

Memorandum 2001-8

Statutes Made Obsolete by Trial Court Restructuring: Court Reporters

INTRODUCTION

The most difficult court personnel statutes to dispose of regulate the hiring, compensation, and benefits of court reporters. This is largely because there is no consistency from county to county as to how court reporters are treated. Some are court employees; others are independent contractors. Compensation and fee schedules vary from county to county.

Moreover, it is unclear under trial court funding statutes how various aspects of court reporter compensation are to be treated. It is reasonably clear that court reporter services are considered court operations within the meaning of statutes that assign the duty of funding trial court operations to the state. See Gov't Code § 77003 ("court operations" defined). But what about statutes that provide the compensation of reporters in criminal and other cases is a charge against the county? See, e.g., Gov't Code § 69952. Presumably these provisions are no longer good law, but there is no clear answer in the statutes.

In addition, there are both county-specific superior court statutes and county-specific municipal court statutes addressed to employment and compensation of court reporters. We cannot simply conclude that the superior court statutes prevail as a result of unification, since the municipal court statutes continue in effect until general legislation is enacted. But because many court reporters are not court employees, the matter is not completely covered by the Trial Court Employment Protection and Governance Act (TCEPGA).

Thus, the general superior court statute provides that official reporters hold their office "during the pleasure" of the appointing court. Gov't Code § 69941. But in those former municipal courts that provided employee status to court reporters, civil service protections may well apply and may well continue through unification. See, e.g., Gov't Code §§ 70217 (effect of unification on court personnel); 71612 (existing terms of employment not affected by TCEPGA). This

sets up the potential for a Byzantine scheme of rules, with varying results for court reporters employed before unification that depend on the original court and original time of appointment.

An effort should be made to untangle this mess, but it will not be easy.

SUPERIOR COURT STATUTES

Much of the discussion in this portion of the memorandum is adapted from material prepared by Professor Clark Kelso for the Task Force on Trial Court Employees (draft of January 24, 2000). The material addresses disposition of county-specific superior court employment statutes.

Government Code Sections 69941-69959 contain general provisions governing superior court reporters throughout the state. Those provisions include:

General authority to appoint court reporters as necessary (§ 69941)

Minimum qualifications (§ 69942)

Oath of office (§ 69946)

Disqualification for failure to transcribe in a timely manner (§ 69944)

Excuse for nonperformance of duties (§ 69945)

Fees (§§ 69947, 69948, 69949, 69950, 69951)

Allocation of costs for making verbatim record (§§ 69952, 69953, 69953.5)

Fees for transcripts prepared with computer assistance (§ 69954)

Storage, labeling and delivery of transcripts to clerk (§ 69955)

Other secretarial duties (§ 69956)

Assignment of superior court reporter to municipal court (§§ 69957-69959)

Many of these provisions should be retained notwithstanding enactment of TCEPGA. Professor Kelso indicates that the general authority to appoint superior court reporters is encompassed by Section 71620 of TCEPGA, allowing repeal of Section 69941. (The staff discusses this issue below.) Other provisions appear to reflect legislative policy choices regarding the status and work of superior court reporters. General provisions dealing with fees and allocation of costs also appear to reflect deliberate policy choices regarding not only compensation of court reporters, but the costs of court reporting to the court or the parties.

In addition to the general provisions on superior court reporters, the Legislature has enacted a series of county-specific provisions to govern superior

court reporters in particular counties, numbering a hundred or so. The following table shows the superior court reporter statutes that apply to each county, the year when the applicable statutes were last amended, and a general description of the salary and fees applicable to that county. (Statutory references are to the Government Code.)

County	Statutes	Year Last Amended	Salary and Fees
Alameda	§ 69903; Art. 11, §§ 70040-70064, 70061; Art. 12, §§ 70100-70104; 69948	1979	Salary set by county on recommendation of court (§ 69903); Fees in contested cases of \$55 per day.
Alpine	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$55 per day unless higher amount set by county.
Amador	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$55 per day.
Butte	§ 70045.8, 69948	1990	County sets compensation; Fees in contested cases of \$75 per day.
Calaveras	Art. 10.5, § 70000, 69948	1965, 1990	Fees in contested cases of \$75 per day unless higher amount set by county.
Colusa	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$125 per day.
Contra Costa	Art. 11, §§ 70040-70064, 70047	1992	Salary set by joint action of court and county.
Del Norte	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$75 per day.
El Dorado	§ 70045.77, 69948	1993	Salary set by county on recommendation of court; Fees in contested cases of \$55 per day.
Fresno	§§ 70044.1, 70046.2	1997	Annual salary of \$50,969.
Glenn	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$55 per day unless higher amount set by county.
Humboldt	Art. 12.5, §§ 70125-70128, 69948	1981, 1990	Salary of \$20,983 with increases tied to comparable county classifications; Fees in contested cases of \$75 per day.
Imperial	§ 70045.5, 69948	1980	Salary set at \$21,700; Fees in contested cases of \$55 per day.
Inyo	§ 70049, 69948	1985, 1990	Full compensation for notes in criminal cases set by county; Fees in contested cases of \$55 per day unless higher amount set by county.
Kern	§ 70045.6, 69948	1991	Salary tied to Kern County salary schedule; Fees in contested cases of \$55 per day.
Kings	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$140 per day.
Lake	§ 70046.4, 69948	1992	Salary set by county on recommendation of court; Fees in contested cases of \$55 per day.

Lassen	Art. 9, §§ 69941-69959	1990	Fees in contested cases of \$55 per day.
Los Angeles	Art. 11, §§ 70040-70064, 70061; § 69894.6	1994	Salary set by reference to salary schedule (§ 69894.6).
Madera	§§ 70045.12, 69908, 69948	1990	Fees in contested cases of \$55 per day unless higher amount set by county.
Marin	Art. 12.7, §§ 70130-70134, 69948	1985, 1990	Salary set by county on recommendation of court; Fees in contested cases of \$55 per day.
Mariposa	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$55 per day unless higher amount set by county.
Mendocino	§ 70063, 69948	1992	Salary set by county on recommendation of court; Fees in contested cases of \$55 per day.
Merced	§ 70045.4, 69948	1992	Salary of \$16,735 unless higher amount set by county; Fees in contested cases of \$55 per day.
Modoc	§ 70045.2, 69948, 69948.5	1987, 1990	Salary set by county; Fees in contested cases of \$55 per day unless higher amount set by county.
Mono	§ 70064, 69948	1985, 1990	Salary set by county; Fees in contested cases of \$55 per day unless higher amount set by county.
Monterey	Art. 10, §§ 69990-69991; § 70056.7, 69948	1992	Salary established by the county; Fees in contested cases of \$55 per day unless higher amount set by county.
Napa	Art. 11, §§ 70040-70064, 70045.7; 69948	1987, 1990	Salary of \$25,000 annually; Fees in contested cases of \$55 per day unless higher amount set by county.
Nevada	§ 70045.75, 69948	1980, 1990	Annual salary of \$18,546 plus cost of living tied to county salaries; Fees in contested cases of \$55 per day unless higher amount set by county.
Orange	Art. 10.6, §§ 70010-70017, 69899.5, 69948	1999	Salaries set by court; Fees in contested cases of \$55 per day.
Placer	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$55 per day unless higher amount set by county.
Plumas	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$55 per day.
Riverside	Art. 10.7, § 70025	1976	Salary set by board for reporters not less than \$20,210 per year and for pro tems not less than \$75.25 per day.
Sacramento	Art. 10.3, §§ 69994-69994.9	1993	Annual salary of \$47,711.
San Benito	§ 70050	1977	Salary set by board; pro tems receive no more than \$75 per day.
San Bernardino	Art. 11, §§ 70040-70064, 70046, 70061; 69948	1976	Salary set by county not less than \$20,210 annually; Fees in contested cases of \$55 per day.

San Diego	Art. 11, §§ 70040-70064, 70048, 70061; 69948	1991	Salary set by joint action of court and county; Fees in contested cases of \$55 per day.
San Francisco	Art. 11, §§ 70040-70064, 70050.5, 70061	2000	Salary tied to LA salaries.
San Joaquin	Art. 10.2, § 69993	1987	Salary established by county. Number of reporters not less than number of judges.
San Luis Obispo	§ 70059.9, 69948	1992	Salary set by county on recommendation of court; Fees in contested cases of \$55 per day.
San Mateo	§ 70044.5, 69948	1998	Salary tied to salary schedule; Fees in contested cases of \$55 per day.
Santa Barbara	Art. 10, §§ 69990-69991; § 70059.7, 69948	1992	Biweekly salary of \$1,685; Fees in contested cases of \$55 per day.
Santa Clara	Art. 10.1, §§ 69992-69992.2, 70046.1	1991	Fee taxed as costs. Now covered by § 68086.
Santa Cruz	Art. 12.8, §§ 70136-70139; 69948	1992	Monthly salary of \$1,941 unless higher amount set by county; Fees in contested cases of \$55 per day.
Shasta	§ 70045.9, 69948	1992	Monthly salary of \$1,470 unless higher amount set by county; Fees in contested cases of \$55 per day unless higher amount set by county.
Sierra	Art. 9, §§ 69941-69959	1996; Fee provision last amended in 1990	Fees in contested cases of \$55 per day unless higher amount set by county.
Siskiyou	§ 70049.5, 69948	1971, 1990	Annual salary of \$10,000 unless higher amount set by county; Fees in contested cases of \$55 per day unless higher amount set by county.
Solano	§ 70059.8, 69948	1992	Salary set by joint action of county and court; Fees in contested cases of \$90 per day unless higher amount set by county.
Sonoma	§ 70047.5, 69948	1992	Salary of \$37,740 to be adjusted by county the same as other unrepresented county employees; Fees in contested cases of \$55 per day.
Stanislaus	Art. 10, §§ 69990-69991; § 70047.1, 69948	1992	Salary set by county with required increases to match increases to other county employees; Fees in contested cases of \$55 per day.
Sutter	§ 70045.11, 69948	1988	Fees in contested cases of \$110 per day unless higher amount set by county.
Tehama	§ 70045.10, 69948	1985, 1990	Salary of \$2,267 per month unless higher amount set by county; Fees in contested cases of \$55 per day unless higher amount set by county.
Trinity	§ 70045.1, 69948	1979, 1990	Salary of \$10,000 unless higher amount set by county; Fees in contested cases of \$55 per day unless higher amount set by county.

Tulare	Art. 12.1, §§ 70110-70113; 69948	1983	Salary set by reference to Tulare County salary schedule; Fees in contested cases of \$55 per day.
Tuolumne	§ 70050.6	1980	Salaries set by the county.
Ventura	Art. 10.4, §§ 69995-69999; 69948	1976	Salary set at 90% of comparable LA court reporter salaries; Fees in contested cases of \$55 per day.
Yolo	§ 70050.8	1980	Fee for pro tems is \$70 per day unless increased by county
Yuba	Art. 9, §§ 69941-69959	1996	Fees in contested cases of \$55 per day unless higher amount set by county.

Several features of these statutes stand out. First, the statutes are remarkably confused and diverse. Given the way amendments have been drafted and new sections have been added, it is difficult to perform county-by-county comparisons. However, the main differences seem to be with respect to the amount of salary, fees, and benefits provided to court reporters. It seems likely that these differences reflect different bargains struck in each county between the county, the superior court, and court reporters. Second, the statutes appear to make compensation subject to control of the county. This feature is discussed immediately below.

ROLE OF BOARD OF SUPERVISORS

The most common feature of the county-specific superior court official reporter statutes is that compensation is set and can be increased by the county board of supervisors, sometimes only with legislative ratification. As a practical matter, compensation is now determined on the basis of negotiation between the court and court reporters, with the county simply adding its blessing as a matter of course (since the county is no longer financially responsible for court reporter salaries).

A major question for Commission resolution is whether compensation for court reporters should continue, as a technical matter, to be set by the board of supervisors with, in some counties, a requirement of legislative ratification. If compensation for court reporters should be set by the court without board or legislative involvement, then most of these statutes will need to be repealed or significantly amended.

The staff thinks that, in light of state funding of trial court operations, it is not intended, or appropriate, that the county board of supervisors should play a continuing role in determining court reporter compensation. An obvious

question, though, is why these statutes were allowed to remain on the books if they are inconsistent with trial court funding reforms. The staff's belief is that this was simply too big a job at the time; it was enough of a chore getting the basic statutory funding structure in place. The Legislature has recognized this by requesting the Commission to do the cleanup work.

GENERAL AUTHORITY TO APPOINT SUPERIOR COURT REPORTERS

General authority to appoint superior court reporters is found at Government Code Section 69941:

Gov't Code § 69941. Appointment of official reporters

69941. The judge or judges of any superior court may appoint a competent phonographic reporter, or as many such reporters as there are judges, to be known as official reporter or reporters of such court, and such pro tempore official reporters as the convenience of the court may require. The reporters shall hold office during the pleasure of the appointing judge or judges.

Professor Kelso notes that this provision is overridden by the general authority of the court to make necessary and proper appointments under TCEPGA:

Gov't Code § 71620. Trial court personnel

71620. (a) Each trial court may establish such job classifications and may appoint such trial court officers, assistants, and employees as are deemed necessary for the performance of the duties and the exercise of the powers conferred by law upon the trial court and its members.

An initial question is whether appointment of an official court reporter is encompassed within the phrase "trial court officers, assistants, and employees" in Section 71620. There is no legislative history to illuminate this question, but some evidence that court reporters are intended to be covered may be derived from comparable statutes relating to individual counties. See, e.g., Gov't Code § 69893.7 (Yolo County superior and municipal courts "may appoint a clerk and such officers, assistants, and employees, **including official court reporters**, as necessary").

While it is probably correct that Section 69941 could be repealed in reliance on Section 71620, the staff thinks it may serve a useful purpose to include a specific provision on appointment authority for reporters among the other general court

reporter statutes. We would preserve Section 69941, but amend it for consistency with Section 71620.

Gov't Code § 69941 (amended). Appointment of official reporters

69941. The judge or judges of any A superior court may appoint a competent phonographic reporter, ~~or as many such reporters as there are judges~~, to be known as official reporter ~~or reporters of such~~ the court, and such pro tempore official reporters as the convenience of the court may require. The reporters shall hold office during the pleasure of the appointing ~~judge or judges~~ court.

Comment. Section 69941 is amended for consistency with, and is a specific application of, Section 71620 (trial court personnel).

EMPLOYMENT PROTECTION SYSTEM

Section 69941, governing superior court reporters, provides that, “The reporters shall hold office during the pleasure of the appointing judge or judges.” On unification of the courts, and addition of municipal court reporters to the mix, the situation becomes confused.

As a general rule, employment rights of personnel in a unified court are continued through unification. Section 70217. Preservation of the status quo lasts until adoption of subsequent legislation governing the matter. TCEPGA is subsequent legislation that governs this issue, at least with respect to those court reporters considered court employees. It does not govern the issue with respect to those court reporters who are not considered court employees.

With respect to court employees, TCEPGA provides a civil service type employment protection system. Sections 71650-71658. Presumably this will govern all reporters who are court employees, including those previously appointed in the superior court as at pleasure employees under authority of Section 69941. TCEPGA appears to supersede this provision of Section 69941, to the extent that a court reporter appointed under Section 69941 is a court employee in a particular county. The staff must examine the statutes governing the employment status of reporters in each county to determine how this will play out in the particular county. The statutes in each county will require adjustment accordingly.

Similar issues arise with respect to municipal court reporters. Some statutes provide, as with superior court reporters, that the reporters hold office at pleasure. See, e.g. Section 69893.7 (court reporters in Yolo County hold office at pleasure of appointing authority). On unification, the existing employment rights

continue into the unified court until superseded by statute. TCEPGA is a superseding statute, at least with respect to those municipal court reporters who are employees.

Unanswered questions include: (1) What happens in a county in which superior court reporters are court employees but municipal court reporters are not, and vice versa? (2) What happens in a county in which superior court and municipal court reporters are both independent contractors, but the statutes provide different fees and compensation? Until we have analyzed all the court reporter statutes we will not know whether these are theoretical or real problems. We will suggest some approaches once we find out what the situation really is.

ELECTRONIC REPORTING

The issue of electronic reporting is a hotly debated one between the Judicial Council and court reporters. In all of its work on trial court unification the Law Revision Commission has consistently taken the position that it will seek to avoid disturbing the status quo on this issue. The problems of working out the intricate details in the mechanics of unification, trial court funding, and employment restructuring should not be the occasion to change the way court reporting is done. That is a separate and unrelated issue.

At least one problem has surfaced in the otherwise routine cleanout of obsolete statutes. Government Code Section 70141.11, relating to subordinate judicial officers in Contra Costa County, provides that, "Any court reporting functions for the commissioner may be by electronic or mechanical means and devices."

Much as the staff hates to maintain a special provision of this nature, if we are to keep the status quo on the electronic reporting issue we must preserve this provision. We have done some inquiry into use of electronic reporting by court commissioners, and it appears that this provision is in fact used and there would be resistance to the increased cost of shorthand reporting.

§ 70141.11 (amended). Contra Costa County subordinate judicial officers

~~70141.11. In Contra Costa County, the superior court may provide that the commissioner, and the referee who shall have been a member of the State Bar for a period of at least five years immediately preceding his or her appointment and has been appointed pursuant to Section 247 of the Welfare and Institutions Code, shall, in addition to the duties prescribed in Section 259 of~~

~~the Code of Civil Procedure, perform the duties of a probate commissioner appointed pursuant to Section 69897 of this code.~~

~~This section shall not affect any of the powers or duties otherwise authorized for the referee appointed pursuant to Section 247 of the Welfare and Institutions Code.~~

~~The commissioner shall be paid the salary recommended by the superior court and approved by the board of supervisors plus reimbursement for necessary, reasonable and actual expenses in connection with official duties. Any court reporting functions for the commissioner may be by electronic or mechanical means and devices.~~

Comment. Section 70141.11 is amended to delete obsolete material. See Section 71622 (subordinate judicial officers).

MUNICIPAL COURT STATUTES

There are innumerable statutes governing all facets of the court reporter system in the municipal courts. Statutes governing authority to hire, employment status, salary, fees, benefits, etc., are still on the books, and may have continuing effect. The staff will need to review every statute to determine whether it is obsolete in light of TCEPGA or whether it has continuing validity by application of the trial court unification transitional provisions.

As with employment protection issues, the most difficult counties will be those where the reporters are not considered court employees, and where the fees, compensation, rights, etc. of superior court and municipal court reporters are inconsistent. We cannot predict how these issues will play out in the circumstances of each county. The staff would like to avoid at all costs maintaining a system that might for decades provide different fees and transcript charges within the same county, depending on the date of hire of a particular court reporter.

Here is a sampling of a variety of statutes affecting court reporters and possible approaches to them. This is just the tip of the iceberg.

Gov't Code § 73572 (amended). Monterey County official reporters pro tempore

73752. In Monterey County, the ~~board of supervisors~~ court shall fix the compensation of official court reporters pro tempore which shall be at the rate of seventy-five dollars (\$75) per diem. The compensation of official court reporters pro tempore may be adjusted by action of the Board of Supervisors of Monterey County court.

Comment. Section 73572 is amended to reflect the shift of trial court governance from the county to the courts. See, e.g., Section 77001 (local trial court management).

☛ **Staff Note.** This section needs to be integrated with superior court statutes governing compensation of official court reporters pro tempore. We have not yet tried to figure out how that will be done.

Gov't Code § 73674.1 (amended). Northern Solano County Judicial District court reporters

73674.1. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon them by law, each reporter shall render such assistance as may be required in any other court of the county to which the reporter may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

~~(b) Each regular official court reporter shall receive a salary at the rate specified in salary grade 09-04100.~~

~~(e) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle the appointee to such higher initial step.~~

~~(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost-of-living or other general pay increases, retirement, vacation, sick leave, and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost-of-living or general pay increases, retirement, vacation, sick leave, and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1993, unless ratified by statute by the Legislature prior to that date.~~

(e) (c) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided in Article 9

(commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(d) (1) A reporter's filing fee of sixteen dollars (\$16) shall be paid in actions and proceedings as specified in Section 68090.5.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

Comment. Section 73674.1 is amended to delete obsolete provisions.

Former subdivisions (b) and (d), and the second sentence of former subdivision (c), are superseded by the Trial Court Employment Protection and Governance Act. See Sections 76120-76129. Under those provisions, existing salaries and benefits generally remain in effect until modified pursuant to a memorandum of understanding.

The last clause of former subdivision (e) is superseded by the Trial Court Funding Act, shifting the obligation for funding trial court operations from the county to the state. See Section 77200.

☛ **Staff Note.** This section needs to be integrated with superior court statutes governing duties and compensation of official court reporters and pro tempore reporters. We have not yet tried to figure out how that will be done.

Gov't Code § 73691 (repealed). Consolidated Fresno Judicial District court reporters

~~73691. A majority of the judges may appoint 33 full-time court reporters to serve at the pleasure of the judges and to be paid an annual salary established according to the following salary schedule:~~

~~Step 1. \$45,366~~

~~Step 2. \$47,640~~

~~Step 3. \$49,997~~

~~Step 4. \$52,498~~

~~Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of that employment. If, because~~

~~of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court. Each reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each reporter shall accrue and receive vacation at the same rate as judges of that court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken when the judge to which he or she has been assigned consents.~~

Comment. Section 73691 is superseded by the Trial Court Employment Protection and Governance Act. See Sections 76120-76129. Under those provisions, existing salaries and benefits generally remain in effect until modified pursuant to a memorandum of understanding.

Gov't Code § 73692 (amended). Consolidated Fresno Judicial District official reporters pro tempore

73692. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the section for reporting testimony and proceedings the official reporters pro tempore shall be paid in accord with the following:

Each pro tempore reporter shall be paid one hundred seventy-four dollars and forty-eight cents (\$174.48) for a full day on duty under order of the court. For purposes of receiving the above compensation, one or more of the following shall apply:

(a) The court has indicated in advance that the pro tempore assignment is for a full day.

(b) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid one hundred sixteen dollars and thirty-two cents (\$116.32) for one-half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of one hundred seventy-four dollars and forty-eight cents (\$174.48) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of one hundred seventy-four dollars and forty-eight cents (\$174.48) when, in the court's judgment, that rate is necessary to obtain pro tempore reporter services for the court.

~~The above payments shall upon order of the court be a charge against the general fund of the county.~~

Comment. The last sentence of Section 73692 is deleted because it is superseded by the Trial Court Funding Act, shifting the obligation for funding trial court operations from the county to the state. See Section 77200.

☛ **Staff Note.** This section appears to have continuing effect notwithstanding unification, because statutes governing compensation of court personnel continue in effect until further legislative action. Section 70217. TCEPGA is further legislative action that affects employees, but these pro tempore reporters are not employees. This section needs to be integrated with superior court statutes governing compensation of pro tempore reporters. We have not yet tried to figure out how that will be done.

Gov't Code § 73693 (unchanged). Consolidated Fresno Judicial District official reporters employment

73693. Notwithstanding Section 69945, the official reporters and official reporters pro tempore shall report to the court when ordered to do so by any judge of said court. When not so ordered to report, such reporters may be employed in their professional capacity elsewhere.

☛ **Staff Note.** This section needs to be integrated with superior court statutes governing employment of official reporters and official reporters pro tempore. Otherwise we will have a very confusing situation in the unified superior court, with different reporters having different rights, depending on their original court and date of employment. We have not yet tried to figure out how that will be done.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary