

Memorandum 95-78

Trial Court Unification: Redistricting Issues

Article VI, Section 5(a) of the California Constitution provides:

Each county shall be divided into municipal court districts as provided by statute, but a city may not be divided into more than one district. Each municipal court shall have one or more judges. Each municipal court district shall have no fewer than 40,000 residents; provided that each county shall have at least one municipal court district. The number of residents shall be determined as provided by statute.

This provision is implemented by a statutory delegation to the county boards of supervisors. See Gov't Code §§ 71040-71046.

As public convenience requires, the board of supervisors shall divide the county into judicial districts for the purpose of electing judges and other officers of municipal and justice courts, and may change district boundaries and create other districts. No city or city and county shall be divided so as to lie within more than one district.

Gov't Code § 71040.

(Note: This section has not been revised since Article VI, Section 5 was amended in 1994 to convert justice courts to municipal courts; it still refers to justice courts. It also refers to "judicial districts" rather than municipal court districts, and ostensibly is designed for election purposes rather than administration or venue purposes. The statutes could stand a thorough cleaning up and cleaning out in light of the conversion of justice courts to municipal courts. The Commission should consider undertaking this rather substantial task if the sponsors of the justice court conversion fail to do this.)

Pursuant to statutory authority, the counties have established 90 municipal court districts served by 670 judges. The Judicial Council is mandated to recommend consolidation of districts from time to time in the interest of expediting judicial business and improving justice, but the board of supervisors

may only consolidate judicial districts after notice and a public hearing. Gov't Code § 71042.

TRIGGERING REDISTRICTING

Senate Bill 162 allows for conversion of a municipal court judgeship to a superior court judgeship on occurrence of a vacancy in the municipal court judgeship. When a conversion occurs, there may be occasion to consolidate or redistrict the municipal courts within a county. This will be necessary, in any event, if the judgeship being converted is the last or only judgeship within a particular municipal court district.

Is there an adequate triggering mechanism for the county boards of supervisors to redistrict when a municipal court judgeship is converted? The standards of existing law are that the board must act "as public convenience requires", and the Judicial Council must recommend consolidation "from time to time". This is probably sufficient, since both entities will undoubtedly be moved to consider the issue when the Judicial Council reallocates the municipal court funding to the superior court on conversion of the judgeship. See Gov't Code § 68083(d).

REDISTRICTING STANDARDS

The constitution and statutes do not impose any particular standards for county boards of supervisors in establishing municipal court districts. The boards must establish districts "for the purpose of electing judges and other officers". Gov't Code § 71040. While the Judicial Council makes recommendations for consolidation with a view toward full-time judicial officers, equalization of work loads, expediting judicial business, and improving administration of justice, the boards of supervisors are not bound by these standards. Gov't Code § 71042.

In fact, the election issues are the difficult ones here. This is peculiarly a local political question, but there are equal protection and Voting Rights Act considerations that boards of supervisors should be concerned with. For discussion of the Voting Rights Act issues, see Memorandum 95-79.

TRANSITIONAL ISSUES

How are matters handled if there is a gap between the time a municipal court judgeship is converted to a superior court judgeship and the time the county board of supervisors acts to redistrict in light of the conversion? If there is at least one remaining judge in the district, there should be no significant problems, since the remaining judge can handle pending litigation and new filings. But if there are no remaining judges in the district, how are pending cases in that district to be handled, and where are new filings to be made?

The statutes governing civil matters within the jurisdiction of the municipal court generally provide that the proper court is the judicial district within the county having a nexus with the matter, if any; otherwise any court within the county having jurisdiction is proper. Code Civ. Proc. §§ 392-395. Moreover, the Governor, before converting a judgeship, is required to consider the existence of a coordination plan in the county that permits blanket cross-assignment of judges to assist in the timely processing of cases before all the courts in the county. Gov't Code § 68083. Coordination plans should include provisions for assignment of cases to any available judicial officer regardless of jurisdictional boundaries and, in rural counties, for the use of all court facilities for hearings and trials of all types of cases and filing of documents in any case before any court in the county participating in the coordination plan. Gov't Code § 68112.

CONCLUSION

The staff concludes that no statutory revision is necessary to deal with redistricting issues that will arise on conversion of a municipal court judgeship to a superior court judgeship. Adequate redistricting direction and authority exists, and any necessary redistricting will be triggered by reallocation of the funding for a particular municipal court district. In the interim until redistricting occurs, the statutes are adequate to allow filing in other municipal court districts in the county, and the trial court coordination plan should provide sufficient authority and personnel to deal with pending matters. The difficult election issues relating to redistricting have traditionally been left to the county boards of supervisors, and conversion of a municipal court judgeship to a superior court judgeship should not be the occasion for reexamining this scheme. (Voting Rights Act issues are not discussed in this memorandum.)

The Commission may want to consider whether, as a separate project within the trial court unification study, it is worthwhile to clean up the obsolete statutes relating to the now extinct justice courts.

Respectfully submitted,

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