

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

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

February 2019

California Law Revision Commission
c/o UC Davis School of Law
Davis, CA 95616
www.clrc.ca.gov

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

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February 7, 2019

To: The Honorable Gavin Newsom
Governor of California, and
The Legislature of California

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

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

Respectfully submitted,
Jane McAllister
Chairperson

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

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

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

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

Task Force on Trial Court Employees

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

The Task Force on Trial Court Employees was “charged with recommending an appropriate system of employment and

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

2. For a summary of the work completed by 2018, see *Trial Court Restructuring Clean-Up: Obsolete “Constable” References*, 45 Cal. L. Revision Comm’n Reports 441 (2018). For information about more recent developments, see <http://www.clrc.ca.gov/J1405.html>.

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

4. See 1997 Cal. Stat. ch. 850, § 48.

governance for trial court employees.”⁵ It completed its work and prepared its final report in 1999.⁶ The following year, its report served as a basis for enactment of the TCEPGA.⁷

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

5. Gov’t Code § 77600.

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

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

PROPOSED LEGISLATION

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

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

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

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

Article 1. 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 Human Resources 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 Human Resources, 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.

77605. (a) 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.

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

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

(d) No provision of this chapter 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.
