignment and Efficiency Act (Stats 1991, ch 90)

³² Proposition 220, as approved by voters, Gen Elec (June 2, 1996)

³³ Former Cal Const, art VI, § 23

³⁴ This transition to uniformity was always achieved by raising salaries, not by lowering them

³⁵ The only exception being the differential paid to presiding judges of the superior courts and administrative presiding justices of the Courts of Appeal, which is discussed below

B Brief History of Judicial Benefits

1. Supplemental Benefits

As further discussed in Section III of this report and documented extensively in Appendix D, today's system of supplemental benefits is a hodgepodge. Judges in some courts receive no supplemental benefits. Judges in other courts can receive a supplemental benefits package worth a significant percentage of their salaries and which is often tied to, or comparable to, the executive benefits package provided to officers and employees of the county. There are some internal inconsistencies within courts, with some judges receiving supplemental benefits and others not. The current status of judicial benefits is much like the situation with judicial salaries decades ago, before the Legislature provided for uniformity and state funding. As it was in the past with judicial salaries, the current disparity in judicial benefits results from a long history of shared responsibility between the state and the counties for funding the judicial branch in California.

a. Supplemental Benefits and Trial Court Funding

The evolution of trial court funding by way of legislation that transferred responsibility for funding trial court operations from the counties to the state occurred from the mid-1980s to the late 1990s. Judicial benefits were rarely a focus of this legislative evolution but were affected nonetheless.

1 Supplemental Benefits Before Trial Court Funding (Before 1988)

Before trial court funding becoming operative on July 1, 1988, under the Brown-Presley Act, counties were solely responsible for funding salaries and benefits for municipal court judges. Superior court judges—whose salaries were funded by the state—could also receive county-funded benefits. Benefits provided by counties to superior and municipal court judges were authorized by a number of statutes, including some that applied to individual counties and some that applied statewide.³⁶ The county-specific statutes that are still in the Government Code today relate to Los Angeles, Yolo, and San Diego Counties.

- Under Government Code section 69894.3, first enacted in 1959, employees in counties with populations greater than 2 million³⁷ “shall be entitled to step advancement, vacation, sick leave, holiday benefits and other leaves of absence and other benefits as may be directed by rules of the court” and benefits “may be made applicable by rule to court personnel, including but not limited to jurors, and judges.” Based on this statute, the Superior Court of Los Angeles County adopted local rule 1.12, which provides that all County of Los Angeles benefits extended to employees and local officers by local ordinance are applicable to employees and judges of the Superior Court of Los Angeles.

³⁶ A table of statutes that relate to judicial benefits is attached as Appendix C and includes several statutes applicable to municipal court judges that are outdated but have not been repealed.

³⁷ When first enacted, this statute would have applied to only Los Angeles, however, San Diego and Orange Counties both now have populations exceeding 2 million.

County The legal sufficiency of that statute as authority for supplemental benefits to judges was successfully challenged, as discussed in section b below

- Government Code section 69893 7, first enacted in 1982, authorizes, but does not require, Yolo County to extend management benefits packages to its superior court judges
- Government Code section 69907, first enacted in 1985, provides that judges of the Superior Court of San Diego County shall receive certain benefits received by the chief administrative officer, including life insurance, comprehensive annual physical examinations, executive flexible benefits plan, a dental plan, and a vision plan The statute also authorizes judges to receive long-term disability insurance upon approval by the board of supervisors

Government Code sections 53200 3 and 53214 5 apply statewide Although judges are state officials, under these statutes they treated as county officers or employees for the purpose of county-funded benefits Thus, section 53200 3, first enacted in 1957, deems judges who are paid in part or in whole by a county to be county employees for the purposes of participation in group insurance plans Although the statute has not been repealed, it has been held unconstitutional, at least with respect to its application to judges, as discussed in section b ³⁸ Section 53214 5, first enacted as section 53215 in 1979, has the same effect with respect to deferred compensation plans

Benefits provided by counties to judges of the municipal and superior courts in 1988—before trial court funding—are summarized in a 1991 report of the Senate Committee on Judiciary ³⁹ (A part of that report is attached as Appendix B) The report found that a broad range of benefits packages was being offered, that the packages generally reflected those being offered to state and county employees, and that the benefits were modest compared to those offered in the private sector at a similar level of career development The report identified no definitive pattern regarding which counties provided benefits and which did not, although it noted both a tendency to provide supplemental cash benefits in areas with a higher cost of living and a similarity of benefits packages among adjacent counties

2 *The Brown-Presley Act and Supplemental Benefits (1988)*

As part of the Brown-Presley Act, the Legislature statutorily defined “court operations ” The purpose of this definition was to establish the costs that a participating trial court could permissibly fund with the block grants it received from the state The definition of “court operations” included “the county share of superior and municipal court judges’ salaries, benefits,

³⁸ *Sturgeon*, 167 Cal App 4th at 261–262

³⁹ Sen Com on Judiciary, *Rep on Judicial Compensation in California* (Feb 1991) Although the report was based on a survey conducted after the enactment and implementation of the Brown-Presley Act, it noted that most of the county-funded benefits it documented existed before the initiation of trial court funding (See p 3)

and public agency retirement contributions”⁴⁰ This provision was understood by some courts as authorizing funding of supplemental benefits for judges, and some courts picked up the cost of benefits that had been funded by their counties before enactment of state trial court funding statutes

After enactment of the Brown-Presley Act, the Legislature passed a bill authorizing San Diego County⁴¹ to reimburse judges for their share of the contributions for the Judges’ Retirement System, Riverside County also sponsored similar legislation⁴² This created a controversy that resulted in the failure of the bill sponsored by Riverside County and the repeal of the legislation regarding San Diego’s reimbursement of judges’ retirement contributions⁴³ In response to this controversy about supplemental benefits, the Senate Committee on Judiciary conducted an extensive survey of supplemental benefits The resulting report reached several conclusions discussed above, it also noted that uniformity of compensation was still appropriate but would have a cost

Creation of a statewide uniform benefits package would necessitate establishing uniformity at the “high end” to avoid overwhelming opposition and the potential legal problems that may occur if existing benefits were abolished

Due to the concentration of the state’s total judiciary in urban jurisdictions with reasonably equal costs of living, and the relative paucity of judges in lower-cost rural areas, a differential in compensation would not appear so cost-effective as to warrant abandonment of the equal compensation principle⁴⁴

Likely due to the political challenges these conclusions presented, the Legislature took no action in response to the report

Riverside County was successful in a subsequent legislative effort related to supplemental benefits Under Government Code section 69909, which was first enacted in 1990 as section 69908, superior court judges are entitled to participate in a county flexible spending plan and may receive long-term disability insurance on approval by the board of supervisors

3 *The Lockyer-Isenberg Act and Supplemental Benefits (1997)*

The Lockyer-Isenberg Act contained two provisions relevant to supplemental benefits⁴⁵ The first required counties to submit to the Department of Finance a declaration addressing whether

⁴⁰ Former Gov Code, § 77003(c), as enacted in 1988 The definition of “court operations” found today in Government Code section 77003(a)(1) still includes “salaries, benefits, and public agency retirement contributions for superior court judges”

⁴¹ Sen Bill 948 (1989–1990 Reg Sess)

⁴² Sen Bill 872 (1989–1990 Reg Sess)

⁴³ Sen Com on Judiciary, *Rep on Judicial Compensation in California* (Feb 1991), cover letter of Senator Bill Lockyer, p 1

⁴⁴ *Id* at pp 3–4

⁴⁵ The Lockyer-Isenberg Act shifted from the counties to the state, effective July 1, 2007, full responsibility for funding court operations expenses (Former Gov Code, § 68073(a), now Gov Code, § 70311(a)) As part of this

the amount of its maintenance of effort payment (MOE) included the value of any supplemental benefits paid to judges. Following comment by the affected court and verification, the Department of Finance typically would lower the county's MOE by an amount equal to the cost of those benefits, in which case the county continued to be responsible for those benefits costs.⁴⁶ The second, uncodified provision stated that it was the intent of the Legislature "to provide that no personnel employed in the court system as of July 1, 1997, shall have their salary or benefits reduced as a result of this act." Based on these two provisions, some counties continued to provide supplemental benefits to judges.

4 *The Impact of Trial Court Funding on Supplemental Benefits*

Trial court funding was not intended to bring uniformity to the system of supplemental benefits for judges. Instead, it preserved the then-status quo, allowing judges to continue receiving the same supplemental benefits that they had received before trial court funding. It also affected which entity or entities had responsibility for funding supplemental benefits. Before trial court funding, supplemental benefits had been funded only by counties; after trial court funding, both counties and courts in many instances were providing supplemental benefits. In addition, some counties used trial court funding as a dividing line for providing benefits. In Fresno, for example, the county decided to continue to provide supplemental benefits only for those judges holding office as of July 1, 1997, and not to any judges taking office after that date. This created a two-tiered system within that court and similar actions in other counties had the same result. Discrepancies that had previously existed between different courts now occurred within a single court.

b. *The Sturgeon Case (2006–2009)*

In April 2006, Judicial Watch, Inc. filed a lawsuit, on behalf of Harold P. Sturgeon, a Los Angeles County resident and taxpayer, against the County of Los Angeles. The complaint challenged the validity of the benefits that the county provides to the judges of the Superior Court of Los Angeles County. The plaintiff alleged that the benefits amounted to a gift of public funds, were a waste of public funds, and were not authorized by the Legislature, as required by article VI, section 19 of the California Constitution,⁴⁷ which states, in pertinent part, "The Legislature shall prescribe compensation for judges of courts of record."

The trial court, ruling on a motion for summary judgment, rejected the plaintiff's claims. It found that the benefits provided by Los Angeles County were neither a gift nor waste of public funds and were authorized by the Legislature as part of the Lockyer-Isenberg Act. Judgment was entered against the plaintiff and in favor of the county in January 2007. The plaintiff appealed.⁴⁸

new system, the counties submit to the state "maintenance of effort payments," which were calculated based on the level of support counties provided to the trial courts in 1994–1995. Many counties continue to make these payments, although the amounts have been adjusted over the years and, for many counties, abolished entirely. (Gov. Code, § 77201–77201.3.)

⁴⁶ Gov. Code, § 77201(c)(3), as enacted in Assem. Bill 233, Stats 1997, ch. 850, § 46.

⁴⁷ *Sturgeon, supra*, 167 Cal. App. 4th at p. 636.

⁴⁸ *Id.* at pp. 636–637.

The Court of Appeal agreed with the trial court that the supplemental judicial benefits provided by the county to the judges of the Superior Court of Los Angeles County were neither a gift of public funds nor a waste of taxpayer funds. The appellate court said, “there can be little doubt the benefits that the county provides its judges enhance the recruitment and retention of judges who serve in Los Angeles” and serve a public purpose,⁴⁹ and that the Lockyer-Isenberg Act “under any fair reading” authorizes supplemental judicial benefits.⁵⁰

The appellate court went on to address, however, the requirement of article VI, section 19 of the California Constitution that the Legislature “prescribe” compensation of judges—which includes benefits—and found that the record before the court did not establish that the benefits provided by the county had been prescribed by the Legislature. Notably, the appellate court held that both the Lockyer-Isenberg Act and Government Code section 69894.3 were “ineffective legislative prescriptions” for county-funded supplemental benefits.⁵¹ For that reason, the court reversed the judgment by the trial court. In doing so, the court said that correcting this legislative defect was “not onerous, but does require that the Legislature consider the specific issue and, at a minimum, establish or reference identifiable standards.”⁵²

c. Senate Bill X2 11 (2009)

In response to the *Sturgeon* case, the California Judges Association, the Superior Court of Los Angeles County, several judicial leaders, and the Administrative Office of the Courts worked together to propose legislation that would adequately prescribe supplemental benefits. This effort was consistent with discussions that the judicial branch had conducted with legislators before the *Sturgeon* case and was pursued so that the hundreds of superior court judges who had accepted their appointments to the bench with an expectation of a compensation package that provides both state and supplemental benefits could continue to receive the supplemental benefits, at least for the duration of their terms of office.⁵³ Judges rely on the compensation package that was in place at the time they joined the bench, and for many judges that reliance includes county-provided health benefits for family members, dissolution decrees that include obligations to continue various benefits in place, and benefits that judges are unable to obtain elsewhere.

On February 15, 2009, the Legislature passed SBX2 11, and on February 20, 2009, Governor Schwarzenegger signed it into law. SBX2 11 preserves the status quo for existing supplemental benefits by authorizing counties and courts to provide such benefits to judges “on the same terms and conditions” as were in effect on July 1, 2008. SBX2 11 also allows counties to terminate benefits with 180 days’ notice to the affected judges and the Administrative Director of the Courts. Benefits cannot, however, be terminated before the end of the current term of office for a judge. SBX2 11 did not authorize any new benefits and was not intended to be a global solution,

⁴⁹ *Id.* at pp. 639–640.

⁵⁰ *Id.* at p. 642.

⁵¹ *Id.* at p. 656.

⁵² *Id.* at p. 657.

⁵³ Judges in some courts, concerned about the statutory authority for their benefits, voted to end supplemental benefits *before* enactment of SBX2 11. Ironically, because SBX2 11 authorizes continuation of benefits only as they existed on July 1, 2008, these judges are precluded from reinstating the benefits they previously had received.

it simply preserves the status quo for an undefined period. And as previously noted, SB 11 also requires this report by the Judicial Council to inform the Legislature of the statewide inconsistencies regarding supplemental benefits, presumably as prelude to a comprehensive, long-term solution.

d. Supplemental Benefits After Senate Bill X2 11

Four developments have occurred since SBX2 11 became law.

- The parties to the *Sturgeon* case filed cross-motions for summary judgment based on the impact of SBX2 11. After hearing these motions, the trial court held that SBX2 11 adequately prescribes compensation under article VI, section 19 of the California Constitution and that the benefits paid to the judges of the Superior Court of Los Angeles County were, therefore, legally authorized. Judicial Watch filed a notice of appeal on September 28, 2009.
- Several county boards of supervisors have considered terminating benefits to the superior court judges in their counties. To date, no county has acted to do so, instead deferring further consideration until the Legislature can review judicial benefits from a statewide perspective and develop a plan to address the inconsistencies that currently exist.
- Judges in a few courts have voted to waive the supplemental benefits provided to them by their courts.
- The Judicial Council on April 24, 2009, adopted Interim Procedures for Administration of Court-Funded Supplemental Judicial Benefits to provide for further accountability and to enhance public trust and confidence in the court system by regulating the supplemental benefits paid by courts and requiring courts that provide such benefits to keep records and report practices.

In summary, unlike judicial salaries—which are now uniform statewide and entirely state-funded—the current status of supplemental judicial benefits is more like a patchwork quilt, with a different history in each court. SBX2 11 has stabilized the situation, allowing sufficient time for thoughtful consideration of alternatives.

2. State-provided Benefits

As discussed above, some judges receive supplemental benefits and others do not. All judges, however, receive both nonretirement and retirement benefits from the state, as discussed below. And yet even the current system of state-provided retirement and nonretirement benefits is not uniform statewide; the current two-tiered system establishes disparities among judges based on their dates of appointment.

a. *Nonretirement Benefits*

In addition to the retirement benefits discussed below, the state provides to judges basic nonretirement benefits that are similar to benefits provided to other state officials and state employees. Thus, judges may participate in health benefit plans, dental benefit plans, and a vision service plan, with the state paying a part or all of the premiums as is done for all other state employees. The state also provides a \$50,000 term life insurance policy, but only for those judges participating in the Judges' Retirement System II (those taking office for the first time on or after November 9, 1994). The state also makes available supplemental life insurance and long-term care insurance, but judges must pay the full cost of this benefit. Until June 30, 2009, judges located in rural counties, like state employees in rural counties, were able to participate in the Rural Health Care Equity Program under Government Code section 22877, that benefit was limited to officers of the California Highway Patrol in legislation enacted last year.⁵⁴

b *Judicial Retirement Systems*

In 1934, California voters passed a constitutional initiative authorizing a retirement benefit for judges.⁵⁵ In response, the California Legislature established the Judges' Retirement System (JRS) in 1937.⁵⁶ Under the newly established JRS, all judges were automatically enrolled in the new pension system. The benefit was funded with a state contribution of 2.5 percent of judicial salary and a 2.5 percent matching contribution by the judge. The retirement benefit allowance was equal to one-half the salary last received as a judge.

In 1953, a series of legislative actions brought several changes, including tying judges' retirement benefits to salaries of current judges holding the same office they last held and requiring the state to guarantee funding of the Judges' Retirement Fund and to appropriate the funding to fulfill pension commitments.⁵⁷ During the 1950s and 1960s, survivor and death benefits were added.⁵⁸

Despite the increase in benefits offered under JRS, state contributions to fund the retirement system were unchanged until 1962, when legislation increased the 2.5 percent contribution rate to 4 percent for both the state's and the judges' portions.⁵⁹ The Judges' Retirement Fund remained viable until 1962, when the cash balance was no longer sufficient to cover the fund's rising cost obligations. In 1964, payroll contributions were increased to offset the retirement system's growing liabilities and the state's and judges' retirement contributions doubled from 4 percent to 8 percent.⁶⁰ In 1972, the Legislature mandated that on or before January 1, 2002, JRS was to become fully funded and actuarially sound.⁶¹

⁵⁴ Assem. Bill 4X 12, Stats. 2009, ch. 12, § 12.

⁵⁵ Former Cal. Const. art. VI, § 26, repealed and substantively replaced on November 8, 1966, by current Cal. Const. art. VI, § 20.

⁵⁶ Assem. Bill 353, Stats. 1937, ch. 770.

⁵⁷ Assem. Bill 387, Stats. 1953, ch. 1592.

⁵⁸ Survivor benefits, Sen. Bill 387, Stats. 1957, ch. 2065, § 4, death benefits, Sen. Bill 770, Stats. 1961, ch. 2136.

⁵⁹ Sen. Bill 33, Stats. 1962, ch. 62.

⁶⁰ Sen. Bill 88, Stats. 1964, ch. 144.

⁶¹ Former Gov. Code, § 75110, Stats. 1972, ch. 538.

In response to the funding issues that had arisen with JRS, the Legislature established the Judges' Retirement System II (JRS II) in 1994. This created a two-tiered system: judges first appointed or elected on or after November 9, 1994, were to participate in JRS II, while any judge initially elected or appointed before that date remained in JRS.⁶² JRS II offered alternative retirement benefits, namely a defined benefit plan or a monetary credit plan. The defined benefit plan provides a lifetime monthly benefit of up to 75 percent of final annual salary, the percentage being based on age at retirement and years of service. Under this plan, judges are eligible to retire when they reach age 65 with 20 years of service, or age 70 with 5 years of service.⁶³ Judges who do not qualify for the defined benefit plan participate in the monetary credit plan, which allows for a refund of member contributions as well as a portion of the employer contributions, equaling 18 percent of salary, plus any interest accrued.⁶⁴

Like judicial salaries, judicial retirement is established and funded at the state level. As with nonretirement judicial benefits, however, disparate treatment of judges remains so long as there are two separate judicial retirement systems. In addition, as explained below, the inadequacies of JRS II present a significant disincentive to attracting and retaining judges.

III. Current Status of Judicial Benefits

A Summary and Analysis of Supplemental Benefit Inconsistencies

Comprehensive information about supplemental benefits received by superior court judges in California was obtained for this report. Appendix D provides detailed information that shows the supplemental benefits received by judges in fiscal year 2007–2008, which is the last full year before July 1, 2008, the date as of which SBX2 11 preserves the status quo of supplemental benefits. The data summarized here does not include the 112 justices of the Courts of Appeal and the Supreme Court because they do not receive supplemental benefits.

A chart illustrating the current patchwork of supplemental benefits is on page 18. Below is a summary:

- There are 837 authorized judgeships in the 11 superior courts where supplemental benefits are provided by the county.
- There are 334 authorized judgeships in the 16 superior courts where supplemental benefits are provided by the court.
- There are 292 authorized judgeships in the 8 superior courts where supplemental benefits are provided by the county and court.

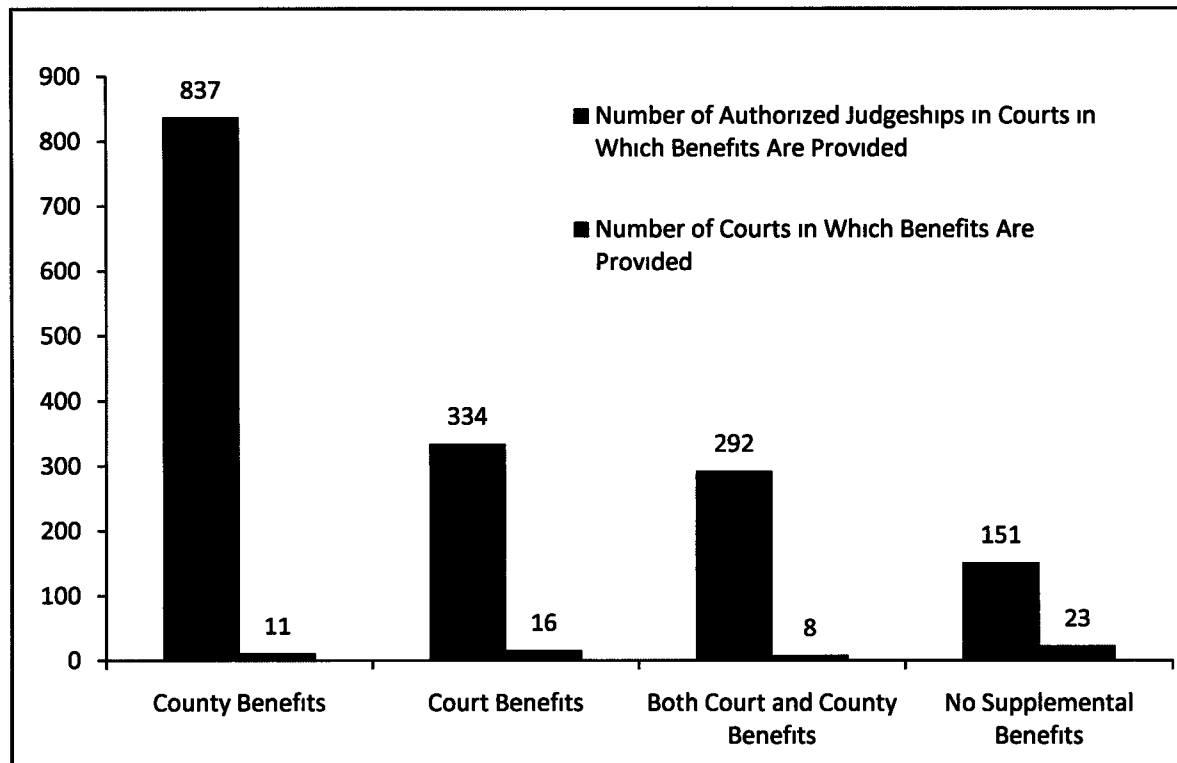
⁶² Gov. Code, § 75502.

⁶³ Gov. Code, § 75522.

⁶⁴ Gov. Code, § 75521.

- There are 151 authorized judgeships in the 23 superior courts where no supplemental benefits are provided

This summary information is depicted in the chart below



The above summary includes both the number of courts and the number of authorized judgeships within each court because the number of judges in a court varies greatly. For example, the Superior Court of Los Angeles County is the largest court in our state system with 436 authorized judgeships, while there are 15 superior courts with only 2 authorized judgeships each. Thus, the numbers of courts alone would not be representative of the number of judges who receive supplemental benefits. Judges in the larger courts (e.g., the Superior Courts of Alameda, Los Angeles, Orange, San Diego, and Santa Clara Counties) receive supplemental benefits, while those in most of the smaller courts (e.g., Alpine, Inyo, and San Benito Counties) do *not* receive supplemental benefits.

But the number of authorized judgeships in a court does not tell the complete story, either. Most significantly, even in a court where supplemental benefits are provided, not all judges within the court receive, or are entitled to receive, the same benefits or same level of benefits. For example

- In one court, the county provides benefits only to those judges who were on the bench as of July 1, 1997, the date the state took on responsibility for funding trial court operations under the Lockyer-Isenberg Act
- In another court, the county provides benefits only to those judges who were on the bench as of December 31, 2005
- In yet another court, although all judges may receive supplemental benefits, the county reimburses the court only for those judges who were on the bench as of 1995

Several other factors make the landscape of supplemental benefits even more complicated

- The scope and scale of benefits received vary widely. Among the supplemental benefits provided to judges are medical benefits, disability and life insurance plans, deferred compensation plans, transportation benefits, and professional allowances and stipends. In some cases, a cash option is available in lieu of the benefit.
- The cost of supplemental benefits, where they are provided, also varies widely. Judges in some courts receive benefits that cost as little as \$102 per year per judge, while judges in the Superior Court of Los Angeles County receive benefits of approximately \$50,000.
- The variation in supplemental benefits and their nonexistence at many courts, including the appellate courts, results in other significant compensation differences. By way of example, the Legislature has specified a uniform salary for all superior court judges statewide and a salary for justices of the Courts of Appeal that is higher than for judges of the superior courts. Yet if the full value of the supplemental benefits is included in the overall compensation paid to judges, there are counties in which superior court judges receive a more valuable compensation package than a justice of the Court of Appeal who serves the same county.

Four broad conclusions can be drawn from the data

1. About 90 percent of the superior court judges serve in courts where some form of supplemental benefits is provided, which demonstrates the widespread acceptance of the need and appropriateness of providing judges with a better benefits package than that currently provided by the state.
2. The variance among supplemental benefits provided to judges in California is the result of the individual history of each court and county and is not based on any rational or consistent statewide plan or formula.

Court	Type of Supplemental Judicial Benefit					
	Disability	Life Insurance	Medical	Allowances/Stipends	Retirement	Transportation
Alameda						
Butte						
Calaveras						
Contra Costa						
Fresno						
Glenn						
Kern						
Kings						
Los Angeles						
Mariposa						
Mendocino						
Mono						
Monterey						
Napa						
Nevada						
Orange						
Placer						
Riverside						
Sacramento						
San Bernardino						
San Benito						
San Diego						
San Francisco						
San Joaquin						
San Luis Obispo						
San Mateo						
Santa Clara						
Siskiyou						
Solano						
Sonoma						
Trinity						
Tulare						
Tuolumne						
Ventura						
Yolo						

Average Annual Benefit Cost per Judge	Funding Source		
	County	Court	Hybrid
Less than \$100			
\$100 \$1 000			
Over \$1 000			

- 3 The disparity among judges can be significant some judges receive no supplemental benefits while others receive a supplemental benefits package worth approximately \$50,000 a year
- 4 Supplemental benefits make the overall compensation structure for judges inconsistent and, in some cases, result in justices of an appellate court receiving lower compensation than judges of a trial court in the same area

The disparity in judicial benefits is similar to the disparity in judicial salaries that the Senate Special Committee on Governmental Administration found troubling in the 1950s. The Legislature's response to this inequity was to adopt a more uniform schedule of judicial salaries as proposed by the Judicial Council, and the Legislature continued to move toward uniformity and state funding in judicial salaries and retirement plans over the next 40 years. The funding of supplemental benefits by counties is inconsistent with this development and with the progress over the past 20 years toward state funding of most other trial court expenses, including court operations⁶⁵ and court facilities⁶⁶.

B. Summary and Analysis of Judicial Retirement Systems

JRS II, which applies to those judges who were first elected or appointed to office after November 9, 1994—and therefore, all current and future applicants for judicial positions—is generally viewed as the single greatest impediment to recruiting new judicial applicants from both the public and private sector.

JRS II is inconsistent with other public employee retirement plans because it requires judges to be 65 years of age and, in the case of those judges under the age of 70, requires a minimum of 20 years of service before the judge can receive a defined retirement benefit.⁶⁷ Because judges enter the system at relatively high average age, JRS II is an inflexible and unattractive retirement option for public sector attorneys who are considering judicial office. This is best illustrated by the following example:

A senior non-management deputy county counsel in San Diego is entitled to a retirement benefit formula of 3 percent at 60 years of age. If that attorney was hired at age 28, then at age 60 he or she would be eligible for a defined retirement benefit equal to 96 percent of his or her highest annual salary (3% x 32 years). If that attorney instead were appointed to the bench at age 50, he or she would have to wait until age 70 to obtain a defined retirement benefit for *any* years of judicial service. Alternately, he or she could retire at age 60 with only 66 percent of his or her salary as a defined benefit from the county (compared with 96%) plus the lump sum defined contribution payment available under JRS II. This result creates a clear disincentive for attorneys in the public sector, where many judicial candidates come from, to serve on the bench.

⁶⁵ Lockyer-Isenberg Act

⁶⁶ Trial Court Facilities Act of 2002 (Stats 2002, ch 249)

⁶⁷ Gov Code, § 75522(a)

A similar example illustrates the problem with attracting attorneys from the private sector. The average age at which an attorney from the private sector takes the bench is a little higher than those from the public sector. 51.7 years of age over the past 10 years. Therefore, that person would typically have to remain on the bench until age 70 in order to receive a defined retirement benefit. Delaying retirement until that age is considered undesirable in both the public and private sectors. Thus, the current system presents a major impediment to recruiting the qualified, diverse judiciary needed to preserve an equal level of access to justice in California's courts.

IV. Next Steps

The inconsistencies and deficiencies in the benefits packages offered to judges in the State of California have an impact on the state's ability to continue to attract and retain high-quality judges, who are necessary to maintain a fair and impartial judicial branch. The ability of the state to diversify the bench to reflect the rich diversity of California's population also is impeded by the more robust compensation packages provided to public sector attorneys by local governments and to attorneys in the private sector.

To provide further assistance to the Legislature, the Judicial Council will continue to review the impact of judicial compensation, particularly with respect to judicial benefits, on the recruitment and retention of the judiciary. Upon completion of this work, the Judicial Council will report its findings and, if appropriate, make recommendations regarding options for reforming judicial benefits in order to move toward a more consistent approach that would better attract and retain a highly qualified and diverse judiciary. These efforts are made at a particularly difficult time for the state from a fiscal perspective. Nonetheless, California must plan for the long-term strength and vitality of its judiciary so that the people of California continue to have broad and equal access to high-quality justice throughout the state.

APPENDICES

- A. Senate Special Committee on Governmental Administration Study on Judicial Salaries: 1955**
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APPENDIX A

JUDICIAL COMPENSATION IN CALIFORNIA



**A REPORT OF THE
SENATE COMMITTEE ON JUDICIARY**

**Bill Lockyer
Chairman**

**Ed Davis
Vice-Chairman**

**Gregory Schmidt
Staff Director**

February 1991

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SURVEY FINDINGS

- Only two jurisdictions offered or proposed to offer county assumption of the employee contribution to the State Judges Retirement System: San Diego and Riverside. The former offered the benefit (\$550.34 per month for Superior, \$500.06 per month for Municipal) up until January 1 of this year.
- Nine counties reported the existence of some cash benefit for superior court judges, either as a specific supplemental compensation or a cash-out option in lieu of receiving benefits. Counties so reporting, with maximum benefits available (assuming complete cash-out of benefits plus acceptance of supplemental compensation when offered):

Alameda:	\$550	Orange:	\$3500
Humboldt:	\$960	San Bernardino:	\$960
Los Angeles:	\$7547	Ventura:	\$420
Marin:	\$8406	Yolo	\$3500
Monterey:	\$3112		

While the number of counties offering some cash benefit comprise only 15.5% of the total jurisdictions, some cash benefit is offered to 50% of the State's Superior Court judiciary.

- Eight counties of the thirty-eight served by Municipal Courts reported the existence of some cash benefit for Municipal Court judges, either as a special supplemental compensation or a cash-out option in lieu of receiving benefits. Counties so reporting, with maximum benefit available (assuming complete cash-out of benefits plus acceptance of supplemental compensation when offered):

Alameda:	\$550	Monterey:	\$3112
Humboldt:	\$960	Orange:	\$3500
Los Angeles:	\$6893	Sacramento:	\$905
Marin:	\$10,784	Ventura:	\$420

The number of counties offering such benefits constitute 21% of the total served by Municipal Courts, but employ 54.7% of the state's Municipal Court judiciary.

- Thirty-three of the fifty-eight counties report offering life insurance to the Superior Court judges, who constitute 82.25% of the total superior bench. Twenty-five of the thirty-eight Municipal Court counties report life insurance for the municipal bench, 54.7% of total judges. Others offer insurance as an option in a flexible package, not an independent benefit.
- Expense reimbursement for travel, lodging, and meals on business

Survey Findings

outside the jurisdiction is reported by all but six counties (Calaveras, Glenn, Lake, Modoc, Sutter, and Yolo). However, it may be assumed to be universal if reporting counties did not consider reimbursement a benefit.

- Cafeteria plans offering an array of flexible benefit options to both Superior and Municipal Court judges were reported by eight counties: Alameda, Humboldt, Los Angeles, Marin, Monterey, Napa, Orange, and Ventura. Such plans are characterized by the inclusion of an array of non-traditional benefits such as child care, dependent care, legal assistance, family counseling, etc. 46.4% of the state's Superior Court judges enjoy "cafeteria" benefits, as do 48.5% of Municipal Court judges. Other counties (Butte, Shasta, Santa Clara, Santa Cruz, Sonoma, Yolo, San Luis Obispo, Kern, San Diego, San Bernardino) report county management or employing benefits packages, but generally include only traditional programs (health, vision, dental, insurance).
- Liability insurance was reported by nine counties for their Superior Courts, and by four counties for their Municipal Courts. (10.8% of Superior Court judges, 4.6% of Municipal). However, it can be assumed that the benefit of defense in civil actions arising from judicial practice is characteristically provided by the counties, whether or not there exists an independent insurance plan. Nor may many jurisdictions consider liability insurance a personal benefit, thus explaining a failure to report.
- Four counties reported specific automobile allowance arrangements: Contra Costa offering an optional \$250 per month, Kings offering \$0.25 per mile, Los Angeles providing the presiding judges of the court with county cars, and San Diego offering the option of a \$134 per month allowance or a \$30.00 per month public transit pass. It is assumed that regular commuting costs are not covered by any jurisdictions. However, travel to and from assignment within the county, at a court not one's own, is reimbursed pursuant to statutory requirement (Gov. C. Sec. 68542.5).
- Unique benefits were reported by Los Angeles County, offering an allowance of up to \$600 annually for reimbursement of personal security expense, a 401(k) plan for a county match of deferred compensation up to \$3774/\$3446 annually, and an expense allowance for presiding judges of \$900 annually. San Luis Obispo County reported a "wellness" benefit of \$200 per year for physical, health club membership, dieting programs, and programs to quit smoking.

Survey Findings

CONCLUSIONS

- In the vast majority of jurisdictions, benefits are generally reflective of packages normally offered to state and county employees. Considering the total compensation package that may be offered to individuals at a similar level of career development in the private sector, the benefits may be characterized as modest.
- Data provided gives no evidence of any correlation between an expansion of benefits and judicial sign-off on State Trial Court Funding. Many jurisdictions specify the existence of their benefits package prior to the initiation of State Trial Court Funding. Any evidence to the contrary is circumstantial, or anecdotal at best.
- While there is a general trend to be discerned in the establishment of supplemental cash benefits in areas with a higher cost of living, the development is not universal. Some counties reporting the benefit (Humboldt, San Bernardino, Yolo) show a relatively high "affluence index" as to the percentage at which the base judicial salary compares to county per capita income and median home price. In other counties where the base salary is relatively low compared to local per capita income and home price, no cash benefit is offered (Contra Costa, San Francisco, San Mateo). The cash benefit would seem to be driven primarily by Southern California interests believing a supplement is necessary to maintain some equality in compensation in the face of increased living costs in that area. Yet it might be noted that Superior Court base salary in Los Angeles equals in excess of 500% of the county per capita income, but only 400% in San Francisco, and approximately 50% of the median home price in Los Angeles but less than 40% in San Francisco.
- Extension of benefits would appear to occur by virtue of regional "contagion", i.e., the institution of a benefit in one jurisdiction leads to a call for its institution in local neighboring jurisdictions. However, some innovative or extra-ordinary programs emerge without pattern, presumably the result of interaction between the local judiciary and county administration, or as a result of such programs being initiated pursuant to negotiations between the county and its non-court employees.
- Creation of a statewide uniform benefit package would necessitate establishing uniformity at the "high end" to avoid overwhelming opposition and the potential legal problems that may occur if existing benefits were abolished.

Survey Findings

- Due to the concentration of the state's total judiciary in urban jurisdictions with reasonably equal costs of living, and the relative paucity of judges in lower-cost rural areas, a differential in compensation would not appear so cost-effective as to warrant the abandonment of the equal compensation principle.

THE JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
595 Market Street, 30th Floor
San Francisco, California 94105

HISTORY OF JUDICIAL SALARIES
AND BENEFITS IN CALIFORNIA

The history of judicial salaries and benefits in California has been marked by dramatic changes. The abiding principle, however, has been the need to attract and retain competent judges so that the public is well served.

This report discusses salaries and benefits separately and incorporates legal opinions on the authority of the Legislature in those areas.

Salaries

Early history

Until 1872 California's counties paid the full salaries of superior court judges. From 1880 to 1927, the cost of superior court judge salaries were split fifty-fifty between the state and counties.^{1/}

During this entire period, the counties paid all of the salaries for the inferior courts (municipal, justice and, until abolished, county and police courts). In 1925 the Legislature began to set municipal court salaries by statute.^{2/}

In virtually every case, salary increases made by legislative action codified decisions made by a county board of supervisors. Because the supervisors paid the salaries, the Legislature deferred to their judgment of how high they should be. The money, collected by the inferior courts, in fines and

1/ California Senate Special Committee on Governmental Administration, "Study on Judicial Salaries," (1955 Study) California Legislature, 1955, p. 9. Table J, attached to pp. 13-15, was prepared by the California Judges Association. This table shows judicial salaries from 1901 through 1991.

2/ Stats. 1925, ch. 358.

fees was to cover the cost of their operation, including salaries to judges and others working there.

In 1927, the Legislature tried to establish a new system for setting superior court judge salaries. Five categories for state contributions were established, with counties grouped into classes by population.^{3/} In 1931, a uniform state contribution of \$4,000 was established. \$4,000 was prescribed as the minimum salary.^{4/} Municipal court judges' salaries continued to be paid wholly by the counties, but were set by the Legislature. Success in obtaining raises depended entirely on the lower courts' relationship with its board of supervisors, whose recommendations the Legislature felt obliged to follow. Disparities set in by 1947. A municipal court judge might earn anywhere from \$7,500 to \$12,500.^{5/} By 1950, while the state contribution to superior court judicial salaries remained uniform, the five separate salary classifications had completely broken down to 58, one for each county.^{6/}

The variation in municipal court judicial salaries had reached the point where a municipal court judge was paid \$8,000 in Santa Cruz and \$15,000 in Oakland.^{7/}

Salary increases for any of the state's trial court judges were hard to come by, because county boards of supervisors were reluctant to impose new costs on their counties by sending salary increase resolutions up to the Legislature. California's trial court judges became markedly underpaid, whether the measure was salaries paid in other major states, the income of California attorneys in private practice, the federal judiciary, or state and county executive branch officials.^{8/}

This fragmented situation became increasingly burdensome for legislators as well. During the 1953 session, the Legislature was required to consider over 160 bills proposing increases in

3/ Stats 1927, chs 343 and 348

4/ Stats 1931, ch 276 See Table 2, attached at p 16

5/ 1955 Study, p. 12

6/ See Gov Code § 28022 et seq

7 1955 Study, pp 12 and 14

8/ Id at pp 15-18

judicial salaries. The need for adopting a fair and orderly method for fixing judges' salaries had become acutely apparent.

Legislative reform

In 1953, a Senate Special Committee on Governmental Administration reported on judicial salaries.^{9/} Among its findings were these:

- The existing system resulted in judicial salaries that were not in keeping with judges in states with comparable populations and economies, nor with other California officials, nor with the incomes of the attorneys from whose ranks judges must be recruited.
- The existing county-by-county system produced gross inequities, detracted from the independence of the courts, and wasted the Legislature's time.
- Salary increases had not been made on the sound principles on which salary adjustments normally are made.
- Proper respect for and confidence in the courts is essential to our form of government.
- County governments were paying a disproportionate share of judicial salaries, as well as paying all the other costs of trial courts.

The special committee made four recommendations:

1. Judicial salaries should be increased to provide equity among judges and should be comparable with other public officers and judges in comparable states.
2. Judicial salaries should be established on a statewide basis under a formula distinguishing between the various levels of courts. The superior and municipal courts should be divided into three classes each on the basis of county population. Salary differentials should be made between the different classes. All judicial salaries should be contingent on that provided for the Chief Justice.
3. County contributions to superior court judicial salaries should be fixed, but adjusted according to the three classes of superior courts.

^{9/} California Senate Special Committee on Governmental Administration, "Study on Judicial Salaries," (1953 Study), California Legislature, 1953, p. 5.

- 4 Court revenues should continue to be the source of municipal court judicial salaries, before the revenues are distributed to the cities ^{10/}

The salary range proposed by the special committee was \$25,000 per year for the Chief Justice to \$14,500 for municipal court judges in small population counties. This would represent an increase from the existing \$11,500 to \$11,000 range.

The recommended reforms were largely enacted in 1955 ^{11/}. Salaries were pegged to that of the Chief Justice, but the proposed amounts were reduced by \$1000.

The salaries for municipal court judges were still to be paid by the counties, out of the money produced by municipal court revenues (fees, fines, forfeitures) and from the county salary or general fund.

Using this structure, salary adjustments were made by the Legislature in 1960 and 1961.

Adjustments and indexing

In 1964, the State Bar of California published a special report detailing how California judicial salaries had steadily dwindled over 20 years in comparison with those of other public officials, judges in comparable jurisdictions in other states, and successful private practitioners ^{12/}. For example, in 1963, the salary of a supreme court justice was less than that of county counsel, the district attorney, and the sheriff in Los Angeles County. Los Angeles Superior Court judges trailed probation officers, the public defender, the chief assistant county counsel, the chief deputy district attorney, the undersheriff, the public administrator, the county clerk and the marshal ^{13/}. This imbalance created a concern about the continuing quality of judiciary.

it is no secret that many successful lawyers who are worthy of judicial office have eliminated themselves from consideration in

^{10/} Stats 1953, ch 206.

^{11/} Stats 1955, ch 955.

^{12/} State Bar of California, Special Report (Feb 1964) 1.

^{13/} Id at 2.

fairness to their families, they could not accept the loss of earnings entailed ^{14/}

A second consideration was at play in 1964. Both the judiciary and the Legislature were weary of the regular appearances that the judges were required to make to request salary adjustments. The substantial amount of legislative time consumed and the public perception of the process.

To address these considerations, the Legislature adjusted judicial salaries upward, using the 1955 structure, and indexed judicial salaries to the percentage rise in the per capita income in California. Automatic adjustments were to occur every four years, beginning in 1968 ^{15/}. In addition, the three-tiered system gave way in 1966 to uniform statewide salaries for superior court judges at \$25,000 and municipal court judges at \$23,000. Between the adoption of the per capita income increase index and its first application in 1968, a period of substantial prosperity and inflation in California resulted in a judicial salary increase exceeding 20 percent. As a result, the Legislature, in 1969, changed the measure for increases to the California Consumer Price Index. Adjustments were to be made annually, rather than every four years ^{16/}. When inflation increased sharply in the 70's, the Legislature made further substantial changes in the formulation of judicial salaries.

1976 legislation ^{17/} froze salaries for 18 months and limited subsequent annual increases to five percent. The net effect was a 22-month interval between the September 1, 1976, adjustment and the next raise on July 1, 1978.

In 1979, the California Consumer Price Index was replaced by the percentage salary increase granted to state employees generally ^{18/}. The five percent cap remained in effect until it was removed in 1981 ^{19/}.

14/ Ibid

15/ Gov. Code § 68203, as enacted at 1st Ex. Sess., Stats. 1964, ch. 144

16/ Stats. 1969, ch. 1507

17/ Stats. 1976, ch. 1183

18/ Stats. 1979, ch. 1018, § 1

19/ Stats. 1981, ch. 102, § 58

Olson v Cory

The 1976 legislation was challenged by a number of judges in Olson v Cory I (1980) 27 Cal 3d 532. The California Supreme Court held that the five percent limitation on annual salary increases was an impermissible impairment of vested contractual rights for judges during any term or unexpired term of a predecessor, under the contract clauses of the federal and California constitutions.

A judge entering office is deemed to do so in consideration of--at least in part--salary benefits then offered by the state for that office. If salary benefits are diminished by the Legislature during a judge's term, or during the unexpired term of a predecessor judge, the judge is nevertheless entitled to the contracted-for-benefits during the remainder of such term 40/

The situation was complicated by the passage of a November 1980 ballot measure that amended the California Constitution, in response to Olson v Cory I, to give the Legislature power to alter at any time the formula used to calculate the annual increase in judicial salaries. In Olson v Cory II (1982) 134 Cal App 3d 85, a Court of Appeal held that the constitutional amendment could not change the formula for increasing judges' salaries during their current terms, because of the same constitutionally protected contractual rights applied by the Supreme Court in Olson v Cory I.

The result of these enactments and decisions was the creation of three salary groups for some judges on the same courts, depending on the salary law in effect when their terms began. The differences have disappeared as their terms expired.

Brown-Presley Trial Court Funding Act of 1988

Counties had continued to pay the entire salaries of municipal court judges. By 1985, a combination of county budget difficulties, a shortage of judicial officers, and the Legislature's desire to rationalize the court structure and harmonize relations with the counties led to a consensus that most funding for California's trial courts should come from the state.

Legislation was passed rerouting municipal court-generated revenues to the state in exchange for new judgeships and a core

20/ 27 Cal 3d at 539

of state money to operate the trial courts, including funds for salaries

The statutes passed in 1985 did not become operative until 1988, under the Brown-Prezley Trial Court Funding Act ^{21/} Counties were to receive a block grant for each judicial officer's position, including those of municipal court judges and commissioners. Henceforth, counties were to provide fixed dollar contributions to the salaries of each municipal court judge, on the same scale and in the same amounts as they provided toward the salaries of superior court judges ^{22/}

Justice courts as courts of record

Justice court judges became judges of courts of record on January 1, 1989, following the approval of constitutional amendments in Proposition 94 at the November 1988 election. In the legislation adjusting the Government Code to conform with this new status, the state mandated that each justice court judge be paid proportionately to municipal court judges, i.e. receiving whatever percentage of municipal court judge's salary was equal to the percentage of full time that their justice court was rated. Counties were removed from control of the salaries of justice court judges. Justice court judges were included in the Trial Court Funding block grant calculations for each county ^{23/}

After July 1, 1990, all new and most current justice court judges began full-time employment by the state, in exchange for the full salary of a municipal court judge.

Benefits

A. RETIREMENT BENEFITS

The original legislation

An initiative constitutional amendment in 1934 provided for a reasonable judicial retirement allowance for age or disability. A similar provision appears in the current constitution, article VI, section 20, which states that "The Legislature shall provide for retirement with reasonable

^{21/} Stats 1988, ch 945

^{22/} See Table 2

^{23/} Stats 1989, chs 1389 and 1417, § 2

allowance, of judges of courts of record for age and disability "

Under the 1934 amendment, in 1937, the Legislature established the Judges' Retirement System ^{24/}. All judges of courts of record were required to be members of the system, and a contribution of 2-1/2 percent of salary was required by each judge with a matching contribution by the state. The contribution rates were increased to 4 percent in 1962^{25/} and to 8 percent in 1964 ^{26/}.

The present Judges' Retirement Law was enacted in 1953^{27/}, and contained a provision^{28/} requiring the Legislature to include in the State Budget Act each year "such sums as may be necessary to make the Judges' Retirement Fund fully sufficient to pay all of the obligations of the fund which will become payable during the ensuing fiscal year: "

Until 1953, the pensions provided for judges were calculated on the basis of the salary last received by the judge before retirement (a so-called "fixed" formula) with no benefits for surviving spouses. In 1953, the benefits were changed to calculate the pension on the basis of the salary paid at the time each payment became due (a so-called "fluctuating" formula) ^{29/}. Benefits for surviving spouses were first provided on a limited basis in 1957 ^{30/}.

Major changes in 1959

The benefits provided by the original Judges' Retirement Law enacted in 1937 were meager. During the first 12 years few judges retired. The Retirement Fund built up a balance of \$2,345,044 as of June 30, 1960.

In the late 1950's, there was considerable public sentiment for setting a compulsory retirement age for judges. The Holbrook Survey published in 1957 showed that 10 percent of judges in Los Angeles were over 70 years of age and 5 percent were over 75.

^{24/} Stats 1937, ch 771

^{25/} Stats 1962, ch 62

^{26/} Stats 1964, ch 144

^{27/} Stats 1953, ch 206

^{28/} Gov Code § 75107

^{29/} Stats 1953, ch 206

^{30/} Stats 1957, ch 2065

A constitutional amendment to compel retirement at age 70 was introduced in 1957, but was not enacted. The 1959 Legislature approached the problem by creating a financial incentive for judges to retire before age 70. Section 75075 was enacted, providing for increased benefits for judges retiring before age 70, and for their surviving spouses. This section also provided that a judge on the bench on the effective date (September 18, 1959) would be eligible for the benefits accorded therein if he or she retired within five years thereafter, regardless of age.

The increase in benefits was substantial and had dramatic effect. A judge retiring under the 1937 act could receive a maximum of 50 percent of the salary of the office, with no benefits payable to the surviving spouse, or the judge could elect to receive a much smaller sum in the form of a joint annuity with the spouse. A judge qualifying under section 75075 received 55 or 75 percent of the salary of the office for life, with the surviving spouse receiving 32-1/2 percent or 37-1/2 percent of the salary of the office. In order not to lose these benefits, almost all judges over age 70 retired before September 18, 1964. On June 30, 1959, only 43 judges and 11 widows were on retirement rolls. By June 30, 1965, there were 161 judges and 57 widows.

Most of those who were added to the retirement rolls during the 1959-1964 period had made extremely small contributions to the Retirement Fund in relation to the new benefits conferred by section 75075. In some instances, the payments received in the first year of retirement amounted to more than the judge's total payments into the fund. As noted above, the Legislature increased the contribution rate from 2-1/2 percent to 4 percent in 1962, and increased it again to 6 percent in 1964. Notwithstanding this increase in the contribution rate, the new and unfunded obligations created by the 1959 incentive act quickly depleted the balance accumulated over the preceding 17 years.

In 1969, at the suggestion of the staff of the Senate Committee on Governmental Efficiency, the Legislature enacted statutes increasing the filing fee for commencing a civil action by \$1 in the Superior Court and \$1 in the Municipal Court^{31/}, the increase to be paid into the Judges' Retirement Fund. These new statutes, which were enacted after the Legislature had already made a special appropriation to the fund for that fiscal year, resulted in a temporary cash surplus in the fund in 1970. However, in the Budget Act of 1970 the Legislature withdrew \$250,000 of that surplus from the Judges' Retirement Fund and transferred it to the General Fund to help balance the

31/ Gov. Code §§ 26822.3 and 72056.

state budget for the succeeding year. Since then, annual augmentations in increasing amounts have been required and made by the Legislature under section 75107.

In 1972, the Legislature enacted Government Code section 75109.5, which required the State Controller to make recommendations for financing the Judges' Retirement Law. The Controller contracted with Actuarial Systems, Inc. of San Jose to perform the first actuarial analysis of the Judges' Retirement System.

The actuary recommended the retention of the statutory contribution rates for judges and the state (8 percent each) and the continued payment of filing fees to the fund, and further recommended that the state pay an additional 12.6 percent of the membership payroll from the fiscal year 1975 to January 1, 2002.

The State Controller, under section 75109.5, formally recommended that the state's contribution be increased to 20.8 percent beginning July 1, 1974. This and a similar 1977 recommendation were not accepted.

Effect on availability of retired judges for assignments

The present retirement laws penalize judges who wish to serve the public courts on assignment. Eight percent of an assigned judge's earnings must be contributed to the Judges' Retirement System, even though the judge may have paid in the maximum amount while on active service. Further, from the 92 percent remaining, the amount of the judge's retirement allowance (pension) must be deducted.³² Normally, this is 73 percent of a sitting judge's salary. The end result is that a retired superior court judge who returns on assignment to the superior court earns just \$46 a day, before taxes. Consequently, retired judges increasingly have been attracted to private judging, leaving the public system without a sufficient number of retired judges to accept assignments when there is a vacancy at the court, when regular judges are ill, on vacation or attending educational programs, or when changes of venue require assigned judges to back up the court receiving the case.

B OTHER STATE BENEFITS

In addition to retirement benefits, the state has made medical³³ and dental³⁴ plans available to judges. In the

32. See Gov. Code § 68543.5.

33/ Gov. Code § 22816.4.

34/ Gov. Code § 22952 et seq.

case of municipal court judges, the counties must pay the premiums for the state plans. Counties may offer their own plans as alternatives.

C COUNTY BENEFITS

Historically, some counties have provided a number of benefits to judges to maintain at least a semblance of equality with county executives and other county employees. In those counties, judicial benefits are tied in kind and extent to those of county executives.

County benefits may include health, dental, and vision care plans, life and liability insurance, professional dues, deferred compensation, automobile allowances, child care reimbursement and medical care reimbursement for costs not covered by medical plans. Some counties have afforded other benefits, including reimbursement of judges' contributions to the Judges Retirement System. Of course, the existence and extent of these benefits vary from county to county.^{35/}

There has been an ongoing debate about the authority of the counties to provide these benefits. To a large extent the discussion has centered on article VI, section 19 of the California Constitution, which provides that the Legislature shall prescribe compensation for judges of courts of record and whether "compensation" is limited to salaries, leaving the counties free to provide benefits.^{36/}

In recent years, some counties have had bills introduced to obtain legislative authorization for specified benefits.^{37/}

Concern over benefits arises from the mixed source of funding for judges which creates confusion as to their classification as county or state officeholders.

^{35/} See Table 3, attached at pp 17-20. This informal survey was compiled by the California Judges Association in 1989 and does not purport to be verified, official, or complete.

^{36/} For conflicting views concerning Legislative authority over judges' salaries and benefits see the January 5, 1980 opinion of Legislative Counsel and the November 10, 1988, opinion of Los Angeles County Counsel. These opinions are attached at pp 21-30.

^{37/} See for example, Stats 1984 (ch 131 (San Diego County) Senate Bill 877 of 1989 (Riverside County) and Assembly Bill 2510 of 1990 (Orange County).

Counties have paid only a share of superior court salaries and therefore have afforded superior court judges only a fraction of the salary-based benefits provided to municipal court judges. The benefits of municipal court judges have suffered from conflicting opinions on county versus state responsibility. County contributions for municipal court judges actually have lessened under Trial Court Funding, as those contributions have been placed on the same three-category schedule as that for superior court judges' salaries. There is little uniformity of benefits from county to county. Instead, a patchwork has resulted that is inconsistent with principles of uniformity in the treatment of state court judges.

SALARIES OF CALIFORNIA JUDGES SINCE 1901
(Compilation in progress.)

Year		Municipal	Superior	Appeal	Supreme	C.J.
1905				7,000	8,000	same
1925	1st	6,000			10,000	same
	1.5	6,000				
	2.25	5,000				
	2.5	6,000				
	2.75	5,000				
1927	1.5	6,000	3,000-	10,000	11,000	12,000
	2.5	6,000	9,000			
1929	1.5	7,500				
	2.5	7,500				
1931	1.5	7,500	4,000-			
1933	1.5	6,500	(over Gov.'s veto)			
	2.5	6,500				
1939	1.5	7,500				
	2.5	7,500				
	2.75	7,500				
1940			10,000			
1941	1.5	7,500				
1943	1.5	8,500		12,000	13,000	14,000
	2.5	8,500	(Long Beach \$7,500)			
1945	1.5	10,000	(L.A.)			
	2.5	10,000		13,000	14,000	15,000
	2.75	8,500				
	5th	10,000	(8,500 in another city of 5th class)			
1947	1.5	12,500	7,000-			
	2.5	12,500	15,000			
	2.75	12,500				
	5th	12,500				

TABLE J

Year	Municipal	Superior	Appeal	Supreme	C.J.
1948			\$15,000	\$16,000	\$17,000
1949	2.5 13,500 2.5 13,500 2.75 13,500 5th 13,500	7,000- 15,000			
1951	L A 15,000 Low 7,200	13,500 (Placer, San Joaquin) 12,000 (Shasta, Trinity) 13,750 (Santa Cruz, Solano) 15,000 (San Bernardino, Santa Barbara) 16,750 (Alameda, Los Angeles, San Diego, San Francisco) Low 10,250	18,000	19,000	20,500
1953	8,000- 15,000	10,250- 16,750	19,000	21,000	21,500
1955	Low 13,500 high 16,500	15,000- 18,000	21,500	23,000	24,000
1956	13,500- 16,500	15,000- 18,000	21,500	23,000	24,000
1957	13,500- 16,500	15,000- 18,000	21,500	23,000	24,000
1959	13,500- 16,500	15,000- 18,000	21,500	23,000	24,000
1960	16,000- 18,000	18,000- 20,000	24,000	26,000	28,000
1961	16,800- 18,900	18,900- 21,000	25,200	27,300	29,400
1963	16,800- 18,900	18,900- 21,000	25,200	27,300	29,400
1964	\$23,000	\$25,000	\$30,000	\$32,000	\$34,000

Fiscal Year	Municipal	Superior	Appeal	Supreme	C.J.
1967	23,000	25,000	30,000	32,000	34,000
1968	23,000	25,000	30,000	32,000	34,000
1969	26,126	30,572	36,667	39,132	41,578
1970	29,270	31,816	38,179	40,724	43,260
1971	30,724	33,407	40,076	42,747	45,418
1972	32,273	35,080	42,097	44,901	47,708
1973	33,481	36,393	43,672	46,583	49,493
1974	34,605	37,615	45,139	48,147	51,155
1975	37,098	40,322	48,389	51,615	54,841
1976	41,677	45,299	54,361	57,985	61,609
1977	45,235	49,166	59,002	62,935	66,869
1978	45,235	49,166	59,002	62,935	66,869
1979	47,497	51,624	61,952	66,082	70,212
1980	49,872	54,205	65,050	69,360	73,723
1981	52,366	59,680	68,303	72,855	77,409
1982	57,776	63,267	72,401	77,226	82,054
1983	57,776	63,267	72,401	77,226	82,054
1984	61,243	67,063	76,745	81,860	85,800
1985	60,449	72,763	83,268	88,818	93,140
1986	70,888	77,624	88,830	94,751	99,362
1987	74,432	81,505	93,272	99,489	104,330
1988	74,432	81,505	93,272	99,489	104,330
1989	82,054	92,251			
1990	86,157	94,344	107,964	115,161	120,764
1991	90,660	99,297	113,632	121,267	127,204

<u>Year</u>	<u>State Contribution to Superior Court salary</u>	<u>To municipal court salary</u>
1880	50%	—
1927 300,000 plus	\$4,000 44%	-0-
100,000-299,999	3,500 50%	
25,000-99,999	3,000 46-60%	
5,000-24,999	2,500 45-69%	
Less than 5,000	2,000 44-67%	
1931	4,000: 44-100%	-0-
1945	5,000:	-0-
1947	5,750: 38-82%	-0-
1951	7,500: 45-73%	-0-
1955 Group I	All, less \$9,500 pd by county	-0-
Group II	All, less \$7,500	-0-
Group III	All, less \$5,500	-0-
1989 Group I	All, less \$9,500	All, less \$9,500
Group II	All, less \$7,500	All, less \$7,500
Group III	All, less \$5,500	All, less \$5,500
		[Under trial ct. funding]

TABLE 2

APPENDIX B

/

STUDY ON JUDICIAL SALARIES

PARTIAL REPORT OF THE
SENATE SPECIAL COMMITTEE ON GOVERNMENTAL ADMINISTRATION
Senate Resolution 157—1953

MEMBERS OF THE COMMITTEE

SENATOR GEORGE MILLER, JR., *Chairman*
SENATOR J HOWARD WILLIAMS, *Vice Chairman*
SENATOR HAROLD T JOHNSON, *Member* SENATOR RANDOLPH COLLIER, *Member*
SENATOR JOHN F MCCARTHY, *Member*
EARL G WATERS, *Executive Secretary*
RUTH M BOYD, *Secretary*



Published by the
SENATE
CALIFORNIA LEGISLATURE

HAROLD J POWERS
President of the Senate
CLARENCE C WARD JOSEPH A BEEK
President pro Tempore *Secretary*

LETTER OF TRANSMITTAL

January 3, 1955

HON HAROLD J POWERS, *President*
and Members of the Senate

GENTLEMEN Your Senate Special Committee on Governmental Administration created by Senate Resolution 157 (Senate Journal June 10, 1953, page 4145) presents herewith a partial report of its activities and the results of its study on judicial salaries, together with its recommendations

Respectfully submitted by,

GEORGE MILLER, JR, *Chairman*
J HOWARD WILLIAMS, *Vice Chairman*
HAROLD T JOHNSON
JOHN F MCCARTHY
RANDOLPH COLLIER

FOREWORD

One of the problems which has confronted the Legislature at each session in the past has been the salary adjustments for the judicial branch of government

Unlike the executive branch, the judiciary has been provided for individually county by county. This has led to the development of what, in effect, may be called 58 separate classes of superior courts.

In the report herein contained, the committee, after careful consideration of the problem presents a formula for salaries of judges of the various courts of record of the State which will establish a more equitable and less confusing basis for salary schedules in the future.

The committee is grateful to and acknowledges the splendid cooperation and assistance given it by the Judicial Council and the Conference of California Judges which have worked with the committee in developing the formula presented in this report.

The committee particularly acknowledges the efforts of the Hon Ben V. Curler, Judge of the Superior Court of Lassen County and President of the Conference of California Judges 1953-54, the Hon Arthur C. Shepard, Judge of the Superior Court of Fresno County and President of the Conference of California Judges 1954-55, the Hon Albert G. Wollenberg, Judge of the Superior Court of San Francisco City and County and Vice President of the Conference of California Judges, and the members of the Legislative Committee of the Conference of California Judges who are: Hon Paul Peek, Justice of the Appellate Court, Third District, Chairman, the Hon Ralph E. Hoyt, Judge of the Superior Court of Alameda County, Vice Chairman, the Hon Joseph W. Vickers, Judge of the Superior Court of Los Angeles County, Vice Chairman, the Hon Walter J. Fourn, Superior Court, Ventura County, the Hon Charles J. McGoldrick, Superior Court, Sonoma County, the Hon L. N. Turrentine, Superior Court, San Diego County, the Hon Strother P. Walton, Superior Court, Fresno County, the Hon C. Harold Caulfield, Municipal Court, San Francisco, the Hon Edward J. Smith, Municipal Court, Oakland, the Hon Gilbert B. Perry, Municipal Court, Watsonville, the Hon Cecil E. Edgar, Municipal Court, Fresno, the Hon Clarke E. Stephens, Municipal Court, Los Angeles, the Hon Fred B. Wood, First Appellate District, San Francisco, the Hon Murray Draper, Superior Court, San Mateo County, the Hon Bertram D. Janes, Superior Court, Plumas County, and the Hon Lilburn Gibson, Mendocino County.

CHAPTER I

A FORMULA FOR JUDICIAL SALARIES

The judicial branch of government is established as an independent part of our Republic. In California the appellate courts are state courts and the responsibility for their support rests solely with the State.

The trial courts of general jurisdiction, termed superior courts, are considered state courts but are established "in and for the county" under the State's political subdivision system. Being state courts, the State has the final responsibility for their support. Under the present system local county governments share in the support of these courts inasmuch as they are established in accordance with the State's policy of permitting as much local autonomy as is practical.

At the present the State contributes a fixed share toward the salaries of the individual judges of the superior courts and the counties are required to pay the balances according to the salaries established by the Legislature.

The trial courts of limited jurisdiction (municipal courts) are established in judicial districts within county boundaries. These courts are not considered state courts and the financial responsibility for their support falls upon the local governments who are the recipients of the revenues of this latter class of courts. But the policy has also been long established that the Legislature shall determine the compensation of the judges.

In practice this has meant that to gain legislative consideration for salary increases the judges must prevail upon their local supervisors to approve these increases inasmuch as it will be the county which must raise the money to meet the costs of said increases.

In principle this procedure impairs the independence of the judicial branch of government.

In actuality it has resulted in a salary schedule for superior courts and municipal courts determined by political expediency on the local level with resulting inequalities between counties and between judicial districts.

The need for adopting a fair and orderly method for fixing judges' salaries became acutely apparent during the 1953 Session when the Legislature had before it over 160 bills proposing salary increases, each of which called for separate consideration and action. Establishment of salaries in this manner is extremely wasteful of the time of the legislators since such bills can only be considered in the final days after the passage of the budget bill, hence proper consideration cannot be given to so many measures and inequities result.

The present salary structure reflects no pattern which can be justified by any recognized standards. There are in fact as many classifications for superior court salaries as there are counties.

Yet, the duties of the superior court, its functions and responsibilities are the same and by and large, taking into consideration the human elements, the work loads of the individual judges are comparable.

The accepted principle for determining salaries of the various officials within the political subdivisions of the State is that of population. This

standard, while not an absolute evaluation, does provide a reasonable index for the relative work loads and one which, over the long period has generally proven a fair average measurement

In reviewing the judicial salaries as they relate to the superior courts, it was evident that the differences in work loads were not as great as would be indicated by the present wide disparagements in salaries

That being true, the problem was simply that of determining to what degree the differences are present. The committee is reluctant to conclude that in actuality there are differences, dependent upon population, between the various superior court functions, work loads and responsibilities. But it does recognize that from a standpoint of economics there are differences both in the ability of the local governments to pay and in the costs of living as they affect the individuals whose salaries are being considered.

It was, therefore, the decision of the committee, upon the recommendation of the committee appointed by the Conference of California Judges and the Judicial Council, to establish three classes of superior courts based solely upon population.

The effect of this formula then would be to reduce the present 58 classifications to 3

The difficulty of drawing the lines for the three divisions proposed was apparent from the outset. No matter at what point the division in class would be proposed there would be counties left out whose populations are close enough to the dividing line to raise questions as to the soundness of the decision. The committee, therefore, accepted the recommendations of the Judicial Council and the representatives of the Conference of California Judges which called for separations as follows:

- Class 1 Counties with populations of 250,000 and over
- Class 2 Counties with populations of 40,000 and over
- Class 3 Counties below 40,000

The committee recognizes that such a classification is arbitrary. *But it is less arbitrary than the present situation whereby there are 58 classifications.* It is believed that as a practical matter it is the most suitable solution for the present which can be achieved.

In making effective this formula it was recognized that the trial court salaries should be related to the appellate courts.

The appellate courts have traditionally been accorded a position of higher standing in the judicial system both with respect to the compensation and the prestige of their members.

The committee accepted this traditional rank of the appellate courts in developing its formula. For both practical and economical reasons, as well as more studied reasons going to the matter of presumed qualifying experience for justices of the appellate courts and the work thereof, the committee has arrived at a formula which provides for statutory separations in the compensation of the appellate and trial courts.

The formula thus developed is shown in Table 1. The salary of the Chief Justice becomes the controlling factor and all others receive the salary of the Chief Justice less the amounts indicated by Table 1.

TABLE 1
PROPOSED FORMULA SALARY DIFFERENTIALS

Chief Justice	\$0,000
Associate Justices, Supreme Court	\$1,000 less
Presiding Justices, Appellate Court	\$2,000 less
Justices, Appellate Court	\$2,500 less
Superior Court, Class 1	\$6,000 less
Superior Court, Class 2	\$7,500 less
Superior Court, Class 3	\$9,000 less

The current salaries for the justices of the appellate courts are shown in Table 1-A

The number of superior judges in each of the 58 counties and their current salaries are shown in Tables 2, 2-A, and 2-B

TABLE 1 A
CURRENT SALARIES OF THE APPELLATE COURTS

Chief Justice, Supreme Court	\$21,500
Associate Justices, Supreme Court	21,000
Presiding Justices, District Courts of Appeal	19,500
Associate Justices, District Courts of Appeal	19,000

TABLE 2
CLASS I SUPERIOR COURTS

No	County	1950 population	1954 salaries	No of judges
1	Los Angeles	4,151,687	\$16,750	80
2	San Francisco	775,357	16,750	22
3	Alameda	740,315	16,750	14
4	San Diego	556,808	16,750	8
5	Contra Costa	298,984	15,560	5
6	Santa Clara	290,547	15,560	7
7	San Bernardino	281,642	15,560	5
8	Sacramento	277,140	16,750	6
9	Fresno	276,515	15,000	6

TABLE 2 A
CLASS II SUPERIOR COURTS

No	County	1950 population	1954 salaries	No of judges
10	San Mateo	235,659	\$15,560	4
11	Kern	228,309	15,000	5
12	Orange	216,224	15,000	5
13	San Joaquin	200,750	13,500	4
14	Riverside	170,046	14,500	4
15	Tulare	149,264	14,250	3
16	Monterey	130,498	15,000	2
17	Stanislaus	127,231	15,000	3
18	Ventura	114,647	15,000	2
19	Solano	104,833	15,000	2
20	Sonoma	103,405	15,000	3
21	Santa Barbara	98,220	15,000	2
22	Marin	85,619	15,000	2
23	Merced	69,780	13,500	2
24	Humboldt	69,241	13,750	2
25	Santa Cruz	66,534	15,000	1
26	Butte	64,930	13,500	2
27	Imperial	62,975	14,000	2
28	San Luis Obispo	51,417	15,000	1
29	Kings	46,768	13,750	1
30	Napa	46,603	15,000	1
31	Placer	41,649	15,000	1
32	Mendocino	40,854	15,560	2
33	Yolo	40,640	13,750	1

TABLE 2 B
CLASS III SUPERIOR COURTS

No	County	1950 population	1954 salaries	No of judges
34	Shasta	36,413	\$12,000	2
35	Madera	36,964	13,500	1
36	Siskiyou	30,733	11,750	1
37	Sutter	26,239	13,500	1
38	Yuba	24,420	13,500	1
39	Nevada	19,888	11,527	1
40	Tehama	19,276	11,527	1
41	Lassen	18,474	11,527	1
42	El Dorado	16,207	11,527	1
43	Glenn	15,448	11,527	1
44	San Benito	14,370	10,250	1
45	Plumas	13,519	11,527	1
46	Tuolumne	12,584	11,527	1
47	Inyo	11,658	10,250	1
48	Colusa	11,651	11,527	1
49	Lake	11,481	13,000	1
50	Calaveras	9,902	11,527	1
51	Modoc	9,678	11,000	1
52	Amador	9,151	11,527	1
53	Del Norte	8,078	11,527	1
54	Mariposa	5,145	11,527	1
55	Trinity	5,087	12,000	1
56	Sierra	2,410	10,000	1
57	Mono	2,115	10,250	1
58	Alpine	241	10,000	1

In developing the formula it was recognized by the committee that under the present method the entire cost for salary increases which might be proposed under the formula would fall upon the counties, for, as noted, the State provides a fixed contribution toward each judge's salary of \$7,500 and the respective counties pay the balances. But, if the State is to decide the amount of salary to be paid, the State should then be liable for the fluctuations in costs which result from its actions.

Further, if it is the objective to maintain the judicial branch of government separate and independent of the other branches, the State should make all reasonable provisions to assure this independence.

As a practical consideration, the counties have in the past voiced demands for increases by the State in its contribution toward the salaries. These demands can be expected to be continued and eventually attained.

If the Legislature should in the future determine that there is merit in the county governments' requests for relief in their costs for judges' salaries and acted merely to increase the State's share from the present \$7,500 to \$10,000, which was the most recent proposal of the counties, there would be no assurance that this money would result in salary increases for the judges. Yet the cost to the State of providing this relief would be in excess of \$500,000. Furthermore, merely increasing the State's contribution would not correct the present inequitable situation wherein each judge is paid according to the county government's recommendations.

The committee, therefore, has considered the advantages of reversing the present method of financing the judicial salaries and providing that the counties shall pay a fixed amount and the State contribute the balances.

Consistent with the formula developed for salaries, it is proposed that the rates for fixed contributions by the counties be also established in three classes parallel to the divisions proposed for the salary schedule. The rates of contribution are shown in Table 3 as follows:

TABLE 3
FIXED COUNTY CONTRIBUTIONS IN THREE GROUPS

	<i>Proposed</i>	<i>Range increase over present</i>
<i>Group 1</i> (11 counties—162 judges) --- (Population over 250,000)	\$10,000	\$1,500 to \$750
<i>Group 2</i> (23 counties—70 judges) --- (Population over 40,000)	8,000	2,000 to 60
<i>Group 3</i> (24 counties—24 judges) ---	6,000	3,500 to 00

In proposing this method of financing superior court salaries it should be pointed out that in the past the amounts of contributions of the State and the counties towards judges' salaries has varied from time to time.

Under the system which prevailed up to 1872 the county governments paid the entire salaries.

From 1880 to 1927 the salaries were shared equally between the State and the counties.

In 1927 there was established a schedule of fixed contributions to be made by the State. This schedule was divided into five classes based on county populations.

In 1931 this was changed to a uniform fixed contribution by the State which was established at \$4,000. In 1945 this contribution was raised to \$5,000. This was increased two years later to \$5,750 and in 1951 it was raised to \$7,500.

Historically, then, there is the precedent for contributions to be based upon county rank by population and class. And in actuality, since 1927, the counties have been required to contribute slightly more than one-half of the costs of the salaries even though they at one time enjoyed a fifty-fifty sharing of those costs.

The formula proposed therefore takes recognition of the precedents established and provides that for the immediate future the large counties will pay slightly more than 50 percent of the salary costs while the smaller counties will benefit by the State's picking up the larger portion of the salary costs. Eventually as salaries are adjusted upwards in accordance with living-cost advances which may be anticipated, the State will in all instances pay the larger portion of the salaries. The committee does not feel this to be unreasonable inasmuch as these are actually state courts. The counties would continue to pay all of the other costs incident to the superior courts and those costs, which have never been shared in by the State, continue to rise along with the salaries of the judges.

The proposal to fix the amount of the county contributions has the immediate advantage to the counties of removing them from being subjected to fluctuating costs which are controlled by the Legislature. It offers the advantage to the State of adding to the independence of the judicial branch of government by removing the judges from the present control exercised by local governments over their salaries.

It has the additional advantage to the counties of removing them from the situation whereby the determination of one county that judges' salaries should be increased sets off a state-wide movement for judicial salary increases in all other counties

It has the further advantage to the State of permitting the establishment of a formula whereby judges' salary increases can in the future be determined according to the factors which are used in determining the salaries of those in other branches of State Government. If living costs increase, salary adjustments are made in accordance with the percentages indicated by the increases in costs of living

No longer will the Legislature be confronted with judicial salary proposals on an individual county's request. This method has resulted in a disruption of the salary structure for the entire judiciary

In establishing the classifications of courts, based upon county population, it was recognized that a method of determining population other than the decennial census must be provided if the salary formula is to operate without imposing a hardship upon various courts whose counties may experience considerable growth between such census. Present law provides one method whereby a special census could be taken. This, however, would place the superior court in an untenable position of having the county undergo the expense of such a census for the sole purpose of determining the salaries of a few individuals

Precedent for a better method is found in Section 11005 of the Revenue and Taxation Code and Section 233345 of the Government Code. Both of these sections provide a method whereby the number of registered voters at a general election is multiplied by a factor thereby giving an official population estimate upon which entitlements, fixed to populations, are made

In the Revenue and Taxation Code provision, the factor is "3," and upon this determination the State Controller is provided the basis for gasoline tax revenue apportionments. In the Government Code provisions, the factor of "2½" is used in determining the population of new counties

In examining these factors it was the opinion of the committee that a sounder one, for the purposes of this act, would be that of "registration times 2." In studying the accuracy of this factor, applied to recent registrations, it was found that it would provide a fair and reasonable method of determining population on the basis of comparison to actual registrations and actual populations in recent years

In application to the judicial salary formula presently proposed this definition of population would change the status of San Mateo and Orange Counties from Class 2 to Class 1 and would move Shasta County from Class 3 to Class 2

The formula would drop Kings County from Class 2 to Class 3. However, the formula is only applied in those situations where the county rank would be improved. One can anticipate general elections where candidates for principal offices may run unopposed. This would result in a light vote at such an election. To apply a population formula to the detriment of a county and in direct conflict with the actual census population figures would be exceedingly unfair

The use of the proposed population formula factor is reflected in Tables 4, 4-A, and 4-B which show the comparisons between the 1950 census figures and the formula populations

TABLE 4
COMPARISON OF PRESENT COUNTY RANK WITH COUNTY RANK UNDER FORMULA

Class 1			
County by present rank	1950 population	County by formula rank	Formula population
1 Los Angeles -----	4,131,687	1 Los Angeles -----	4,943,628
2 San Francisco -----	775,357	2 Alameda -----	849,192
3 Alameda -----	740,315	3 San Francisco -----	803,800
4 San Diego -----	556,808	4 San Diego -----	651,806
5 Contra Costa -----	298,984	5 Santa Clara -----	344,204
6 Santa Clara -----	290,547	6 San Mateo -----	319,834
7 San Bernardino -----	281,642	7 Contra Costa -----	317,334
8 Sacramento -----	277,140	8 San Bernardino -----	308,766
9 Fresno -----	276,515	9 Sacramento -----	305,370
		10 Fresno -----	264,222
		11 Orange -----	259,822

TABLE 4 A
COMPARISON OF PRESENT COUNTY RANK WITH COUNTY RANK UNDER FORMULA

Class 2			
County by present rank	1950 population	County by formula rank	Formula population
10 San Mateo -----	235,659	12 Kern -----	198,626
11 Kern -----	228,309	13 San Joaquin -----	181,150
12 Orange -----	216,224	14 Riverside -----	178,314
13 San Joaquin -----	200,750	15 Stanislaus -----	119,714
14 Riverside -----	170,046	16 Tulare -----	117,434
15 Tulare -----	119,264	17 Sonoma -----	115,182
16 Monterey -----	130,498	18 Monterey -----	109,174
17 Stanislaus -----	127,231	19 Ventura -----	106,702
18 Ventura -----	114,647	20 Santa Barbara -----	105,078
19 Solano -----	104,833	21 Solano -----	100,338
20 Sonoma -----	103,405	22 Marin -----	94,558
21 Santa Barbara -----	98,220	23 Santa Cruz -----	76,720
22 Marin -----	85,619	24 Humboldt -----	73,778
23 Merced -----	69,780	25 Butte -----	67,858
24 Humboldt -----	69,241	26 San Luis Obispo -----	61,602
25 Santa Cruz -----	66,534	27 Merced -----	58,992
26 Butte -----	64,930	28 Napa -----	51,376
27 Imperial -----	62,975	29 Placer -----	42,320
28 San Luis Obispo -----	51,417	30 Mendocino -----	41,741
29 Kings -----	46,768	31 Imperial -----	41,314
30 Napa -----	46,602	32 Shasta -----	41,238
31 Placer -----	41,649	33 Yolo -----	40,492
32 Mendocino -----	40,854		
33 Yolo -----	40,640		

TABLE 4-B
COMPARISON OF PRESENT COUNTY RANK WITH COUNTY RANK UNDER FORMULA

Class 3			
County by present rank	1950 population	County by formula rank	Formula population
34 Madera -----	36,964	34 Kings -----	34,992
35 Shasta -----	36,413	35 Siskiyou -----	32,910
36 Siskiyou -----	30,733	36 Madera -----	30,094
37 Sutter -----	26,239	37 Sutter -----	23,340
38 Yuba -----	24,420	38 Nevada -----	22,170
39 Nevada -----	19,888	39 Yuba -----	20,782
40 Tehama -----	19,276	40 El Dorado -----	19,880
41 Lassen -----	18,474	41 Tehama -----	19,688
42 El Dorado -----	16,207	42 Lassen -----	17,372
43 Glenn -----	15,448	43 Tuolumne -----	15,634
44 San Benito -----	14,370	44 Glenn -----	14,990
45 Plumas -----	13,519	45 Lake -----	14,530
46 Tuolumne -----	12,584	46 Plumas -----	13,552
47 Inyo -----	11,658	47 San Benito -----	12,678
48 Colusa -----	11,651	48 Calaveras -----	12,444
49 Lake -----	11,481	49 Inyo -----	12,048
50 Calaveras -----	9,902	50 Amador -----	10,880
51 Modoc -----	9,678	51 Del Norte -----	10,786
52 Amador -----	9,151	52 Colusa -----	10,450
53 Del Norte -----	8,078	53 Modoc -----	9,168
54 Mariposa -----	5,145	54 Trinity -----	7,352
55 Trinity -----	5,087	55 Mariposa -----	7,008
56 Sierra -----	2,410	56 Sierra -----	3,344
57 Mono -----	2,115	57 Mono -----	2,246
58 Alpine -----	241	58 Alpine -----	360

Unlike the superior courts, the municipal courts are supported entirely by county funds without state contributions

These funds are in part derived by the counties out of the revenues of those courts

The salaries of the judges of the municipal courts are fixed by the Legislature which has acted on the advice of the boards of supervisors

As in the case of the superior courts, because the counties bear the costs of increases, the municipal court judges are in the same position as the superior court judges wherein they are subjected to a control by local officials which detracts from the independence of the judicial branch of government

In examining the judicial salary problem the committee reached the conclusion that if a salary formula is to be worked out for the judiciary on a state-wide basis, the formula must include all courts of record. The committee, therefore, has included in the formula the salaries for judges of the municipal court

Table 5 reflects the present salaries of municipal court judges and the formula populations of the various counties wherein municipal courts are located

TABLE 5
MUNICIPAL COURTS

	County	Salary	Population	Number of judges
1	Los Angeles -----	\$15,000	500,000 and over	80
2	San Francisco -----	15,000	500,000 and over	12
3	Alameda -----	15,000	Oakland and Piedmont	13
		13,500	others	
4	San Diego -----	13,831	500,000 and over	9
5	Santa Clara -----	12,448	250,000 and over	4
6	San Mateo -----	12,448	250,000 and over	4
7	Contra Costa -----	12,448	250,000 and over	3
8	San Bernardino -----	8,400	250,000 and over	3
9	Sacramento -----	12,000	250,000 and over	4
10	Fresno -----	11,000	250,000 and over	4
11	Orange -----	10,000	Under 250,000	2
12	Kern -----	12,000	Under 250,000	3
13	San Joaquin -----	9,600	Under 250,000	4
14	Riverside -----	9,000	Under 250,000	2
15	Tulare -----	---	Under 250,000	0
16	Stanislaus -----	10,000	Modesto	2
		8,000	others	
17	Sonoma -----	---	Under 250,000	0
18	Monterey -----	10,000	Under 250,000	2
19	Ventura -----	---	Under 250,000	0
20	Santa Barbara -----	9,600	Under 250,000	1
21	Solano -----	10,000	Under 250,000	1
22	Marin -----	12,448	Under 250,000	2
23	Santa Cruz -----	8,000	Under 250,000	1

In arriving at the differences between the municipal courts salaries and the superior courts, the committee was guided in part by the recommendations of the Judicial Council and the Conference of California Judges and in part by the existing situation wherein the differences which actually now exist between the two courts in the major counties amounts to \$1,750

The committee therefore proposed in its formula that there shall be three classes of municipal courts based upon population

These three classes would be divided as follows

- Class 1 Counties with populations of 500,000 and over
- Class 2 Counties with less than 500,000 population but over 250,000
- Class 3 Counties below 250,000

The committee's formula provides that the salaries for the three classes shall be as follows

- Class 1 \$1,500 less than Class 1 superior courts
- Class 2 \$1,500 less than Class 1 municipal courts
- Class 3 \$1,500 less than Class 2 municipal courts

The committee in further considering the problem of municipal court salaries had under advisement the proposal of the County Supervisors Association which called for state contributions towards municipal court judges' salaries

In examining the present situation it was found that under Section 1463 of the Penal Code, there is provided a formula for apportionment of revenues of the municipal courts. Under this provision of the law

the cities within the counties having municipal courts receive substantial revenues from those courts but pay nothing toward the costs of the court's operations

The revenues derived by the counties are not adequate to cover the court operational costs

The committee therefore believes that before the revenues are distributed as provided under Section 1463 of the Penal Code the counties should be reimbursed for the amounts expended for judges' salaries

This, the committee holds, is an equitable, reasonable and fair proposal. If the State is to establish the salaries for these courts some provision should be made to cover those costs

This was the original intent of Section 1463 of the Penal Code which apportioned certain percentages of the revenues to the counties. Those percentages were based upon the actual court costs at the time

But the actual court costs at the time did not include adequate salaries for the judges in the first instance and did not include in certain instances the salaries of persons who act as bailiffs and clerks but were carried on pay rolls other than the courts'. When these costs are added to the municipal courts the percentages apportioned to the county governments do not cover the county's costs in each instance

However, since the original intent was that the costs should be covered from the revenues, the committee believes that the proposal to take the salaries of the judges off the top of the revenues merely conforms to the original intention, and will equalize the present deficits now paid by county governments

This phase of the proposal also has the added advantage of guaranteeing a greater independence for the municipal courts. The salaries of the judges of those courts would no longer be subject to the control of the local governments but would become an integral part of the state-wide salary structure for the entire judicial branch of government

For reference purposes Appendix I of this report is a table showing the revenues of the municipal courts for the 1953-54 Fiscal Year and the apportionments thereof and reflects the net gains or losses to the various counties in the amounts expended in comparison to revenues derived

CHAPTER II

SALARY LEVELS

In making a salary formula for the judicial branch of government a determination of the initial salary levels must be developed which would provide, under the formula, reasonable equitable compensation for all levels of courts in the judicial system

As has been indicated the determination of salary levels has been made on the basis of each county. Under such a system the influence of personalities involved has been inescapable. But this is not a proper determining factor in establishing salary schedules for this branch of government any more than it would be in establishing salaries for the Legislature or for the executive branch. The salaries should be established on the basis of the job to be performed with the presumption that the proper men will be attracted to the jobs.

In attempting to find proper salary levels to fit the formula the committee naturally has taken into consideration, as a practical matter, current salary levels. It is obvious that any proposal which would reduce current salaries would not be realistic.

The salary schedules which were developed and are proposed in this report, therefore, are based upon the following factors:

- 1 Present salaries
- 2 Salaries paid comparative judicial positions in other states and by the Federal Government
- 3 Salaries paid other public officials in other states
- 4 Salaries paid public officials in California
- 5 Earnings of successful attorneys in California

Tables 1-A, 2, 2-A, 2-B and 5 in the preceding chapter show the current salaries of the supreme, appellate, superior and municipal courts respectively.

Table 6 shows the present salaries paid in six other states to judges of comparable courts.

Table 6-A shows the present salaries for the federal judicial system and the proposed salaries which will be acted upon by the present Congress.

From these tables it can be seen that salary advances in the California judicial system are necessary to place California judges on a level with other states having comparable populations and economies. Also it can be seen that salary advances are warranted on the basis of the recommendations of the Commission on Judicial and Congressional Salaries to the Congress.

Table 7 shows the salaries of top public officials in representative states. It is noted that while California leads in compensation for legislators, it lags behind other states in salaries paid governors, attorneys general and secretaries of state, as well as judges.

Table 7-A shows the current salaries paid top local government officials in the major counties. Comparing these salaries with those of the courts leads to the conclusion that either the local governments are overpaying certain public officials or the State is underpaying the judiciary. It does not seem realistic to attach as much or more im-

TABLE 6
COMPENSATION OF JUDGES *

State	Appellate courts Supreme	Intermediate	Major trial courts, general jurisdiction	Major trial courts, limited jurisdiction
New York --	\$35,500 38,000 C J	\$25,500	\$24,000-\$30,000	\$17,000-\$21,000
California ---	21,000 21,500 C J	19,000 19,500	10,000- 16,750	8,000- 15,000
Pennsylvania -	25,000 25,500 C J	23,000 23,500	11,000- 18,000	14,000- 18,500
Illinois -----	20,000	12,500 Major Co 19,500	12,500- 19,500	10,000- 19,500
Ohio -----	16,000 16,500 C J	13,500	5,300- 13,000	5,300- 13,000
Michigan -----	18,500	---	9,000- 21,500	10,000- 17,500
New Jersey --	24,000 25,000 C J	20,000	20,000	7,400- 16,000

* The Book of States 1954-1955 The Judiciary Tables 4-5 pp 438 439

TABLE 6 A
CURRENT AND PROPOSED SALARIES OF THE FEDERAL COURTS

	Current	Proposed *
Chief Justice of the United States -----	\$25,500	\$40,000
Associate Justices of the Supreme Court of the United States..	25,000	39,500
Judges of the United States Courts of Appeals-----	17,500	30,500
Judges of the United States Court of Claims-----	17,500	30,500
Judges of the Tax Court of the United States-----	15,000	27,500
Judges of the Court of Military Appeals-----	17,500	30,500
Judges of the United States Court of Customs and Patent Appeals -----	17,500	30,500
Judges of the United States Customs Court-----	15,000	27,500
Judges of the United States District Courts (including the United States District Courts for the Districts of Hawaii and Puerto Rico, the District Court for the Territory of Alaska and the District Court of the Virgin Islands) -----	15,000	27,500

* Proposed salaries are recommendations of the Commission on Judicial and Congressional Salaries which are currently under consideration in Congress

portance to county or city officers than to the chief justice, members of the Supreme Court or even members of the district courts of appeal

While the salaries paid to others in public office within and without the State, as well as salaries paid by other states and the Federal Government to the judiciary, weigh materially in considering salary levels of the California judiciary, it would seem that the deciding factor for determination of that salary structure should be the earnings of those in the profession from which the members of the bench are drawn

It is recognized that practically all attorneys aspire to judgeships. However, it is also recognized that many able attorneys who would be assets to the judiciary are reluctant to seek judgeships at great financial sacrifice. In accepting a judgeship, an attorney ordinarily is dedicating his remaining years to the bench. In the interest of efficient and honest administration of justice it is essential that judges be compensated adequately.

It is also essential that judges be selected from among those in the legal profession who have proven their ability and knowledge of the law. While lawyers with the largest incomes in private practice are not always the most learned and the best in their profession, ability and

TABLE 7

SALARIES OF STATE OFFICIALS IN REPRESENTATIVE STATES (1954)

Governor		Secretary of State	
California	\$25,000	California	\$12,000
Illinois	25,000	Florida	12,500
Louisiana	18,000	Illinois	10,000
Massachusetts	20,000	Indiana	12,500
Michigan	22,500	Louisiana	10,800
New Jersey	30,000	Massachusetts	9,000
New York	50,000	Michigan	12,500
Ohio	20,000	Minnesota	12,000
Pennsylvania	25,000	Missouri	7,500
Virginia	17,500	New Jersey	13,000
Attorney General		New York	15,000
California	\$21,000	Ohio	12,000
Connecticut	12,500	Pennsylvania	15,000
Florida	12,500	Rhode Island	9,000
Illinois	16,000	Virginia	5,020
Louisiana	12,500	Legislative Salaries	
Massachusetts	12,000	California	\$6,000
Michigan	12,500	Illinois	5,000
New Jersey	18,000	Massachusetts	4,500
New York	20,000	Michigan	2,900
Ohio	12,000	New Jersey	3,000
Pennsylvania	15,000	New York	5,000
Rhode Island	12,000	Ohio	3,200
Virginia	12,000	Pennsylvania	1,500
		Wisconsin	3,000

success do attract clients with the result that ordinarily the most able do enjoy high incomes

If the bench is to be made attractive to this type of lawyer, they must not be required to make too great a financial sacrifice in accepting or seeking the office

While there are no actual studies, nor could any such studies be made with any assurance of accuracy, as to the earnings of those in the legal profession, the levels of income of the successful groups of attorneys in any community can easily be estimated. Such estimates will conservatively establish the fact that in the larger cities the annual earnings of the substantial group of successful practicing attorneys range between \$30,000 and \$50,000. There are those, of course, who enjoy practices where the earnings are considerably more. In the smaller communities the earnings of this group would range between \$20,000 and \$30,000. There are those, of course, who enjoy practices in the smaller communities, and larger ones as well, whose earnings are considerably more. The ranges given here are merely the average estimated earnings of the largest segment of practicing attorneys, excluding those who either exceed those ranges or who fail to attain practices as financially rewarding. It goes without saying that the state judicial system would not gain in stature if it relied, due to low salaries paid, upon those who failed to achieve a reasonable success in private practice for its judges.

The necessity for public respect and confidence in our judicial system demands personnel of proven character, ability, and success in the field of law and this alone merits adequate salaries. The public would not long maintain this respect and confidence if our court personnel

TABLE 7-A

COMPARISON OF SALARIES OF EXECUTIVES

<i>Position</i>	<i>Los Angeles</i>	<i>San Francisco</i>	<i>Alameda</i>	<i>San Diego</i>	<i>Contra Costa</i>	<i>Santa Clara</i>	<i>San Bernardino</i>	<i>Sacramento</i>	<i>Fresno</i>	<i>San Mateo</i>
District attorney -----	\$21,000	\$16,800	\$20,000	\$14,400	\$12,000	\$13,152	*\$9,000	†\$11,400	\$12,000	\$13,000
Assessor -----	20,500	16,800	12,000	12,000	10,900	12,528	7,800	†9,200	9,000	9,000
Auditor -----	17,496	16,800	13,200	11,448	10,500	12,528	7,500	†9,200	7,800	8,800
Chief administrative officer -----	21,000	20,400	13,200	16,800	15,000	18,504	10,908	16,740	11,148	15,475
County clerk -----	14,040	10,600	12,000	9,600	10,000	8,904	*8,400	7,716	7,800	9,500
Health officer -----	15,672		12,000	15,348	14,076	15,228	12,024	12,000	12,456	
Medical director -----		16,800	18,000	15,348	13,420	10,788	12,720	11,880	13,908	18,996
Sheriff -----	20,500	13,500	16,200	8,700	10,000	10,000	*8,700	†9,500	9,000	10,500
Superintendent of schools -----	16,500	23,000	14,000	8,100	12,000	12,000	6,900	12,000	10,000	12,000
Surveyor -----	20,500		16,488	6,300	9,300	11,364	7,200	10,764	12,456	10,800
Welfare director -----	19,500	11,200	12,132	6,972	10,692	8,484	8,988	7,728	11,784	
County counsel -----	20,496									
City attorney -----	15,000	16,800								
Special counsel, water service -----	19,824	16,200								
Chief probation officer -----	17,496	11,200								
		(Juv.)								
Public defender -----	16,560	11,400								
Controller -----	19,248	16,800								
Mayor -----	18,000	22,400								
Tax collector -----	17,496	10,800								
Treasurer -----	17,496	12,300								
Purchasing agent -----	17,496	13,500								
Road commissioner -----	17,496									
Director of public works -----		16,800								
Manager of utilities -----	31,176	20,400								
Assistant manager of utilities and chief engineer of water service -----	23,232									
General manager, water service -----	22,560	16,800								
General manager, municipal railway -----		16,800								
City engineer -----	20,496	13,500								
Manager of the airport -----	16,500	14,200								
General manager, Recreation and Parks -----	15,504	13,500								

* Effective January 3, 1955

† Effective September 1, 1954

was not made up of persons of the highest type. That respect and confidence cannot be maintained if the salaries paid do not permit an above average standard of living within the communities.

After due consideration of all factors, and with studied consideration of the earnings of those in the legal profession from which ranks must come the members of the judiciary, the committee has agreed upon a salary level which appears to be reasonable.

The proposed level for the salary schedule is \$25,000 for the Chief Justice. This is the present salary of the Governor. However, the office of Governor provides certain additional compensations, including a mansion and mansion allowance, which are not provided for the Chief Justice. The salary, therefore, proposed is not equal to the compensation provided for the Governor.

How this salary level for the Chief Justice, being the controlling factor for all other judicial positions, would apply to all other judges is shown in Table 8.

TABLE 8
SALARY SCHEDULES BASED ON FORMULA WHICH WOULD RESULT
IF CHIEF JUSTICE RECEIVES \$25,000

Supreme Court		<i>Proposed</i>	<i>Present</i>
Chief Justice	-----	\$25,000	\$21,500
Associate Justices (6)	-----	24,000	21,000
District Courts of Appeal			
Presiding Justices (7)	-----	\$23,000	\$19,500
Associate Justices (14)	-----	22,500	19,000
Superior Courts		<i>Proposed</i>	<i>Average present</i>
Class 1 (Population over 250,000)	(11 counties 162 judges)	\$19,000	\$16,750
Class 2 (Population over 40,000 and under 250,000)	(23 counties 50 judges)	17,500	15,000
Class 3 (Population under 40,000)	(24 counties 24 judges)	16,000	11,000
Municipal Courts			
Class 1 (Population over 500,000)	-----	\$17,500	\$15,000
Class 2 (Population over 250,000)	-----	16,000	13,500
Class 3 (Population under 250,000)	-----	14,500	11,000

While these figures call for salary increases beyond what is normally expected for cost of living adjustments, it must be kept in mind that the formula and salary levels provided are not cost of living adjustments in the ordinary usage of the term. Rather, it is an adjustment for the entire judicial branch of government which has not received in the past the normal cost of living increases on a proper basis. Now lagging far behind, these increases must be provided if equity is to be re-established.

This is particularly true in the courts of the smaller counties. Under the current salaries provided there is a difference of \$6,750 between the highest and lowest salaries paid superior court judges. The committee does not agree that such differences exist between two superior court

judges. Certainly they do not exist on an arbitrary county population basis.

In examining Table 8 it will also be noted that the salaries proposed under the formula for municipal court judges are substantially increased, particularly outside of the largest counties.

At the present time the salary difference between the highest and lowest paid municipal court judges is \$7,000. As in the case of the superior courts, the committee does not believe such difference exists between two judges of the municipal courts.

In developing the formula, however, the committee realistically took into consideration current salaries to avoid proposing salary increases which would be wholly impractical so far as public acceptance.

The committee recognizes that even so the salaries proposed for the municipal courts may, at first glance, appear high.

But the committee believes that to most people the municipal court is their only contact with the judicial branch of government and to those persons the municipal courts are the judiciary. It seems, therefore, absolutely essential that the dignity of those courts be maintained in order that the people may continue to regard with respect and confidence their courts, which is to say that the public continue to have respect and confidence in its government.

This cannot be accomplished if a salary schedule is not established and maintained which will attract to those courts the type of persons who have the respect and confidence of their fellow citizens to begin with.

The committee, therefore, believes that the salary levels proposed are reasonable within the limits of practicalities and will accomplish the objectives which are foremost in its mind as essential to continued confidence in government.

The estimated increased cost to the State to adopt the formula proposed at the salary levels recommended would amount to \$400,500 for the superior courts.

Tables 9, 9-A and 9-B show the present state costs and county costs in each county and reflect the formula salary costs to both the State and the counties, if the Chief Justice's salary is set at \$25,000.

Under the proposal made to a previous Legislature, whereby superior court salaries would have been made uniform throughout the State with the State paying all of the salary costs, the increased costs would have exceeded 2½ million dollars with no increases to judges in the larger counties.

Another proposal, as noted in the previous chapter, which would have increased the State's contribution from \$7,500 to \$10,000, would have increased the costs by more than \$500,000 with no assurance of salary increases for any judges.

The formula which was partially effected in the 1953 Regular Session was confusing to the Legislature, increased the State's costs and failed to remove the judiciary from the local control which detracts from the independence of the courts.

The committee, therefore, believes the formula presented here is easily understood, proper in form, strengthens the independence of the judiciary, relieves the counties of the unfair burden of providing salary increases over which they have no control, conserves the time

of the Legislature and permits it to provide equitably for all judges on the basis of proper salary consideration factors

TABLE 9
SUPERIOR COURTS

Class I							
County	No of judges	Present salary	Formula salary	Present state costs	Formula state costs	Present county costs	Formula county costs
1—Los Angeles	80	\$16,750	\$19,000	\$600,000	\$720,000	\$740,000	\$800,000
2—San Francisco	22	16,750	19,000	165,000	198,000	203,500	220,000
3—Alameda	14	16,750	19,000	105,000	126,000	129,500	140,000
4—San Diego	8	16,750	19,000	60,000	72,000	74,000	80,000
5—Santa Clara	7	15,560	19,000	52,500	63,000	56,420	70,000
6—San Mateo	4	15,560	19,000	30,000	36,000	32,240	40,000
7—Contra Costa	5	15,560	19,000	37,500	45,000	40,300	50,000
8—San Bernar- dino	5	15,560	19,000	37,500	45,000	40,300	50,000
9—Sacramento	6	16,750	19,000	15,000	74,000	55,500	60,000
10—Fresno	6	15,000	19,000	45,000	74,000	45,000	60,000
11—Orange	5	15,000	19,000	37,500	45,000	37,500	50,000
Total— Table 9- 162				\$1,215,000	\$1,458,000	\$1,454,260	\$1,620,000

TABLE 9 A
SUPERIOR COURTS

Class II							
County	No of judges	Present salary	Formula salary	Present state costs	Formula state costs	Present county costs	Formula county costs
12—Kern	5	\$15,000	\$17,500	\$37,500	\$47,500	\$37,500	\$40,000
13—San Joaquin	1	13,500	17,500	30,000	38,000	24,000	32,000
14—Riverside	4	14,500	17,500	30,000	38,000	28,000	32,000
15—Tulare	3	14,250	17,500	22,500	28,500	20,250	21,000
16—Monterey	2	15,000	17,500	15,000	19,000	15,000	16,000
17—Stanislaus	3	15,000	17,500	22,500	28,500	22,500	24,000
18—Ventura	2	15,000	17,500	15,000	19,000	15,000	16,000
19—Solano	2	15,000	17,500	15,000	19,000	15,000	16,000
20—Sonoma	3	15,000	17,500	22,500	28,500	22,500	24,000
21—Santa Barbara	2	15,000	17,500	15,000	19,000	15,000	16,000
22—Marin	2	15,000	17,500	15,000	19,000	15,000	16,000
23—Merced	2	13,500	17,500	15,000	19,000	12,000	16,000
24—Humboldt	2	13,750	17,500	15,000	19,000	12,500	16,000
25—Santa Cruz	1	15,000	17,500	7,500	9,500	7,500	8,000
26—Butte	2	13,500	17,500	15,000	19,000	12,000	16,000
27—Imperial	2	14,000	17,500	15,000	19,000	13,000	16,000
28—San Luis Obispo	1	15,000	17,500	7,500	9,500	7,500	8,000
29—Kings	1	13,750	17,500	7,500	9,500	6,250	8,000
30—Napa	1	15,000	17,500	7,500	9,500	7,500	8,000
31—Shasta	2	12,000	17,500	15,000	20,000	9,000	12,000
32—Placer	1	15,000	17,500	7,500	9,500	7,500	8,000
33—Mercedino	2	15,560	17,500	15,000	19,000	16,120	16,000
34—Yolo	1	13,750	17,500	7,500	9,500	6,250	8,000
Total— Table 9-A 50				\$475,000	\$476,000	\$346,870	\$396,600

TABLE 9-B
SUPERIOR COURTS

Class III

County	No of judges	Present salary	Formula salary	Present state costs	Formula state costs	Present county costs	Formula county costs
35—Madera	1	\$13,500	\$16,000	\$7,500	\$10,000	\$6,000	\$6,000
36—Siskiyou	1	11,750	16,000	7,500	10,000	4,250	6,000
37—Sutter	1	13,500	16,000	7,500	10,000	6,000	6,000
38—Yuba	1	13,500	16,000	7,500	10,000	6,000	6,000
39—Nevada	1	11,527	16,000	7,500	10,000	4,027	6,000
40—Tehama	1	11,527	16,000	7,500	10,000	4,027	6,000
41—Lassen	1	11,527	16,000	7,500	10,000	4,027	6,000
42—El Dorado	1	11,527	16,000	7,500	10,000	4,027	6,000
43—Glenn	1	11,527	16,000	7,500	10,000	4,027	6,000
44—San Benito	1	10,250	16,000	7,500	10,000	2,750	6,000
45—Plumas	1	11,527	16,000	7,500	10,000	4,027	6,000
46—Tuolumne	1	11,527	16,000	7,500	10,000	4,027	6,000
47—Inyo	1	10,250	16,000	7,500	10,000	2,750	6,000
48—Colusa	1	11,527	16,000	7,500	10,000	4,027	6,000
49—Lake	1	13,000	16,000	7,500	10,000	5,500	6,000
50—Calaveras	1	11,527	16,000	7,500	10,000	4,027	6,000
51—Modoc	1	11,000	16,000	7,500	10,000	3,500	6,000
52—Amador	1	11,527	16,000	7,500	10,000	4,027	6,000
53—Del Norte	1	11,527	16,000	7,500	10,000	4,027	6,000
54—Mariposa	1	11,527	16,000	7,500	10,000	4,027	6,000
55—Trinity	1	12,000	16,000	7,500	10,000	4,500	6,000
56—Sierra	1	10,000	16,000	7,500	10,000	2,500	6,000
57—Mono	1	10,250	16,000	7,500	10,000	2,750	6,000
58—Alpine	1	10,000	16,000	7,500	10,000	2,500	6,000
Total—							
Table 9-B 24				\$180,000	\$240,000	\$97,324	\$141,000
Total—							
Tables 9, 9 A, 9 B 236				\$1,770,000	\$2,174,000	\$1,898,454	\$2,160,000

CHAPTER III

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

- 1 The present salaries provided judges are not in keeping with salaries paid the judiciary in states with comparable populations and economies, are not in keeping with compensation for other public officials within the State, and are not attractive to the profession from whose ranks judges must be recruited
- 2 The present method of determining salaries for judges on a county-by-county basis produces gross inequities, detracts from the independence of the courts, and wastes the time of the Legislature
- 3 Salary increases for judges have not, in the past, been based upon sound principles upon which salary adjustments are normally made
- 4 Proper respect for and confidence in the courts, particularly the municipal courts, which represent the only contact with the judicial branch of government that the bulk of the population ever has, is essential to our form of government.
- 5 County governments are presently paying a disproportionate share of the salaries of judges as well as paying all other costs of trial courts
- 6 It is the function of the Legislature to establish the salary schedules for the judicial branch of government

RECOMMENDATIONS

- 1 Salaries for judges should be increased to provide equity among judges and to provide adequate compensation on a comparative level with other public officers and judicial salaries provided by states of comparable populations and economies
- 2 Salaries for the judiciary should be established on a state-wide basis with a formula to distinguish between the various levels of courts. This formula should provide differences between the supreme, appellate, superior and municipal courts. The superior and municipal courts should be divided into three classes each on the basis of county populations and salary differentials should be made between the different classes. The salaries of all judges should be contingent upon the salary provided for the Chief Justice
- 3 The county governments' contribution toward superior court judges' salaries should be fixed and not subject to fluctuations by reason of legislative salary adjustments. The fixed contributions of the counties should be adjusted according to three classes of superior courts based upon the same population classes as are established for the judges' salaries
- 4 Salaries of the municipal court judges should be provided from the revenues produced by those courts before such revenues are distributed to the cities which contribute nothing toward the expenses of the municipal courts

APPENDIX I
COSTS AND DISTRIBUTION OF REVENUES OF MUNICIPAL COURTS, FISCAL YEAR 1953-1954

	<i>Total revenue</i>	<i>State's share</i>	<i>City's share</i>	<i>County's share</i>	<i>County's cost</i>	<i>Gain or loss to county</i>
Alameda						
Alameda -----	\$92,405 67	\$2,498 50	\$73,224 11	\$16,693 06	\$63,069 47	—\$46,376 41
Berkeley-Albany -----	297,450 88	6,253 50	216,305 21	74,892 17	111,197 96	—36,305 79
Oakland-Piedmont -----	1,420,119 40	32,328 21	1,027,767 19	360,024 00	412,125 01	—52,101 01
Hayward-San Leandro -----	248,917 14	8,222 97	121,842 36	118,851 81	101,207 14	17,644 67
	\$2,058,893 09	\$49,303 18	\$1,439,138 87	\$570,461 04	\$687,599 58	—\$117,138 54
Contra Costa						
City of Richmond -----	\$432,503 33	\$14,995 00	\$345,971 45	\$86,521 88	\$152,109 37	—\$65,587 49
Fresno						
Fresno -----	\$417,626 61	\$10,882 50	\$197,355 50	\$209,388 61	\$137,499 28	\$71,889 33
Kern						
Bakersfield -----	\$355,738 02	\$10,987 00	\$205,638 50	\$139,112 52	\$119,365 51	\$19,747 01
Marin						
Central Jud Dist -----	\$130,677 35	\$3,527 00	\$57,509 92	\$69,640 43	\$61,342 19	\$8,298 24
Monterey						
Monterey-Carmel -----	\$93,744 20	\$2,389 00	\$55,900 80	\$35,504 40	\$56,765 05	—\$21,260 65
Salinas -----	121,815 25	3,533 00	60,154 64	58,127 61	52,086 95	6,040 66
	\$215,559 45	\$5,912 00	\$116,055 44	\$93,632 01	\$108,852 00	—\$15,219 99
Orange *						
Anaheim-Fullerton -----	\$218,729 49	\$6,224 00		\$73,602 91		
Santa Ana-Orange -----	196,263 90	5,659 50		57,735 53		
	\$692,914 24	\$20,442 50	\$465,731 16	\$206,740 58	\$234,648 55	—\$27,007 97
Riverside						
Riverside -----	\$229,993 91	\$5,829 50	\$139,729 69	\$94,918 82	\$71,897 96	\$23,020 86

APPENDIX I—Continued
COSTS AND DISTRIBUTION OF REVENUES OF MUNICIPAL COURTS, FISCAL YEAR 1953-1954

	<i>Total revenue</i>	<i>State's share</i>	<i>City's share</i>	<i>County's share</i>	<i>County's cost</i>	<i>Gain or loss to county</i>
Sacramento						
North Sacramento -----	\$225,743 44	\$6,245 34	\$36,218 36	\$183,279 74	\$42,462 92	\$140,816 82
Sacramento -----	566,953 78	11,576 50	456,299 93	99,077 35	166,843 80	—67,766 45
	<u>\$782,697 22</u>	<u>\$17,821 84</u>	<u>\$492,518 29</u>	<u>\$282,357 09</u>	<u>\$209,306 72</u>	<u>\$73,050 37</u>
San Bernardino						
San Bernardino -----	\$203,031 96	\$5,391 75	\$111,534 22	\$86,105 99	\$103,456 14	—\$17,350 15
San Diego						
Oceanside -----	\$257,888 08	\$6,817 00	\$113,640 41	\$137,430 67	\$50 501 27	\$86,929 40
San Diego -----	1,677,977 94	48,680 00	1,445,458 21	183,839 73	393,165 27	—209,325 34
South Bay -----	112,173 80	4,491 00	36,574 54	71,108 26	46,330 40	24,777 86
El Cajon -----	94,902 30	4,011 00	49,927 87	40,963 43	45,013 79	—4,050 36
	<u>\$2,142,942 12</u>	<u>\$63,999 00</u>	<u>\$1,645,601 03</u>	<u>\$433,342 09</u>	<u>\$535,010 73</u>	<u>—\$101,686 64</u>
San Francisco						
City and County of -----	\$2,703,357 53	\$62,937 50			\$969,854 03	\$1,670,566 00
San Joaquin						
Stockton -----	\$429,085 54	\$8,620 50	\$233,106 65	\$187,358 39	\$148,936 85	\$38,421 54
San Mateo						
Central Jud Dist -----	\$186,255 51	\$4,977 00	\$124,413 83	\$56,864 68	\$43,347 73	\$13,516 95
Northern Jud Dist -----	232,440 74	5,537 50	153,650 61	73,252 63	46,505 42	26,747 21
Southern Jud Dist -----	251,874 37	8,618 00	181,835 83	61,420 54	65,079 20	—3,658 66
	<u>\$670,570 62</u>	<u>\$9,132 50</u>	<u>\$459,900 27</u>	<u>\$191,537 85</u>	<u>\$154,932 35</u>	<u>\$36,605 50</u>
Santa Barbara						
Santa Barbara -----	\$168,231 25	\$2,460 00	\$110,587 71	\$55,183 54	\$39,500 99	\$15,682 55
Santa Clara						
Palo Alto-Mt View -----	\$235,576 88	\$8,264 00	\$149,411 68	\$77,901 20	\$78,711 00	—\$809 80
San Jose-Alviso -----	444,268 20	12,817 50	291,391 14	140,059 56	143,912 00	—3,852 44
	<u>\$679,845 08</u>	<u>\$21,081 50</u>	<u>\$440,802 82</u>	<u>\$217,960 76</u>	<u>\$222,623 00</u>	<u>—\$4,662 24</u>

APPENDIX I—Continued
COSTS AND DISTRIBUTION OF REVENUES OF MUNICIPAL COURTS, FISCAL YEAR 1953-1954

	<i>Total revenue</i>	<i>State's share</i>	<i>City's share</i>	<i>County's share</i>	<i>County's cost</i>	<i>Gain or loss to county</i>
Santa Cruz †						
Santa Cruz -----	\$193,000 00	\$3,916 00	\$110,084 00	\$79,000 00	\$52,000 00	\$27,000 00
Stanislaus						
Modesto -----	\$170,686 00	\$3,609 00	\$72,344 77	\$94,732 23	\$67,296 79	\$27,435 44
Solano						
Vallejo -----	\$214,380 13	\$4,856 50	\$109,947 11	\$99,576 52	\$43,498 05	\$56,078 47
Los Angeles						
Alhambra -----	\$176,724 51	\$5,044 50	\$108,432 75	\$63,247 26	\$86,745	—\$23,497 74
Beverly Hills -----	322,064 63	4,693 00	207,747 14	109,624 49	100,151	9,473 49
Burbank -----	244,220 90 ‡	5,427 50	198,018 07	40,650 33	84,796	—44,145 67
Citrus -----	86,561 74	2,375 50	12,471 55	41,714 69	45,285	—3,570 31
Compton -----	346,108 50	5,895 50	154,850 72	185,362 28	119,064	66,298 28
Downey -----	145,689 15	1,968 00	-----	143,721 15	55,535	88,186 15
East Los Angeles -----	237,851 93	4,618 30	31,636 99	201,596 64	99,787	101,809 64
El Monte -----	185,023 55	1,690 00	18,709 83	164,623 72	57,344	107,279 72
Glendale -----	147,295 56	1,694 25	96,073 52	49,527 79	100,369	—50,841 21
Inglewood -----	381,445 27	3,655 00	185,324 22	192,466 05	111,803	80,663 05
Long Beach -----	722,348 03	8,020 50	579,287 88	135,039 65	240,994	—105,954 35
Los Angeles -----	7,500,936 02 ‡	112,833 00	5,975,452 39	1,412,525 63	2,081,877	—669,351 37
Los Cerritos -----	150,259 46	2 182 00	46 00	148,031 46	54,534	93,497 46
Pasadena -----	445,097 83	9,547 00	356,313 10	79,237 73	159,371	—80,133 27
San Antonio -----	489,777 84	8,299 00	226,866 74	254,612 10	129,648	124,964 10
San Jose -----	191,591 45	2,277 50	119,319 11	69,994 84	50,147	19,847 84
Santa Anita -----	122,822 20	1,291 00	84 659 58	36,871 62	48,637	—11,765 38
Santa Monica -----	240,020 22	3,194 50	195,550 65	41,275 07	113,702	—72,426 93
South Bay -----	382,057 10	6,537 50	288,302 86	87,216 74	114,767	—27,550 26
South Gate -----	130,556 86	4,056 00	78,283 41	48,217 45	52,282	—4,064 55
Whittier -----	179,316 50	3,180 00	34,879 86	141,256 64	59,876	81,380 64
* Above courts and three justice courts included	\$12,827,769 25	\$198,479 55	\$8,982,226 37	\$3,646,813 33	\$3,966,714	—\$319,900 67
† Exact figures unavailable						
‡ Includes \$125 School Fund						

APPENDIX C

AUTHORITIES RELATED TO BENEFITS FOR TRIAL COURT JUDGES

Article VI, section 19 of the California Constitution

The Legislature shall prescribe compensation for judges of courts of record

A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision

(As amended Nov 5, 1974)

Government Code section 53200 3¹

For the limited purpose of the application of this article, judges of the superior and municipal courts and the officers and attaches of said courts whose salaries are paid either in whole or in part from the salary fund of the county are county employees and shall be subject to the same or similar obligations and be granted the same or similar employee benefits as are now required or granted to employees of the county in which the court of said judge, officer, or attache is located

(Added by Stats 1957, amended by Stats 1977)

Government Code section 53214 5

A county or city and county which pays the salaries, either in whole or in part, of judges of the superior and municipal courts and the officers and attaches of those courts may allow the judges, officers, and attaches to participate in any deferred compensation plan established pursuant to this article Any county or city and county is hereby authorized to enter into a written agreement with the judges, officers, and attaches providing for deferral of a portion of their wages The judges, officers, and attaches may authorize deductions to be made from their wages for the purpose of participating in the deferred compensation plan *(Formerly § 53215, added by Stats 1979, renumbered and amended by Stats 1981)*

Government Code section 68206 6

The Controller may agree to participate in a county payroll procedure to pay superior court judges solely from a county payroll Such procedure shall be prescribed by the county auditor and approved by resolution of the county board of supervisors It shall include provision for payment in advance to each participating county by the state of its share of the applicable judges' salaries and may include provision for payroll deductions authorized under applicable state laws Nothing in this section, and no procedure adopted pursuant to this section, shall increase or decrease any compensation or benefits available to, or received by, superior court judges as a result of being paid from a state payroll

(Added by Stats 1985)

Government Code section 69893 7

Notwithstanding any other provision of law, the following provisions shall apply to the Yolo County superior and municipal courts

(a) To assist the court in the performance of its duties and the exercise of the powers conferred by law upon the court, a majority of the judges of the superior and municipal courts, with the approval of the board of supervisors, may establish such job classifications and may appoint a clerk and such officers, assistants, and employees, including official court reporters, as necessary. A majority of the judges of the superior and municipal courts may delegate the creation of job classifications and the appointment of employees to the court executive officer. Official court reporters shall hold office at the pleasure of the appointing officer.

(b) The compensation, including salary, retirement, vacations, and other benefits, of all Yolo County superior and municipal court officers and employees may be adjusted by the board of supervisors. The board of supervisors may extend the management benefits package to officers, assistants, and employees of the superior and municipal courts, including judges, on the same basis as it is extended to other officers and employees of the county. Unless otherwise provided by law, employees of the superior and municipal courts are subject to the personnel regulations, memoranda of understanding and affirmative action plan of the county.

(c) In addition to the official court reporters, the presiding judge of the superior and municipal courts may appoint as many court reporters pro tempore as the business of the court requires, who shall hold office at his or her pleasure. The court reporters pro tempore shall be unsalaried, but shall be compensated at a rate to be established by joint action of the board of supervisors and a majority of the judges of the superior and municipal courts. In criminal cases, the compensation of the court reporters pro tempore shall, upon order of the court, be a charge against the general fund of the county. The presiding judge of the superior and municipal courts may delegate the appointment of court reporters pro tempore and the determination of their salary to the court executive officer. *(Added by Stats 1982, amended by Stats 1996)*

Government Code section 69894 3

Employees of the superior court in each county having a population of over 2,000,000 shall be entitled to step advancement, vacation, sick leave, holiday benefits and other leaves of absence and other benefits as may be directed by rules of the court. Where statutes require implementation by local ordinances for the extension of benefits to local officers and employees, these may be made applicable by rule to court personnel, including but not limited to jurors, and judges.

These benefits shall also include the same lump sum payments for sick leave and vacation for the superior court employees when they are separated from the service as are made to county employees of the county, except that lump-sum payments to court commissioners when separated from the service of the superior court shall be limited to accrued vacation if any, as is provided by local rule of court, exclusive of accrued sick leave.

Court employees under this section shall have the right to transfer to other departments in the county government, subject to the approval of the board of supervisors, the county charter, and other usual conditions that may be placed upon the transfer, including, but not limited to, a requirement that the transferee successfully complete an appropriate civil service examination. The right of transfer shall not give any employee any additional rights by reason of his employment with the court, other than those to which he would have been entitled if the employment had been with a different department of the county government.

Employment by the court shall be deemed to be employment by the county, if approved by rule of court, for the purpose of determining a court employee's rights with respect to a county's ordinances providing for salary step advancements and other employee benefits and rights, including, but not limited to, amount of compensation, vacations, sick leave, and accumulated sick leave.

In any such county attaches may be voluntarily transferred from a position in one judicial district to a position in another within the county and promoted or voluntarily demoted from a position in one judicial district to a position in another within the county in substantially the same manner as transfers, demotions and promotions are authorized generally in county departments or between departments of the county.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of court personnel, including but not limited to jurors and judges. When rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court the county shall through the county civil service commission furnish to the court services as may be required in connection with the recruitment and employment of court officers and employees.
(Added by Stats 1959, amended by Stats 1961, 1963, 1967, 1994)

Government Code section 69894.4

All of the employees provided for in Section 69894.1 and judges of the superior court in each county having a population of over 2,000,000 shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their office, which shall be the same as allowed to officers and employees of such county. Any expenses for travel outside of the county shall require the prior approval of the board of supervisors.

Whenever, because of the nature of the duties of any judge or officer of the court, the board of supervisors determines that the best interest of the county and the court would be served, it may assign an automobile in lieu of allowing travel expenses.

The salaries provided for in said Section 69894.1 shall be paid by the county out of such fund as other salary demands against the county are paid. The expenses provided for in this section shall be paid in monthly installments out of the general fund. Salaries and expenses shall be audited in the same manner as the law requires for other demands against the county.

(Added by Stats 1959)

Government Code section 69907

(a) In the County of San Diego, in addition to any other compensation and benefits, each judge of the superior court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the superior court shall receive long-term disability insurance to the same extent as provided by the County of San Diego for the classification of chief administrative officer.
(Added by Stats 1985, amended by Stats 1986, 1989, 1990)

Government Code section 69909

(a) In the County of Riverside, in addition to any other compensation and benefits, each judge of the superior court shall receive the county flexible benefits plan.

(b) Subject to approval by the board of supervisors, each judge of the superior court shall receive long-term disability insurance to the same extent as provided by the County of Riverside for other elected county officials.
(Formerly 69908, added by Stats 1990, renumbered and amended by Stats 1991)

Government Code section 73642

[Benefits for Judges of the Municipal Court of the El Cajon Judicial District of San Diego County]

(a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

(Added by Stats 2002, amended by Stats 2004)

Government Code section 73952

[Benefits for Judges of the Municipal Court of the North County Judicial District of San Diego County]

(a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

(Added by Stats 2002, amended by Stats 2004)

Government Code section 74145

[Benefits for Judges of the Municipal Courts of Riverside County]

(a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the county flexible benefits plan.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive the same long-term disability insurance as provided by the County of Riverside for other elected county officials.

(Added by Stats 2004)

Government Code section 74342

[Benefits for Judges of the Municipal Court of the San Diego Judicial District of San Diego County]

(a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the

classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act

(Added by Stats 2002, amended by Stats 2004)

Government Code section 74742

[Benefits for Judges of the Municipal Court of the South Bay Judicial District of San Diego County]

(a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in those benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

(Added by Stats 2002, amended by Stats 2004)

Government Code section 77003

(a) As used in this chapter, "court operations" means all of the following:

(1) Salaries, benefits, and public agency retirement contributions for superior court judges and for subordinate judicial officers. For purposes of this paragraph, "subordinate judicial officers" includes all commissioner or referee positions created prior to July 1, 1997, including positions created in the municipal court prior to July 1, 1997, which thereafter became positions in the superior court as a result of unification of the municipal and superior courts in a county, and including those commissioner positions created pursuant to former Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794, 74841.5, and 74908, and includes any staff who provide direct support to commissioners, but does not include commissioners or staff who provide direct support to the commissioners whose positions were created after July 1, 1997, unless approved by the Judicial Council, subject to availability of funding.

(2) The salary, benefits, and public agency retirement contributions for other court staff

(3) Those marshals and sheriffs as the court deems necessary for court operations

(4) Court-appointed counsel in juvenile court dependency proceedings and counsel appointed by the court to represent a minor pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family Code

(5) Services and supplies relating to court operations

(6) Collective bargaining under Sections 71630 and 71639.3 with respect to court employees

(7) Subject to paragraph (1) of subdivision (d) of Section 77212, actual indirect costs for county and city and county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute, courthouse construction, district attorney services, probation services, indigent criminal defense, grand jury expenses and operations, and pretrial release services

(8) Except as provided in subdivision (b), other matters listed as court operations in Rule 10.810 of the California Rules of Court as it read on January 1, 2007

(b) However, "court operations" does not include collection enhancements as defined in Rule 10.810 of the California Rules of Court as it read on January 1, 2007

(Added by Stats 1988, amended by Stats 1990, 1991, 1992, 1993, 1994, 1997, 1998, 2001, 2002, 2007)

Government Code section 77201

(a)-(b) * * *

(c) The Department of Finance shall adjust the amount specified in paragraph (1) of subdivision (b) that a county is required to submit to the state, pursuant to the following

(1) A county shall submit a declaration to the Department of Finance, no later than February 15, 1998, that the amount it is required to submit to the state pursuant to paragraph (1) of subdivision (b) either includes or does not include the costs for local judicial benefits which are court operation costs as defined in Section 77003 and Rule 10.810 of the California Rules of Court. The trial courts in a county that submits such a declaration shall be given a copy of the declaration and the opportunity to comment on the validity of the statements in the declaration. The Department of Finance shall verify the facts in the county's declaration and comments, if any. Upon verification that the amount the county is required to submit to the state includes the costs of local judicial benefits, the department shall reduce on or before June 30, 1998, the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the cost of those judicial benefits, in which case the county shall continue to be responsible for the cost of those benefits. If a county disagrees with the Department of Finance's failure to verify the facts in the county's declaration and reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b), the county may request that the

Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the amount verified by the Controller's audit and the state shall reimburse the requesting county for the cost of the audit.

(d)-(h) * * *

(Added by Stats 1998, amended by Stats 2000, 2007)

APPENDIX D

METHODOLOGY AND TECHNICAL NOTES FOR DATA ON SUPPLEMENTAL JUDICIAL BENEFITS

Development of the Survey Instrument

In 1993, the California Judges Association (CJA) conducted a survey to ascertain the range of supplemental judicial benefits being offered throughout the state. The study identified the courts offering supplemental benefits, the range of benefits being offered, and whether the court or the county pays for the supplemental benefits. This work provided the foundation for a subsequent survey conducted in 2008.

One methodological challenge that was apparent from the CJA survey findings was that courts did not use the same terminology to describe benefits. As a result, open-ended telephone interviews conducted in 2008 to gauge the scale and scope of supplemental judicial benefits resulted in data that were rich in historical detail but difficult to compare across courts.

To overcome this hurdle, subject matter experts from the Administrative Office of the Courts (AOC) Human Resources Division, Office of Court Research, and Office of the General Counsel collaborated to organize benefits information into broad categories that would make a comparison of benefits among courts more meaningful and reduce survey nonresponse errors that can result from respondents not seeing their specific benefit listed on the survey.

The various benefit types identified in 2008 were grouped into the following categories: Medical Benefits, Disability Insurance, Life Insurance, Retirement Benefits, Transportation Allowances, Personal Allowances/Stipends. Each category contained a list of benefit types, which were derived from the information gathered in the 2008 interviews. Each benefit type was identified broadly but also included subcategories in order to capture detail. For example, the Medical Benefits category contained the following benefit list: General Health, Dental, Vision, Bundled Plan, Medical Savings Account, Cash Supplement, and Long-term Care. To help respondents determine where to capture benefits, definitions for each of the listed benefits with examples was provided along with the survey.

Administration of the Survey

As noted above, a second survey of supplemental judicial benefits was needed to adequately address the requirements of SBX2 11. This survey, identified as the Follow-up Survey on Supplemental Judicial Benefits (FY 200 –2008), was used to collect information in 2009 to follow up on the 2008 open-ended telephone interview with courts.

AOC research staff reviewed the benefit information gathered in the 2008 interviews and transferred this information into the new survey instrument. The new survey was pilot-tested before the 2008 information was transferred, and the transfer process was conducted independently by several staff members to ensure the accuracy and reliability of the information. This provided partially completed survey instruments for each court that would be used to update data collected in the 2008 interviews and gather new information that was not previously collected.

The partially completed surveys, along with an accompanying list of benefit definitions and general instructions, were distributed to the courts. To gather the data on supplemental judicial benefits, a combination of phone interviews and e-mail inquiries were conducted with identified court individuals. Interview respondents often included court executive officers, judges, court financial officers, finance directors, human resources directors.

Surveys were completed for all 34 courts where judges receive either court-funded or county-funded supplemental judicial benefits. Research staff reviewed these completed surveys and followed up with courts as necessary to clarify or confirm responses. After this data quality review process, data from the completed surveys were compiled for analyses.

Technical Notes for Appendix D Tables

All Tables

Data on Supplemental Judicial Benefits are for FY 2007–2008.

Some of the benefits listed in the tables are no longer provided to judges in a particular county.

Some judges who received a particular supplemental benefit in FY 2007–2008 have elected to no longer receive that benefit.

Table 1

Figures are from the *2009 Court Statistics Report* as of June 30, 2008.

The 50 new judgeships authorized but not funded by Assembly Bill 159 are included in the total of authorized judgeships.

Table 2

San Benito costs for all listed benefits are from FY 2008–2009.

San Joaquin cost of Bundled (Health, Dental, Vision) is from FY 2008–2009.

Calaveras cost of N/A for mileage allowance was reported by the court thusly, “Is minimal, no total cost available.”

The zero values in the table where a court indicates that it offers a benefit but its total cost is zero represent one of the following scenarios

- The cost for a given benefit (e g , dental) is represented in the cost of another benefit (e g , general health care) because the court was unable to provide separate cost figures for both benefits
- The cost to the court or county for the benefit is actually \$0 because the judge pays the total cost (e g , Fresno offers a 457 Plan and does not provide a match contribution to the judges)
- In some courts, the cost of a given benefit may be paid based on an arrangement between the court and the county

Table on page 18 of the Report

The average annual benefit cost per judge was computed, and in some cases estimated, in the following ways

Some courts indicated that a uniform/standard benefit amount is provided for each judge that receives the benefit (i e , each judge receives the same amount of benefit) This benefit amount per judge was used and represents the actual annual benefit amount per judge

Some courts indicated that all judges in their court received a particular benefit, however, information on whether each judge received the same amount was not obtained The value was computed by taking the total amount spent in FY 2007–2008 on the benefit and dividing it by the total number of judges (filled positions in FY 2007–2008) that received the benefit This calculation provides an estimated average annual benefit amount per judge

In some cases where not all judges received the benefit, data was collected from the court on the number of judges that received the benefit in FY 2007–2008 As in the preceding example, the value was computed by taking the total amount spent in FY 2007–2008 on the benefit and dividing it by the actual number of judges that received the benefit This calculation provides an estimated average annual benefit amount per judge

In some cases there was not sufficient information to compute an actual or average benefit cost per judge These benefits were those where the cost was variable (e g , “up to \$200/year per judge,” “up to \$85/ month per participating judge (\$1,080 per year)”) and the number of judges receiving the benefit was not known In these cases the maximum benefit amount available to the judge was used as the value in table 4 In the examples above, we used \$200 per judge and \$1,080 per judge as the values, which represent the benefit amount per judge if the judge participated at the maximum benefit level

SURVEY ON SUPPLEMENTAL JUDICIAL BENEFITS (FY 2007–2008)

Definitions of Benefits

Medical Benefits (General Health, Dental, Vision Plans, etc)

General Health Care

Coverage that provides for the payment of benefits for covered sickness or injury. It may include insurance for losses from accident, medical expense, disability, or accidental death or dismemberment.

Dental Plan

Dental insurance plans usually cover preventive care and treatment of teeth, gums, and the mouth.

Vision Plan

Vision insurance plans are usually separate plans covering medical treatment relating to eye health.

Bundled (Combined) Medical Plan (Health, Dental, Vision)

A health insurance plan that bundles general health care, dental, and vision insurance into one combined plan.

Medical Savings Account

A savings account into which employees can make tax-deferred deposits that can be used to pay for medical expenses not covered by insurance. This type of account must be coupled with a high-deductible health plan and is typically available to employees of small businesses (less than 50 employees) or self-employed individuals. Employers with small group Medical Savings Accounts (MSAs) may make contributions on behalf of employees, or employees may make the entire contribution. Savings can be rolled over to the next year or withdrawn as income. Funds are typically used for medical expenses, including prescription drugs, qualified long-term care and insurance premiums, and COBRA coverage. It may also be called a Health Savings Account.

An MSA may work as follows: A portion of the money currently spent on a health insurance plan is deposited into a newly established MSA, up to \$1,400 for an individual (or \$3,375 for a family). The other portion might be used to purchase a catastrophic policy that covers medical expenses after the deductible is met.

Cash Supplemental Health Contribution (a.k.a. Flexible Spending Account)

Cash provided to employees to supplement health insurance costs or provided as reimbursement for health-care costs or deductibles. This benefit may take the form of an account that gives employees the opportunity to set aside pretax funds for the reimbursement of eligible benefits. These accounts, which may be set up through 125 Plans (Cafeteria Plans), can be funded through salary reduction, employer contributions, or a combination of both. Employees can purchase additional benefits or pay health insurance deductibles and copayments with the money in these

accounts. The money in these accounts typically needs to be used within a plan year. It may also be referred to as a Health Care Flexible Spending Account.

Long-term Care

An insurance plan that is available to the employee and his or her spouse, parents, parents-in-law, and siblings. Provides for personal care of essential activities such as bathing, dressing, eating, or other basic needs over an extended period because of an accident, disease, or frailty in old age. Employee typically pays 100 percent of the monthly premium for this voluntary benefit.

Other Insurance Benefits—Disability (Short- and Long-term) and Life Insurance

Disability Income Insurance

A form of health insurance that provides periodic payments to replace a certain percentage of income lost when the insured is unable to work as a result of illness, injury, or disease.

Short-term Disability Insurance (SDI)

A provision to pay benefits to a covered disabled person as long as he or she remains disabled up to a specified period.

Long-term Disability Insurance (LTD)

Insurance issued to an employer (group) or individual to provide a reasonable replacement of a portion of an employee's earned income lost through serious and prolonged illness or injury during the normal work career.

Bundled Package SDI and LTD

A disability insurance plan that bundles short-term disability and long-term disability into one combined plan.

Other Disability Insurance

Another type of disability insurance not captured by SDI, LTD, or the bundled package.

Life Insurance

A type of insurance policy paid by the employer that provides money if the insured person dies while the policy is in effect. This basic group term life insurance policy may include provisions for accidental death and dismemberment (AD&D), conversion, and accelerated benefit options.

Life Insurance

A type of insurance policy paid by the employer that provides money if the insured person dies while the policy is in effect. This may be a basic group term life insurance policy. This policy may include provisions for accidental death and dismemberment (AD&D), conversion, and accelerated benefit options.

Supplemental Life Insurance (for example, AD&D)

Additional life insurance usually available for employees and dependents that may be used to supplement an existing life insurance policy. For example, a supplemental life insurance policy that covers AD&D may be obtained as additional coverage beyond that

provided by a basic group term life insurance policy. An employee typically pays for the cost of this insurance.

Bundled Package Life and Supplemental Life Insurance

A life insurance plan that bundles life insurance and supplemental life insurance into one combined plan.

Other Life Insurance

Another type of life insurance not captured by life insurance, supplemental life insurance, or the bundled package.

Retirement Benefits—Deferred Compensation Plan/Defined Contribution Plan

Deferred Compensation Plan/Defined Contribution Plan

A retirement plan that allows employees to accumulate money on a tax-deferred basis. Set up as an individual account for the employee, this plan usually specifies an annual contribution amount for employees and may include employer contributions. A qualified plan can have the option of permitting employees to withdraw assets without penalty for certain “emergency” situations specified in the plan, although the normal taxes must be paid on the withdrawn portion.

This type of plan is also referred to as a “Defined Contribution Plan,” meaning that the plan defines how much the worker—and the employer, if it chooses—will contribute to a worker’s retirement account. Typically in these types of plans, the worker directs how at least a portion of the contributions will be invested (within the investment options offered by the employer), and bears all the investment risk. Benefits are based solely on the amount contributed to the participant’s account, plus any income, expenses, gains and losses, and forfeitures of accounts of other participants that may be allocated to the participant’s account. May also be referred to as Retirement Savings Plan, 401(k), 401(k) Thrift Plan, 403(b), or 457 plan (based on the sector of employment).

- Sec 401(k) Private-sector salary reduction plan
- Sec 403(b) Nonprofit sector salary reduction plan
- Sec 457 Public-sector salary reduction plan

401(k) Plan

Type of deferred compensation plan that has a 10 percent penalty for withdrawal before the age of 59 ½; designated Roth contributions are permitted.

457 Plan

Type of deferred compensation plan with no 10 percent penalty for withdrawal before the age of 59 ½ (although the withdrawal is subject to ordinary income taxation); designated Roth contributions are not permitted.

Other Retirement Plan

Another type of retirement plan not captured by the 401(k) or 457 plans.

Transportation Allowances

Car Allowance

A periodic or monthly amount paid out to an employee for the use of a personal vehicle in the performance of official or job-related duties

Mileage Reimbursement

Monetary reimbursement provided to an employee at a specified rate per mile for job-related travel to locations other than the employee's usual workplace or office

Other Transportation Allowances

Monetary reimbursements or an allowance paid for identified transportation costs not captured by the car allowance or mileage reimbursement

Professional Allowances/Stipends

Continuing Education/Training/Professional Development

Reimbursement or allowance provided for continuing education and training expenses, including conferences, trainings, books, and other education program materials

Equipment¹

Reimbursement or allowance provided for the purchase of equipment (computers, laptops, printers, fax machines, scanners, etc) to be used for job-related functions

Personal Security

Reimbursement or allowance provided for personal security expenses

Professional Association Dues or Memberships

Reimbursement or allowance provided for the cost of membership in professional associations

Parking

Reimbursement or allowance provided for the cost of parking or designated parking spaces reserved specifically for judges

Child Care

Employer funding for child-care expenses

Wellness Program

Reimbursement or allowance provided for activities designed to promote safety and good health among employees. It may include physical fitness programs, smoking cessation, health risk appraisals, diet information and weight loss, stress management, and high blood pressure screening

¹ Allowances for cell phones and other personal communications devices are not included in this category and are not counted as a benefit for purposes of this survey

Other Allowances—Specifically Designated

Cash payments provided to an employee for specifically designated items that have not already been captured in the list above

Other Cash Allowances/Stipends—Not Designated

Cash payments not designated or some other type of unspecified allowance that may be referred to as management pay, cash payments, executive flex payment, business expense, professional allowance, or maintenance of effort payment

Supplemental Judicial Benefits by Court
as of July 1, 2008

County-Funded Benefits		Court-Funded Benefits		Court- and County-Funded Benefits		No Supplemental Benefits	
Courts	Authorized Judgeships	Courts	Authorized Judgeships	Courts	Authorized Judgeships	Courts	Authorized Judgeships
FRESNO	44	ALAMEDA	69	CONTRA COSTA	38	ALPINE	2
LOS ANGELES	436	BUTTE	12	KERN	38	AMADOR	2
MENDOCINO	8	CALAVERAS	2	KINGS	8	COLUSA	2
MONTEREY	20	GLENN	2	MONO	2	DEL NORTE	3
RIVERSIDE	64	MARIPOSA	2	ORANGE	112	EL DORADO	6
SAN BERNARDINO	78	NAPA	6	SACRAMENTO	64	HUMBOLDT	7
SAN FRANCISCO	51	NEVADA	6	SONOMA	19	IMPERIAL	9
SAN MATEO	26	PLACER	12	YOLO	11	INYO	2
SANTA CLARA	79	SAN BENITO	2	8 courts	292	LAKE	4
TRINITY	2	SAN DIEGO	130		Judgeships	LASSEN	2
VENTURA	29	SAN JOAQUIN	32			MADERA	10
11 courts	837	SAN LUIS OBISPO	12			MARIN	10
	Judgeships	SISKIYOU	4			MERCED	10
		SOLANO	19			MODOC	2
		TULARE	20			PLUMAS	2
		TUOLUMNE	4			SANTA BARBARA	19
		16 courts	334			SANTA CRUZ	10
			Judgeships			SHASTA	11
						SIERRA	2
						STANISLAUS	22
						SUTTER	5
						TEHAMA	4
						YUBA	5
						23 courts	151
							Judgeships

Supplemental Judicial Benefits in FY 2007-08

	Funding Source	Total Cost	Benefit Available to All Judges
Statewide Total		\$33,602,542	
County Funded Supplemental Judicial Benefits	County	\$30,388,289	
Court Funded Supplemental Judicial Benefits	Court	\$3,214,253	
Alameda		\$67,047	
Cash Supplement (Flex Plans)	Court	\$46,303	X
Other Allowances/Stipends (not specifically designated)	Court	\$20,744	X
Alpine		\$0	
No Supplemental Judicial Benefits			
Amador		\$0	
No Supplemental Judicial Benefits			
Butte		\$1,800	
Other Allowances/Stipends (not specifically designated)	Court	\$1,800	
Calaveras		\$549	
Life Insurance	Court	\$504	X
Long-term disability	Court	\$45	X
Mileage allowance	Court	N/A	
Colusa		\$0	
No Supplemental Judicial Benefits			
Contra Costa		\$122,560	
County Total		\$14,582	
457	County	\$1,764	
Car allowance	County	\$12,000	X
Life Insurance	County	\$510	
Long-term disability	County	\$308	
Court Total		\$107,978	
457	Court	\$16,066	X
Car allowance	Court	\$90,000	
Long-term disability	Court	\$1,912	X
Del Norte		\$0	
No Supplemental Judicial Benefits			
El Dorado		\$0	
No Supplemental Judicial Benefits			
Fresno		\$7,284	
457	County	\$0	X
Bundled (Life and Supplemental)	County	\$555	
Other Allowances/Stipends (not specifically designated)	County	\$6,729	
Glenn		\$11,263	
Life Insurance	Court	\$143	X
Other Allowances/Stipends (not specifically designated)	Court	\$10,994	X
Short-term disability	Court	\$126	X
Humboldt		\$0	
No Supplemental Judicial Benefits			

	Funding Source	Total Cost	Benefit Available to All Judges
Imperial		\$0	
No Supplemental Judicial Benefits			
Inyo		\$0	
No Supplemental Judicial Benefits			
Kern		\$247,198	
County Total		\$120,258	
Car allowance	County	\$120,258	X
Court Total		\$126,940	
Car allowance	Court	\$118,014	X
Mileage allowance	Court	\$8,926	
Kings		\$46,899	
County Total		\$27,361	
Dental	County	\$3,270	
General Health Care	County	\$23,521	
Vision	County	\$570	
Court Total		\$19,539	
457	Court	\$7,764	X
Bundled (Life and Supplemental)	Court	\$1,955	X
Cash Supplement (Flex Plans)	Court	\$0	X
Dental	Court	\$0	X
General Health Care	Court	\$0	X
Life Insurance	Court	\$73	X
Other Disability Insurance	Court	\$9,747	X
Vision	Court	\$0	X
Lake		\$0	
No Supplemental Judicial Benefits			
Lassen		\$0	
No Supplemental Judicial Benefits			
Los Angeles		\$23,482,932	
401K	County	\$3,957,130	X
457	County	\$2,001,295	X
Cash Supplement (Flex Plans)	County	\$14,454,245	X
Other Allowances/Stipends (not specifically designated)	County	\$3,070,262	X
Madera		\$0	
No Supplemental Judicial Benefits			
Marin		\$0	
No Supplemental Judicial Benefits			
Mariposa		\$424	
Life Insurance	Court	\$424	X
Mendocino		\$6,000	
Other Allowances/Stipends (not specifically designated)	County	\$6,000	X
Merced		\$0	
No Supplemental Judicial Benefits			
Modoc		\$0	
No Supplemental Judicial Benefits			

	Funding Source	Total Cost	Benefit Available to All Judges
Mono		\$2,526	
County Total		\$600	
Wellness Stipend	County	\$600	X
Court Total		\$1,926	
Dental	Court	\$720	
Life Insurance	Court	\$606	X
Mileage allowance	Court	\$101	X
Vision	Court	\$499	X
Monterey		\$80,661	
Cash Supplement (Flex Plans)	County	\$242	
Other Life Insurance	County	\$817	
Other Cash Allowance/Stipend – ‘Flexible health care’	County	\$72,477	
Other Cash Allowance/Stipend – ‘Professional expenses’	County	\$7,126	
Napa		\$90,631	
Dental	Court	\$8,136	X
General Health Care	Court	\$61,501	X
Life Insurance	Court	\$1,008	X
Other Allowances/Stipends (not specifically designated)	Court	\$18,720	X
Vision	Court	\$384	X
Wellness Stipend	Court	\$882	X
Nevada		\$3,831	
Life Insurance	Court	\$231	X
Other Retirement Benefit	Court	\$3,600	X
Orange		\$2,468,700	
County Total		\$2,436,000	
Cash Supplement (Flex Plans)	County	\$2,000,000	X
Other Allowances/Stipends (not specifically designated)	County	\$436,000	X
Court Total		\$32,700	
Bundled (Life and Supplemental)	Court	\$32,700	X
Placer		\$1,020	
Bundled (Life and Supplemental)	Court	\$1,020	X
Plumas		\$0	
No Supplemental Judicial Benefits			
Riverside		\$401,865	
457	County	\$231,478	
Life Insurance	County	\$4,109	
Long-term disability	County	\$1,507	
Other Allowances/Stipends (not specifically designated)	County	\$164,771	
Sacramento		\$96,664	
County Total		\$73,970	
Dental	County	\$69,198	X
Life Insurance	County	\$4,771	X
Court Total		\$22,694	
Dental	Court	\$6,306	X
Life Insurance	Court	\$385	X

	Funding Source	Total Cost	Benefit Available to All Judges
San Benito		\$6,582	
Long-term disability	Court	\$93	X
Life Insurance	Court	\$6,480	X
Supplemental Life Insurance (e.g. AD&D)	Court	\$10	X
San Bernardino		\$1,280,175	
Life Insurance	County	\$1,652	
Other Allowances/Stipends (not specifically designated)	County	\$1,278,523	
San Diego		\$1,916,803	
Bundled (Health, Dental, Vision)	Court	\$1,000,297	X
Bundled (Life and Supplemental)	Court	\$56,013	X
Car allowance	Court	\$852,898	X
Other Allowances/Stipends (specifically designated)	Court	\$7,595	X
San Francisco		\$409,831	
Dental	County	\$47,647	X
General Health Care	County	\$362,184	X
Vision	County	\$0	X
San Joaquin		\$14,376	
Bundled (Health, Dental, Vision)	Court	\$14,376	
San Luis Obispo		\$229,758	
Car allowance	Court	\$72,000	X
Cash Supplement (Flex Plans)	Court	\$91,074	X
Continuing Education, Training, Prof. Dev	Court	\$50,400	X
Life Insurance	Court	\$1,224	X
Long-term disability	Court	\$405	X
Other Life Insurance	Court	\$14,135	X
Wellness Stipend	Court	\$520	X
San Mateo		\$284,950	
Dental	County	\$22,897	X
General Health Care	County	\$251,372	X
Life Insurance	County	\$5,172	X
Long-term disability	County	\$836	X
Vision	County	\$4,674	X
Santa Barbara		\$0	
No Supplemental Judicial Benefits			
Santa Clara		\$1,181,531	
Bundled (Health, Dental, Vision)	County	\$1,133,106	X
Life Insurance	County	\$6,570	X
Other Allowances/Stipends (not specifically designated)	County	\$41,854	X
Santa Cruz		\$0	
No Supplemental Judicial Benefits			
Shasta		\$0	
No Supplemental Judicial Benefits			
Sierra		\$0	
No Supplemental Judicial Benefits			
Siskiyou		\$32,808	
Bundled (Life and Supplemental)	Court	\$2,808	X
Other Allowances/Stipends (not specifically designated)	Court	\$30,000	X

	Funding Source	Total Cost	Benefit Available to All Judges
Solano		\$162,996	
Bundled (Life and Supplemental)	Court	\$1,071	X
Car allowance	Court	\$117,000	X
Dental	Court	\$13,500	X
Other Allowances/Stipends (not specifically designated)	Court	\$29,250	X
Vision	Court	\$2,175	X
Sonoma		\$406,661	
County Total		\$244,661	
Car allowance	County	\$8,320	X
Dental	County	\$14,508	X
General Health Care	County	\$212,935	X
Life Insurance	County	\$3,888	X
Long-term disability	County	\$1,951	X
Vision	County	\$3,059	X
Court Total		\$162,000	
401K	Court	\$162,000	
Stanislaus		\$0	
No Supplemental Judicial Benefits			
Sutter		\$0	
No Supplemental Judicial Benefits			
Tehama		\$0	
No Supplemental Judicial Benefits			
Trinity		\$672	
Dental	County	\$480	
Life Insurance	County	\$192	
Tulare		\$10,523	
Wellness Stipend	Court	\$10,523	X
Tuolumne		\$55,753	
Cash Supplement (Flex Plans)	Court	\$53,280	X
Equipment Stipend	Court	\$360	
Life Insurance	Court	\$2,113	X
Ventura		\$294,243	
401K	County	\$124,637	X
Cash Supplement (Flex Plans)	County	\$167,185	X
Life Insurance	County	\$2,422	X
Yolo		\$174,954	
County Total		\$40,641	
Bundled (Health, Dental, Vision)	County	\$40,401	X
Bundled (Life and Supplemental)	County	\$240	X
Court Total		\$134,313	
457	Court	\$3,500	X
Bundled (Health, Dental, Vision)	Court	\$129,973	X
Bundled (Life and Supplemental)	Court	\$840	X
Yuba		\$0	
No Supplemental Judicial Benefits			

APPENDIX E

Comparison of JRS and JRS II

	Retirement Formula	Optional Settlement and Survivor Continuance	Final Compensation	Early Retirement	Employee Contribution	Employer Contribution
JRS	- With 10 or more years of service and age 70, will receive 65% of an active judge's salary - With 20 or more years of service and age 60, will receive 75% of an active judge's salary	Eligible survivor receives 50% of unmodified allowance Judge may reduce the unmodified allowance to provide a lifetime benefit to beneficiary and/or survivor	Retirement is based on the current salary of an active judge	A defined benefit is earned after 5 years of service with retirement benefits deferred to at least age 63	8% of salary	8% of salary plus the amount necessary to pay all retirees and beneficiaries collecting benefits Annually, funds are appropriated by the legislature to meet the JRS liabilities during the fiscal year
JRS II	Two Benefit Formulas "Defined Benefit" at 3 75% of final compensation (FC) x years of service Maximum of 75% of FC with 20 years and age 65 or age 70 with a minimum of 5 years "Monetary Credit" accrual equal to 18% of monthly salary plus net interest earned on investments Five or more years but less than age 65 will be a lump sum payment of monetary credits	Eligible survivor of a judge receiving a "defined benefit" receives 50% of unmodified allowance and or an optional settlement for life Judges who retire with a lump sum of "monetary credit" have no survivor or beneficiary options	Average monthly salary earned for the 12 months immediately preceding retirement	Monetary Lump Sum amount	8% of salary	20 358%

	ESIP (Extended Service Incentive Program)	Post Retirement COLAs	Retiree Health Care	Pre-Retirement Death Benefits-Not Eligible to Retire	Pre-Retirement Death Benefits-Eligible to Retire	Disability Retirement
JRS	- Established for judges who continue in service beyond their minimum retirement age and have 20 years - Provides 20% of pay per month into the Judges Retirement Fund and is paid out upon completing at least 3 additional years of service. The 20% is up to 5 years and drops to 8% after the 5 additional years of service	Retirees receive retirement increases at the same rate of increases active judges receive	100% coverage of the employer portion of the health care premium after 10 years of service - Coverage begins once retirement allowance is started and continues for surviving spouse and domestic partners	- Refund of contributions plus 6 months' salary, or, 25% of salary monthly for life to surviving spouse, or, - If the judge paid a \$2 premium and had at least 16 yrs of service, the benefit is 1 625% for each year up to 19 yrs with a maximum of 32 5% of pay. If 19 or more years of service the benefit will be 37 5% of salary	Either 32 5% or 37 5% of salary depending on the age and years' of service at the time of the judge's death	4 year vesting required 65% of active judge's salary unless 20 or more years then it is 75% of incumbent's pay
JRS II	N/A	Maximum 3% – based on the CPI	100% coverage of the employer portion of the health care premium after 10 years of service - Judges younger than age 65 must pay the full premium until age 65 when state share starts - No continuing employer paid health coverage for surviving spouses or domestic partners	- Surviving Spouse will receive the greater of the accrued monetary credits, or - Three times the annual salary payable in 36 equal monthly payments	1/2 of what the judge's benefit would have been had the judge retired on the date of death	5 yr vesting - Benefit is based on age at oath date 75% with 20yrs of service, or, 65% of pay unless hired at age 53 or older (refer to table on page 3)¹

¹ If disability is deemed job related, benefit is automatically 65% of salary regardless of age at oath date

JRS II Disability Table

Age At Which Became a Judge	% of Disability Benefit
53	63 75%
54	60 00%
55	56 25%
56	52 50%
57	48 75%
58	45 00%
59	41 25%
60	37 50%
61	33 75%
62	30 00%
63	26 25%
64	22 50%