

Memorandum 2018-47

Statutes Made Obsolete by Trial Court Restructuring (Part 6): Task Force on Trial Court Employees (Draft Tentative Recommendation)

In April, the Commission¹ tentatively decided to propose to repeal almost all of an article in the Government Code² that established the Task Force on Court Facilities.³ This memorandum addresses an adjacent article,⁴ which established the Task Force on Trial Court Employees.

Both of these articles were enacted in 1997, as part of the Lockyer-Isenberg Trial Court Funding Act.⁵ Like the article establishing the Task Force on Court Facilities, the article establishing the Task Force on Trial Court Employees appears to have served its purpose long ago.

The Task Force on Trial Court Employees was “charged with recommending an appropriate system of employment and governance for trial court employees.”⁶ It completed its work and prepared its final report in 1999.⁷ The following year, its report served as a basis for enactment of the Trial Court Employment Protection and Governance Act (“TCEPGA”).⁸

Because the Task Force on Trial Court Employees has fulfilled its assigned role, the article creating that entity and specifying its role and duties appears to be obsolete and ripe for repeal. Attached for the Commission’s consideration is a draft of a tentative recommendation proposing to repeal that article.

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. Article 2 of Chapter 14 of Title 8 of the Government Code (Gov’t Code §§ 77650-77655).

3. See *Draft Minutes* (Aug. 2018), p. 6. For background on this decision, see Memorandum 2018-31, pp. 8-9 & Exhibit pp. 1-3.

4. Article 1 of Chapter 14 of Title 8 of the Government Code (Gov’t Code §§ 77600-77606).

5. See 1997 Cal. Stat. ch. 850, § 48.

6. Gov’t Code § 77600.

7. See Task Force on Trial Court Employees, *Final Report* (Dec. 31, 1999).

8. The TCEPGA was enacted as 2000 Cal. Stat. ch. 1010 (SB 2140 (Burton)). For key legislative history on consideration of the task force report, see Assembly Committee on Judiciary Analysis of SB 2140 (June 20, 2000); Senate Floor Analysis of SB 2140 (Oct. 5, 2000).

The Commission needs to decide whether to approve the attached draft (as is, or with modifications) as a tentative recommendation, to be posted to the Commission's website and widely circulated for comment.

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

TENTATIVE RECOMMENDATION

Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees

October 2018

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN xxxx.

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
650-494-1335
<commission@clrc.ca.gov>

SUMMARY OF TENTATIVE
RECOMMENDATION

The Government Code includes an article that established the Task Force on Trial Court Employees and specified its role and duties (see Gov't Code §§ 77600-77606). The Law Revision Commission recommends repealing that article because the task force completed its work long ago and no longer exists.

This recommendation was prepared pursuant to Government Code Section 71674 and Resolution Chapter 158 of the Statutes of 2018.

TRIAL COURT RESTRUCTURING CLEAN-UP:
TASK FORCE ON TRIAL COURT EMPLOYEES

1 The Law Revision Commission is responsible for reviewing the codes and
2 recommending statutory revisions to remove material made obsolete by the
3 following major reforms of California’s trial court system:

- 4 • Trial court unification.
- 5 • Enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997.
- 6 • Enactment of the Trial Court Employment Protection and Governance Act
7 (“TCEPGA”).¹

8 The Commission has done extensive work on this legislative assignment, but more
9 work remains to be done.² This tentative recommendation focuses on the statutes
10 relating to the Task Force on Trial Court Employees.

11 **Task Force on Trial Court Employees**

12 The Government Code includes an article establishing the Task Force on Trial
13 Court Employees and specifying its role and duties.³ That article was enacted in
14 1997, as part of the Lockyer-Isenberg Trial Court Funding Act.⁴

15 The Task Force on Trial Court Employees was “charged with recommending an
16 appropriate system of employment and governance for trial court employees.”⁵ It
17 completed its work and prepared its final report in 1999.⁶ The following year, its
18 report served as a basis for enactment of the TCEPGA.⁷

19 Because the Task Force on Trial Court Employees has fulfilled its assigned role
20 and disbanded, the article establishing the task force and specifying its role and
21 duties appears to be obsolete. The Law Revision Commission tentatively
22 recommends repealing that article.

1. See Gov’t Code § 71674; see also 2018 Cal. Stat. res. ch. 158.

2. For a summary of the status of the work in early 2018, see CLRC Staff Memorandum 2018-5. The Commission is currently working on several different aspects of trial court restructuring. For information about recent developments, see <http://www.clrc.ca.gov/J1405.html>. On the same webpage, interested persons can subscribe to electronically receive additional materials on trial court restructuring as they are generated.

3. Article 1 of Chapter 14 of Title 8 of the Government Code (Gov’t Code §§ 77600-77606).

4. See 1997 Cal. Stat. ch. 850, § 48.

5. Gov’t Code § 77600.

6. See Task Force on Trial Court Employees, *Final Report* (Dec. 31, 1999).

7. The TCEPGA was enacted as 2000 Cal. Stat. ch. 1010 (SB 2140 (Burton)). For key legislative history on consideration of the task force report, see Assembly Committee on Judiciary Analysis of SB 2140 (June 20, 2000); Senate Floor Analysis of SB 2140 (Oct. 5, 2000).

1 **Request for Public Comment**

- 2 The Commission seeks public comment on its tentative recommendation.
3 Comments supporting the proposed approach are just as important as comments
4 suggesting changes to that approach or expressing other views.

PROPOSED LEGISLATION

1 **Gov't Code §§ 77600-77606. Task Force on Trial Court Employees**

2 SECTION 1. Article 1 (commencing with Section 77600) of Chapter 14 of Title
3 8 of the Government Code is repealed.

4 **Comment.** Sections 77600-77606 are repealed as obsolete. The Task Force on Trial Court
5 Employees completed its final report in 1999. The report served as a basis for enactment of the
6 Trial Court Employment Protection and Governance Act (2000 Cal. Stat. ch. 1010). See, e.g.,
7 Assembly Committee on Judiciary Analysis of SB 2140 (June 20, 2000); Senate Floor Analysis
8 of SB 2140 (Oct. 5, 2000).

9 **Note.** The text of the repealed article is set out below.

10 Article 1. Task Force on Trial Court Employees

11 77600. The Task Force on Trial Court Employees shall be established pursuant to this article
12 on or before January 1, 1998, and is charged with recommending an appropriate system of
13 employment and governance for trial court employees.

14 77601. The task force shall be comprised of the following members:

15 (a) Four representatives of trial courts, appointed by the Chief Justice, representing two
16 urban, one suburban, and one rural courts.

17 (b) Four representatives of counties, appointed by the Governor from a list of nominees
18 submitted by the California State Association of Counties, representing urban, suburban, and
19 rural counties.

20 (c) Three representatives appointed by the Senate Rules Committee, at least two of whom
21 shall represent trial court employee organizations.

22 (d) Three representatives appointed by the Speaker of the Assembly, at least two of whom
23 shall represent trial court employee organizations.

24 (e) The Director of Human Resources or his or her representative.

25 (f) The Chief Executive Officer of PERS or his or her representative.

26 (g) The Director of Finance or his or her representative.

27 (h) The Chief Justice shall designate a justice of the court of appeal as nonvoting
28 chairperson.

29 77602. The Judicial Council shall provide staff support for the task force and shall develop
30 guidelines for procedures and practices for the task force, which shall include input from and
31 approval of the task force. The Department of Human Resources, the Department of Finance, and
32 the Legislative Analyst shall provide additional support, at the request of the Judicial Council.
33 The California State Association of Counties is encouraged to provide additional staff support.

34 77603. The duties of the task force shall include, but not be limited to, the following:

35 (a) Complete a survey of all trial courts regarding court employee status, classification, and
36 salary.

37 (b) Document the local retirement systems in which trial court employees are members and
38 the terms of the systems, and identify future retirement options.

39 (c) Determine the costs associated with a change in retirement benefits for court employees,
40 including the cost to counties resulting from such change, including, but not limited to, the
41 impact of such a change on pension obligation bonds, unfunded liabilities, and changes in
42 actuarial assumptions.

43 (d) Document existing contractual agreements and the terms and conditions of employment,
44 and document exclusive bargaining agents representing court employees by court, county, and
45 unit.

1 (e) Document existing constitutional, statutory, and other provisions relating to
2 classification, compensation, and benefits of court employees.

3 (f) Identify functions relating to trial courts that are provided by county employees.

4 (g) Examine and outline issues relating to the establishment of a local personnel structure for
5 trial court employees under (1) court employment, (2) county employment, with the concurrence
6 of the county and the courts in the county (3) state employment with the concurrence of the state
7 and the courts in the county, or (4) other options identified by the task force. The task force, in
8 recommending options for employee status, shall consider the complexity of the interests of
9 employees and various governmental entities. Their recommendations shall, to the greatest
10 extent possible, recognize the need for achieving the concurrence of the affected parties.

11 In outlining these issues, consideration shall be given to contractual obligations, minimizing
12 disruption of the trial court work force, and protecting the rights accrued by employees under
13 their current systems.

14 (h) Prepare a method for submitting the issue of employment status to an advisory vote of
15 trial court employees in each county.

16 (i) Recommend a personnel structure for trial court employees.

17 77604. (a) The task force shall be appointed by October 1, 1997.

18 (b) The task force shall meet and establish its operating procedures on or before January 1,
19 1998.

20 77605. (a) It is the intent of the Legislature to enact a personnel system, that shall take effect
21 on or before January 1, 2001, for employment of trial court employees. The personnel system
22 shall have uniform statewide applicability and promote organizational and operational flexibility
23 in accordance with Section 77001.

24 (b) Nothing in this chapter is intended to prejudge or compel a finding by the task force that
25 court or county or state employment is preferred.

26 (c) No provision of this article is intended to reduce judicial or court employee salary or
27 benefits.

28 (d) No provision of this chapter shall be deemed to affect the current employment status of,
29 or reduce benefits for, any peace officer involved in court operations.

30 77606. The recommendations of the task force shall take effect only upon subsequent action
31 of the Legislature.