

Memorandum 2001-34

Statutes Made Obsolete by Trial Court Restructuring: Miscellaneous Issues

This memorandum updates a few matters in the project relating to statutes made obsolete by trial court restructuring. No Commission action is required.

Involvement of Court Personnel in Project

As we have noted in previous memoranda, an important part of the process will be to obtain review of proposed changes to county-specific statutes by affected trial court personnel in each county. We have compiled an email list of presiding judges and executive officers of the superior courts in all counties, and have notified them of our intention to seek their input. Response to the notification has been favorable.

Number of Judges

At the February meeting the staff noted discrepancies in the statutes relating to the number of authorized superior court judgeships in several counties, resulting from unification of the trial courts. Aided by information from Commissioner Cook and by court executive officers in the affected counties, we have now been able to resolve all but one of the discrepancies. (Most of them are the result of the heritage of justice court judges that were not reflected in statutes.)

The one outstanding issue is the superior court judge count in Mendocino County. Our count, and the court's count, shows eight judges; the Administrative Office of the Courts' count shows nine judges. We are dealing with AOC to reconcile this difference.

Sessions

One issue we have not dealt with is court sessions. The statutes relating to sessions have been left in a shambles by unification. Primary responsibility for dealing with superior court sessions, both general and special, has been assigned to the Judicial Council, in consultation with the Law Revision Commission. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51,

84 (1998); Gov't Code § 70219. Arguably, this assignment is superseded by Government Code Section 71674, which mandates the Commission to recommend repeal of statutes made obsolete by trial court restructuring. However, the Administrative Office of the Courts has this matter in its sights. See Memorandum 2001-02, considered at the Commission's February meeting.

We have deferred doing anything about this matter pending completion of the work of the Task Force on Trial Court Facilities. Their final report is due July 1, 2001. See Gov't Code § 77654. Since sessions are intertwined with facilities, it has been our hope that the task force would address sessions as part of its work. The Administrative Office of the Courts indicates that it has made sure the task force is sensitive to this issue.

In response to our request to court personnel for assistance in reviewing statutes made obsolete by trial court restructuring, Judge William McKinstry, presiding judge of the Alameda County Superior Court has sent us a note detailing various session statutes that are problematic; they cause problems because they implicate the need to maintain facilities where sessions are mandated. "These statutes are archaic and should be repealed!" (We have informed Judge McKinstry of the procedural posture of this matter.)

Respectfully submitted,

Nathaniel Sterling
Executive Secretary