

## Memorandum 97-58

### **Trial Court Unification: Government Code Draft**

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Attached to this memorandum is a draft of revisions to the Government Code necessitated by trial court unification. The bulk of the draft consists of conforming revisions to reflect elimination of the justice courts on January 1, 1995. Staff notes interspersed in the draft highlight a few significant points.

There are hundreds of other statutes in the Government Code that affect court organization and structure. There are statutes specifying salaries of employees, benefits, privileges, etc. in each and every municipal court district in the state. These statutes are covered to some extent by general transitional provisions in SCA 4, which preserve existing employees until changed by the Legislature. However, the general transitional provisions may not be completely adequate; and in any event, these statutes will need to be cleaned up on a case-by-case basis as unification occurs. The staff is investigating the possibility of more comprehensive general treatment for these special provisions when the courts in a county unify. Meanwhile, it is anticipated that a task force will be established to look into the whole issue of the court employment structure. See pages 18-22 of the attached draft.

The attached draft incorporates the Government Code provisions previously approved by the Commission for stop-gap legislation, including unification voting procedures. These provisions will need to be enacted on a permanent basis, whether or not stop-gap legislation is ever needed. We have received comments on the voting procedures from the State Bar Litigation Section, which we will take up in a supplement to this memorandum.

The revisions in this draft use the following terminology:

(1) Matters currently within municipal court jurisdiction are referred to as "Chapter 5.1 cases".

(2) Matters currently within superior court jurisdiction are referred to as "general jurisdiction cases".

The staff anticipates that we will be tussling with this terminology for a while. We will eventually revise this draft to use whatever terminology we ultimately adopt.

Our plan is to circulate these proposed Government Code revisions for comment as a separate tentative recommendation after review and approval by the Commission.

Respectfully submitted,

Nathaniel Sterling  
Executive Secretary

# GOVERNMENT CODE

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## GOVERNMENT CODE

### PROPOSED LEGISLATION

#### **Gov't Code § 910 (amended). Contents of claim**

SEC. \_\_\_\_\_. Section 910 of the Government Code is amended to read:

910. A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:

(a) The name and post office address of the claimant.

(b) The post office address to which the person presenting the claim desires notices to be sent.

(c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

(d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.

(e) The name or names of the public employee or employees causing the injury, damage, or loss, if known.

(f) The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether ~~jurisdiction over the claim would rest in municipal or superior court~~ the claim would be a general jurisdiction case or a Chapter 5.1 case.

**Comment.** Section 6301 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases ) & Comment.

#### **Gov't Code § 11189 (amended). Depositions**

SEC. \_\_\_\_\_. Section 11189 of the Government Code is amended to read:

11189. In any matter pending before ~~him~~ a department head, the department head may cause the deposition of persons residing within or without the State to be taken by causing a petition to be filed in the Superior Court in the County of Sacramento reciting the nature of the matter pending, the name and residence of the person whose testimony is desired, and asking that an order be made requiring ~~him~~ the person to appear and testify before an officer named in the petition for that purpose. Upon the filing of the petition the court may make an order requiring the person to appear and testify in the manner prescribed by law for like depositions in ~~civil actions~~ a general jurisdiction case in the superior courts of this State. In the same manner the superior courts may compel the

attendance of persons as witnesses, the production of papers, books, accounts, and documents, and may punish for contempt.

**Comment.** Section 11189 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

**Gov't Code § 11511 (amended). Depositions**

SEC. \_\_\_\_\_. Section 11511 of the Government Code is amended to read:

11511. On verified petition of any party, an administrative law judge or, if an administrative law judge has not been appointed, an agency may order that the testimony of any material witness residing within or without the state be taken by deposition in the manner prescribed by law for depositions in civil actions a general jurisdiction case. The petition shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of the testimony; a showing that the witness will be unable or can not be compelled to attend; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. The petitioner shall serve notice of hearing and a copy of the petition on the other parties at least 10 days before the hearing. Where the witness resides outside the state and where the administrative law judge or agency has ordered the taking of the testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the superior court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189.

**Comment.** Section 11511 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

**Gov't Code § 12972 (amended). Commission procedures**

SEC. \_\_\_\_\_. Section 12972 of the Government Code is amended to read:

12972. (a) The commission shall conduct all actions and procedures in accordance with either of the following:

(1) Chapter 5 (commencing with Section 11500) of Part 1, except as otherwise specified by this part.

(2) Regulations adopted by the commission.

(b) In addition to the discovery available to each party pursuant to subdivision (a), the department and the respondent may each cause a single deposition to be taken in the manner prescribed by law for depositions in civil actions a general jurisdiction case in the superior courts of this state.

**Comment.** Section 12972 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

**Gov't Code § 18671 (amended). Hearings**

SEC. \_\_\_\_\_. Section 18671 of the Government Code is amended to read:

18671. Such hearings and investigations may be conducted by the board, any member, or any authorized representative of the board. Any authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in ~~civil cases~~ a general jurisdiction case in the superior court of this State.

**Comment.** Section 18671 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

**Gov't Code § 26738 (unchanged). Fee for not found return**

26738. The fee for making a not found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, writ of possession, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found within the judicial district in which the address specified is situated, is twenty-four dollars (\$24).

☞ **Staff Note.** If judicial districts become county-wide in a unified court, that would affect the sheriff's fees under this section.

**Gov't Code § 26820.4 (amended). First filing fee**

SEC. \_\_\_\_\_. Section 26820.4 of the Government Code is amended to read:

26820.4. (a) The total fee for filing of the first paper in a ~~civil action or proceeding~~ general jurisdiction case in the superior court, except an adoption proceeding, shall be one hundred eighty-two dollars (\$182).

This section applies to the initial complaint, petition, or application, and the papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 704.750, or 708.160 of the Code of Civil Procedure.

(b) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

**Comment.** Section 26820.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

**Gov't Code § 26824 (amended). Filing fee for appeal**

SEC. \_\_\_\_\_. Section 26824 of the Government Code is amended to read:

26824. The fee for filing a notice of appeal ~~from a municipal or justice court in a civil action or a special proceeding~~ to the appellate division of the superior court in a Chapter 5.1 case is fifty dollars (\$50). The Judicial Council may make rules governing the time and method of payment and providing for excuse.

**Comment.** Section 26824 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

**Gov't Code § 26826.1 (amended). Surcharge**

SEC. \_\_\_\_\_. Section 26826.1 of the Government Code is amended to read:

26826.1. In addition to the total filing fee authorized pursuant to Section 26820.4, 26826, or 26827 or any other fee authorized by this code, after giving notice and holding a public hearing on the proposal, the Board of Supervisors of Riverside County may impose a surcharge not to exceed fifty dollars (\$50) for the filing of any of the following in a general jurisdiction case in superior court of: (a) a complaint, petition, or other first paper ~~in a civil or probate action or special proceeding~~, (b) a first paper on behalf of any defendant, respondent, intervenor, or adverse party, (c) a motion for change of venue from another court, (d) a petition for sole custody of a minor, (e) a first paper on behalf of any party in a proceeding under Section 98.2 of the Labor Code, or (f) any motion, order to show cause, or other proceeding seeking to modify or enforce any judgment or order. The surcharge shall be in an amount determined to be necessary by the board of supervisors to cover the costs of the seismic stabilization, construction, and rehabilitation of the Riverside County Courthouse, and the Indio Branch Courthouse, and collection thereof shall terminate upon repayment of the amortized costs incurred.

**Comment.** Section 26826.1 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

**Gov't Code § 53069.4 (amended). Violation of ordinance**

SEC. \_\_\_\_\_. Section 53069.4 of the Government Code is amended to read:

53069.4. (a)(1) The legislative body of a local agency, as the term "local agency" is defined in Section 54951, may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties. Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Section 25132 and subdivision (b) of Section 36900.

(2) The administrative procedures set forth by ordinance adopted by the local agency pursuant to paragraph (1), shall provide for a reasonable period of time, as specified in the ordinance, for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety.

(b)(1) Notwithstanding the provisions of Section 1094.5 or 1094.6 of the Code of Civil Procedure within 20 days after service of the final administrative order or decision of the local agency is made pursuant to an ordinance enacted in accordance with this section regarding the imposition, enforcement or collection of the administrative fines or penalties, a person contesting that final administrative order or decision may seek review by filing an appeal to be heard by the municipal court or by the superior court in a county in which there is no municipal court, where the same shall be heard de novo, except that the contents of the local agency's file in the case shall be received in evidence. A proceeding under this subdivision is a Chapter 5.1 case. A copy of the document or instrument of the local agency providing notice of the violation and imposition of the administrative fine or penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the local agency by the contestant.

(2) The fee for filing the notice of appeal shall be twenty-five dollars (\$25). The court shall request that the local agency's file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the twenty-five dollar (\$25) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the local agency in accordance with the judgment of the court.

(3) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(c) If no notice of appeal of the local agency's final administrative order or decision is filed within the period set forth in this section, the order or decision shall be deemed confirmed.

(d) If the fine or penalty has not been deposited and the decision of the court is against the contestant, the local agency may proceed to collect the penalty pursuant to the procedures set forth in its ordinance.

**Comment.** Section 53069.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

A Chapter 5.1 case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also

Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 cases).

☞ **Staff Note.** A reference to this section should be added to Code of Civil Procedure Section 85.

**Gov't Code § 53075.6 (amended). Taxicab certificates**

SEC. \_\_\_\_\_. Section 53075.6 of the Government Code is amended to read:

53075.6. Whenever a peace officer or public officer or employee, when authorized by ordinance and as defined in Section 836.5 of the Penal Code, arrests any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, and the offense occurred at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the officer or employee may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court or superior court in a county in which there is no municipal court for the immediate return of a vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this paragraph is a Chapter 5.1 case.

No officer or employee, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

**Comment.** Section 53075.6 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

A Chapter 5.1 case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 cases).

☞ **Staff Note.** A reference to this section should be added to Code of Civil Procedure Section 85.

**Gov't Code § 53075.61 (amended). Transportation inspector**

SEC. \_\_\_\_\_. Section 53075.61 of the Government Code is amended to read:

53075.61. A transportation inspector, authorized by a local government to cite any person for operating as a taxicab without a valid taxicab certificate, license, or permit required by any ordinance, may impound and retain possession of any vehicle used in a violation of the ordinance.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of the ordinance without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court or superior court in a county in which there is no municipal court for the immediate return of a vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this paragraph is a Chapter 5.1 case.

No officer or employee, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

**Comment.** Section 53075.61 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

A Chapter 5.1 case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 cases).

☞ **Staff Note.** A reference to this section should be added to Code of Civil Procedure Section 85.

**Gov't Code § 68090.8 (amended). Automation fund**

SEC. \_\_\_\_\_. Section 68090.8 of the Government Code is amended to read:

68090.8. (a) The Legislature finds that the management of criminal cases, including traffic cases, and the accounting for funds in the municipal ~~and justice~~ courts requires these courts to implement appropriate levels of automation. The purpose of this section is to make a fund available for the development of automated accounting and case-processing systems for the municipal ~~and justice~~

courts or the superior court in a county in which there is no municipal court, together with funds to train operating personnel, and for the maintenance and enhancement of the systems.

(b) Prior to making any other required distribution, the county treasurer shall deposit 2 percent of all fines, penalties, and forfeitures collected in criminal cases, including, but not limited to, moneys collected pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of this code, Section 13003 of the Fish and Game Code, Section 11502 of the Health and Safety Code, and Chapter 1 (commencing with Section 1427) of Title 11 of Part 2 of the Penal Code, into a fund which shall be used exclusively to pay the costs of automating municipal and justice court, or superior court in a county in which there is not municipal court, recordkeeping systems for criminal, including traffic, cases. Interest earned on these deposits shall be retained in the fund and used only for the purposes of this subdivision. These systems shall meet Judicial Council performance standards, including production of reports as needed by the state, the counties, and local governmental entities.

**Comment.** Section 68090.8 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment. It is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68152 (amended). Court records**

SEC. \_\_\_\_\_. Section 68152 of the Government Code is amended to read:

68152. The trial court clerk may destroy court records under Section 68153 after notice of destruction and if there is no request and order for transfer of the records, except the comprehensive historical and sample superior court records preserved for research under the California Rules of Court, when the following times have expired after final disposition of the case in the categories listed:

- (a) Adoption: retain permanently.
- (b) Change of name: retain permanently.
- (c) Other civil actions and proceedings, as follows:
  - (1) Except as otherwise specified: 10 years.
  - (2) Where a party appears by a guardian ad litem: 10 years after termination of the court's jurisdiction.
  - (3) Domestic violence: same period as duration of the restraining or other orders and any renewals, then retain the restraining or other orders as a judgment; 60 days after expiration of the temporary protective or temporary restraining order.
  - (4) Eminent domain: retain permanently.
  - (5) Family law, except as otherwise specified: 30 years.
  - (6) Harassment: same period as duration of the injunction and any renewals, then retain the injunction as a judgment; 60 days after expiration of the temporary restraining order.
  - (7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-Petris-Short Act): 30 years.

- (8) Paternity: retain permanently.
  - (9) Petition, except as otherwise specified: 10 years.
  - (10) Real property other than unlawful detainer: retain permanently if the action affects title or an interest in real property.
  - (11) Small claims: 10 years.
  - (12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years if judgment is for money.
- (d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:
- (1) Involuntarily dismissed by the court for delay in prosecution or failure to comply with state or local rules: one year.
  - (2) Voluntarily dismissed by a party without entry of judgment: one year.
- Notation of the dismissal shall be made on the civil index of cases or on a separate dismissal index.
- (e) Criminal.
- (1) Capital felony (murder with special circumstances where the prosecution seeks the death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence less than death, the case shall be reclassified.
  - (2) Felony, except as otherwise specified: 75 years.
  - (3) Felony, except capital felony, with court records from the initial complaint through the preliminary hearing or plea and for which the case file does not include final sentencing or other final disposition of the case because the case was bound over to the superior court: five years.
  - (4) Misdemeanor, except as otherwise specified: five years.
  - (5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise specified: three years.
  - (6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle Code: seven years.
  - (7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.
  - (8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of the Health and Safety Code: records shall be destroyed two years from the date of conviction or from the date of arrest if no conviction.
  - (9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and licensing of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural Code or violation of any other local ordinance: three years.
  - (10) Infraction, except as otherwise specified: three years.
  - (11) Parking infractions, including alleged violations under the stopping, standing, and parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code: two years.

(f) Habeas corpus: same period as period for retention of the records in the underlying case category.

(g) Juvenile.

(1) Dependent (Section 300 of the Welfare and Institutions Code): upon reaching age 28 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed pursuant to subdivision (c) of Section 389 of the Welfare and Institutions Code.

(2) Ward (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or on written request shall be released to the juvenile five years after jurisdiction over the person has terminated under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order five years after the records have been sealed under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(3) Ward (Section 602 of the Welfare and Institutions Code): upon reaching age 38 under subdivision (a) of Section 826 of the Welfare and Institutions Code. Sealed records shall be destroyed upon court order when the subject of the record reaches the age of 38 under subdivision (d) of Section 781 of the Welfare and Institutions Code.

(4) Traffic and some nontraffic misdemeanors and infractions (Section 601 of the Welfare and Institutions Code): upon reaching age 21 or five years after jurisdiction over the person has terminated under subdivision (c) of Section 826 of the Welfare and Institutions Code. May be microfilmed or photocopied.

(5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and Safety Code in accordance with procedures specified in subdivision (a) of Section 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be destroyed.

(h) Probate.

(1) Conservatorship: 10 years after decree of termination.

(2) Guardianship: 10 years after the age of 18.

(3) Probate, including probated wills, except as otherwise specified: retain permanently.

(i) Court records of the appellate ~~department~~ division of the ~~trial~~ superior court: five years.

(j) Other records.

(1) Applications in forma pauperis: same period as period for retention of the records in the underlying case category.

(2) Arrest warrant: same period as period for retention of the records in the underlying case category.

(3) Bench warrant: same period as period for retention of the records in the underlying case category.

(4) Bond: three years after exoneration and release.

(5) Coroner's inquest report: same period as period for retention of the records in the underlying case category; if no case, then permanent.

(6) Court orders not associated with an underlying case, such as orders for destruction of court records for telephone taps, or to destroy drugs, and other miscellaneous court orders: three years.

(7) Court reporter notes: 10 years after the notes have been taken in criminal and juvenile proceedings and five years after the notes have been taken in all other proceedings, except notes reporting proceedings in capital felony cases (murder with special circumstances where the prosecution seeks the death penalty and the sentence is death), including notes reporting the preliminary hearing, which shall be retained permanently, unless the Supreme Court on request of the court clerk authorizes the destruction.

(8) Electronic recordings made as the official record of the oral proceedings under the California Rules of Court: any time after final disposition of the case in infraction and misdemeanor proceedings, 10 years in all other criminal proceedings, and five years in all other proceedings.

(9) Electronic recordings not made as the official record of the oral proceedings under the California Rules of Court: any time either before or after final disposition of the case.

(10) Index, except as otherwise specified: retain permanently.

(11) Index for cases alleging traffic violations: same period as period for retention of the records in the underlying case category.

(12) Judgments ~~within the jurisdiction~~ of the superior court in a general jurisdiction case: retain permanently.

(13) Judgments ~~within the jurisdiction~~ of the municipal and justice court or of the superior court in a county in which there is no municipal court in a Chapter 5.1 case: same period as period for retention of the records in the underlying case category.

(14) Minutes: same period as period for retention of the records in the underlying case category.

(15) Naturalization index: retain permanently.

(16) Ninety-day evaluation (under Section 1203.03 of the Penal Code): same period as period for retention of the records in the underlying case category, or period for completion or termination of probation, whichever is longer.

(17) Register of actions or docket: same period as period for retention of the records in the underlying case category, but in no event less than 10 years for civil and small claims cases.

(18) Search warrant: 10 years, except search warrants issued in connection with a capital felony case defined in paragraph (7), which shall be retained permanently.

(k) Retention of any of the court records under this section shall be extended as follows:

(1) By order of the court on its own motion, or on application of a party or any interested member of the public for good cause shown and on such terms as are just. No fee shall be charged for making the application.

(2) Upon application and order for renewal of the judgment to the extended time for enforcing the judgment.

**Comment.** Section 68152 is amended:

(1) To accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See also Code Civ. Proc. § 85 (general jurisdiction cases and Chapter 5.1 cases) & Comment.

(2) To reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

(3) To reflect elimination of the justice court. Cal. Const. art. V I, §§ 1, 5(b). Notwithstanding the deletion of the reference to justice courts, justice court judgments will continue to be retained for the appropriate period of time depending upon the underlying action.

**Gov't Code § 69510 (unchanged). Superior court sessions in non-unified counties**

69510. A majority of the judges of a superior court may order sessions of the court to be held at any place where a municipal court holds sessions within the county. The order shall be filed with the county clerk and published as the judges may prescribe.

☞ **Staff Note.** This provision appears to function satisfactorily without change in a unified or nonunified county.

**Gov't Code § 69744.5 (amended). Superior court sessions**

69744.5. When the judge, or a majority of the judges, of the superior court deem it necessary or advisable, by order filed with the county clerk and published as he or they prescribe, he or they may direct that the court be held at least once a week at any designated place in the county, not less than 45 miles distant from the county seat, measured by air line. The place designated shall be within a judicial district, or former district in a county in which there is no municipal court, composed wholly of unincorporated territory, with a population of more than 40,000 as determined pursuant to Section 71043. The judge or a majority of the judges may limit the type of judicial proceedings which may be heard by the court at such place to probate matters and matters relating to domestic relations.

**Comment.** Section 69744.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

☞ **Staff Note.** Despite the general rule that judicial districts are countywide in a unified county, preservation of former judicial districts appears necessary here.

**Gov't Code § 69746.5 (amended). Superior court sessions**

69746.5. In a county of the 14th class, at least one session of the superior court may be held at a location designated by the board of supervisors which is not less than 40 miles, nor more than 50 miles, from the site of the county courthouse. However, at such time on or after July 1, 1990, as the board of supervisors finds

that there are sufficient funds for this purpose, the board of supervisors shall designate a location therefor which is within a judicial district, or former district in a county in which there is no municipal court, with a population of more than 40,000 as determined pursuant to Section 71043.

**Comment.** Section 69746.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

☞ **Staff Note.** Despite the general rule that judicial districts are countywide in a unified county, preservation of former judicial districts appears necessary here.

**Gov't Code §§ 70200-70214 (added). The Unified Superior Courts**

SEC. \_\_\_\_\_. Chapter 5.1 (commencing with Section 70200) is added to Title 8 of the Government Code, to read:

CHAPTER 5.1. THE UNIFIED SUPERIOR COURTS

Article 1. Unification Voting Procedure

**§ 70200. Unification voting procedure provided in this article**

70200. (a) The municipal and superior courts in a county shall be unified on a majority vote of superior court judges and a majority vote of municipal court judges in the county, pursuant to the procedure provided in this article.

(b) The vote shall be conducted by the Judicial Council or, if authorized by the Judicial Council, the county's registrar of voters.

(c) The Judicial Council may adopt rules not inconsistent with this article for the conduct of the vote, including but not limited to rules governing the frequency of vote calls, manner of voting, duration of the voting period, changes within the voting period, and selection of the operative date of unification.

**Comment.** Section 70200 reiterates authority provided in Constitution Article VI, Section 5(e), for unification of the municipal and superior courts in a county. The implementation of the unification procedure is vested in the Legislature by Constitution Article VI, Section 23 (purpose of constitutional amendment is to permit Legislature to provide for unification).

For the operative date of a vote for unification, see Section 70203.

**§ 70201. Conduct of vote**

70201. (a) A vote of the judges in a county for unification shall be called by the Judicial Council on application of the presiding judge of the superior court in the county or on application of a majority of the judges of the municipal court or a majority of the judges of the superior court in the county.

(b) The vote shall be taken 30 days after it is called.

(c) A judge is eligible to vote if the judge is serving in the court pursuant to an election or appointment under Section 16 of Article VI of the California Constitution at the time the vote is taken.

(d) The ballot shall be in substantially the following form:

“Shall the municipal and superior courts in the County of [name county] be unified on [specify date]? [Yes] [No]”

**Comment.** Section 70201 does not specify a manner of voting (e.g., secret ballot). This matter is left to Judicial Council rules. See Section 70200(c).

**§ 70202. Certification of results**

70202. (a) The Judicial Council or registrar of voters shall certify the results of a vote to unify the municipal courts and the superior courts in a county.

(b) Unification of the municipal and superior courts in a county requires an affirmative vote of a majority of all superior court judges in the county eligible to vote and a majority of all municipal court judges in the county eligible to vote.

(c) After certification, a vote to unify the municipal and superior courts in a county may not be rescinded.

**§ 70203. Operative date of unification**

70203. Unification of the municipal and superior courts in a county shall occur on the earlier of the date specified in the unification vote or 180 days following certification of the vote for unification.

Article 2. Transitional Provisions for Unification

**§ 70210. Transitional rules of court**

70210. The Judicial Council shall adopt rules of court not inconsistent with statute for:

(a) The orderly conversion of proceedings pending in municipal courts to proceedings in superior courts, and for proceedings commenced in superior courts on and after the date the municipal and superior courts in a county are unified.

(b) Selection of persons to coordinate implementation activities for the unification of municipal courts with superior courts in a county, including:

(1) Selection of a presiding judge for the unified superior court.

(2) Selection of a court executive officer for the unified superior court.

(3) Appointment of court committees or working groups to assist the presiding judge and court executive officer in implementing unification.

(c) The authority of the presiding judge, in conjunction with the court executive officer and appropriate individuals or working groups of the unified superior court, to act on behalf of the court to implement unification.

(d) Preparation and submission of a written personnel plan to the judges of a unified superior court for adoption.

(e) Preparation of any necessary local court rules that shall, on the date the municipal and superior courts in a county are unified, be the rules of the unified superior court.

(f) Other necessary activities to facilitate the transition to a unified superior court.

**Comment.** Section 70210 mandates that the Judicial Council adopt rules of court to coordinate and guide the trial courts in effectively implementing trial court unification.

Subdivision (a) provides generally that the rules will ensure the orderly conversion of proceedings in the unified superior court as of the date the municipal and superior courts in a county are unified.

Subdivision (b) provides for the selection of the presiding judge, court executive officer, and appropriate committees or working groups to assist the presiding judge. The method of selection, and the specific duties and authorities for each will be set forth in the rules, as is currently the case in existing Rules 204, 205, 207, 532.5, 532.6, and 573 of the California Rules of Court. This preserves the balance of power that currently exists between the legislature and the judiciary.

Subdivision (c) is intended to encourage the presiding judge to work closely with the court executive officer and court committees or other working groups to implement unification decisions.

Subdivision (d) provides that the courts will develop and adopt a personnel plan. The section parallels Rule 205(11). Decisions on the appropriate personnel system and related labor relations matters can only be made after comprehensive study and with input from all affected entities. See also Section 69503 (AB 1110); Task Force on Trial Court Employees, Gov't Code § 7601 et seq. (AB 233).

Subdivision (e) provides for local rule adoption. As under current practice, the Judicial Council will determine which procedural issues shall be addressed by local rule and which by statewide rule.

Examples of issues that may be addressed by rule of court under subdivision (f) include the development of informational programs for the public and the Bar about unification, and education and training programs for judicial officers and court staff to facilitate the effective transition to a unified court.

#### **§ 70211. Conversion of judgeships**

70211. When the municipal and superior courts in a county are unified:

(a) The judgeships in each municipal court in that county are abolished and the previously selected municipal court judges become judges of the superior court in that county. Until revised by statute, the total number of judgeships in the unified superior court shall equal the previously authorized number of judgeships in the municipal court and superior court combined.

(b) The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court.

(c) The 10-year membership or service requirement of Section 15 of Article VI of the California Constitution does not apply to a previously selected municipal court judge.

**Comment.** Section 70211 restates the first three sentences of Constitution Article VI, Section 23(b), with the addition in subdivision (a) of a provision maintaining the total number of judgeships in the county. The Legislature prescribes the number of judges. Cal. Const. art. VI, §§ 4, 5.

The references in this section to a “previously selected” judge includes selection by election or by appointment to fill a vacancy. *Cf. Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm’n Reports 1, 82 (1994) (Article VI, § 23(b) Comment).

**§ 70212. Transitional provisions**

70212. In a county in which the municipal and superior courts become unified, the following shall occur automatically in each preexisting municipal and superior court:

(a) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.

(b) Preexisting court locations are retained as superior court locations.

(c) Preexisting court records become records of the superior court.

(d) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(e) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(f) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

(g) Subpoenas, summons of jurors, and other process issued by the court shall be enforceable by the superior court.

**Comment.** Subdivisions (a)-(f) of Section 70212 restate Constitution Article VI, Section 23(c). Although embodied in the Constitution, these provisions are subject to variation by statute. See Cal. Const. art. VI, § 23(c) (introductory clause). See also Code Civ. Proc. § 76 (appellate division of superior court); Gov't Code § 69503 (AB 1110); Task Force on Trial Court Employees, Gov't Code § 7601 et seq. (AB 233).

Subdivision (g) makes clear that process issued by a municipal court remains enforceable by the superior court after unification.

**§ 70213. Provisions relating to municipal court**

70213. (a) In a county in which the municipal and superior courts become unified, until revised by the Judicial Council, forms for proceedings within the jurisdiction of municipal courts may be used as if the proceedings were in a municipal court.

(b) The Judicial Council may adopt rules resolving any problem that may arise in the conversion of statutory references from the municipal court to the superior court in a county in which the municipal and superior courts become unified.

☞ **Staff Note.** The various code revisions need to be tested against the following provisions of the SCA 4 stop-gap legislation to make sure all issues are covered:

(a) A reference in a statute to the municipal court or the judge of a municipal court shall be deemed to be a reference to the superior court or a judge of the superior court.

(b) Proceedings within the jurisdiction of the municipal courts shall be conducted in the superior court under the procedures that would be applicable to the proceedings in a municipal court.

(c) Filing fees and other fees and costs for proceedings within the jurisdiction of municipal courts shall remain the same as they would be if the proceedings were in a municipal court.

(d) Bond and undertaking requirements in proceedings within the jurisdiction of municipal courts shall remain the same as they would be if the proceedings were in a municipal court.

(e) Sessions, including days, hours, and locations of proceedings within the jurisdiction of municipal courts shall remain the same as they would be if the proceedings were in a municipal court.

(f) The relief available in proceedings within the jurisdiction of municipal courts shall remain the same as it would be if the proceedings were in a municipal court.

**§ 70214. Preclearance under Voting Rights Act**

70214. The Attorney General shall, to the extent required by the preclearance provisions of the federal Voting Rights Act, 42 U.S.C. § 1973 *et seq.*, seek to obtain preclearance of Section 16(b)(1) of Article VI of the California Constitution as it applies in a county in which the courts are unified pursuant to Section 5(b) of Article VI of the California Constitution.

**Comment.** Section 70214 vests preclearance duties in the Attorney General. See 42 U.S.C. § 1973c (preclearance submission by state's chief legal officer); Cal. Const. art. V, § 13 (Attorney General state's chief law officer).

**Gov't Code § 71042.5 (amended). Preservation of judicial districts for purpose of publication**

71042.5. Notwithstanding any other provision of law, upon consolidation of judicial districts or unification of municipal and superior courts in a county, the territory embraced within the respective prior component judicial districts shall be separate judicial districts for the purpose of publication within a judicial district.

**Comment.** Section 71042.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). This preserves the effect of statutes that specify publication by judicial district, rather than by county. See, e.g., Bus. & Prof. Code § 21707; Civ. Code §§ 2924f, 3440.1, 3440.5; Rev. & Tax. Code §§ 3381, 3702, Unif. Com. Code §§ 6105, 7210.

☞ **Staff Note.** Despite the general rule that judicial districts are countywide in a unified county, preservation of former judicial districts appears necessary here.

**Gov't Code § 71280.5 (amended). Criminal conviction records**

71280.5. On and after July 1, 1997, each clerk of the municipal court or of the superior court in a county in which there is no municipal court shall prospectively certify and submit those court records specified by the Judicial Council which relate to criminal convictions for entry into a computer system operated by the Department of Justice that can be accessed by authorized agents of any district attorney or other state prosecuting agency. This section shall not be construed to require a municipal court to acquire any new equipment or to implement any new procedures.

**Comment.** Section 71280.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

**Gov't Code §§ 77600-77655 (added). Trial Court Funding and Improvement Act of 1997**

SEC. \_\_\_\_\_. Chapter 14 (commencing with Section 77600) is added to Title 8 of the Government Code, to read:

CHAPTER 14. TRIAL COURT FUNDING AND IMPROVEMENT  
ACT OF 1997

Article 1. The Task Force on Trial Court Employees

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

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

- (a) Four representatives of trial courts, appointed by the Chief Justice, representing two urban, one suburban, and one rural courts.
- (b) Four representatives of counties, appointed by the Governor from a list of nominees submitted by the California State Association of Counties, representing urban, suburban, and rural counties.
- (c) Three representatives appointed by the Senate Rules Committee, at least two of whom shall represent trial court employee organizations.
- (d) Three representatives appointed by the Speaker of the Assembly, at least two of whom shall represent trial court employee organizations.
- (e) The Director of the Department of Personnel Administration or his or her representative.
- (f) The Chief Executive Officer of PERS or his or her representative.
- (g) The Director of Finance or his or her representative.
- (h) The Chief Justice shall designate a justice of the court of appeal as nonvoting chairperson.

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

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

- (a) Complete a survey of all trial courts regarding court employee status, classification, and salary.
- (b) Document the local retirement systems in which trial court employees are members and the terms of the systems, and identify future retirement options.
- (c) Determine the costs associated with a change in retirement benefits for court employees, including the cost to counties resulting from such change, including, but not limited to, the impact of such a change on pension obligation bonds, unfunded liabilities, and changes in actuarial assumptions.
- (d) Document existing contractual agreements and the terms and conditions of employment, and document exclusive bargaining agents representing court employees by court, county, and unit.

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

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

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

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

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

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

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

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

(c) The task force shall submit an interim report to the Judicial Council, the Legislature, and the Governor on or before January 30, 1999. The report shall include the findings and recommendations of the task force with respect to the issues listed in Section 77603. The report shall be circulated for comment to the counties, judiciary, the Legislature, the Governor, and local and state employee organizations.

(d) The task force shall submit a final report to the above on or before June 1, 1999.

77605. (a) After giving consideration and due weight to the report of the task force, on or before January 1, 2000, the Judicial Council shall submit findings and recommendations to the Legislature relative to the establishment of a system of uniform court employee classifications, which may provide for local flexibility. These classifications shall include duty statements, minimum qualifications, and salary ranges. The classifications shall be broad enough so that the employees and their managers have maximum flexibility to accommodate the needs of the courts and the employees.

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

(c) Nothing herein is intended to prejudice or compel a finding by the task force that court or county or state employment is preferred.

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

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

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

#### Article 2. The Task Force on Court Facilities

77650. The Task Force on Court Facilities is hereby established in state government and charged with identifying the needs related to trial and appellate court facilities, and options and recommendations for funding court facility maintenance, improvements, and expansion, including the specific responsibilities of each entity of government.

77651. The task force shall be composed of 18 members, appointed as follows:

(a) Six members appointed by the Chief Justice who shall be from urban, suburban, and rural courts. Four representatives may be either trial court judges or trial court administrators. One representative shall be a justice of the courts of appeal.

(b) Six members appointed by the Governor from a list of nominees submitted by the California State Association of Counties, who represent urban, suburban, and rural counties. Four representatives may be either county supervisors or county administrators. One representative shall be a person with court security responsibility.

(c) Two members appointed by the Senate Rules Committee, one of whom shall represent the State Bar or an associated attorney organization, neither of whom would be eligible for appointment under subdivision (a) or (b).

(d) Two members appointed by the Speaker of the Assembly, one of whom shall represent the State Bar or an associated attorney organization, neither of whom would be eligible for appointment under subdivision (a) or (b).

(e) The Director of General Services and the Director of Finance.

(f) The Chief Justice shall designate one of these representatives as the chairperson of the task force.

77652. The Judicial Council shall provide staff support for the task force and shall develop guidelines for procedures and practices for the task force. The Department of General Services, the Department of Finance, and the Legislative Analyst shall provide additional support, at the request of the Judicial Council. The California State Association of Counties is encouraged to provide additional staff support.

77653. The duties of the task force shall include all of the following:

(a) Document the state of existing court facilities.

(b) Document the need for new or modified court facilities and the extent to which current court facilities are fully utilized.

(c) Document the funding mechanisms currently available for maintenance, operation, construction, and renovation of court facilities.

(d) Examine existing standards for court facility construction.

(e) Document the impacts of state actions on court facilities and other state and local justice system facilities.

(f) Review and recommend operational changes which may mitigate the need for additional court facilities, including the implementation of methods to more fully utilize existing facilities.

(g) Review and provide recommendations on concepts regarding security; operational flexibility; alternative dispute resolution; meeting space; special needs of children, families, victims, and disabled persons; technology; the dignity of the participants; and any other special needs of court facilities.

(h) Recommend specific funding responsibilities among the various entities of government for support of trial court facilities and facility maintenance including, but not limited to, full state responsibility or continued county responsibility.

(i) Recommend funding sources and financing mechanisms for support of court facilities and facility maintenance.

77654. (a) The task force shall be appointed on or before October 1, 1997.

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

(c) The task force shall review all available court facility standards and make preliminary determinations of acceptable standards for construction, renovation, and remodeling of court facilities on or before July 1, 1998.

(d) The task force shall complete a survey of all trial and appellate court facilities in the state and report its findings to the Judicial Council, the Legislature, and the Governor in a first interim report on or before July 1, 1999. The report shall document all of the following:

(1) The state of existing court facilities.

(2) The need for new or modified court facilities.

(3) The currently available funding options for constructing or renovating court facilities, and the task force plan for the succeeding year.

(e) The task force shall submit a second interim report to the Judicial Council, the Legislature, and the Governor on or before July 1, 2000. The report shall document all of the following:

(1) The impact which creating additional judgeships has upon court facility and other justice system facility needs.

(2) The effects which trial court coordination and consolidation have upon court and justice system facilities needs.

(3) Administrative and operational changes which can reduce or mitigate the need for added court or justice system facilities.

(f) The task force shall submit a third interim report to the Judicial Council, the Legislature, and the Governor on or before January 1, 2001. The report shall include all of the following:

(1) Recommendations for specific funding responsibilities among the entities of government including full state responsibility, full county responsibility, or shared responsibility.

(2) A proposed transition plan if responsibility is to be changed.

(3) Recommendations regarding funding sources for court facilities and funding mechanisms to support court facilities.

(g) All interim reports shall be circulated for comment to the counties, the judiciary, the Legislature, and the Governor. The task force may also circulate these reports to users of the court facilities.

(h) The task force shall submit a final report to the Judicial Council, the Legislature, and the Governor on or before July 1, 2001. The report shall include all elements of the interim reports incorporating any changes recommended by the task force in response to comments received.

(i) Notwithstanding any other provision of law, during the period from July 1, 1997 to June 30, 2001, the board of supervisors of each county shall be responsible for providing suitable and necessary facilities for judicial officers and court support staff for judicial positions created prior to January 1, 1996, to the extent required by Section 68073. The board of supervisors of each county shall also be responsible for providing suitable and necessary facilities for judicial officers and court support staff for judgeships authorized by statutes chaptered in 1996 to the extent required by Section 68073, provided that the board of supervisors agrees that new facilities are either not required or that the county is willing to provide funding for court facilities. Unless a court and a county otherwise mutually agree, the state shall assume responsibility for suitable and necessary facilities for judicial officers and support staff for any judgeships authorized during the period from January 1, 1998, to June 30, 2001.

77655. Notwithstanding any other provision of law, including Section 68073, the findings of the task force shall not be considered or entered into evidence in any action brought by trial courts to compel a county to provide facilities that the trial court contends are necessary and suitable.

☞ **Staff Note.** This chapter sets out the Trial Court Funding and Improvement Act of 1997 as it would be enacted by Section 48 of AB 233 (1997). If the chapter is not enacted, we may want to enact it as part of this proposal, with appropriate changes.

## APPELLATE DIVISION CONFORMING REVISIONS

### Gov't Code § 68081 (amended). Appellate decisions

SEC. \_\_\_\_\_. Section 68081 of the Government Code is amended to read:

68081. Before the Supreme Court, a court of appeal, or the appellate department division of a superior court renders a decision in a proceeding other

than a summary denial of a petition for an extraordinary writ, based upon an issue which was not proposed or briefed by any party to the proceeding, the court shall afford the parties an opportunity to present their views on the matter through supplemental briefing. If the court fails to afford that opportunity, a rehearing shall be ordered upon timely petition of any party.

**Comment.** Section 68081 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

**Gov't Code § 68902 (amended). Publication of opinions**

SEC. \_\_\_\_\_. Section 68902 of the Government Code is amended to read:

68902. Such opinions of the Supreme Court, of the courts of appeal, and of the appellate departments divisions of the superior courts as the Supreme Court may deem expedient shall be published in the official reports. The reports shall be published under the general supervision of the Supreme Court.

**Comment.** Section 68902 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

JUSTICE COURT CONFORMING REVISIONS

**Gov't Code § 945.3 (amended). Action against peace officer**

SEC. \_\_\_\_\_. Section 945.3 of the Government Code is amended to read:

945.3. No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before a justice, ~~municipal~~, municipal or superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a justice, ~~municipal~~, municipal or superior court.

For the purposes of this section, charges pending before a justice, ~~municipal~~, municipal or superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code.

Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2.

**Comment.** Section 945.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 990.2 (amended). Public officer insurance**

SEC. \_\_\_\_\_. Section 990.2 of the Government Code is amended to read:

990.2. A county may insure any officer or attache of its superior ~~, municipal and justice and municipal~~ courts against all or any part of his the officer or attaché's liability for injury resulting from any act or omission in the scope of his the officer or attaché's employment, and also may insure against the expense of defending any claim against such officer or attache, whether or not liability exists on such claim.

**Comment.** Section 990.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 1770 (amended). Vacancy**

SEC. \_\_\_\_\_. Section 1770 of the Government Code is amended to read:

1770. An office becomes vacant on the happening of any of the following events before the expiration of the term:

(a) The death of the incumbent.

(b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.

(c) His or her resignation.

(d) His or her removal from office.

(e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged. However, the office of judge of a municipal ~~or justice~~ court shall not become vacant when, as a result of a change in the boundaries of a judicial district during an incumbent's term, the incumbent ceases to be an inhabitant of the district for which he or she was elected or appointed to serve.

(f) His or her absence from the state without the permission required by law beyond the period allowed by law.

(g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.

(h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For the purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.

(j) The decision of a competent tribunal declaring void his or her election or appointment.

(k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.

(l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

**Comment.** Section 1770 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 3501.6 (amended). Transfer of functions**

SEC. \_\_\_\_\_. Section 3501.6 of the Government Code is amended to read:

3501.6. (a) In any transfer of functions from county employees to superior, ~~municipal, or justice or municipal~~ court employees occurring on or after January 1, 1992, the court shall continue to recognize the employee organization which represented the employees performing those functions at the time of the transfer of duties. The court shall also be bound by the terms of any memorandum of understanding that is in effect as of the date of the transfer of functions for the duration thereof, or until replaced by a subsequent memorandum of understanding.

(b) Notwithstanding Article 8 (commencing with Section 69890) of Chapter 5 of Title 8, merit personnel systems including the county civil service system and a system of discipline for cause only, shall be within the scope of representation by employee organizations for court employees affected by a transfer of functions as described in subdivision (a) unless otherwise prohibited by the charter of the county.

**Comment.** Section 3501.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 6701 (amended). Holidays**

SEC. \_\_\_\_\_. Section 6701 of the Government Code is amended to read:

6701. If January 1st, February 12th, March 31st, July 4th, September 9th, November 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If November 11th falls upon a Saturday, the preceding Friday is a holiday.

If any holiday designated in Section 6700 falls on a Saturday, the board of supervisors of any county may by ordinance or resolution provide that an alternate day shall be a holiday for the employees of the county, except those employees of the county working as court attaches or as clerks of the superior, ~~municipal, or justice or municipal~~ courts.

**Comment.** Section 6701 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 12965 (amended). Unlawful labor practices**

SEC. \_\_\_\_\_. Section 12965 of the Government Code is amended to read:

12965. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the director in his or her discretion may cause to be issued in the name of the department a written accusation. The accusation shall contain the name of the person, employer, labor organization or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing.

For any complaint treated by the director as a group or class complaint for purposes of investigation, conciliation, and accusation pursuant to Section 12961, an accusation shall be issued, if at all, within two years after the filing of the complaint. For all other complaints, an accusation shall be issued, if at all, within one year after the filing of a complaint. If the director determines, pursuant to Section 12961, that a complaint investigated as a group or class complaint under Section 12961 is to be treated as a group or class complaint for purposes of conciliation and accusation as well, such determination shall be made and shall be communicated in writing within one year after the filing of the complaint to each person, employer, labor organization, employment agency, or public entity alleged in the complaint to have committed an unlawful practice.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify, in writing, the person claiming to be aggrieved that the department shall issue, on his or her request, the right-to-sue notice. This notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization or employment agency named in the verified complaint within one year from the date of that notice. If the person claiming to be aggrieved does not request a right-to-sue notice, the department shall issue the notice upon completion of its investigation, and not later than one year after the filing of the complaint. A city, county, or district attorney in a location having an enforcement unit established on or before March 1, 1991, pursuant to a local ordinance enacted for the purpose of prosecuting AIDS/HIV discrimination claims, acting on behalf of any person claiming to be aggrieved due to HIV/AIDS discrimination, may also bring a civil action under this part against the person, employer, labor organization, or employment agency named in the notice. The superior, municipal, and justice and municipal courts of the State of California shall have jurisdiction of those actions, and the aggrieved person may file in any of these courts. Such an action may be

brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to the practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any of these counties an action may be brought within the county of defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. Those actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where those persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants. In actions brought under this section, the court, in its discretion may award to the prevailing party reasonable attorney fees and costs except where such action is filed by a public agency or a public official, acting in an official capacity.

(c)(1) If an accusation or amended accusation includes a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or for both, the respondent may within 30 days after service of the accusation or amended accusation, elect to transfer the proceedings to a court in lieu of a hearing pursuant to subdivision (a) by serving a written notice to that effect on the department, the commission, and the person claiming to be aggrieved. The commission shall prescribe the form and manner of giving written notice.

(2) No later than 30 days after the completion of service of the notice of election pursuant to paragraph (1), the department shall dismiss the accusation and shall, either itself or, at its election, through the Attorney General, file in the appropriate court an action in its own name on behalf of the person claiming to be aggrieved as the real party in interest. In this action, the person claiming to be aggrieved shall be the real party in interest and shall have the right to participate as a party and be represented by his or her own counsel. Complaints filed pursuant to this section shall be filed in the appropriate superior, ~~municipal, or justice~~ or municipal court in any county in which unlawful practices are alleged to have been committed, in the county in which records relevant to the alleged unlawful practices are maintained and administered, or in the county in which the person claiming to be aggrieved would have worked or would have had access to public accommodation, but for the alleged unlawful practices. If the defendant is not found in any of these counties, the action may be brought within the county of the defendant's residence or principal office. Those actions shall be assigned to the court's delay reduction program, or otherwise given priority for disposition by the court in which the action is filed.

(3) A court may grant as relief in any action filed pursuant to this subdivision any relief a court is empowered to grant in a civil action brought pursuant to

subdivision (b), in addition to any other relief that, in the judgment of the court, will effectuate the purpose of this part.

(4) The department may amend an accusation to pray for either damages for emotional injury or for administrative fines, or both, provided that the amendment is made within 30 days of the issuance of the original accusation.

**Comment.** Section 12965 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 12980 (amended). Procedure**

SEC. \_\_\_\_\_. Section 12980 of the Government Code is amended to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7 may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars thereof and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices that appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than the provisions of Article 1 (commencing with Section 12960), the provisions of this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law, and shall also provide a written explanation that informs the complainant that, if an accusation is issued, the complainant may only be able to recover damages for emotional distress or other intangible injuries through a civil action filed under Section 12989.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

(1) The names of any witnesses and the dates of any contacts with those witnesses.

(2) A summary of the dates of any correspondence or other contacts with the aggrieved persons or the respondent.

(3) A summary of witness statements.

(4) Answers to interrogatories.

(5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If an accusation is not issued within 100 days after the filing of a complaint, or if the department earlier determines that no accusation will issue, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1 of the Government Code. The notice shall also indicate, unless the department has determined that no accusation will be issued, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if he or she does not desire to file a civil action. The superior, ~~municipal, and justice~~ and municipal courts of the State of California shall have jurisdiction of these actions, and the aggrieved person may file in any of these courts. The action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department and of the commission. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed by the

complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

**Comment.** Section 12980 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 15422 (amended). Public defender**

SEC. \_\_\_\_\_. Section 15422 of the Government Code is amended to read:

15422. Where a county public defender has refused, or is otherwise reasonably unable to represent a person because of conflict of interest or other reason, the State Public Defender is authorized to represent such person, pursuant to a contract with the county which provides for reimbursement of costs, where the person is not financially able to employ counsel and is charged with the commission of any contempt or offense triable in the superior, ~~municipal, or justice~~ or municipal courts at all stages of any proceedings relating to such charge, including restrictions on liberty resulting from such charge. Except in cases of representation under subdivision (d) of Section 15421, the State Public Defender may decline to represent such person by filing a letter with the appropriate court citing Section 15420 of this chapter.

**Comment.** Section 15422 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 22754.15 (unchanged). "Employee" includes justice court judge**

22754.15. As used in this part, unless the context otherwise requires, "employee" includes any judge of a justice court. The terms "employer" and "contracting agency" with respect to any such judge enrolled in a health benefits plan include the county in which the justice court is located, provided that adoption of a resolution under Section 22850 shall not be required.

☞ **Staff Note.** No change is proposed in Section 22754.15, which has continuing effect.

**Gov't Code § 22754.35 (unchanged). Health benefits of justice court judge**

22754.35. (a) As used in this part, "employee" includes any judge of a municipal or justice court.

(b) As used in this part, "annuitant" includes any judge of a municipal or justice court retired under the Judges' Retirement System.

(c) For purposes of this part, a municipal or justice court judge's entitlement shall be the same as a superior court judge in terms of health benefits and employer contributions, and the continuation of health benefits coverage shall be administered by the board.

(d) The state shall provide each sitting and retired municipal court and justice court judge with health, dental, and vision care benefits equal to and in the same

manner as the health, dental, and vision care benefits provided to superior court judges. These benefits shall be paid from funds provided pursuant to Section 77006.5.

(e) No judge shall have any salary or benefits reduced solely by reason of the enactment of this section.

(f) If a judge opts to receive health, dental, or vision care benefits from the state, the county shall reduce the judge's compensation by an amount equal to the amount the state pays for his or her health, dental, or vision care benefits.

☞ **Staff Note.** No change is proposed in Section 22754.35, which has continuing effect.

**Gov't Code § 22825.2 (unchanged). State service in justice court**

22825.2. (a) Notwithstanding Sections 22825 and 22825.1, state employees first hired on or after January 1, 1985, shall not be vested for the full employer contribution payable for annuitants unless those employees have 10 years of credited state service at time of service retirement. For purposes of this section, "state service" includes all municipal, superior, and justice court services rendered by a justice of the Supreme Court or Court of Appeal, or by a judge of the superior court.

(b) For the purpose of meeting the vesting requirements of subdivision (a), employees of the County of Merced who became employees of the state as a result of the state's assuming firefighting functions for that county shall be credited with each complete year of service with the county which would have been credited to them by the county for the vesting of postretirement health benefits, as if that service had been with the state. Subdivision (f) of Section 22825.3 does not apply to employees of the County of Merced who became employees of the state as a result of the state assuming firefighter functions for the county on or before August 1, 1988.

(c) This section does not apply to employees of the California State University or of the Legislature.

☞ **Staff Note.** No change is proposed in Section 22825.2, which has continuing effect.

**Gov't Code § 23220 (amended). Courts in county after boundary change**

SEC. \_\_\_\_\_. Section 23220 of the Government Code is amended to read:

23220. On and after the effective date of the boundary change, the superior court and the municipal ~~or justice~~ courts in each affected county shall retain jurisdiction in all cases pending in a session of those courts.

**Comment.** Section 23220 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 23296 (amended). Municipal courts in transferred counties**

SEC. \_\_\_\_\_. Section 23296 of the Government Code is amended to read:

23296. Those municipal ~~and justice~~ court districts in the transferring county which are located within the boundaries of the territory which is transferred

immediately prior to its transfer shall continue in existence for all purposes with the same name, judges, officers, attaches, and other employees.

**Comment.** Section 23296 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 23398 (amended). Municipal courts in transferred county**

SEC. \_\_\_\_\_. Section 23398 of the Government Code is amended to read:

23398. Those municipal ~~and justice court~~ districts in the affected county or counties which are located within the boundaries of the proposed county immediately prior to its creation shall continue in existence for all purposes in the proposed county with the same name, judges, officers, attaches, and other employees.

**Comment.** Section 23398 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 23579 (amended). Municipal courts in consolidated counties**

SEC. \_\_\_\_\_. Section 23579 of the Government Code is amended to read:

23579. Those municipal ~~and justice court~~ districts in the affected counties immediately prior to consolidation shall continue in existence for all purposes in the consolidated county with the same name, judges, officers, attaches and other employees.

**Comment.** Section 23579 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 24055 (amended). Fines and forfeitures**

SEC. \_\_\_\_\_. Section 24055 of the Government Code is amended to read:

24055. Any clerk ~~, judge of a justice court,~~ or sheriff who receives any fine or forfeiture and refuses or neglects to pay it over according to law and within 30 days after its receipt is guilty of a misdemeanor.

**Comment.** Section 24055 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 24057 (amended). Oaths**

SEC. \_\_\_\_\_. Section 24057 of the Government Code is amended to read:

24057. Every county officer and his the officer's deputies ~~and every judge of a justice court~~ may administer and certify oaths.

**Comment.** Section 24057 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 25351.3 (amended). Board of supervisors powers**

SEC. \_\_\_\_\_. Section 25351.3 of the Government Code is amended to read:

25351.3. In addition to its other powers and duties, the board of supervisors may do any or all of the following:

(a) Acquire land for and construct, lease, sublease, build, furnish, refurnish, or repair buildings for justice, ~~municipal,~~ municipal or superior courts and for

convention and exhibition halls, trade and industrial centers, auditoriums, opera houses, music halls and centers, motion picture and television museums, and related facilities used for public assembly purposes for the use, benefit and enjoyment of the public, including offstreet parking places for motor vehicles, ways of ingress and egress, and any other facilities and improvements necessary or convenient for their use.

(b) Acquire land and construct buildings, structures and facilities thereon, in whole or in part, with county funds or it may, by contract or lease with any nonprofit association or corporation, provide for the acquisition of land or the construction of buildings, structures and facilities, or all or any part thereof, for public assembly purposes, upon the terms the board may determine.

(c) Lease, pursuant to Section 25371, any real property owned by the county and available for public assembly purposes to any person, firm, corporation, or nonprofit association or corporation for public assembly purposes, with the person, firm, corporation, or nonprofit association or corporation to lease the real property, as improved, back to the county for use for the purposes stated in the lease. Any lease authorized by the board under this subdivision, except leases for justice, ~~municipal~~, municipal or superior courts, which may be entered into without advertising for bids, shall be awarded to the lowest responsible bidder after public competitive bidding conducted in the manner determined by the board. Notice inviting bids shall be published pursuant to Section 6066 in a newspaper as the board may direct.

(d) Enter into a lease or sublease, without advertising for bids therefor, of buildings, structures, and facilities or any of them with any nonprofit association or corporation which agrees to use the buildings, structures, and facilities so leased to it for the public assembly purposes for which they were or are to be built; or contract, without advertising, for bids with any nonprofit association or corporation for the maintenance, operation, and management of the buildings, structures, and facilities, or any part thereof used for public assembly purposes, including the scheduling and promotion of events therein, for a specified term, not to exceed 40 years, upon terms and conditions as may be agreed upon. The leases, subleases, or contracts shall provide that, at least annually, there shall be paid to the county the net revenue, if any, from the operation and use of the facilities, remaining after the payment of expenses and costs, if any, for maintenance, operation or management, interest, and principal payments upon loans to the nonprofit corporation or association for purposes of maintenance, operation, or management, and any other expenses, and after providing maintenance and operation reserves. The lease, sublease, or contract shall also provide that, upon its expiration, all of the assets of the nonprofit association or corporation after payment or discharge of its indebtedness and liabilities shall be transferred to the county.

(e) If the county has a population in excess of 4,000,000, without advertising for bids therefor, grant any real property owned by the county, or lease, for a term

not to exceed 99 years, any real property owned by the county, to any city, district, or other public entity for any of the above public assembly purposes, without consideration, except the agreement of the grantee or lessee to use the real property for the public assembly purposes specified, and upon terms and conditions which may be agreed upon by the board and the grantee or lessee.

The amendment to this section enacted by Chapter 755 of the Statutes of 1963 shall not be construed to affect or modify the duty of any county or board of supervisors to provide adequate quarters for courts but is intended to provide an alternative method of financing the acquisition of property and buildings for use for courthouse purposes.

**Comment.** Section 25351.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 25560.4 (amended). Court buildings**

SEC. \_\_\_\_\_. Section 25560.4 of the Government Code is amended to read:

25560.4. The board of supervisors of any county may, by a four-fifths vote of the members, use or dedicate any portion of any land acquired by the county by means of special assessment proceedings for park purposes, for the erection and maintenance of one or more buildings to house any ~~justice, municipal,~~ municipal or superior court, or one or more departments or divisions of any one or more of such courts if the portion of the land to be so used or dedicated has not been used by the public for park purposes for a period of more than 10 years.

**Comment.** Section 25560.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 26299.008 (amended). Court facilities**

SEC. \_\_\_\_\_. Section 26299.008 of the Government Code is amended to read:

26299.008. "Court facilities" means the ~~justice, municipal,~~ municipal and superior courts of the county, as well as any other facilities used for adult or juvenile court matters, criminal prosecutions, handling inmates, or a combination thereof.

**Comment.** Section 26299.008 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 26524 (amended). Judge as party defendant**

SEC. \_\_\_\_\_. Section 26524 of the Government Code is amended to read:

26524. Upon request of any judge of the superior, ~~municipal,~~ or justice or municipal court, the district attorney shall appear for and represent the court or judge if the court or judge in his or her official capacity is a party defendant in any action.

**Comment.** Section 2652.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 26665 (amended). Writs and notices**

SEC. \_\_\_\_\_. Section 26665 of the Government Code is amended to read:

26665. All writs, notices, or other process issued by superior, ~~municipal~~, or justice or municipal courts in civil actions or proceedings may be served by any duly qualified and acting marshal or sheriff of any county in the State, subject to the Code of Civil Procedure.

**Comment.** Section 26665 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 26806 (amended). Interpreters**

SEC. \_\_\_\_\_. Section 26806 of the Government Code is amended to read:

26806. (a) In counties having a population of 900,000 or over, the county clerk may employ as many foreign language interpreters as may be necessary to interpret in criminal cases in the superior, ~~municipal~~, and justice and municipal courts, and in the juvenile court within the county and to translate documents intended for filing in any civil or criminal action or proceeding or for recordation in the county recorder's office.

(b) The county clerk, as clerk of the superior court, shall, when interpreters are needed, assign the interpreters so employed to interpret in criminal and juvenile cases in the superior court. When their services are needed, he shall also assign interpreters so employed to interpret in criminal cases in ~~municipal and justice~~ courts.

(c) The county clerk may also assign the interpreters so employed to interpret in civil cases in superior, ~~municipal~~, and justice and municipal courts when their services are not required in criminal or juvenile cases and when so assigned, they shall collect from the litigants the fee fixed by the court and shall deposit the same in the county treasury.

(d) The interpreters so employed shall, when assigned to do so by the county clerk, translate documents to be recorded or to be filed in any civil or criminal action or proceeding. The fee to be collected for translating each such document shall be three dollars (\$3) per folio for the first folio or part thereof, and two cents (\$0.02) for each word thereafter. For preparing a carbon copy of such translation made at the time of preparing the original, the fee shall be twelve cents (\$0.12) per folio or any part thereof. All such fees shall be deposited in the county treasury.

**Comment.** Section 26806 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 26863 (amended). Automation fee**

SEC. \_\_\_\_\_. Section 26863 of the Government Code is amended to read:

26863. (a) The board of supervisors of any county may provide for an additional fee of one dollar (\$1) for filings in a civil action or proceeding, as specified in Section 68090.7, to defray the cost of automating the county clerk and ~~municipal and justice~~ court recordkeeping system and conversion of the

county clerk and municipal ~~and justice~~ court document storage system to micrographics.

(b) The board of supervisors may increase this additional fee to not more than three dollars (\$3) if it expends an additional, matching amount from the county general fund, equal to the revenue derived from the increase, exclusively to pay the costs of automating the county clerk and municipal ~~and justice~~ court recordkeeping system or converting the court's document system to micrographics, or both.

(c) Upon completion of the automation and conversion, and payment of the costs therefor, the additional fee shall no longer be imposed.

**Comment.** Section 26863 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 27082 (amended). Found money**

SEC. \_\_\_\_\_. Section 27082 of the Government Code is amended to read:

27082. Upon receiving from the coroner, ~~or judge of the justice court acting as coroner,~~ money found on a dead body, the treasurer shall place it to the credit of the county. The money shall be credited to a separate trust fund or trust account. If the legal representatives of the decedent demand the money in the treasury belonging to the decedent within six years, the treasurer shall pay it to them, after deducting the fees and expenses of the coroner and of the county in relation to the matter, or the money may be paid at any time thereafter upon the order of the board of supervisors.

**Comment.** Section 27082 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 27647 (amended). County counsel**

SEC. \_\_\_\_\_. Section 27647 of the Government Code is amended to read:

27647. (a) If requested so to do by the superior court of the county of which he is county counsel, or by any municipal court ~~or justice court~~ in such county, or by any judge thereof, and insofar as such duties are not in conflict with, and do not interfere with, his other duties, the county counsel may represent any such court or judge thereof in all matters and questions of law pertaining to any of such judge's duties, including any representation authorized by Section 68111 and representation in all civil actions and proceedings in any court in which with respect to the court's or judge's official capacity, such court or judge is concerned or is a party.

(b) This section shall not apply to any of the following:

- (1) Any criminal proceedings in which a judge is a defendant.
- (2) Any grand jury proceedings.
- (3) Any proceeding before the Commission on Judicial Qualifications.
- (4) Any civil action or proceeding arising out of facts under which the judge was convicted of a criminal offense in a criminal proceeding.

**Comment.** Section 27647 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 27706 (amended). Public defender**

SEC. \_\_\_\_\_. Section 27706 of the Government Code is amended to read:

27706. The public defender shall perform the following duties:

(a) Upon request of the defendant or upon order of the court, the public defender shall defend, without expense to the defendant, except as provided by Section 987.8 of the Penal Code, any person who is not financially able to employ counsel and who is charged with the commission of any contempt or offense triable in the superior, ~~municipal~~, or justice or municipal courts at all stages of the proceedings, including the preliminary examination. The public defender shall, upon request, give counsel and advice to such person about any charge against the person upon which the public defender is conducting the defense, and shall prosecute all appeals to a higher court or courts of any person who has been convicted, where, in the opinion of the public defender, the appeal will or might reasonably be expected to result in the reversal or modification of the judgment of conviction.

(b) Upon request, the public defender shall prosecute actions for the collection of wages and other demands of any person who is not financially able to employ counsel, where the sum involved does not exceed one hundred dollars (\$100), and where, in the judgment of the public defender, the claim urged is valid and enforceable in the courts.

(c) Upon request, the public defender shall defend any person who is not financially able to employ counsel in any civil litigation in which, in the judgment of the public defender, the person is being persecuted or unjustly harassed.

(d) Upon request, or upon order of the court, the public defender shall represent any person who is not financially able to employ counsel in proceedings under Division 4 (commencing with Section 1400) of the Probate Code and Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(e) Upon order of the court, the public defender shall represent any person who is entitled to be represented by counsel but is not financially able to employ counsel in proceedings under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

(f) Upon order of the court the public defender shall represent any person who is required to have counsel pursuant to Section 686.1 of the Penal Code.

(g) Upon the order of the court or upon the request of the person involved, the public defender may represent any person who is not financially able to employ counsel in a proceeding of any nature relating to the nature or conditions of detention, of other restrictions prior to adjudication, of treatment, or of punishment resulting from criminal or juvenile proceedings.

**Comment.** Section 27706 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 28003 (amended). Payment of salaries**

SEC. \_\_\_\_\_. Section 28003 of the Government Code is amended to read:

28003. In any county the board of supervisors may by ordinance fix a date or schedule of dates for the payment of salaries of the officers, deputies, clerks, and employees of the several departments and institutions of the county government, including but not limited to the judges and other officers and the employees and attaches of the superior courts, ~~municipal courts and justice~~ and municipal courts in the county.

**Comment.** Section 28003 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 29603 (amended). County charges**

SEC. \_\_\_\_\_. Section 29603 of the Government Code is amended to read:

29603. The sums required by law to be paid to the grand and trial jurors and witnesses in criminal cases tried in a superior court, ~~municipal court, or justice~~ or municipal court are county charges.

**Comment.** Section 29603 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 29605 (repealed). Charges and accounts for services**

SEC. \_\_\_\_\_. Section 29605 of the Government Code is repealed.

~~29605. All charges and accounts for services rendered by any judge of a justice court in the examination or trial of persons charged with crime, not otherwise provided for and allowed by law, are county charges.~~

**Comment.** Section 29605 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 29610 (amended). Expenses**

SEC. \_\_\_\_\_. Section 29610 of the Government Code is amended to read:

29610. The expenses of any elected county officer, and one marshal of a municipal court chosen by the marshals of the municipal courts, ~~and one judge of a justice court chosen by the judges of the justice courts~~ incurred while traveling to and from and while attending the annual convention of his or her respective association, are county charges which do not require prior approval of the board of supervisors. The board of supervisors may require prior approval by the board of supervisors for any other officer or employee to incur those expenses as county charges.

**Comment.** Section 29610 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 31469 (amended). Definitions**

SEC. \_\_\_\_\_. Section 31469 of the Government Code is amended to read:

31469. (a) “Employee” means any officer or other person employed by a county whose compensation is fixed by the board of supervisors or by statute and whose compensation is paid by the county, and any officer or other person employed by any district within the county.

(b) ~~“Employee” includes any judge of a justice court.~~

(e) “Employee” includes any officer or attache of any superior court or municipal court which has been brought within the operation of this chapter.

~~(d)~~ (c) “Employee” includes any officer or other person employed by a district as defined in subdivision (c) of Section 31468 and whose compensation is paid from funds of the district.

(e) ~~(d)~~ “Employee” includes any member paid from the county school service fund who elected pursuant to Education Code Section 873.1 to remain a member of this system.

(f) ~~(e)~~ “Employee” includes any person permanently employed by a local agency formation commission including the executive officer thereof.

**Comment.** Section 31469 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov’t Code § 50920 (amended). “Peace officer” defined**

50920. As used in this article, the term “peace officer” means a sheriff, undersheriff, deputy sheriff, ~~constable~~, marshal, or deputy marshal of a county, city and county, or judicial district, or a marshal or police officer of a city or town, employed and compensated as such, whether the members are volunteer, partly paid, or fully paid, except those whose principal duties are clerical, such as stenographers, telephone operators, and other workers not engaged in law enforcement operations, or the protection or preservation of life or property, and not under suspension or otherwise lacking in good standing .

**Comment.** Section 50920 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov’t Code § 53679 (amended). Deposits**

SEC. \_\_\_\_\_. Section 53679 of the Government Code is amended to read:

53679. So far as possible all money belonging to a local agency under the control of any of its officers or employees other than the treasurer or a judge or officer of a ~~justice~~ or municipal court shall, and all money coming into the possession of a judge or officer of a ~~justice~~ or municipal court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal association, federal or state credit union, or federally insured industrial loan company in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or officer of a ~~justice~~ or municipal court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a ~~justice~~ or municipal court, also serves on the

board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the particular state or federal credit union. Such money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a ~~justice~~ or municipal court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Articles 5 (commencing with Section 29400) or 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

**Comment.** Section 53679 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68071 (amended). Court rules**

SEC. \_\_\_\_\_. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior, ~~municipal, or justice~~ or municipal court shall take effect until the January 1 or July 1, whichever comes first, following the 30th day after it has been filed with the Judicial Council and the clerk of the court, and made immediately available for public examination. The Judicial Council may establish, by rule, a procedure for exceptions to these effective dates.

**Comment.** Section 68071 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68072 (amended). Court rules**

SEC. \_\_\_\_\_. Section 68072 of the Government Code is amended to read:

68072. Rules adopted by the Judicial Council, the Supreme Court, or a court of appeal shall take effect on a date to be fixed in the order of adoption. If no effective date is fixed, those rules shall take effect 60 days after their adoption. Rules adopted by a superior, ~~municipal, or justice~~ or municipal court shall take effect as provided in Section 68071.

**Comment.** Section 68072 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68073 (amended). Facilities**

SEC. \_\_\_\_\_. Section 68073 of the Government Code is amended to read:

68073. (a) Commencing July 1, 1994, a board of supervisors, subject to the funding limitation set forth in subdivision (b), shall provide suitable rooms for holding the superior, ~~municipal, and justice~~ and municipal courts, for the chambers of the judges of these courts and for court attendants, together with sufficient attendants, heat, light, furniture, furnishings, equipment, stationery, supplies, and other personal property, for the rooms and chambers and for the transaction of the business of the courts.

(b) Commencing July 1, 1994, and each year thereafter, with regard to court operations as defined in Section 77003, no board of supervisors shall be required to provide funding for those functions of the trial courts which are provided for in the state budget; however, in each county the board of supervisors shall provide funding for those functions for which funds are not provided for in the state budget, in an amount which complies with subdivision (a), recognizing the needs of the court, the county's fiscal condition, and the budget adopted by the Judicial Council, pursuant to paragraph (4) of subdivision (a) of Section 68502.5 and approved by the Legislature pursuant to paragraph (7) of subdivision (a) of Section 68502.5.

(c) If the board of supervisors of any county fails to provide funding as described in subdivision (b), the court shall give notice to the board of a specific deficiency. If the board then fails to provide funding necessary to comply with subdivision (b), the court may direct the appropriate officers of the county to provide the funding. The expenses incurred, certified by the judge or judges to be correct, are a charge against the county treasury and shall be paid out of the general fund.

(d) Prior to the taking action pursuant to subdivision (c), a court shall present to the Trial Court Budget Commission a written finding attesting to the necessity of the action. The finding shall include a summary of relevant facts, an assessment of the operational consequences of not receiving the funds at issue, and an outline of the steps taken to the exercise of this section. Upon review, the commission, upon authorization of the Judicial Council, may or may not reallocate trial court funds from other trial courts, if it deems appropriate, in order to address the needs of the court. If moneys are not reallocated by the commission, the court may then direct the appropriate officers of the county to provide for the necessary resources to perform the court's functions, if the court deems it appropriate to do so.

(e) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, the board of supervisors shall submit proposed plans to the judge or judges of the court affected for review and recommendations as to the adequacy and standard of design, and that review and recommendation shall not be disregarded without reasonable grounds.

(f) This section shall not be construed as authorizing the county to supply to the official reporters of the courts stenograph, stenotype, or other shorthand machines; nor as authorizing the county to supply to the official reporters of the

courts, for use in the preparation of transcripts, typewriters, transcribing equipment, supplies, or other personal property.

**Comment.** Section 68073 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68074.1 (amended). Seals**

SEC. \_\_\_\_\_. Section 68074.1 of the Government Code is amended to read:

68074.1. The seal of any superior, ~~municipal, or justice~~ or municipal court may be affixed by a seal press or stamp which will print or emboss a seal which will reproduce legibly under photographic methods.

**Comment.** Section 68074.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68078 (repealed). Seal**

SEC. \_\_\_\_\_. Section 68078 of the Government Code is repealed.

~~68078. The justice court of every judicial district may use any seal having upon it the inscription: "Justice Court .....,," with the name of the county and of the judicial district in which such court is established inserted.~~

**Comment.** Section 68078 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68084 (amended). Deposits**

SEC. \_\_\_\_\_. Section 68084 of the Government Code is amended to read:

68084. When any money is deposited with the clerk or judge of any court pursuant to any action or proceeding in the court, or pursuant to any order, decree, or judgment of the court, or when any money is to be paid to the treasurer pursuant to any provision of this title or the Code of Civil Procedure, that money shall be deposited as soon as practicable after the receipt thereof with the treasurer and a duplicate receipt of the treasurer for it shall be filed with the auditor. The certificate of the auditor that a duplicate receipt has been filed is necessary before the clerk, judge, or party required to deposit the money is entitled to a discharge of the obligation imposed upon him to make the deposit.

When any money so deposited is to be withdrawn or paid out, the order directing the payment or withdrawal shall require the auditor to draw his warrant for it and the treasurer to pay it. In any city governed by a charter, such withdrawals shall be made pursuant to the charter.

Notwithstanding any other provision of law, any municipal court ~~or justice court~~, or marshal of that court, may elect, with prior approval of the county auditor, to deposit in a bank account or deposit in a savings and loan association pursuant to Section 53679 all moneys deposited with that court, or with the clerk thereof, or received by a marshal. All moneys received and disbursed through that account or on deposit shall be properly accounted for under those procedures the Controller may deem necessary, and shall be subject to periodic settlement with the county auditor as required by law.

**Comment.** Section 68084 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68086 (amended). Fees**

SEC. \_\_\_\_\_. Section 68086 of the Government Code is amended to read:

68086. (a) In all superior court departments not selected to participate in the demonstration project established under Section 270 of the Code of Civil Procedure:

(1) In addition to any other trial court fee required in civil cases, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for the services of an official reporter on the first and each succeeding judicial day those services are required.

(2) All parties shall deposit their pro rata shares of these fees with the clerk of the court at the beginning of the second and each succeeding day's court session.

(3) For purposes of this section, "one-half day" means any period of judicial time during either the morning or afternoon court session.

(4) The costs for the services of the official reporter shall be recoverable as taxable costs at the conclusion of trial.

(5) The Judicial Council shall adopt rules to ensure all of the following:

(A) That parties are given adequate and timely notice of the availability of an official reporter.

(B) That if an official reporter is not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter, the costs therefore recoverable as provided in paragraph (4).

(C) That if the services of an official pro tempore reporter are utilized pursuant to this section, no other charge will be made to the parties.

(b) In all superior court departments selected to participate in the demonstration project established under Section 270 of the Code of Civil Procedure, and in all municipal and justice courts:

(1) In addition to any other trial court fee required in civil cases, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for official reporting services on the first and each succeeding judicial day those services are required.

(2) All parties shall deposit their pro rata shares of these fees with the clerk of the court at the beginning of the second and each succeeding day's court session.

(3) For purposes of this section, "one-half day" means any period of judicial time during either the morning or afternoon court session.

(4) The costs for the official reporting services shall be recoverable as taxable costs at the conclusion of trial.

(5) The Judicial Council shall adopt rules to ensure all of the following:

(A) That litigants receive adequate information about any change in the availability of official reporting services.

(B) That if official reporting services are not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter, the costs therefore recoverable as provided in paragraph (4).

(C) That if the services of a pro tempore reporter are utilized because official reporting services are unavailable, no other charge will be made to the parties for recording the proceeding.

**Comment.** Section 68086 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68090.7 (amended). Fees**

SEC. \_\_\_\_\_. Section 68090.7 of the Government Code is amended to read:

68090.7. The board of supervisors of any county, as specified in Sections 26863 and 72054, may provide for a fee for the following filings in each civil action or proceeding:

(a) The first paper and papers transmitted from another court, as specified in Sections 26820.4 and 72055.

(b) The first paper on behalf of an adverse party, as specified in Sections 26826 and 72056.

(c) A petition or other paper in a probate, guardianship, or conservatorship matter as specified by Section 26827.

The fee shall not apply to adoptions, appeals from ~~an inferior~~ a municipal court, or motions.

Except as otherwise specified by law, all fees collected under this section shall be transmitted to the county treasurer and an amount equal thereto shall be used exclusively to pay the costs of automating the court clerk and municipal ~~and justice court~~ recordkeeping system or converting the court's document system to micrographics, or both.

**Comment.** Section 68090.7 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68093 (amended). Witness fees**

SEC. \_\_\_\_\_. Section 68093 of the Government Code is amended to read:

68093. Except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend a civil action or proceeding in the superior, ~~municipal, and justice~~ and municipal courts, are thirty-five dollars (\$35.00) a day and mileage actually traveled, both ways, twenty cents (\$0.20) a mile.

**Comment.** Section 68093 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68098 (amended). Witness fees**

SEC. \_\_\_\_\_. Section 68098 of the Government Code is amended to read:

68098. Witness' fees in criminal cases in superior, ~~municipal, and justice~~ and municipal courts are charges against the same funds as jurors' fees in such cases.

**Comment.** Section 68098 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68108 (amended). Furlough days**

SEC. \_\_\_\_\_. Section 68108 of the Government Code is amended to read:

68108. (a) With respect to the superior, ~~municipal, and justice~~ and municipal courts, to the extent that the county's Consolidated Memorandum of Understanding for county employees designates certain days as unpaid furlough days for employees assigned to regular positions in the superior, ~~municipal, and justice~~ and municipal courts, including all superior court, municipal court, and county employees assigned to the courts, the courts shall not be in session on those days except as ordered by the presiding judge upon a finding by the presiding judge of a judicial emergency as defined in Chapter 1.1 (commencing with Section 68115). On these furlough days, although the clerk's office shall not be open to the public, each court shall permit documents to be filed at a drop box pursuant to subdivision (b), and an appropriate judicial officer shall be available to conduct arraignments and examinations as required pursuant to Section 825 of the Penal Code, and to sign any necessary documents on an emergency basis.

(b) A drop box shall provide for an automated, official time and date stamping mechanism or other means of determining the actual date on which a document was deposited in the drop box.

**Comment.** Section 68108 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68112 (amended). Coordination plans**

SEC. \_\_\_\_\_. Section 68112 of the Government Code is amended to read:

68112. (a) On or before March 1, 1992, each superior, ~~municipal, and justice~~ and municipal court in each county, in consultation with the local bar, shall prepare and submit to the Judicial Council for review and approval a trial court coordination plan designed to achieve maximum utilization of judicial and other court resources and statewide cost reductions in court operations of at least 3 percent in the 1992-93 fiscal year, a further 2 percent in the 1993-94 fiscal year, and a further 2 percent in the 1994-95 fiscal year, as applicable. The cost reduction shall be based on the prior year actual expenditures, plus any amount reduced from the budget for court operations by a county as a result of any reduction in state funding made pursuant to Section 13308, increased by the percentage change in population for the prior calendar year and the Department of Commerce implicit price deflator for state and local government for the prior calendar year. The coordination plan for each court shall be reviewed and approved by the Judicial Council on or before July 1, 1992. Thereafter, commencing in 1995 and every two years thereafter, courts in each county shall prepare, in consultation with the local bar, and submit a trial court coordination

plan to the Judicial Council on or before March 1, for review and approval by July 1. The plans shall comply with rules promulgated by the Judicial Council and shall be designed to achieve maximum utilization of judicial and other resources to accomplish increased efficiency in court operations and increased service to the public. Any plan disapproved by the Judicial Council shall be revised and resubmitted within 60 days of notification of disapproval. The Judicial Council may by rule exempt courts from the requirement of filing a new coordination plan for any year if all courts in the county have (1) totally consolidated administrative functions under a single administrative entity, and (2) adopted and implemented a coordination plan in which all courts share each other's work so that cases in all of the county's courts are substantially assigned without regard to whether a judge is on the superior court or the municipal court, and which provides for procedures that implement that sharing of work.

(b) The coordination plan shall take into consideration the elements specified in standards and rules adopted by the Judicial Council and applicable case processing time standards adopted by the Judicial Council. The standards adopted by the Judicial Council shall include, but not be limited to, the following:

(1) The use of blanket cross-assignments allowing judges to hear civil, criminal, or other types of cases within the jurisdiction of another court.

(2) The coordinated or joint use of subordinate judicial officers to hear or try matters.

(3) The coordinated, joint use, sharing or merger of court support staff among trial courts within a county or across counties. In a county with a population of less than 100,000 the coordination plan need not involve merger of superior and justice court staffs if the court can reasonably demonstrate that the maintenance of separate administrative staffs would be more cost-effective and provide better service.

(4) The assignment of civil, criminal, or other types of cases for hearing or trial, regardless of jurisdictional boundaries, to any available judicial officer.

(5) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(6) The establishment of separate calendars or divisions to hear a particular type of case.

(7) In rural counties, the use of all court facilities for hearings and trials of all types of cases and to accept for filing documents in any case before any court in the county participating in the coordination plan.

(8) The coordinated or joint use of alternative dispute resolution programs such as arbitration.

(9) The unification of the trial courts within a county to the maximum extent permitted by the Constitution.

(10) The joint development of automated accounting and case-processing systems, including joint use of moneys available under Section 68090.8.

(c) In preparing coordination plans a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units where a courtwide plan would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(d) In preparing coordination plans, the courts are strongly encouraged to develop a plan that includes all superior, ~~municipal,~~ and justice and municipal courts in the county.

**Comment.** Section 68112 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68113 (amended). Coordination reports**

SEC. \_\_\_\_\_. Section 68113 of the Government Code is amended to read:

68113. (a) The superior, ~~municipal,~~ and justice and municipal courts in each county shall submit a report to the Judicial Council on progress towards achieving the cost reduction goals associated with the coordination plans and factors impacting the cost of court operations and the collection of revenues. The report shall also include financial information prepared by the county auditor on expenditures for court operations and revenues according to a uniform chart of accounts adopted by the Judicial Council. The reports shall be submitted quarterly on or before the first day of the third month following the end of the quarter, except the fourth-quarter report shall be submitted on the first day of the fourth month following the end of the fourth quarter.

(b) For purposes of the reporting requirements of this section, a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units corresponding to the organization of the court or courts under a coordination plan where reporting courtwide would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(c) The Judicial Council shall submit a report to the Legislature on or before November 1 following the end of each fiscal year setting forth all of the following:

(1) The revenues and expenditures for each superior, ~~municipal,~~ and justice and municipal court in the state and statewide totals.

(2) A summary of the savings achieved by each county and statewide.

(3) Factors impacting the cost of court operations and the collection of revenues.

**Comment.** Section 68113 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68114 (amended). Presiding judge**

SEC. \_\_\_\_\_. Section 68114 of the Government Code is amended to read:

68114. Notwithstanding any other provision of law, the superior, ~~municipal,~~ and justice and municipal court judges participating in a coordination plan approved

pursuant to Section 68112 may select, if the coordination plan so provides, any one of their number to serve as the single presiding judge of all the participating courts by a majority vote of the judges from all courts sitting as a committee of the whole or in some other manner as set forth in the coordination plan.

The single presiding judge shall have all the powers and duties of the former presiding judges of each of the participating superior, ~~municipal~~, and justice and municipal courts. The single presiding judge may be empowered by the coordination plan to sit as the chair of any executive committee formed by the participating courts as part of their coordination plan.

**Comment.** Section 68114 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68114.5 (amended). Executive committee**

SEC. \_\_\_\_\_. Section 68114.5 of the Government Code is amended to read:

68114.5. Notwithstanding any other provision of law, the superior, ~~municipal~~, and justice and municipal court judges participating in a coordination plan approved pursuant to Section 68112 may establish a single executive committee of judicial officers to oversee, if the coordination plan so provides, the activities of the participating courts. The committee shall include representatives of all participating courts in a manner specified in the coordination plan. The committee shall have such powers and duties as are delegated to it by each participating court in the coordination plan, which may include oversight of the administration of the courts and judicial activities.

**Comment.** Section 68114.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68114.6 (amended). Chief administrative officer**

SEC. \_\_\_\_\_. Section 68114.6 of the Government Code is amended to read:

68114.6. Notwithstanding any other provision of law, the superior, ~~municipal~~, and justice and municipal court judges participating in a coordination plan approved pursuant to Section 68112 may appoint, if the coordination plan so provides, an executive officer to serve as the chief administrative officer of the participating courts. The executive officer shall hold office at the pleasure of a majority vote of the judges from all of the participating courts sitting as a committee of the whole or as set forth in the coordination plan. The courts shall fix the qualifications of the executive officer. The salary of the executive officer shall be fixed by the participating courts and shall be paid by the county in which the executive officer serves. Each such position shall be exempt from civil service laws.

The participating courts may delegate to the executive officer any administrative powers and duties required to be exercised by the participating courts. The executive officer shall exercise such administrative powers and perform such other duties as may be required of him or her by the participating courts. Any executive officer appointed under this section has the authority of a

clerk of any participating superior, ~~municipal~~, or justice or municipal court. The executive officer shall perform, or supervise the performance of, the duties of a jury commissioner in the county of any participating superior court. The executive officer shall supervise the secretaries of the judges of the participating courts.

Notwithstanding any other provision of law, any participating superior court may, by local rule, specify which of the powers, duties, and responsibilities required or permitted to be exercised or performed by the county clerk in connection with judicial actions, proceedings, and records shall be exercised or performed by the executive officer appointed under this section. The county clerk shall be relieved of any obligation imposed on him or her by law with respect to these specified powers, duties, and responsibilities, to the extent the local rule imposes on the executive officer the same powers, duties, and responsibilities.

Any participating superior court having specific statutory authorization to appoint an executive or administrative officer may elect to proceed under its specific authorization or under this section, but not under both.

**Comment.** Section 68114.6 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68115 (amended). Emergencies**

SEC. \_\_\_\_\_. Section 68115 of the Government Code is amended to read:

68115. When war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction of or danger to the building appointed for holding the court, renders it necessary, or when a large influx of criminal cases resulting from a large number of arrests within a short period of time threatens the orderly operation of a court within a specified county or judicial district, the presiding judge, or if there is none, the sole judge of the superior, ~~municipal~~, or justice or municipal court, may request and the Chair of the Judicial Council may, notwithstanding any other provision of law, by order authorize the court to do one or more of the following:

(a) Hold sessions anywhere within the county.

(b) Transfer civil cases pending in the court to another court in the county which has jurisdiction of the subject matter.

(c) Transfer civil cases pending trial in the court to a court having jurisdiction of the subject matter in an adjacent county. No such transfer shall be made pursuant to this subdivision except with the consent of all parties to the case or upon a showing by a party that extreme or undue hardship would result unless the case is transferred for trial. Any civil case so transferred shall be integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council.

(d) Suspend subdivisions (d), (e), and (f) of Section 199 of the Code of Civil Procedure relating to competency to act as a juror when suspension is necessary to obtain a sufficient number of jurors.

(e) After exhausting its own jury panel, draw jurors who reside within the judicial district from the jury panel of the superior court in the county, and thereafter, after exhausting that source, draw jurors from the remainder of the jury panel of the superior court in the county or from jury panels of any other municipal or justice court in the county.

(f) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from two days to not more than seven days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order.

(g) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 days to not more than 15 days.

(h) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

(i) Within the affected area of a county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Sections 632 and 637 of the Welfare and Institutions Code within which a minor shall be given a detention hearing, with the number of days to be designated by the Chair of the Judicial Council. The extension of time shall be for the shortest period of time necessary under the circumstances of the emergency, but in no event shall the time period within which a detention hearing must be given be extended to more than seven days. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

(j) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 657 of the Welfare and Institutions Code within which an adjudication on a juvenile court petition shall be held by not more than 15 days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

**Comment.** Section 68115 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68202.5 (repealed). Salary**

SEC. \_\_\_\_\_. Section 68202.5 of the Government Code is repealed.

~~68202.5. (a) The judge of a full-time justice court shall receive the same salary as a judge of the municipal court.~~

~~(b) Except as provided in subdivision (c) and Section 71702, a judge of a part-time justice court shall receive salary equal to percentage of that amount which equals the proportion of a full-time work week required to serve the court to which the judge is appointed or elected, as determined by the Judicial Council and as provided for in the Budget Act.~~

~~(c) Each judge of a part-time justice court shall receive the same annual salary as a judge of the municipal court if both of the following conditions are met:~~

~~(1) The judge has agreed to serve full time, and to make himself or herself available to take assignments from the Chief Justice whenever the workload determined pursuant to subdivision (d) does not require the judge's services in the court to which he or she is elected or appointed.~~

~~(2) The Chief Justice has certified that the judge is acceptable for regular judicial assignment to other courts. A certification under this subdivision may be revoked at any time for cause.~~

~~(d) A judge certified under subdivision (c) for full-time service shall be assigned to courts needing assistance when not required to serve the court to which he or she is elected or appointed, as determined by rules adopted by the Judicial Council, subject to the approval of the Chief Justice. The certification of a judge who does not serve in accordance with these rules shall be terminated. After a certification is terminated, the salary of such a judge shall be that prescribed by subdivision (b).~~

~~(e) Any justice court judge appointed or elected after January 1, 1990, shall be deemed to have agreed to make himself or herself available under paragraph (1) of subdivision (c).~~

~~(f) The salaries of justice court judges shall be paid by the counties. If the county is not a trial court funding option county, the excess of the salaries payable under subdivision (c) over the salaries payable under subdivision (b) shall be reimbursed to the county from funds made available to the Judicial Council for the assignment of judges.~~

**Comment.** Section 68202.5 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68206.2 (amended). State reimbursement**

SEC. \_\_\_\_\_. Section 68206.2 of the Government Code is amended to read:

68206.2. (a) On and after January 1, 1990, the state shall reimburse each small county which is not an option county under the Brown-Presley Trial Court Funding Act (Chapter 12 (commencing with Section 77000) of this title), for the

cost of salary and per diem for any substitute judge assigned to replace a judge disqualified from acting as a judge while there is pending a recommendation to the Supreme Court by the Commission on Judicial Performance for removal or retirement of the judge pursuant to subdivision (a) of Section 18 of Article VI of the California Constitution, beginning with the salary and per diem for the seventh month following the disqualification.

(b) For purposes of this section, a “small county” is one which has a total of nine or fewer superior, ~~municipal, and justice~~ and municipal court judges.

**Comment.** Section 68206.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov’t Code § 68505 (amended). Clerks**

SEC. \_\_\_\_\_. Section 68505 of the Government Code is amended to read:

68505. The county ~~clerks, clerks and~~ clerks of all courts of record, ~~and clerks of such justice courts as have clerks~~ shall cooperate with the Judicial Council. They shall keep such records and make such reports to the council, in such manner and at such times, as the ~~chairman~~ Chair of the ~~council~~ Judicial Council requires, respecting the condition and manner of disposal of judicial business in their respective courts.

**Comment.** Section 68505 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov’t Code § 68540 (amended). Compensation**

SEC. \_\_\_\_\_. Section 68540 of the Government Code is amended to read:

68540. The state shall pay the additional compensation of a judge of a ~~municipal or justice court,~~ court assigned to a superior court.

**Comment.** Section 68540 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov’t Code § 68541 (repealed). Compensation**

SEC. \_\_\_\_\_. Section 68541 of the Government Code is repealed.

~~68541. (a) The compensation of a judge of a justice court who receives a part-time salary and who is assigned by the Chairperson of the Judicial Council to serve in a court in a county other than that in which he or she was elected or appointed shall be paid by the state.~~

~~(b) If a justice court judge is assigned to another justice court, except for exchange assignments as defined by rules adopted by the Judicial Council, the salary of the office to which he or she is assigned shall, for purposes of Section 68540.7, be deemed to be equivalent to the salary paid a justice court judge certified pursuant to Section 68202.5 of the Government Code.~~

**Comment.** Section 68541 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68542 (amended). Travel expenses**

SEC. \_\_\_\_\_. Section 68542 of the Government Code is amended to read:

68542. The expenses for travel, board, and lodging of each judge assigned to a superior, ~~municipal, or justice~~ or municipal court in a county other than that in which he or she regularly sits shall be paid by the state under the rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.

**Comment.** Section 68542 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68542.5 (amended). Expenses**

SEC. \_\_\_\_\_. Section 68542.5 of the Government Code is amended to read:

68542.5. Any judge of a superior, ~~municipal, or justice~~ or municipal court sitting in another court in the same county under assignment by the Chairperson of the Judicial Council shall receive from such county the amount of actual and necessary traveling expenses incurred while traveling between home and the courtroom unless the courtrooms are within five miles of each other.

**Comment.** Section 68542.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68546 (amended). Cross-assignments**

SEC. \_\_\_\_\_. Section 68546 of the Government Code is amended to read:

68546. If the ~~Chairman~~ Chair of the Judicial Council assigns a judge of a municipal ~~or justice~~ court in a county to sit on the superior court of the same county, the presiding judge of the municipal ~~or justice~~ court may with the consent of the presiding judge of the superior court also assign the court reporter, deputy clerk and deputy marshal, or any of them, of the municipal ~~or justice~~ court from which that judge is assigned to act as court reporter, deputy clerk and deputy sheriff, respectively, for the superior court during the period for which the judge is assigned. During the period for which the court reporter, deputy clerk, or deputy marshal is assigned, they shall receive the same salary as a court reporter, deputy clerk, or deputy sheriff, respectively, for the superior court. If there be no presiding judge, the senior or sole judge may make or consent to the assignment of the attaches. This section shall not apply to the assignment of the deputy clerk or deputy marshal in any county until the board of supervisors by ordinance has adopted its provisions. An ordinance is not required where the deputy clerk and deputy marshal consent to serve as part of their regular duties without additional compensation.

**Comment.** Section 68546 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68551 (amended). New judges**

SEC. \_\_\_\_\_. Section 68551 of the Government Code is amended to read:

68551. The Judicial Council is authorized to conduct institutes and seminars from time to time, either regionally or on a statewide basis, for the purpose of orienting judges to new judicial assignments, keeping them informed concerning new developments in the law and promoting uniformity in judicial procedure. Such institutes and seminars shall include, without being limited thereto, consideration of juvenile court proceedings, sentencing practices in criminal cases and the handling of traffic cases. Actual and necessary expenses incurred by superior, ~~municipal, and justice~~ and municipal court judges at any such institute or seminar shall be a charge against the county to the extent that funds are available therefor.

**Comment.** Section 68551 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 68620 (amended). Delay reduction**

SEC. \_\_\_\_\_. Section 68620 of the Government Code is amended to read:

68620. (a) Operative July 1, 1992, each ~~municipal and justice~~ court shall establish a delay reduction program in consultation with the local bar that is consistent with the provisions of this article. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all procedures, standards, or policies for a delay reduction program in municipal and justice courts on a statewide basis which are consistent with the provisions of the Trial Court Delay Reduction Act.

(b) Actions and proceedings subject to the provisions of Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of Civil Procedure or provisions of Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure shall not be assigned to or governed by the provisions of any delay reduction program established pursuant to the section.

(c) It is the intent of the Legislature that the civil discovery in actions and proceedings subject to a program established pursuant to Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure shall be governed by the times and procedures specified in that article. Civil discovery in these actions and proceedings shall not be affected by the provisions of any delay reduction program adopted pursuant to this section.

**Comment.** Section 68620 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 69741.7 (repealed). Superior court sessions at justice courts**

SEC. \_\_\_\_\_. Section 69741.7 of the Government Code is repealed.

~~69741.7. At any time when one or more judges are assisting a one-judge superior court pursuant to judicial assignment under Section 6 of Article VI of the Constitution, and when there is a justice court in the county which is not in use for other court purposes, such superior court may conduct session at such justice court.~~

**Comment.** Section 69741.7 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 69753 (amended). Superior court sessions under coordination plans**

SEC. \_\_\_\_\_. Section 69753 of the Government Code is amended to read:

69753. (a) Notwithstanding any other provision of this code, the presiding or sole judge of a superior court may, if the session is held in furtherance of a coordination plan approved under Section 68112 or in the absence of a timely objection in a civil case or proceeding or with the express consent of the parties in a criminal action, direct that a session of the court be held at any place in the county where a municipal ~~or justice~~ court regularly conducts sessions, if:

(1) The judge presiding at the superior court session is a judge of a municipal ~~or justice~~ court or a retired judge assigned to serve as a superior court judge under Section 6 of Article VI of the California Constitution.

(2) The presiding or sole judge of the municipal ~~or justice~~ court has informed the presiding judge of the superior court that the superior court session will not interfere with the normal conduct of municipal ~~or justice~~ court business.

(b) The Judicial Council shall provide by rule for the timely filing of any objection to hearing a civil matter at a municipal ~~or justice~~ court location, and for obtaining the consent of the parties in a criminal action.

**Comment.** Section 69753 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 69957 (amended). Official reporter acting pro tem**

SEC. \_\_\_\_\_. Section 69957 of the Government Code is amended to read:

69957. Whenever the services of an official reporter of the superior court are not required in the actual prosecution of the business of the court within the purview of the duties of such reporter as an official reporter of the superior court, the presiding judge of the superior court may, if so requested by the presiding judge of any municipal court ~~or a justice court~~ judge within the county, assign any such official reporter of the superior court to act pro tempore as an official reporter of the municipal ~~or justice~~ court within the same county. Any such assignment shall be subject to the provisions of Article 5 (commencing at Section 72190) of Chapter 8 of Title 8 of this code.

**Comment.** Section 69957 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71002 (amended). Municipal court quarters**

SEC. \_\_\_\_\_. Section 71002 of the Government Code is amended to read:

71002. The board of supervisors shall provide suitable quarters for the municipal courts ~~and justice courts~~, including heating, lighting, and janitorial services, and shall supply them with furniture, books, and supplies necessary for carrying out their duties, including supplies and equipment for the preparation

and maintenance of duplicate records of the court or a division of the court when sessions are held at more than one place.

**Comment.** Section 71002 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71003 (amended). Powers of municipal court judge**

SEC. \_\_\_\_\_. Section 71003 of the Government Code is amended to read:

71003. The municipal court ~~and the justice court~~ and each judge of the court has all the powers and shall perform all of the acts which were by law conferred upon or required of any court superseded by such municipal ~~or justice~~ court and any judge ~~or justice~~ of such superseded court, and all such laws not inconsistent with the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, apply to any such municipal ~~and justice~~ court and to each judge of such court.

**Comment.** Section 71003 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71004 (amended). Municipal court clerk powers**

SEC. \_\_\_\_\_. Section 71004 of the Government Code is amended to read:

71004. Whenever by law any power is conferred, or duty imposed, upon a clerk of any court superseded by a municipal ~~or justice~~ court, the person discharging the same or similar duties in the municipal ~~or justice~~ court has the same power and duty with respect to his office in the municipal court ~~or justice court~~.

**Comment.** Section 71004 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71010 (amended). Municipal court management review**

SEC. \_\_\_\_\_. Section 71010 of the Government Code is amended to read:

71010. (a) A board of supervisors may authorize a management review of a municipal ~~or justice~~ court in that county. The board shall select the agency to perform the review.

(b) At least 30 days before the scheduled beginning of the management review, the board shall notify the presiding judge of the court to be reviewed of the review and of the identity of the reviewing agency selected by the board. The court may object to the board's choice of a reviewing agency within 30 days of this notification.

(c) If the court does object to the board's choice, the board and the court shall, within 30 days of the objection, select a reviewing agency acceptable to both board and court. If the board and court fail to agree on a reviewing agency within the 30 days, the management review shall not take place.

(d) Management reviews conducted pursuant to this section shall not infringe on the judicial duties or the decisions of the court which is the subject of the review. Recommendations resulting from such reviews shall not infringe on the judicial duties or the decisions of the court which is the subject of the review and

shall be advisory only. The reviewing agency shall have no power of enforcement.

**Comment.** Section 71010 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71040 (amended). Municipal court districts**

SEC. \_\_\_\_\_. Section 71040 of the Government Code is amended to read:

71040. 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.

**Comment.** Section 71040 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71040.5 (unchanged). Madera County judicial district**

SEC. \_\_\_\_\_. Section 71040.5 of the Government Code is repealed.

71040.5. In the event that the board of supervisors of Madera County consolidates the Madera Judicial District and the Sierra Judicial District into the same district, any justice court established in the consolidated district shall have two judges. The judges shall be selected as otherwise provided by law.

☞ **Staff Note.** This section is preserved pending a determination whether it may be used to set the number of judges in the municipal court. See Cal. Const. art. VI, § 5(b).

**Gov't Code § 71045 (amended). Municipal court names**

SEC. \_\_\_\_\_. Section 71045 of the Government Code is amended to read:

71045. Each judicial district shall be named by the board of supervisors of the county in which it is situated, and the municipal ~~or justice~~ court established in the district shall be designated by that name. The board of supervisors shall select a name which as nearly as possible identifies the communities embraced in the district.

**Comment.** Section 71045 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71080 (amended). Establishment of municipal court**

SEC. \_\_\_\_\_. Section 71080 of the Government Code is amended to read:

71080. (a) Upon the establishment of a municipal ~~or justice~~ court, the judges of existing courts inferior to the superior court municipal courts in any city, township, or judicial subdivision situated wholly or partly in the district or city and county for which a municipal ~~or justice~~ court is established shall, if eligible, become the judges of the municipal ~~or justice~~ court until the election or appointment and qualification of their successors. The time for election and qualification of their successors shall be that previously fixed for the election and qualification of their successors for the court and office superseded, had such

courts not been superseded, but in no event shall that election of successors be held within 10 months of succession to the office of the new court.

(b) If the number of eligible incumbent judges who have not filed a written statement with the county elections official disclaiming their desire to succeed to office exceeds the number of judicial offices provided by law for the municipal or justice court, the incumbents shall not automatically succeed to judicial positions in the municipal or justice court, and the existing courts shall continue to function within the district until the first judge or judges of the municipal or justice court are elected by the qualified electors of the district at the first statewide general election held following the expiration of 90 days and qualify.

In any election for the first judge or judges of that municipal or justice court, only those incumbents may appear on the ballot and be elected, and Article 1 (commencing with Section 8200) of Chapter 2 of Division 8 of the Elections Code shall not apply. If only one incumbent is to be elected, the incumbent receiving the highest number of votes cast shall be declared elected. If two or more incumbents are to be elected, those incumbents equal in number to the number to be elected who receive the highest number of votes for the office shall be declared elected. The incumbents elected shall become the judges of the municipal or justice court until the election or appointment and qualification of their successors. The time for election and qualification of their successors shall be that previously fixed for the election and qualification of their successors for the court and office superseded, had the courts not been superseded, but in no event shall that election of successors be held within 10 months of succession to the office of the new court.

**Comment.** Section 71080 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71080.5 (repealed). Shasta County judicial election**

SEC. \_\_\_\_\_. Section 71080.5 of the Government Code is repealed.

~~71080.5. Notwithstanding Section 71080, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by Article 1 (commencing with Section 8200) of Chapter 2 of Division 8 of the Elections Code to create, by consolidation, annexation, or otherwise, a judicial district having in excess of 40,000 residents in Shasta County, and where the consolidation, annexation, or other action is to be effective concurrently with the end of the term of the justice court judge or judges, the election immediately following the action shall be for the office or offices of municipal court judge for the new municipal court and any otherwise qualified person may be a candidate therefor.~~

**Comment.** Section 71080.5 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71080.6 (repealed). Glenn County judicial election**

SEC. \_\_\_\_\_. Section 71080.6 of the Government Code is repealed.

~~71080.6. Notwithstanding Section 71080 or any other section of this code, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by the Elections Code for a special election, to create by consolidation, annexation, or otherwise, a new justice court judicial district in Glenn County, and where the consolidation, annexation, or other action is to be operative concurrently with the end of the term of the justice court judge or judges, the Board of Supervisors of Glenn County shall call for a special election for the office of justice court judge for the new justice court and any otherwise qualified person may be a candidate therefor, and the special election shall be held prior to the vacancy actually occurring in the new justice court, and the Board of Supervisors of Glenn County shall consolidate the special election with the general election, as defined by subdivision (a) of Section 324 of the Elections Code, immediately following the action. The person receiving the highest number of votes cast shall be elected.~~

**Comment.** Section 71080.6 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71080.7 (repealed). Lassen County judicial election**

SEC. \_\_\_\_\_. Section 71080.7 of the Government Code is repealed.

~~71080.7. Notwithstanding the provisions of Section 71080, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by the Elections Code for a special election, to create, by consolidation, annexation, or otherwise, a new justice court judicial district in Lassen County, and where the consolidation, annexation, or other action is to be operative concurrently with the end of the term of the justice court judge or judges, the Board of Supervisors of Lassen County shall call for a special election for the office of justice court judge for the new justice court and any otherwise qualified person may be a candidate therefor, and such special election shall be held prior to the vacancy actually occurring in the new justice court. The person receiving the highest number of votes cast shall be elected.~~

**Comment.** Section 71080.7 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71083 (amended). Judicial district annexation**

SEC. \_\_\_\_\_. Section 71083 of the Government Code is amended to read:

71083. Whenever the territory of a judicial district (herein called the annexed district) is annexed to a judicial district theretofore having a municipal court (herein called the annexing district), a judge of a court partly or wholly superseded thereby shall, if eligible, succeed to the first vacant judgeship on such municipal court, whether such vacancy then exists or occurs within two years thereafter through the creation of a new judgeship or otherwise, if any one of the following subdivisions apply:

(a) All of the territory of the annexed district is annexed to the annexing district.

(b) A part of the territory of the annexed district is annexed to the annexing district and in such part more than 10 percent of the residents of the annexed district reside, as determined prior to the annexation.

~~(c) The annexed district is a judicial district with a justice court, and a part of its territory is annexed to the annexing district, and the justice court is discontinued by the board of supervisors under Section 71097.~~

Whenever part of an annexed district is annexed to an annexing district and because of the application of subdivisions ~~(b) or (c)~~ subdivision (b), above, a judge of the annexed district becomes entitled to succeed to a vacant judgeship as above provided, no subsequent annexation of all or part of the remainder of the annexed district to the same annexing district shall entitle any judge of the annexed district to succeed to a vacant judgeship in the annexing district.

Whenever all of the territory of a judicial district is annexed to two or more judicial districts both or all of which theretofore have a municipal court, a judge of the court wholly superseded thereby shall, if eligible, succeed to the first vacant judgeship on any such municipal court, whether such vacancy then exists or occurs within two years thereafter through the creation of a new judgeship or otherwise.

Whenever the number of judges entitled to succeed as above provided exceeds the number of vacant judgeships on such municipal court, the order of their succession shall be determined as follows: by seniority as a judge within the territory annexed, and, in the case of successive annexations, within the territory annexed at the earlier date; and, in any remaining case, by lot between them.

Any judge entitled to succeed as above provided shall declare ~~his~~ an acceptance of the judgeship for which a vacancy exists or occurs within 30 days of the date of annexation if the vacancy exists upon the date of annexation or, if no such vacancy then exists, within 30 days of the occurrence of the vacancy later occurring.

This section, as amended at the 1959 Regular Session of the Legislature, applies to annexations occurring before or after the effective date of the amendment to this section enacted at the 1959 Regular Session of the Legislature ~~and no judge who, before the effective date of such amendment, became entitled to succeed to vacancy on a municipal court and who has not succeeded to such vacancy before such effective date shall be entitled to so succeed unless he would be so entitled under this section as amended at the 1959 Regular Session.~~

**Comment.** Section 71083 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). It is also amended to eliminate an obsolete transitional provision.

**Gov't Code § 71084 (repealed). Justice court superseded by municipal court**

SEC. \_\_\_\_\_. Section 71084 of the Government Code is repealed.

~~71084. Whenever a municipal court is established in a district in which a justice court was previously established or in a district formed from territory formerly included in justice court districts, the justice court shall cease to exist within the~~

~~district for which the municipal court is established, and the term of office of the judges of justice courts situated wholly within such district shall terminate upon the selection and qualification of the first judges of the municipal court. The selection shall be made pursuant to Sections 71080 and 71081.~~

**Comment.** Section 71084 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71085 (amended). Municipal court employees**

SEC. \_\_\_\_\_. Section 71085 of the Government Code is amended to read:

71085. (a) The clerk, or chief clerical officer by whatever name known, the marshal, or similar official, their deputies and attaches, and all other officers or employees of each court wholly or partly superseded by a municipal ~~or justice~~ court, shall become the clerk, the marshal, their deputies and attaches, and officers or employees of that municipal ~~or justice~~ court upon its organization, so far as those positions are provided by law. If no provision is made by law for officers and employees of a municipal court, there shall be the officers and employees for that court specified in subdivision (b). They shall receive compensation for their services fixed by the judge, if there are one or more other municipal courts in the county in which the court is established, at a rate comparable to but not greater than that provided by law for comparable officers and employees in any other municipal court in the county. If there is no other municipal court in the county in which the court is established, the officers and employees of the court shall receive the compensation for their services fixed by the judge within the ranges provided below until express provision has been made for officers and employees of the court, except that if any officer or employee was receiving compensation in a superseded justice court greater than the maximum range provided in this section for a comparable position in the municipal court, he or she shall continue to receive that compensation until express provision has been made by law for officers and employees of that municipal court. The interim compensation fixed by the judge shall be effective only until the 61st day after final adjournment of the next succeeding regular session of the Legislature.

(b) There shall be one clerk of the court who shall receive a monthly salary in the following range: six hundred dollars (\$600), six hundred fifty dollars (\$650), seven hundred dollars (\$700).

The clerk may appoint with the approval of the judge as many deputies as may be necessary who shall receive a monthly salary in the following range: three hundred fifty dollars (\$350), three hundred seventy-five dollars (\$375), four hundred dollars (\$400), four hundred twenty-five dollars (\$425), four hundred fifty dollars (\$450), four hundred seventy-five dollars (\$475), five hundred dollars (\$500).

There shall be one marshal. His or her monthly salary shall be in the following range: five hundred dollars (\$500), five hundred fifty dollars (\$550), six hundred dollars (\$600).

The marshal may appoint with the approval of the judge as many deputy marshals as may be necessary. The monthly salary of a deputy marshal shall be in the following range: four hundred dollars (\$400), four hundred fifty dollars (\$450), five hundred dollars (\$500), five hundred fifty dollars (\$550).

The judge of an existing court who does not succeed to judicial office shall be deemed to be a clerk or chief clerical officer within the meaning of this section.

**Comment.** Section 71085 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71087 (repealed). Election of marshal**

~~71087. When a constable who has been elected becomes a marshal, he shall continue in office until his successor is elected and qualifies, and in such cases the marshal shall be elected by the electors of the judicial district at the general state election for a term of six years from and including the first Monday in January after the January 1st next succeeding his election. The first election of marshals pursuant to the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, shall take place at the general state election held in 1954.~~

**Comment.** Section 71087 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71088 (amended). Municipal court bailiffs**

SEC. \_\_\_\_\_. Section 71088 of the Government Code is amended to read:

71088. Any police officer appointed and acting as bailiff in any court superseded by a municipal ~~or justice~~ court shall be deemed to be appointed ex officio a deputy marshal subject to the same conditions under which he or she was first appointed, without prejudice to his or her rights by virtue of his employment as police officer.

**Comment.** Section 71088 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71091 (amended). Employees of municipal courts**

SEC. \_\_\_\_\_. Section 71091 of the Government Code is amended to read:

71091. If it appears that two or more clerks, marshals, deputies, and other officers or attaches are equally entitled by virtue of the office held in any superseded court, to any one office in the municipal ~~or justice~~ court, the judge, a majority of the judges, or the judge senior in service when there is an equal division of the judges shall determine which person is entitled to the office in which the conflict exists, ~~unless the office in which the conflict exists is that of constable of a justice court, in which case the board of supervisors of the county in which the court is situated shall determine which person is entitled to the office.~~

**Comment.** Section 71091 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71091.1 (repealed). Glenn County judicial election**

SEC. \_\_\_\_\_. Section 71091.1 of the Government Code is repealed.

~~71091.1. Notwithstanding Section 71091, where action is taken and has become effective to create by consolidation, annexation, or otherwise, a new justice court judicial district in Glenn County, and where the consolidation, annexation, or other action is to be operative during the terms of the constables affected, the Board of Supervisors of Glenn County shall call for a special election for the office of constable for the new justice court and only those incumbents may appear on the ballot and be elected, and the special election shall be held prior to the excess number of constables actually occurring in the new justice court, and the Board of Supervisors of Glenn County shall consolidate the special election with the general election, as defined by subdivision (a) of Section 324 of the Elections Code, immediately following the action. The person receiving the highest number of votes cast shall be elected and shall hold office for the balance of his original term of the office superseded.~~

**Comment.** Section 71091.1 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71092 (amended). Employees in superseded municipal court**

SEC. \_\_\_\_\_. Section 71092 of the Government Code is amended to read:

71092. So far as practical, upon the organization of the court, the clerks, deputies, and attaches or employees of the superseded court shall be assigned to positions in the municipal ~~or~~ justice court similar in duties and compensation to the positions held in the superseded court.

**Comment.** Section 71092 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71093 (amended). Employees in superseded municipal court**

SEC. \_\_\_\_\_. Section 71093 of the Government Code is amended to read:

71093. Every person who succeeds to any office or position in the municipal ~~or~~ justice court pursuant to the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, is entitled to all of the benefits and privileges, not inconsistent with such act or provisions of law, which attached to such person by virtue of his an office or position in any superseded court.

**Comment.** Section 71093 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71094 (amended). Employees in superseded municipal court**

SEC. \_\_\_\_\_. Section 71094 of the Government Code is amended to read:

71094. Continuous employment in a court superseded by a municipal ~~or~~ justice court, or in a court previously superseded by such superseded court, of the officers and attaches of such superseded court who succeed to positions in a municipal ~~or~~ justice court pursuant to the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, shall be considered as prior

service within the definition of that term in any retirement or pension system adopted which includes municipal ~~or justice~~ court officers and attaches.

**Comment.** Section 71094 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71095 (amended). Court records**

SEC. \_\_\_\_\_. Section 71095 of the Government Code is amended to read:

71095. All actions pending in, and records of, every municipal court ~~inferior to the superior court~~ in any city, city and county, township, or judicial subdivision situated wholly within a district for which a municipal ~~or justice~~ court is established shall, upon the supersedure of such existing court, be transferred to and become cases pending in and records of the municipal ~~or justice~~ court. All actions pending in, and records of, an existing court in any township or judicial subdivision situated partly within one district for which a municipal ~~or justice~~ court is established and partly within another such district shall, upon the supersedure of such existing court, be transferred to and become cases pending in and records of the municipal ~~or justice~~ court of the district in which the action should have been brought had such court been established and organized when the action was brought.

**Comment.** Section 71095 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71096 (repealed). Annexation of judicial district**

SEC. \_\_\_\_\_. Section 71096 of the Government Code is repealed.

~~71096. Whenever all of a judicial district in which a justice court is established is annexed to a district with a municipal court, the cases pending in and records of the justice court in the territory so annexed shall, upon the supersedure of such court, become cases pending in, and the records of, the municipal court.~~

**Comment.** Section 71096 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71097 (repealed). Annexation of judicial district**

SEC. \_\_\_\_\_. Section 71097 of the Government Code is repealed.

~~71097. Whenever part of a judicial district in which a justice court is established is annexed to a district with a municipal court, the justice court shall continue in the part of the district not so annexed unless otherwise provided by the board of supervisors. The cases pending in, and records of, such justice court shall continue in that court.~~

**Comment.** Section 71097 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71098 (amended). Pending actions**

SEC. \_\_\_\_\_. Section 71098 of the Government Code is amended to read:

71098. Any action pending in the superior court upon the establishment and organization in the county of a municipal ~~or justice~~ court which would be within the jurisdiction of the municipal ~~or justice~~ court if commenced after its establishment shall continue in the superior court until final determination.

**Comment.** Section 71098 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71099 (amended). Prosecution of misdemeanors**

SEC. \_\_\_\_\_. Section 71099 of the Government Code is amended to read:

71099. Whenever a municipal ~~or justice~~ court is established in a city and county or in a district containing a city in which there is an officer charged with the duty of prosecuting misdemeanor charges in a court superseded by such municipal ~~or justice~~ court, ~~he~~ the officer shall prosecute all such misdemeanor charges in the municipal ~~or justice~~ court with the same rights, duties, and privileges that ~~he~~ the officer formerly exercised with respect to such charges in the superseded court, including the prosecution of appeals in criminal cases arising in the municipal ~~or justice~~ court and the defense of all writs arising out of arrests for offenses triable in the municipal ~~or justice~~ court in whatever court or courts they may be appealed to or initiated in.

**Comment.** Section 71099 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71100 (amended). Probation officers**

SEC. \_\_\_\_\_. Section 71100 of the Government Code is amended to read:

71100. Whenever a municipal ~~or justice~~ court is established in a city and county or in a district containing a city in which there is a probation officer, public defender, parole board, or other officer or board charged with duties relating to misdemeanor charges prosecuted in a court superseded by the municipal ~~or justice~~ court, the boards, officers, and their deputies shall perform the same duties in the municipal ~~or justice~~ court as they performed in the superseded court.

**Comment.** Section 71100 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71140 (amended). Municipal judge residency**

SEC. \_\_\_\_\_. Section 71140 of the Government Code is amended to read:

71140. The judges of a municipal court ~~and the judges of a justice court~~ shall be residents eligible to vote in the judicial district or city and county in which they are elected or appointed for a period of at least 54 days prior to the date of their election or appointment. This requirement shall not affect the right of any person to automatically succeed to an office or position pursuant to Sections 71080 to 71083, inclusive, and Sections 71085 to 71090, inclusive, ~~nor the right of any person to be constable in any county governed by a freeholders' charter which provides that constables shall be appointed by the sheriff, or shall be ex officio deputy sheriffs.~~

This requirement shall not apply to a judge of a municipal court for the rest of his or her unexpired term and for one successive term of office for which he or she is subsequently reelected when:

(a) He or she has succeeded to office under the provisions of Section 71083 and his or her residence is not in the annexed district.

(b) Part of a municipal court district is annexed to another municipal court district and the judge of the original district lives in the part that is annexed.

**Comment.** Section 71140 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71141 (amended). Municipal judge elections**

SEC. \_\_\_\_\_. Section 71141 of the Government Code is amended to read:

71141. Judges of the municipal court ~~and justice court~~ shall be elected at the general state election next preceding the expiration of the term for which the incumbent has been elected.

**Comment.** Section 71141 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71143 (amended). Municipal judge elections**

SEC. \_\_\_\_\_. Section 71143 of the Government Code is amended to read:

71143. The provisions of the Elections Code relating to the nomination and election of judicial officers apply to the judges of municipal ~~and justice~~ courts.

**Comment.** Section 71143 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71145 (amended). Municipal judge term**

SEC. \_\_\_\_\_. Section 71145 of the Government Code is amended to read:

71145. The term of office of judges of municipal ~~and justice~~ courts is six years from and including the first Monday of January after the January 1st next succeeding their election. Judges shall hold office until their successors are elected and qualify, but the office shall be deemed to be vacant upon the expiration of the fixed term for the purpose of selecting a successor.

**Comment.** Section 71145 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71180.3 (repealed). Selection of judges**

SEC. \_\_\_\_\_. Section 71180.3 of the Government Code is repealed.

~~71180.3. Any vacancy in the office of judge of a justice court shall, at the option of board of supervisors of the county in which the justice court is situated, be filled by appointment by the board of supervisors, or by election at a special election called by the board of supervisors which shall be conducted in the same manner as the election of city councilmen in general law cities as set forth in the Elections Code except that the special election shall be conducted by the county, but no vacancy shall be deemed to exist in any such office before the time fixed~~

~~in Section 71080 for the selection of the judges of such court and the time fixed by law for their qualification. Any person so appointed or elected shall hold office until his successor is elected and qualifies.~~

~~A successor to such appointee shall be elected at the next general state election after the first day of January next succeeding the occurrence of the vacancy, unless the vacancy occurs in a year in which a general state election is held at which a person is elected, in the same manner as he would have been elected had the vacancy not occurred, to fill the office for the ensuing full six-year term and such person actually qualifies and takes office at the commencement of the term for which he was elected. The elected successor shall hold office for the duration of the unexpired term of the person originally creating the vacancy, unless the election at which the successor is elected is the election at which, had the vacancy not occurred, a person would have been elected to the office of judge for a full six-year term, in which case the elected successor shall hold for the full six-year term and until his successor is elected and qualifies.~~

~~If the office to which any person so appointed was not previously occupied, he shall hold office until his successor is elected at the general state election next succeeding the occurrence of the vacancy and qualifies. No successor to such appointee shall be elected at any election held within 10 months of the date of the occurrence of the vacancy.~~

**Comment.** Section 71180.3 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71180.4 (repealed). Appointment of judge**

SEC. \_\_\_\_\_. Section 71180.4 of the Government Code is repealed.

~~71180.4. Any vacancy in the office of judge of a justice court filled by appointment by the board of supervisors on and after October 1, 1963, shall be filled in accordance with this section if there are more than three eligible candidates for the appointment. In any such case the board of supervisors shall request the appointment of an oral examining board pursuant to Section 71601.3. The oral board shall interview and rank all eligible candidates in accordance with rules of procedure adopted by the Judicial Council. Appointments by the board of supervisors shall be made from among the three highest candidates certified by the oral board.~~

**Comment.** Section 71180.4 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71180.5 (amended). Retirement notification**

SEC. \_\_\_\_\_. Section 71180.5 of the Government Code is amended to read:

71180.5. Upon the appointment, election, death, removal, or resignation of a judge of a municipal or justice court, the clerk or administrator of that municipal or justice court shall immediately give the Judges' Retirement System or the Judges' Retirement System II written notice thereof.

**Comment.** Section 71180.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71181 (amended). Vacancies**

SEC. \_\_\_\_\_. Section 71181 of the Government Code is amended to read:

71181. All vacancies in the office of clerk of a municipal ~~or justice~~ court and marshal of a municipal court shall be filled by appointment by the judge, by a majority of the judges, or by the judge senior in service when there is an equal division of the judges. All vacancies in the clerk's office shall be filled by appointment by the clerk.

**Comment.** Section 71181 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71181.1 (repealed). Tulare County clerk of justice court**

SEC. \_\_\_\_\_. Section 71181.1 of the Government Code is repealed.

71181.1. ~~Notwithstanding Section 71181, in Tulare County the ordinances and resolutions of the board of supervisors shall govern the filling of a vacancy in the office of clerk of a justice court and all vacancies in the clerk's office.~~

**Comment.** Section 71181.1 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71220 (amended). Salaries**

SEC. \_\_\_\_\_. Section 71220 of the Government Code is amended to read:

71220. The salaries of the judges, clerks, marshals, and other officers or attaches of each municipal court ~~and justice court~~ shall be paid by the county in which the court is situated out of the salary fund or, if there is none, out of the general fund of the county.

**Comment.** Section 71220 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71221 (amended). Certification of compensation**

SEC. \_\_\_\_\_. Section 71221 of the Government Code is amended to read:

71221. Except as otherwise provided in this section, the clerk of each municipal ~~and justice~~ court, or if there is none, the judge of the court, shall certify monthly to the county auditor a list showing the amount of compensation of the judges, clerks, and other officers and attaches of that court, except marshals. The marshal of a municipal court shall certify monthly to the county auditor a list showing the amount of compensation of the marshals of the court.

The clerk of the municipal court in the City and County of San Francisco shall certify to the county auditor a list showing the amount of compensation of the judges, clerks, and other officers and attaches of that court, except marshals, in the same manner and for the same period as for departments and employees of the City and County of San Francisco, and the auditor is authorized to pay that

compensation in the same manner and for the same period as for employees of the City and County of San Francisco.

**Comment.** Section 71221 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71264 (amended). Marshals**

SEC. \_\_\_\_\_. Section 71264 of the Government Code is amended to read:

71264. Whenever required, marshals shall attend the municipal ~~and justice~~ courts of the district in which they are appointed or elected to act; provided, however, that a marshal shall attend a civil action only if the presiding judge or his or her designee makes a determination that the attendance of the marshal at that action is necessary for reasons of public safety. Within their counties they shall execute, serve, and return all writs, processes, and notices directed or delivered to them by municipal ~~and justice~~ courts or by other competent authority. A marshal of a municipal court who is authorized by law to appoint not more than four deputies, shall not be required to travel outside of his or her district to serve any civil process or notice. With respect to proceedings in the municipal ~~or justice~~ court, the marshal of the court has all the powers and duties imposed by law upon the sheriff with respect to proceedings in the superior court. In a county of the third class, the marshal shall attend all superior courts held within the county, subject to the restrictions of this section or Section 26603.

**Comment.** Section 71264 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71267 (amended). Revolving fund**

SEC. \_\_\_\_\_. Section 71267 of the Government Code is amended to read:

71267. The board of supervisors may establish a revolving fund for the use of the clerk or marshal of any municipal ~~or justice~~ court within the county pursuant to Sections 29320 to 29331, inclusive.

**Comment.** Section 71267 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71280 (amended). Clerk's powers**

SEC. \_\_\_\_\_. Section 71280 of the Government Code is amended to read:

71280. With respect to proceedings in the municipal ~~or justice~~ court the clerk of the court has all the powers conferred by law upon the clerk of the superior court with respect to proceedings in the superior court.

**Comment.** Section 71280 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71280.1 (amended). Minutes**

SEC. \_\_\_\_\_. Section 71280.1 of the Government Code is amended to read:

71280.1. The clerk of every municipal ~~and justice~~ court shall keep the minutes and other records of the court, entering at length within the time specified by law, or forthwith if no time is specified, any order, judgment, and decree of the court which is required to be entered and showing the date when each entry is made. Failure so to enter the date or failure to enter the order, judgment, or decree within the time specified in this section shall not affect the validity or effectiveness of the entry.

**Comment.** Section 71280.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71280.2 (amended). Minutes**

SEC. \_\_\_\_\_. Section 71280.2 of the Government Code is amended to read:

71280.2. Notwithstanding any provisions of law to the contrary, in those counties where it is required by court order or rule that the clerk of the municipal ~~or justice~~ court place individual civil minute orders in the court's file of actions in chronological order, the clerk shall not be required to keep a minute book but shall be required to keep minutes. Nothing contained in this section shall eliminate the requirement for a judgment book where judgments and decrees are required to be entered.

**Comment.** Section 71280.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71280.3 (amended). Indexes to court records**

SEC. \_\_\_\_\_. Section 71280.3 of the Government Code is amended to read:

71280.3. The clerk of a municipal ~~or justice~~ court shall keep among the records of the court such indexes as will insure ready reference to any action or proceeding filed in the court. There shall be separate indexes of plaintiffs and defendants in civil actions and of defendants in criminal actions and the name of each plaintiff and defendant shall be indexed and there shall appear opposite each name indexed the number of the action or proceeding and the name or names of the adverse litigant or litigants, if any, and the date of filing. This section does not apply to criminal actions filed by notice in lieu of a verified complaint pursuant to Section 40513 of the Vehicle Code.

**Comment.** Section 71280.3 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71280.4 (amended). Endorsement**

SEC. \_\_\_\_\_. Section 71280.4 of the Government Code is amended to read:

71280.4. The clerk of the municipal ~~and justice~~ court shall endorse on each paper filed with the court the day, month, and year it is filed.

**Comment.** Section 71280.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71340 (amended). Sessions**

SEC. \_\_\_\_\_. Section 71340 of the Government Code is amended to read:

71340. There may be as many sessions of a municipal ~~or justice~~ court at the same time as there are judges elected, appointed, or assigned to the court. The judgments, orders, and proceedings of any session of a municipal ~~or justice~~ court held by any one or more of the judges sitting in the court shall be equally effectual as though all the judges of the court presided at the session.

**Comment.** Section 71340 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71341 (amended). Sessions**

SEC. \_\_\_\_\_. Section 71341 of the Government Code is amended to read:

71341. (a) Sessions of a municipal ~~or justice~~ court may be held at any place or places within the district for which the court is established. ~~The board of supervisors shall designate by ordinance the place or places within the district where sessions of the justice court shall be held. It may change the places if public convenience requires.~~

(b) Notwithstanding any other provision of law, the presiding or sole judge of a municipal ~~or justice~~ court may direct that a session of the court be held at any place in the county where any superior, ~~municipal, or justice~~ or municipal court regularly conducts sessions, if each of the following applies:

(1) The judge presiding at the court session is a judge of a municipal ~~or justice~~ court or a retired judge assigned to serve as a municipal ~~or justice~~ court judge under Section 6 of Article VI of the Constitution.

(2) The presiding or sole judge of the superior, ~~municipal, or justice~~ or municipal court has informed the presiding judge of the municipal ~~or justice~~ court that the court session will not interfere with the normal conduct of court business.

(3) The session is held in furtherance of a coordination plan approved under Section 68112.

Any type of proceeding may be heard in these sessions.

**Comment.** Section 71341 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71380 (amended). Audits**

SEC. \_\_\_\_\_. Section 71380 of the Government Code is amended to read:

71380. The State Controller shall establish, supervise, and as necessary revise a uniform accounting system, including a system of audit, to the end that all fines, penalties, forfeitures, and fees assessed by courts, and their collection and appropriate disbursement, shall be properly and uniformly accounted for. The accounting system shall apply to superior ~~courts,~~ and municipal courts ~~and justice courts,~~ together with probation offices, central collection bureaus and any other agencies having a role in this process.

**Comment.** Section 71380 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71381 (amended). Audits**

SEC. \_\_\_\_\_. Section 71381 of the Government Code is amended to read:

71381. Such system may provide for bank accounts for each municipal ~~or~~ justice court, in which money received by such court may be deposited and disbursed as provided therein, and for such records, reports, and procedures as the State Controller may deem necessary to carry out the purposes of this article.

**Comment.** Section 71381 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71382 (amended). Failure to keep accounts**

SEC. \_\_\_\_\_. Section 71382 of the Government Code is amended to read:

71382. Every judge of a superior ~~court, municipal court or justice~~ or municipal court, or the clerk of any such court, who willfully fails to keep accounts pursuant to the system or to account for the money paid into and disbursed by his or her court pursuant to the system established by the Controller pursuant to this article is guilty of a misdemeanor.

**Comment.** Section 71382 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71383 (amended). Audits**

SEC. \_\_\_\_\_. Section 71383 of the Government Code is amended to read:

71383. (a) The accounts of each superior ~~court, municipal court and justice~~ and municipal court shall be audited at least biennially. The county auditor shall be responsible for seeing that this audit is conducted and shall supply the Controller with a certified copy of each audit within six months after the close of the fiscal year for which the audit is conducted. The audit shall review the collection and disbursement activities of the courts, probation offices, central collection bureaus, and other agencies having a role in this process. If the accounts of any superior ~~court, municipal court or justice~~ or municipal court are not audited biennially, the Controller may audit them. If an audit is requested by the board of supervisors the cost of the audit shall be paid from the general fund of the county in which the court is situated. The Controller shall review these audits. Costs incurred by the Controller for monitoring audits other than those reimbursed by counties, shall be reimbursed from the Assessment Fund commencing with the 1985-86 fiscal year as provided in the Budget Act.

(b) This section shall become inoperative on July 1, 1993, and shall remain inoperative until July 1, 1994, on which date this section shall become operative.

**Comment.** Section 71383 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71384 (amended). Audits**

SEC. \_\_\_\_\_. Section 71384 of the Government Code is amended to read:

71384. The system established pursuant to this article may provide for the deposit of all money collected by municipal ~~and~~ justice courts in the county

treasury, for disbursement from it, and for the audit of such accounts by the county auditor.

**Comment.** Section 71384 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71386 (amended). Checks and money orders**

SEC. \_\_\_\_\_. Section 71386 of the Government Code is amended to read:

71386. (a) Each superior, ~~municipal, and justice~~ and municipal court shall adopt a written policy, consistent with rules adopted by the Judicial Council, governing the acceptance of checks and money orders in payment of any fees, fines, or bail deposits. Such policy shall permit clerks to accept checks and money orders under conditions which tend to assure their validity.

(b) A court shall accept a personal check, bank cashier's check, or money order for payment of any fee or fine, or for a deposit of bail for any offense which is not declared to be a felony, provided such check or money order meets the criteria established in subdivision (a), however, no court shall be required to accept a check in excess of three hundred dollars (\$300) from a defendant in custody as a deposit of bail for any alleged violation of the Penal Code.

(c) The acceptance of a check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) If any check offered in payment pursuant to this section is returned to the payee without payment, a reasonable charge for the returned check not to exceed the actual costs incurred by the court may be imposed to recover the court's processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, or a different method of payment for that payment and future payments by such person may be prescribed. The charges imposed by a court for a returned check shall be retained by the treasurer of the county and be deposited in the county general fund.

**Comment.** Section 71386 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71600 (repealed). Justice court officers**

SEC. \_\_\_\_\_. Section 71600 of the Government Code is repealed.

~~71600. The board of supervisors shall prescribe the number, qualifications, and compensation of those clerks, deputies, and other attaches of justice courts that public convenience requires, notwithstanding the provisions of any charter. In any chartered county all those matters shall be regulated in the manner, if any, set forth in the charter with respect to township officers and employees.~~

**Comment.** Section 71600 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71601.3 (repealed). Oral examining board**

SEC. \_\_\_\_\_. Section 71601.3 of the Government Code is repealed.

~~71601.3. Upon receipt of a request from a board of supervisors pursuant to Section 71180.4, the Chair of the Judicial Council shall designate a superior court judge to act as chair of an oral examining board of three members for the purpose of interviewing candidates for the office of judge of a justice court. The chair of the oral board shall appoint two residents of the county to serve with him or her as members of the board. Members of the boards shall receive no compensation for their services, but shall receive their expenses for travel, board, and lodging under rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business. These expenses shall be paid from the funds appropriated to the use of the council.~~

**Comment.** Section 71601.3 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71605 (repealed). Traveling expenses**

SEC. \_\_\_\_\_. Section 71605 of the Government Code is repealed.

~~71605. In addition to their salaries, judges and clerks of justice courts shall be allowed their necessary traveling expenses at the rate fixed by the board of supervisors when the business of the court requires their attendance at any session held more than 12 miles from the principal office or place designated for holding regular sessions of the court, and the board of supervisors may allow the judges, officers and attaches of justice courts other expenses incurred in the actual performance of their duties.~~

**Comment.** Section 71605 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71607 (repealed). Courts of record**

SEC. \_\_\_\_\_. Section 71607 of the Government Code is repealed.

~~71607. All justice courts are courts of record.~~

**Comment.** Section 71607 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71609 (repealed). Payment of money**

SEC. \_\_\_\_\_. Section 71609 of the Government Code is repealed.

~~71609. A judge of a justice court shall receive from the sheriff of his or her county, all money collected on any process or order issued from the court, and shall pay it, and all money paid to the court in his or her official capacity, over to the parties entitled or authorized to receive it, without delay.~~

**Comment.** Section 71609 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71610 (repealed). Time for decision**

SEC. \_\_\_\_\_. Section 71610 of the Government Code is repealed.

~~71610. No judge of a justice court who is paid a salary shall draw or receive any monthly salary unless he makes and subscribes an affidavit before an officer entitled to administer oaths that no cause in his court, which has been submitted for decision for a period of 90 days, remains pending and undecided, that he has complied with the provisions of Sections 1802 and 1803 of the Vehicle Code and that he has reported to the Judicial Council at the times and in the manner requested by the chairman of the council concerning the condition, and manner of disposal, of judicial business in his court.~~

**Comment.** Section 71610 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71617 (repealed). Justice court officers and employees**

SEC. \_\_\_\_\_. Section 71617 of the Government Code is repealed.

~~71617. Officers and attaches of a justice court shall be deemed to be county officers and employees subject to the provisions of any county employees' retirement or pension system established in the county.~~

**Comment.** Section 71617 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71618 (repealed). Bail**

SEC. \_\_\_\_\_. Section 71618 of the Government Code is repealed.

~~71618. The clerk of the justice court or a deputy clerk may fix and accept bail for the appearance before the court of any defendant charged in the court with an offense of which the court has jurisdiction or whenever a defendant has been arrested within the territorial limits of said judicial district for having committed a misdemeanor. The amount of bail shall be pursuant to a schedule of bail in such cases previously fixed and approved by the magistrates of the county. If a warrant has been issued for the arrest of the defendant, the bail shall be in the amount fixed in the warrant. The bail shall be cash, negotiable United States Treasury bonds, or a surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code. If the defendant has been arrested for felony upon a warrant issued by the judge of such justice court, the clerk may, under like conditions, accept bail in the amount fixed in the warrant. The authority to accept bail provided for herein includes authority to approve it, to issue and sign an order for the release of the defendant, and to set a time and place for the appearance of the defendant before the judge of the court issuing said warrant and give the defendant notice.~~

**Comment.** Section 71618 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71661 (repealed). Receipts**

SEC. \_\_\_\_\_. Section 71661 of the Government Code is repealed.

~~71661. When any money is paid into a justice court, each clerk of a justice court shall issue forthwith a receipt for it in triplicate upon a form prescribed by the auditor of the county in which the court is situated. The receipts shall be numbered in numerical sequence and the original copy shall be delivered to the payor, the duplicate copy shall be filed with the county auditor at the time such money is deposited in the county treasury, and the triplicate copy shall be filed in the office of the clerk.~~

**Comment.** Section 71661 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71661.1 (repealed). Receipt for money remitted by mail**

SEC. \_\_\_\_\_. Section 71661.1 of the Government Code is repealed.

~~71661.1. Notwithstanding any other provision of law, where payment of any fee, fine, deposit in lieu of bail or other obligation which is owing to the justice court is remitted to the court by mail, the clerk may either mail to the remitter or hold for six months for the remitter an official receipt for such payment, except that such receipt shall be mailed to the remitter when a receipt is specifically requested by the remitter, his or her return address is given and the remittance consists of legal tender of the United States in the amount of five dollars (\$5) or more. The clerk may destroy any official receipt held pursuant to this section for a period of six months.~~

**Comment.** Section 71661.1 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71662 (repealed). Posted notice**

SEC. \_\_\_\_\_. Section 71662 of the Government Code is repealed.

~~71662. Each clerk of a justice court shall keep posted in a conspicuous place in his office, a plain and legible notice reading substantially as follows: "Notice to Public—Each clerk of a justice court is required by law to forthwith give official receipts for any money paid into the court. Secure your receipt when payment is made."~~

**Comment.** Section 71662 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71663 (repealed). Misconduct in office**

SEC. \_\_\_\_\_. Section 71663 of the Government Code is repealed.

~~71663. Failure, refusal, or neglect on the part of any judge of a justice court to comply with Sections 71661 and 71662 constitutes misconduct in office and is ground for removal. Any judge of a justice court who fails, refuses, or neglects to comply with the said sections is guilty of a misdemeanor.~~

**Comment.** Section 71663 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71664.5 (repealed). Fees**

SEC. \_\_\_\_\_. Section 71664.5 of the Government Code is repealed.

~~71664.5. Except as otherwise provided by law, the clerk of each justice court shall charge, in addition to the fees prescribed by this article, the fees prescribed by Sections 72054, 72055, 72056, 72059, 72060, and 72061 for all services to be performed.~~

**Comment.** Section 71664.5 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71701 (repealed). Residency requirement**

SEC. \_\_\_\_\_. Section 71701 of the Government Code is repealed.

~~71701. On and after January 7, 1975, each justice court vacancy shall be filled by an attorney judge who shall at the time of his selection be a resident of the county.~~

**Comment.** Section 71701 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 71703 (repealed). Report on vacancies**

SEC. \_\_\_\_\_. Section 71703 of the Government Code is repealed.

~~71703. The Judicial Council shall report to the Legislature and to the Governor on or before June 1, 1975, its recommendations for the organization of the justice courts of the state so that judgeships can be filled on a permanent basis at the elections held in 1976.~~

**Comment.** Section 71703 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72054 (amended). Fees**

SEC. \_\_\_\_\_. Section 72054 of the Government Code is amended to read:

72054. Except as otherwise provided by law, the clerk of each municipal court ~~and the clerk of each justice court~~ shall charge the fees prescribed by this article, and the fees prescribed by Sections 26823, 26828, 26829, 26830, 26831, 26832, 26833, 26834, 26836, 26837, 26839, 26853, 26854, 26855, and 26863 for all services to be performed.

**Comment.** Section 72054 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72190 (amended). Commissioners**

SEC. \_\_\_\_\_. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners of municipal courts ~~or justice courts~~ shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the

court with respect to any infraction or small claims action. The commissioners of municipal courts ~~or justice courts~~ shall possess the same qualifications the law requires of a judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

Notwithstanding any other provision of law, a commissioner of a municipal court or a justice court of any judicial district in this state who has been duly appointed and has thereafter been retired for service, or a commissioner of a superior court in this state who has been duly appointed and has thereafter been retired from service, may be assigned by the presiding judge or sole judge of a municipal court ~~or a justice court~~ to serve as a court commissioner of the court for any periods of time as he or she is needed for the prompt and efficient discharge of the business of that court. While serving, he or she shall be paid the full compensation of a court commissioner, payable as follows: he or she shall continue to receive his or her retirement allowance, and in addition the county shall pay him or her the amount equal to the difference between the retirement allowance and full compensation. That employment shall not operate to reinstate him or her as a member of the county retirement system or to terminate or suspend his or her retirement rights or allowance, and no deductions shall be made from his or her compensation as contributions to the retirement system.

**Comment.** Section 72190 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72190.1 (amended). Arraignments**

SEC. \_\_\_\_\_. Section 72190.1 of the Government Code is amended to read:

72190.1. A commissioner of a municipal court ~~or a justice court~~ may conduct arraignment proceedings in the court if directed to perform those duties by the presiding or sole judge of the court, including the issuance and signing of bench warrants.

**Comment.** Section 72190.1 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72190.2 (amended). Bench warrants**

SEC. \_\_\_\_\_. Section 72190.2 of the Government Code is amended to read:

72190.2. If directed to perform such duties by the presiding judge or sole judge of the court, a commissioner of the municipal court ~~or the justice court~~ may issue and sign a bench warrant for the arrest of a defendant who fails to appear in court when required to appear by law or who fails to perform any act required by court order.

**Comment.** Section 72190.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72194.5 (amended). Court reporters**

SEC. \_\_\_\_\_. Section 72194.5 of the Government Code is amended to read:

72194.5. Whenever an official court reporter or a temporary court reporter is unavailable to report an action or proceeding in a municipal ~~or justice~~ court, subject to the availability of approved equipment and equipment monitors, the municipal ~~or justice~~ court may order that the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. The court shall assign available reporters first to report preliminary hearings and then to other proceedings. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use.

**Comment.** Section 72194.5 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72196 (amended). Court reporters**

SEC. \_\_\_\_\_. Section 72196 of the Government Code is amended to read:

72196. Whenever the business of the court requires, the presiding or sole judge of the municipal ~~or justice~~ court may request the services of one or more official reporters of the superior court within the same county to act as pro tempore phonographic reporter of the municipal court in criminal cases. Any such request shall be addressed to the presiding judge of the superior court. Such request shall be granted or denied in the manner and subject to the provisions set forth in Article 9 (commencing at Section 69941) of Chapter 5 of Title 8 of this code.

**Comment.** Section 72196 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72197 (amended). Court reporters**

SEC. \_\_\_\_\_. Section 72197 of the Government Code is amended to read:

72197. Whenever such request has been granted and any official reporter of the superior court has been assigned to act as a pro tempore phonographic reporter of the municipal ~~or justice~~ court, such reporter shall, during the period of such assignment to the municipal ~~or justice~~ court, perform the duties of an official reporter of such municipal ~~or justice~~ court and during the time of any such assignment such reporter shall be subject to the provisions of Sections 69942 to 69955, inclusive, and Sections 273 and 274c of the Code of Civil Procedure.

**Comment.** Section 72197 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72198 (amended). Court reporters**

SEC. \_\_\_\_\_. Section 72198 of the Government Code is amended to read:

72198. In any county in which the official reporter of the superior court receives an annual salary fixed by law no additional compensation shall be paid

to such reporter for any service rendered by ~~him~~ the reporter while assigned to the municipal ~~or justice~~ court; provided, however, that any official reporter of the superior court assigned to a municipal ~~or justice~~ court situated at a place other than the situs of the superior court in which said reporter regularly serves shall receive mileage from said superior court to the municipal ~~or justice~~ court to which ~~he~~ the reporter has been assigned, and return, for each day, or fraction thereof, during which said superior court reporter serves in the municipal ~~or justice~~ court; the rate for mileage so allowed shall be that fixed and paid to county employees generally.

**Comment.** Section 72198 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72400 (amended). Traffic referees**

SEC. \_\_\_\_\_. Section 72400 of the Government Code is amended to read:

72400. The judges of a municipal court having three or more judges may appoint one traffic referee, who shall hold office at the pleasure of the judges. The judges of a municipal court having more than 20 judges and located in a county containing a population, as determined by the 1970 federal decennial census, of 1,300,000 and under 1,400,000, may appoint two traffic referees, who shall hold office at the pleasure of the judges. A traffic referee shall serve ~~his~~ the court full time or, if appointed to serve two or more courts, sufficient time with each to total full time. A person is ineligible to be a traffic referee unless ~~he is~~ a member of the State Bar of California ~~or has had five years' experience as a justice court judge in this state within the eight years immediately preceding his appointment as a traffic referee.~~

**Comment.** Section 72400 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72604 (amended). Official reporters**

SEC. \_\_\_\_\_. Section 72604 of the Government Code is amended to read:

72604. Notwithstanding Article 9 (commencing with Section 69941) of Chapter 5, or any other provision of law in conflict with this section, in each municipal ~~or justice~~ court district in counties having a population of 2,000,000 inhabitants, or over, as determined by the 1970 federal census, except in municipal court districts where a statute provides otherwise, the official reporter and official reporters pro tempore in those districts governed by this section shall receive for their services the same per diem fee paid to official court reporters pro tempore of the Superior Court of Los Angeles County. All other fees of these reporters for transcription shall be as provided in Article 9 (commencing with Section 69941) of Chapter 5.

**Comment.** Section 72604 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 72785 (repealed). Catalina justice court district**

SEC. \_\_\_\_\_. Section 72785 of the Government Code is repealed.

~~72785. (a) Notwithstanding any other provision of this code, the judge of the Catalina Justice Court District may appoint a court administrator of a municipal court district in Los Angeles County to serve jointly as the court administrator/clerk of the Catalina Justice Court District. Any municipal court administrator so appointed shall serve at the pleasure of the judge and shall receive no additional compensation for that service.~~

~~(b) The court administrator/clerk appointed pursuant to subdivision (a) may appoint one deputy clerk, Catalina Justice Court, who shall receive the same salary and benefits as a person holding a municipal court classification of deputy clerk IV, M.C. Any person appointed to this position after January 1, 1992, shall serve at the pleasure of the court administrator/clerk and shall acquire no civil service status.~~

**Comment.** Section 72785 is repealed to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 75101 (amended). Retirement fund**

SEC. \_\_\_\_\_. Section 75101 of the Government Code is amended to read:

75101. The Controller shall at the end of each month ascertain the aggregate amount of the annual salaries of all positions established by law as justices of the Supreme Court and of the courts of appeal and judges of the superior courts, ~~municipal courts, and justice and municipal courts,~~ and out of the General Fund he or she shall transfer monthly into the Judges' Retirement Fund a sum equal to 8 percent of one-twelfth of the aggregate amount of those salaries.

**Comment.** Section 75101 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 75103 (amended). Retirement deductions**

SEC. \_\_\_\_\_. Section 75103 of the Government Code is amended to read:

75103. Except as provided in Section 75103.3, the auditor of each county shall deduct 8 percent from the portion paid by a county of the monthly salary of each judge of the superior court, ~~municipal court, and justice and municipal court~~ and cause this amount to be paid into the Judges' Retirement Fund.

**Comment.** Section 75103 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 75602 (amended). Retirement deductions (System II)**

SEC. \_\_\_\_\_. Section 75602 of the Government Code is amended to read:

75602. Except as provided in Section 75605, the Controller or the auditor of each county shall deduct 8 percent from the portion paid by a county, or the Controller and the auditor, if appropriate, of the monthly salary of each judge of the superior court, ~~municipal court, and justice and municipal court~~ and cause this amount to be paid into the Judges' Retirement System II Fund.

**Comment.** Section 75602 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 77003 (amended). Court operations defined**

SEC. \_\_\_\_\_. Section 77003 of the Government Code is amended to read:

77003. (a) As used in this chapter, “court operations” means all of the following:

(1) Salaries, benefits, and public agency retirement contributions for superior, ~~municipal, and justice~~ and municipal court judges and for subordinate judicial officers.

(2) The salary, benefits, and public agency retirement contributions for other court staff including all municipal court staff positions specifically prescribed by statute.

(3) Those marshals, ~~constables,~~ and sheriffs as the court deems necessary for court operations.

(4) Court-appointed counsel in juvenile court dependency proceedings and counsel appointed by the court to represent a minor pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family Code.

(5) Services and supplies relating to court operations.

(6) Collective bargaining under the Meyers-Milias-Brown Act with respect to court employees specified in Section 3501.5.

(7) Actual indirect costs, not to exceed 18 percent of state trial court funding payments to counties for county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(8) The salaries, benefits, and public agency retirement contributions to be used in computing “court operations” are those salaries, benefits, and public agency retirement contributions in existence on June 30, 1991, and any reclassification made thereafter primarily for purposes of granting a salary increase shall not be applicable for purposes of this section.

**Comment.** Section 77003 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

**Gov't Code § 77007 (amended). “Trial court” defined**

SEC. \_\_\_\_\_. Section 77007 of the Government Code is amended to read:

77007. As used in this chapter, “trial court” means a superior court, ~~municipal court, or justice~~ or municipal court.

**Comment.** Section 77007 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).