

## Memorandum 93-70

**Trial Court Unification: Branches and Circuits**

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At the October meeting, the Commission tentatively decided to leave establishment of branch or circuit courts to the courts, subject to influence by the Legislature and county through their control of court funding. The Commission asked for research on existing statutes on branch or circuit courts.

**"Branch," "District," and "Circuit"**

"Branch court" means a court session away from the county seat. See Gov't Code §§ 68604, 69752 (superior court), 73771, 74021, 74136, 74141, 74143, 74935.5, 76219 (municipal court); 2 B. Witkin, *California Procedure Courts* § 174, at 199 (3d ed. 1985). See also Cal. R. Ct., Rules 205, 244, 324, 532, 532.5, 533.

The distinction between a court "branch" and "district" appears finespun, but the statutes treat them differently: Only Los Angeles County may create superior court districts. This is done by the board of supervisors. The location of court sessions within the district (i.e., branch court) is also done by the board of supervisors, but with approval of a majority of the superior court judges. See Gov't Code §§ 69640-69650.

All municipal and justice courts are organized by judicial district as provided by the board of supervisors. Cal. Const. Art VI, § 5; Gov't Code § 71040. There may be branch courts within a municipal or justice court district as discussed below.

The only statutory reference to a California "circuit" court or judge is in Government Code Section 74021, which requires the municipal court in Placer County to "provide circuit judge services to all branch courts established by the board of supervisors."

**Who Should Decide Where Branch Court Will Be Located?**

Statutes require branch courts of the superior court in populous areas where the county courthouse is more than some minimum distance from the city hall. See Gov't Code §§ 69742, 69746-69748.1. Additional branch courts may be created by a majority of the superior court judges with approval of the board of supervisors. *Id.* §§ 69743-69744.5, 69751.5, 69752.

Branch courts of the municipal court in Marin and Butte Counties are provided by statute. *Id.* §§ 73771, 74935.5. A statute authorizes the board of supervisors of Placer County to create branch courts of the municipal court. *Id.* §§ 74021. For Riverside County, the statutes refer to "municipal court branch administrators," although there seems to be no express provision for a branch court in that county. See *id.* §§ 74136, 74141, 74143. See also *id.* §§ 26826.1, amended by 1993 Cal. Stat. ch. 2 (Indio branch courthouse), 76219 (north and south branches, Southeast Municipal Court District, Los Angeles County).

The California Constitution requires the Legislature to provide for the organization of municipal and justice courts, but is silent on branch superior courts. Despite the silence, existing statutes on superior court branches appear to be constitutional. Compare *County of Madera v. Gendron*, 59 Cal. 2d 798, 801, 382 P.2d 342, 31 Cal. Rptr. 302 (1963), with *In re Brady*, 65 Cal. App. 345, 224 P. 252 (1924). See also 8 B. Witkin, *Summary of California Law Constitutional Law* § 604, at 58 (9th ed. 1988).

Senate Constitutional Amendment 3 permits the Legislature to "divide the district court into one or more branches." The Senate Judiciary Committee staff recommends that "districts" (and branches?) be provided by statute, but that the Legislature should only ratify or reject decisions of the judiciary and local authorities. The 1993 Judicial Council Report recommends a statute giving the courts authority to establish the location of "court facilities." Presumably this includes facilities for branch courts.

Existing law, SCA 3, and the 1993 Judicial Council Report all contemplate statutory provisions for the trial court structure. The statutes may delegate the determinations to the courts or counties as appropriate, but ultimate constitutional authority rests with the Legislature. The staff recommends the Commission reconsider its initial decision to leave establishment of branches to the courts as a constitutional principle. The location of court facilities appears to be a highly political question affecting the balance of power between the Legislature, judiciary, and local government. Historically the Legislature has retained ultimate control of trial court structure. The staff is reluctant to upset the status quo on such a charged issue in the context of unification. The Commission may wish to recommend a statutory delegation of decision-making authority to the courts in consultation with funding agencies as part of its statutory recommendations on unification.

The staff would preserve the status quo by using the existing scheme for superior court branches for the new unified court: The constitution should give the Legislature authority either to control establishment of branch courts by statute or to delegate it to the counties or judiciary. In the interim, statutes would continue to prescribe minimum requirements for branch courts based on population and distance to the courthouse, and judges could create additional branch courts by majority vote with approval of the board of supervisors.

In Memorandum 93-57, the staff considered whether separate court districts within the county should be authorized. The staff concluded there was no advantage to creating independent judicial districts rather than branches in populous counties such as Los Angeles County.

The staff recommends adding the following provision to Article VI, Section 4:

Sec. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. ~~If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.~~ The Legislature may provide for division of superior courts into one or more branches, and may provide that two or more superior courts may be organized into one or more circuits for regional resource sharing or administrative purposes.

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**Comment.** The third sentence of Section 4 is deleted because it is unused and unnecessary. See Article VI, § 6 ("The Chief Justice may provide for the assignment of any judge to another court.")

The former third sentence is replaced by a new third sentence. The Legislature may prescribe branch divisions or court circuits by statute, or may provide for them by delegating authority concerning this matter, for example, to the courts, the Judicial Council, or the county board of supervisors.

This approach preserves the present balance between the Legislature, judiciary, and local government, and still allows for statutory delegation of authority to the courts as envisioned by the Commission.

### **Specialized Courts Within Branch Courts**

Some statutes permit superior court judges to limit proceedings in branch courts to probate and domestic relations. *Id.* §§ 69649, 69744.5. The staff would continue this permissive authority in the new statute.

Respectfully submitted,

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