

## First Supplement to Memorandum 2002-43

### **Statutes Made Obsolete by Trial Court Restructuring: Discussion of Issues**

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#### SESSIONS AND FACILITIES

Most of the statutes pertaining to trial court sessions and facilities were not dealt with in the first part of the trial court restructuring project because of outstanding substantive and fiscal considerations that had not been resolved by the stakeholders. That situation has now changed.

Two bills pertaining to trial court facilities and sessions were enacted into law in the 2002 legislative session: Senate Bill 1732 (Escutia) and Assembly Bill 3028 (Assembly Judiciary Committee). The main provisions of the new legislation and the staff's proposed approaches are discussed below.

An analysis of the three primary types of trial court sessions (regular, special, and extra) is also presented. The Commission needs to determine whether the distinction among types of sessions should be retained, revised, or repealed.

#### **SB 1732 — Trial Court Facilities**

SB 1732 (2002 Cal. Stat. ch. 1082) provides, among other things, for the transfer of responsibility for the funding and operation of trial court facilities from the counties to the state. The transfer of responsibility is to be negotiated between each county and the Judicial Council between July 1, 2004, and June 30, 2007. A separate agreement will govern each court facility. Title to individual buildings will depend on a number of factors, including bonded indebtedness, historical designation, and usage. Title may be held by the state, by the county, or jointly by the county and state.

Many of the statutes that concern trial court facilities are directly or indirectly related to a specific building. Inasmuch as the transfer of responsibility will be county and building specific — and may not be completed until 2007 — the staff believes it is premature to revise facilities provisions at this time. Until the transfers are complete, the existing statutes are not obsolete. Furthermore, even though the general policies have been established, the details of each transfer are

still subject to negotiation and may vary from county to county. The staff will continue to monitor the situation and propose appropriate revisions when the statutes become ripe for revision.

### **AB 3028 — Trial Court Sessions**

AB 3028 (2002 Cal. Stat. ch. 1008) adds a new Section 69645 to Title 8 of the Government Code:

69645. (a) Notwithstanding any other provision of law, each trial court shall determine the number and location of sessions of the court. In making this determination, the court shall consider, among other factors, the impact of this provision on court employees pursuant to Section 71634, the availability and adequacy of facilities for holding the court session at the specific location, the efficiency and cost of holding the session at the specific location, any applicable security issues, and the convenience to the parties and the public served by the court.

(b) In appropriate circumstances, upon agreement of the presiding judges of the courts, and in the discretion of the court, the location of a session may be outside the county, except that the consent of the parties shall be necessary to the holding of a criminal jury trial outside the county. The venue of a case whose session is held outside the county pursuant to this section shall be deemed to be the home county of the court in which the matter was filed. Nothing in this section shall provide a party with the right to seek a change of venue unless otherwise provided by statute. No party shall have any right to request the court to exercise its discretion under this section.

(c) The Judicial Council may adopt rules that address an appropriate mechanism for sharing of expenses and resources between the court holding the session and the court hosting the session.

### *Preliminary Matter*

Section 69645 falls within the article entitled “Superior Court Districts.” This is an odd placement given that all of the other sections in the article apply only to superior court districts, whereas the next succeeding article applies to superior court sessions generally. Moreover, only Los Angeles County is divided into such districts. However, there is nothing in the article that limits its applicability only to superior court districts. And, Section 6 of the Government Code provides that article headings do not affect the scope, meaning, or intent of the provisions of the code. Nevertheless, to avoid confusion, the staff intends to move Section

69645 to a proper location with other statutes regarding sessions as part of the tentative recommendation.

### *General Approach*

Given the general grant of authority to trial courts to establish the number and location of sessions, most of the existing sessions statutes can be repealed or amended. Many of the sessions statutes are general in nature; others are county-specific. Some statutes are phrased generally yet actually designed for special cases. The location of a particular session is dependent, to a large degree, on the existence and maintenance of a court facility in the area. Indeed, the availability and adequacy of facilities for holding a court session at a specific location is one of the required considerations under Section 69645.

The passage of SB 1732 indicates an agreement among the stakeholders that the majority of existing court facilities will be transferred to the state. This also suggests that during the negotiation period, the status quo will be maintained. In other words, the existing buildings will continue to be used as court facilities and the counties will continue to maintain them. Under SB 1732, for example, the state can reject the transfer of a deficient building. A county may be required to correct any deficiencies or complete phases of a maintenance project (or transfer funds to the state to complete the project) before a transfer will be accepted. Nevertheless, a few of the sessions statutes may still be relevant to the needs of a particular court or county. Circulation of the proposed revisions should uncover those sessions statutes that are not ripe for repeal or revision until a specific negotiated agreement between the county and the state is reached.

The staff has interpreted Section 69645(a) conservatively — the superior court may determine only the *location* and *number* of sessions. Thus existing legislative policy determinations beyond the scope of Section 69645(a) are not, in the staff's opinion, superseded by Section 69645. For example, Code of Civil Procedure Section 116.250(b) requires a larger court to hold night and Saturday sessions of the small claims division. We would not change this. Similarly, we do not propose the deletion of subdivision (a) of Government Code Section 68115, because it authorizes an emergency session on order of the Chief Justice. In contrast, a majority vote of the judges will ordinarily be required under Section 69645.

## *Examples*

The following is a sampling of the staff's proposed treatment of general and county-specific sessions provisions:

### **Code Civ. Proc. § 73e (unchanged). Session at location of juvenile hall**

73e. Notwithstanding any other provisions of law, in each county wherein the juvenile hall is not located at the county seat of the county, a majority of the judges of the superior court in and for such county may by an order filed with the clerk of the court direct that a session or sessions of the superior court, while sitting for the purpose of hearing and determining cases and proceedings arising under Chapter 2 of Part 1 of Division 2 or Chapter 2 of Part 1 of Division 6 or Chapter 4 of Part 4 of Division 6 of the Welfare and Institutions Code, may be held or continued in any place in the county in which the juvenile hall is located and thereafter such session or sessions of the court may be held or continued in the location designated in such order. In a county having two superior court judges the presiding judge may make the order.

☞ **Staff Note.** Out of an abundance of caution, Section 73e has not been revised since it may be construed as authorization for the court to use a county facility, which authority the court might not otherwise have.

### **Code Civ. Proc. § 116.250 (amended). Small claims court sessions**

SEC. \_\_\_\_ . Section 116.250 of the Code of Civil Procedure is amended to read:

116.250. (a) Sessions of the small claims court may be scheduled at any time and on any day, including Saturdays, but excluding other judicial holidays. ~~They may also be scheduled at any public building within the county, including places outside the courthouse.~~

(b) Each small claims division of a superior court with seven or more judicial officers shall conduct at least one night session or Saturday session each month for the purpose of hearing small claims cases other than small claims appeals. The term "session" includes, but is not limited to, a proceeding conducted by a member of the State Bar acting as a mediator or referee.

**Comment.** Subdivision (a) of Section 116.250 is amended to reflect enactment of Government Code Section 69645 (trial court sessions).

☞ **Staff Note.** Could the last sentence of subdivision (a) of Section 116.250, like Section 73e, possibly be read to authorize courts to use public buildings, which authority the court might not

otherwise have? Could it also be interpreted to be an implied limitation on the type of space (“public building”) in which the court may hold sessions of the small claims court? The staff proposes to amend Section 116.250 as presented above, but would solicit comments on the proposed revision.

**Gov’t Code § 68115 (unchanged). Emergency court operations**

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 superior court, the presiding judge 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 trial in the court to a superior court 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.

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☞ **Staff Note.** Subdivision (a) of Section 68115 is unchanged because it authorizes an emergency session on order of the Chief Justice; whereas, a majority vote of the judges will ordinarily be required under Government Code Section 69645.

**Gov’t Code § 69741 (repealed). Regular and special sessions**

SEC. \_\_\_\_ . Section 69741 of the Government Code is repealed.

~~69741. Except as otherwise provided by Section 68115, each superior court shall hold its sessions:~~

~~(a) At the location or locations in each superior court district specified by ordinance adopted pursuant to Article 4 (commencing at Section 69640) of this chapter.~~

~~(b) In every county in which such an ordinance is not in effect, at the county seat and at such other locations, if any, as provided in this article.~~

~~The superior court shall hold regular sessions commencing on the first Mondays of January, April, July, and October, and special sessions at such other times as may be prescribed by the judges of the court, except that in the City and County of San Francisco the~~

~~presiding judge shall prescribe the times of holding such special sessions.~~

**Comment.** Section 69741 is repealed to reflect enactment of Section 69645 (trial court sessions). See also Code Civ. Proc. § 134 (court closure on judicial holiday).

☞ **Staff Note.** Subdivision (a) of Section 69741 references the system of superior court districts in Los Angeles County. The entire article applicable to superior court districts is being reviewed separately.

Regular and special sessions addressed in the last paragraph of Section 69741 are more fully discussed later in this memorandum.

### **Gov't Code § 69743 (repealed). Superior court additional sessions**

SEC. \_\_\_\_ . Section 69743 of the Government Code is repealed.

~~69743. By an order filed with the clerk of the court and published as a majority of the judges of the superior court of the county prescribe, such a majority, when it deems it necessary or convenient, may provide for and direct the holding of additional sessions in each of the cities described in Section 69742.~~

**Comment.** Section 69743 is repealed to reflect enactment of Section 69645 (trial court sessions).

### **Gov't Code § 69744 (repealed). Superior court sessions at various locations**

SEC. \_\_\_\_ . Section 69744 of the Government Code is repealed.

~~69744. When the judges of the superior court of a county deem it necessary or advisable, by order filed with the clerk of the court and published as they prescribe, they may direct that the court be held or continued:~~

~~(a) At any place in the county, not less than 120 miles distant from the county seat.~~

~~(b) At any other city in the county with a population of not less than 7,000, in which the city hall is not less than 55 miles from the site of the county courthouse.~~

~~(c) At any other city in the county with a population of not less than 2,200 in which the city hall is not less than 60 miles from the site of the county courthouse.~~

**Comment.** Section 69744 is repealed to reflect enactment of Section 69645 (trial court sessions).

**Gov't Code § 69746.5 (repealed). Sessions in judicial district in Kern County**

SEC. \_\_\_\_ . Section 69746.5 of the Government Code is repealed.

~~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 repealed to reflect enactment of Section 69645 (trial court sessions).

**Gov't Code § 69752 (repealed). Sessions in cities other than county seat**

SEC. \_\_\_\_ . Section 69752 of the Government Code is repealed.

~~69752. (a) Notwithstanding any other provision of this code, no superior court will hold sessions in any city other than the county seat except with the approval of the board of supervisors.~~

~~(b) The board of supervisors may terminate superior court sessions being held in any city other than the county seat.~~

~~(c) The board of supervisors of counties seeking to establish or terminate branch court sessions shall request the recommendations and advice of the Judicial Council before taking action.~~

~~The board of supervisors, under this section, may not terminate sessions of the superior court in any city in which sessions of the superior court were being held on or before January 1, 1957, in a county now having 1 million population or more which is contiguous to a county of 7 million population or more and sessions of the superior court existing in any such county on or about January 1, 1970 are hereby reestablished if they have been terminated during 1970 and may not be terminated by the board of supervisors.~~

**Comment.** Section 69752 is repealed to reflect enactment of Section 69645 (trial court sessions).

**Regular, Special, and Extra Sessions**

The Government Code authorizes superior courts to hold regular, special, and extra sessions of the court. Government Code Section 68115 also authorizes superior courts to hold sessions during times of emergency. (Section 68115 is discussed above.)

Government Code Section 69741 requires that regular sessions be held commencing on the first Mondays of January, April, July, and October. It further provides that a superior court may hold special sessions at such other times as may be prescribed by the judges of the court, except that in the City and County of San Francisco the presiding judge shall prescribe the times of holding special sessions.

Government Code Sections 69790-69800 authorize extra sessions. They provide detailed provisions regarding the appointment of a time and place for the extra sessions, the apportionment of business, the use of outside judges, and the manner and effect of those proceedings.

An outstanding issue is whether these provisions have become obsolete. In order to answer this question, an understanding of the distinctions among the types of sessions is vital. Unfortunately, there is very little written on the subject. Much of what follows was obtained from published court decisions and communications with staff of the Administrative Office of the Courts (AOC) and various court and judicial officers.

#### *Historical Perspective*

Before adoption of the 1879 Constitution, the trial court system in California was one of fixed terms and final adjournments. During an adjournment, there was no court and no judicial business could be transacted except those matters authorized by statute to be heard at a “special” term. Proceedings held outside of a regular or special term were deemed a nullity. See, e.g., *Falltrick v. Sullivan*, 119 Cal. 613, 615, 51 P. 947 (1898), *Norwood v. Kenfield*, 34 Cal. 329, 1333 (1867).

This system was altered by the 1879 Constitution and statutes providing that the superior courts were to be always open for the transaction of business, legal holidays and nonjudicial days excepted. See former Cal. Const. art. VI, § 5; former Code Civ. Proc. § 73. Sessions, rather than terms, became the method by which the business of the court was conducted. Adjournments from day to day, or from time to time were merely recesses in the sessions, and did not prevent the court from sitting at any time. Code Civ. Proc. § 74. Although the constitutional provision that courts are always open was repealed in 1928, the principle has continued in several statutes.

Code of Civil Procedure Section 133 provides that courts of justice may be held and judicial business transacted on any day, except as otherwise provided.



Pursuant to Code of Civil Procedure Section 134(a), the courts must be closed for the transaction of judicial business on judicial holidays, except for specified purposes, such as to instruct a jury when deliberating, to receive a verdict or discharge a jury, to conduct arraignments in criminal actions, and to conduct Saturday small claims court sessions. Injunctions and writs of prohibition may be issued and served on any day. Section 134(b). In 1992, subdivision (c) was added which permits one or more departments of a court to remain open and in session on a judicial holiday or at any hours of the day or night, as the judges of the court prescribe for the transaction of “any business that may come before the department in the exercise of the civil or criminal jurisdiction of the court.”

Code of Civil Procedure Section 74 provides that adjournments from day to day, or from time to time, are to be construed as recesses in the sessions, and do not prevent the court from sitting at any time.

#### *Regular vs. Special Sessions*

Interestingly, the word “sessions” is not defined in the Government Code. Nor, for that matter, are there definitions for the terms “regular session,” “special session,” or “extra session.”

Government Code Section 69741 requires only that regular sessions be held commencing on certain specified dates. Special sessions are sessions held at times other than the dates on which regular sessions are held. The statutes do not identify what matters are to be heard, or what procedures are to be used during a special session.

In *In re Gannon*, 69 Cal. 541, 545, 11 P. 240 (1886), the California Supreme Court interpreted the term “sessions” of the court, as used in former Code of Civil Procedure Sections 73 (predecessor to Government Code Section 69741) and 74:

By the term ‘sessions’ of the court, as used in these sections of the Code, is meant the time during which the court is, in fact, holding court at the place appointed, and engaged in business; and by the term ‘recesses’ is meant the times in which the court is not actually engaged in business .... The superior court of each county in the state is an organized, judicial institution, competent for the transaction of business at all times, without reference to terms or adjournments; so that notwithstanding an order for adjournment entered on the minutes of the court, the court may sit and exercise its jurisdiction in the trial of causes, or in the transaction of any legal business, at any time.

Hence, under *Gannon*, regular and special sessions are times when the court is actually holding court and engaged in any legal business. The distinction appears to be one of time only — sessions at times other than regular sessions are special sessions.

#### *Extra Sessions*

The Government Code is much more detailed with regard to extra sessions. One or more sessions of the superior court may be held in addition to and at the same time as the other sessions of the court if the public interests so justify or require. Section 69790. Portions of the business of the court shall be transferred to the judge presiding over the extra sessions, as the judges of the court select. Sections 69793, 69794. The judge or judges presiding over the extra sessions have the same powers as any judge of the court, in chambers or in court, with regard to the assigned business. Sections 69797-69799. Again, there does not appear to be any limitation on the types of matters that can be heard in extra session.

Historically, extra sessions have been used when a need arose in a particular county for a judge from another county to preside over a session of the hosting court. The need for an additional judge typically arose because one or more judges were disqualified to hear a matter, there was a vacancy in a judgeship, or the workload of the court had increased. See, e.g., *Yolo Water & Power Co. v. Superior Court*, 28 Cal. App. 589, 153 P. 394 (1915). And see, Gov't Code § 69741.5 (“There may be as many sessions of a superior court, at the same time, as there are judges elected, appointed or assigned thereto.”).

Before the Judicial Council Amendment was added to the California Constitution in 1926, a judge from one county could informally request a judge from another county to hold session in the former county or the Governor could request that a judge do so. See 62 Ops. Cal. Att’y Gen. 295 (1979). With the establishment of the Judicial Council, the Chief Justice, as Chair of the Judicial Council, now assigns judges to sit on courts in other jurisdictions. Cal. Const. art. VI, § 6; Gov’t Code § 69796.

#### *Continuing Viability of Sessions Types*

In times of fixed terms and final adjournments, judicial business could only be transacted at a regular term or in rare instances when a special term was authorized for a special purpose. That is not the case today. Courts can hear and determine legal matters at all times, except on judicial holidays. And, even then,

certain matters may be heard by every court. A court may even choose to keep open and in session one or more departments of the court at any time. The distinction in modern times, therefore, appears to be more of form than of substance. “For convenience of orderly arrangement and dispatch ... the business of the superior courts is divided into regular and special sessions commencing on certain dates.” 16 Cal. Jur. 3d *Courts* § 28.

For example, there is currently only one statute other than Government Code Section 69741 that refers to a special session. Elections Code Section 16603 requires that the court continue *in special session* to hear and determine all issues arising in contested elections. One version or another of this statute has existed for over 130 years. See, e.g., *Norwood v. Kenfield*, above. In order to make sure these contested elections were heard and resolved promptly, a special term was necessary prior to the adoption of the 1879 Constitution. The requirement of a “special” sitting was carried over into subsequent statutes, including Section 16603. The intent in doing so was to “maintain the purity of elections and effect the speedy determination of election contests.” *Garrison v. Rourke*, 32 Cal. 2d 430, 436, 196 P.2d 884 (1948). See also, *Falltrick*, 119 Cal. at 616 (“The statute contemplates a prompt and speedy determination of election contests.”). This purpose was more significant in the earlier part of the last century when courts were not in session on a daily basis, but perhaps only on certain days of the week, certain days of the month, or during certain months of the year. In modern times, superior courts are generally in session on a daily basis during the week so the requirement of a special session for elections contests may no longer be necessary to effectuate a speedy determination.

The continuing viability of the term “extra session” is also questionable inasmuch as the Chief Justice is authorized by the Constitution to assign judges to other counties and Government Code Section 69741.5 provides there may be as many sessions of a superior court as there are judges, elected, appointed, or assigned thereto. Presumably, therefore, a judge from another county could preside over sessions of the court, whether they be regular or special sessions.

#### *Staff Recommendation*

There is no constitutional provision which fixes the time when the superior courts shall sit. Before the implementation of fixed terms, the then district judges were authorized to appoint the times of holding the district courts in their counties. See *Domingues v. Domingues*, 4 Cal. 186 (1854). This power was taken

away from judges and has never been restored expressly. By AB 3028, the Legislature has delegated the power to the courts to set the *place* and *number* of sessions. It is silent as to the *time* of those sessions. This is interesting in light of the fact that a 1999 recommendation by Professor Clark Kelso of McGeorge School of Law proposed allowing trial courts to set the *time*, location, and number of sessions. This recommendation was submitted to, among others, the Judicial Council, the sponsor of AB 3028. See Memorandum from Clark Kelso on Court Sessions (Mar. 1999) (on file with Commission). On the other hand, informal discussions with AOC staff indicate that AB 3028 was not intended to be the final word on sessions — it was primarily intended to deal with the location of sessions.

The staff sees several possible approaches with regard to Section 69741, which provides:

69741. Except as otherwise provided by Section 68115, each superior court shall hold its sessions:

(a) At the location or locations in each superior court district specified by ordinance adopted pursuant to Article 4 (commencing at Section 69640) of this chapter.

(b) In every county in which such an ordinance is not in effect, at the county seat and at such other locations, if any, as provided in this article.

The superior court shall hold regular sessions commencing on the first Mondays of January, April, July, and October, and special sessions at such other times as may be prescribed by the judges of the court, except that in the City and County of San Francisco the presiding judge shall prescribe the times of holding such special sessions.

The four alternative approaches are:

- (1) Delete the provisions that pertain to the location of sessions, but leave the final paragraph unchanged regarding regular and special sessions.
- (2) Delete the provisions in Section 69741 that pertain to the location of sessions, but revise the final paragraph to establish some other generally applicable time period during which regular sessions of the court are to be held. The timing of special sessions would still be left to the discretion of the court.
- (3) Repeal Section 69741 in its entirety without any replacement provisions.
- (4) Give judges the authority to determine the timing of all sessions.

The staff **recommends that for purposes of the tentative recommendation option three or four be implemented.**

The regular sessions provisions in Section 69741 are anachronistic and should be repealed. But, it may not be an easy matter to replace those provisions with others of general applicability. For example, some courts hold adoption proceedings or marriages on Saturdays. In some courts, the Saturday sessions are set in advance, on fixed dates and at fixed times. In other courts, however, “special” Saturday adoption proceedings or marriages occur once or twice a year, as needed. It might be difficult to draft a statute that would cover all of the contingencies given the different demographic and geographic attributes of the 58 superior courts.

The third option would eliminate the distinction between regular and special sessions in line with the modern concept that courts are continuously open. An argument can be made that Code of Civil Procedure Sections 133 and 134 authorize courts to hold sessions at all times, unless specifically prohibited by law.

**Code Civ. Proc. § 133. When judicial business may be transacted**

133. Courts of justice may be held and judicial business transacted on any day, except as provided in this article.

**Code Civ. Proc. § 134. Court closure on judicial holidays**

134. (a) Except as provided in subdivision (c), the courts shall be closed for the transaction of judicial business on judicial holidays for all but the following purposes:

(1) To give, upon their request, instructions to a jury when deliberating on their verdict.

(2) To receive a verdict or discharge a jury.

(3) For the conduct of arraignments and the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature.

(4) For the conduct of Saturday small claims court sessions pursuant to the Small Claims Act set forth in Chapter 5.5 (commencing with Section 116.110).

(b) Injunctions and writs of prohibition may be issued and served on any day.

(c) In any superior court, one or more departments of the court may remain open and in session for the transaction of any business that may come before the department in the exercise of the civil or criminal jurisdiction of the court, or both, on a judicial holiday or at

any hours of the day or night, or both, as the judges of the court prescribe.

(d) The fact that a court is open on a judicial holiday shall not make that day a nonholiday for purposes of computing the time required for the conduct of any proceeding nor for the performance of any act. Any paper lodged with the court at a time when the court is open pursuant to subdivision (c), shall be filed by the court on the next day that is not a judicial holiday, if the document meets appropriate criteria for filing.

Under the fourth option, the distinction between regular and special sessions would also be dropped; however, the superior courts would be given the express authority to establish the time of all sessions — regular, special, and extra. For example, Section 69645(a) could be amended to read:

69645. (a) Notwithstanding any other provision of law, each trial court shall determine the time, number, and location of sessions of the court. In making this determination, the court shall consider, among other factors, the impact of this provision on court employees pursuant to Section 71634, the availability and adequacy of facilities for holding the court session at the specific location, the efficiency and cost of holding the session at the specific location, any applicable security issues, and the convenience to the parties and the public served by the court.

A repeal of Section 69741 might generate the most comments (this option is included in the sampling of revised sections above). Whichever option is selected, the staff would add a “note” in the tentative recommendation requesting comments on the proposed treatment of regular and special sessions provisions.

The references to “extra session” may have continuing usefulness when the Chief Justice assigns a judge to another county, as a means of categorization and identification (e.g., for purposes of compensation of “visiting” judges, travel expenses, etc.). Therefore, the staff **recommends retaining the extra sessions provisions with revisions to implement AB 3028 and any decisions the Commission makes regarding the “timing” of sessions.** A “note” would be included in the tentative recommendation requesting input regarding the continuing usefulness of the retained provisions.

## **Conclusion**

The staff will draft revisions to the sessions statutes consistent with policy decisions made by the Commission at the November meeting. The proposed

revisions will be included in the tentative recommendation for general circulation later this year.

Respectfully submitted,

Lynne Urman  
Staff Counsel