

Memorandum 95-66

Trial Court Unification: Unification Legislation

Over the years, there have been various attempts to unify California's superior, municipal, and justice courts into a single type of trial court. Most notably, in the 1993-1994 legislative session Senator Lockyer introduced SCA 3, a proposed constitutional amendment unifying the three types of trial courts. At the legislature's request, the Law Revision Commission studied and prepared a report on SCA 3. Support for SCA 3 initially appeared strong, but Governor Wilson opposed the measure and it ultimately failed to pass the Legislature. A more limited unification measure, eliminating the justice courts, was approved by the Legislature and the voters in 1994.

In the 1995-1996 legislative session, Senator Lockyer tried to achieve further unification, introducing both SCA 4 (similar in many respects to SCA 3) and Senate Bill 162. Although SCA 4 did not move forward, the Legislature passed and last month Governor Wilson approved Senate Bill 162, which seeks to unify the superior and municipal courts to some extent by attrition. The measure is attached as Exhibit page 1 and chaptered as 1995 Cal. Stat. ch. 963. Essentially, it gives the Governor authority to convert most vacant municipal court judgeships to superior court judgeships, provided that the conversions further the administration of justice and sufficient funding is available.

The Legislature has authorized and directed the Law Revision Commission to study and make recommendations "pertaining to statutory changes that may be necessitated by court unification." 1995 Cal. Stat. res. ch. 87; *see also* 1993 Cal. Stat. res. ch. 96. Accordingly, the staff has attempted to analyze whether the passage of Senate Bill 162 necessitates any conforming revisions.

In this regard, the staff has identified a number of issues warranting the Commission's attention. These issues are discussed in the following memoranda:

(1) *Memorandum 95-77: Delegation of Legislative Authority*. Is the unification by attrition measure an unconstitutional delegation of legislative power? Should anything be done to protect against possible invalidation of judgeship conversions?

(2) *Memorandum 95-78: Redistricting Issues.* If the last municipal court judgeship in a district is converted to a superior court judgeship, how will redistricting occur? Is any new statutory guidance necessary, or are sufficient mechanisms already in place?

(3) *Memorandum 95-79: Voting Rights Act.* Will gradual unification dilute minority voting strength in violation of the Voting Rights Act? Should anything be done to protect against Voting Rights challenges or equal protection challenges?

(4) *Memorandum 95-80: Miscellaneous Issues (Including Personnel and Retroactivity).*

The Commission should consider these issues as soon as possible, because the unification measure takes effect on January 1, 1996, and there are numerous municipal court vacancies for the Governor to fill.

Respectfully submitted,

Barbara S. Gaal
Staff Counsel

Senate Bill No. 162

CHAPTER 963

An act to add Section 68083 to the Government Code, relating to courts.

[Approved by Governor October 16, 1995. Filed
with Secretary of State October 16, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 162, Lockyer. Courts: municipal and superior court judges.

Existing law specifies the number of municipal and superior court judgeships for each county.

This bill would authorize the Governor, upon the occurrence of a vacancy in a municipal court judgeship, to reduce the number of municipal court judgeships and increase the number of superior court judgeships by one, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 68083 is added to the Government Code, to read:

68083. (a) Upon the occurrence of a vacancy in a municipal court judgeship, other than the sole remaining municipal court judgeship for the county, if the Governor finds there are sufficient funds for the conversion of a municipal court judgeship into a superior court judgeship and finds that the administration of justice would be advanced by such a conversion, the number of municipal court judges for the county shall then be reduced by one and the number of superior court judges for the county shall be increased by one. Prior to making a determination, the Governor shall consider the following factors:

- (1) The geographic separation of the two courts.
- (2) The fiscal impact of the conversion.
- (3) The existence of a coordination plan approved pursuant to Section 68112 of the Government Code that permits blanket cross-assignment of superior court judges and municipal court judges to assist in the timely processing of cases before all of the courts in the county.

(b) For purposes of this section, a vacancy in a municipal court judgeship shall be deemed to occur only upon the appointment or election of a municipal court judge to another office, or to a court other than a superior court judgeship which was created within three years pursuant to this section, upon the removal or death of the municipal court judge holding that judgeship, or upon the resignation or retirement of a municipal court judge who is 65 years of age or older.

(c) The Governor's finding shall become effective when received by the Secretary of State.

(d) When a finding by the Governor that a position should be reallocated takes effect, the Judicial Council shall reallocate to the superior court the funding in support of the municipal court salary and the chamber staff positions as well as any other required funding.