

## Memorandum 2020-63

**Statutes Made Obsolete by Trial Court Restructuring (Part 8):  
Judicial Benefits (Introduction)**

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The Commission<sup>1</sup> is responsible for determining whether any statutory provisions are obsolete, in whole or in part, due to the major restructuring of California's trial court system that occurred at the turn of the century.

The vast majority of this work is done, but a few projects remain unfinished, including reexamination of a number of provisions relating to judicial benefits. This memorandum introduces that project.

Attached for the Commission's consideration is a compilation of the provisions in question, with accompanying Staff Notes providing background information. Unless otherwise indicated, all further statutory references are to the Government Code.

The memorandum starts by summarizing the relevant historical developments. The staff then begins to analyze the provisions presented in the attached statutory compilation.

## HISTORICAL DEVELOPMENTS

Judicial compensation in California is a complicated and contentious topic, which has been the subject of much litigation and legislation. Before tracing the history relevant to this study, it may be helpful to identify some aspects of judicial compensation that the Commission does not need to examine in this study:

- This study relates solely to compensation of trial court judges. The trial court restructuring reforms did not affect compensation of appellate court justices.

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

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

- This study focuses on judicial benefits, not judicial salaries. Since early 2001, all state trial court judges have received the same state salary.<sup>2</sup>
- There are two different retirement programs for trial court judges (Judges Retirement System I and Judges Retirement System II), with membership depending on when a judge joined the bench.<sup>3</sup> There is no need for the Commission to explore the disparities between those retirement programs, nor differences in contribution requirements stemming from the enactment of the Public Employees’ Pension Reform Act (“PEPRA”).<sup>4</sup> Such disparities do not relate to trial court restructuring.
- There was a lawsuit in which a class of 3,400 active and retired California judges sought backpay and interest because the State Controller refused to increase their salaries pursuant to a statute during a fiscal crisis.<sup>5</sup> That lawsuit has nothing to do with trial court restructuring.

The historical developments relevant to this study are described below.

### **Trial Court Restructuring**

In the late 1990’s, California had two kinds of trial courts: municipal courts and superior courts. Those courts were county-operated, housed in county-owned facilities, and largely county-funded.<sup>6</sup> Salaries of municipal court judges were lower than those of superior court judges,<sup>7</sup> and judicial benefits varied from county to county.<sup>8</sup>

Three major reforms occurred around the turn of the century:

- (1) The enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997, under which the state assumed full responsibility for funding trial court operations.<sup>9</sup>
- (2) The enactment of the Trial Court Employment Protection and Governance Act (“TCEPGA”) in 2000, which established a new employment system for court personnel.<sup>10</sup> Instead of being county

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2. Judicial Council of California, Historical Analysis of Disparities in Judicial Benefits (Dec. 2009), p. 7 (hereafter, “*Judicial Council Report on Judicial Benefits*”).

3. See *id.* at 14-15.

4. 2012 Cal. Stat. ch. 296.

5. See *Mallano v. Chiang*, 2018 Westlaw 312536 (June 26, 2018); *Mallano v. Chiang*, 2017 Westlaw 1247811 (April 5, 2017).

6. See *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities*, 46 Cal. L. Revision Comm’n Reports 25, 29-30 (2019) (hereafter, “*TCR: Court Facilities*”).

7. *Judicial Council Report on Judicial Benefits*, *supra* note 2, at 7.

8. *Id.* at 8-10.

9. 1997 Cal. Stat. ch. 850; see generally Sections 77000-77655. For a more detailed description of this reform, see *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L. Revision Comm’n Reports 1, 7-8 (2002) (hereafter, “*TCR: Part 1*”).

10. 2000 Cal. Stat. ch. 1010; see generally Sections 71600-71675.

employees, such personnel became employees of the local superior court.<sup>11</sup>

- (3) Unification of the municipal and superior courts in each county, commencing on a county-by-county basis in 1998 and ending in early 2001, when the courts in all counties had unified.<sup>12</sup>

A key objective of those reforms was to “help ensure ... that the quality of justice is administered at a uniformly high level throughout the state.”<sup>13</sup>

As a result of the dramatic transformation of California’s trial court system, numerous statutes throughout the codes became obsolete, in whole or in part. The Legislature directed the Commission to review the codes and recommend statutory revisions to remove the material made obsolete by the trial court restructuring reforms.<sup>14</sup>

### **The 2001 Tentative Recommendation**

In 2001, the Commission prepared and circulated a massive tentative recommendation that proposed numerous statutory revisions to reflect trial court restructuring.<sup>15</sup> The tentative recommendation included a number of provisions relating to judicial benefits.<sup>16</sup>

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11. For a more detailed description of this reform, see *TCR: Part 1*, *supra* note 9, at 9.

12. For a more detailed description of this reform, see *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51, 59, 63 (1998); see also <https://www.courts.ca.gov/documents/unidate.pdf> (listing unification date of trial courts in each county).

13. *Judicial Council Report on Judicial Benefits*, *supra* note 2, at 7; see also *TCR: Court Facilities*, *supra* note 6, at 31 & sources cited therein.

14. Section 71674.

15. Tentative Recommendation on *Statutes Made Obsolete by Trial Court Restructuring* (Nov. 2001) (hereafter, “2001 Tentative Recommendation”).

16. Sections 53200.3, 53214.5, 69893.7, 69894.3, 69894.4, 69907, 69909, 73642, 73952, 74145, 74342, 74742, 77210 & former Section 22754.35; see also Sections 73640, 73950, 74130, 74340, 74740 (providing context for Sections 73642, 73952, 74145, 74342 & 74742, respectively). Aside from former Section 22754.35, all of these provisions are shown in the attached compilation of *Judicial Benefits Statutes from the 2001 Tentative Recommendation* (hereafter, “Attachment”).

In addition to the provisions listed above, the 2001 tentative recommendation proposed to amend Sections 75103 and 75602, which specify salary deductions for the two judicial retirement programs. The proposed amendments merely deleted references to the municipal courts, which no longer existed as separate entities. The Commission included those amendments in its final recommendation and the Legislature enacted them as proposed. See *TCR: Part 1*, *supra* note 9, at 422; 2002 Cal. Stat. ch. 784, §§ 500, 501.

Nonetheless, Sections 75103 and 75602 are mentioned in the judicial benefits discussion in a 2014 staff memorandum that summarizes the unfinished work on trial court restructuring, as well as several provisions that were not in the 2001 tentative recommendation (Sections 75092, 75097, 75103.3, 75103.5, 75109.7, 75605 & 75612). See First Supplement to Memorandum 2014-53, p. 9, n. 56. The staff is still examining those provisions and will bring them to the Commission’s attention in a future memorandum if that appears appropriate.

The Commission received input expressing various concerns relating to judicial benefits.<sup>17</sup> Due to those concerns, the Commission decided in March 2002 not to proceed with its proposed revisions relating to judicial benefits. Instead, it opted to preserve the statutes intact “until the interested parties have resolved outstanding issues.”<sup>18</sup> The statutes have remained in the codes essentially unchanged since then.<sup>19</sup>

At about the same time, the Judicial Council created an advisory committee on judicial service. The purpose of that group was to study ways to improve judicial service, retention, and compensation (including benefits).<sup>20</sup>

### *Sturgeon I*

In 2006, an individual named Harold Sturgeon (represented by counsel from Judicial Watch) filed a taxpayer lawsuit against the County of Los Angeles, challenging the validity of the benefits that the county was providing to its superior court judges. The lawsuit pointed out that each superior court judge in the county was not only receiving a salary and benefits from the state, but was also receiving supplemental benefits from the county, which were sizable (amounting to approximately \$46,500 per judge in fiscal year 2007). Those benefits were based on Section 69894.<sup>321</sup> and an implementing local rule.<sup>22</sup>

Mr. Sturgeon alleged that providing those supplemental benefits was a constitutionally impermissible gift of public funds for a private purpose, a waste within the meaning of Code of Civil Procedure Section 526a, a violation of the Lockyer-Isenberg Trial Court Funding Act, and a violation of the Legislature’s constitutional duty to prescribe judicial compensation. The county successfully moved for summary judgment, but Mr. Sturgeon appealed.

In *Sturgeon v. County of Los Angeles* (hereafter, “*Sturgeon I*”), decided in late 2008, the court of appeal found that “the benefits the county provides promote

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17. See Memorandum 2002-14, pp. 25-28; see also Memorandum 2001-88, p. 10; Memorandum 2001-68, p. 3.

18. See Minutes (March 2002), p. 25; but see *supra* note 16 (discussing Sections 75103 and 75602).

19. As part of a 2004 recodification of the Public Employees’ Medical and Hospital Care Act, one of those provisions was repealed (former Section 22754.35) and several other provisions (Sections 73642, 73952, 74342, and 74742) were amended to correct cross-references. See 2004 Cal. Stat. ch. 69.

20. See former Cal. R. Ct. 10.57.

21. For the text of Section 69894.3 and some historical background relating to it, see Attachment pp. 8-10.

22. Former L.A. Superior Ct. Local R. 1.12 (see now L.A. Superior Ct. Local R. 1.13, which is similar but not identical to former L.A. Superior Ct. Local R. 1.12).

the public interest in recruiting and retaining high caliber judicial officers and therefore are not gifts within the meaning of article XVI, section 6 of the [state] Constitution.”<sup>23</sup> For much the same reason, the court of appeal also rejected the contention that the supplemental benefits constituted waste within the meaning of Code of Civil Procedure Section 526a.<sup>24</sup>

Of particular importance for purposes of this study, the court of appeal then addressed the impact of the Lockyer-Isenberg Trial Court Funding Act. It concluded that “nothing in Lockyer-Isenberg prevents the county from providing its judges with the disputed benefits, and in fact Lockyer-Isenberg appears to contemplate payment of such benefits by the county.”<sup>25</sup> The court of appeal explained that conclusion in detail and then reiterated: “Lockyer-Isenberg does not prevent payment of judicial benefits beyond the compensation set by the Legislature but, under any fair reading of the act, authorizes them.”<sup>26</sup>

Lastly, the court of appeal turned to Article VI, Section 19, of the California Constitution, which requires the Legislature to “*prescribe* compensation for judges of record.”<sup>27</sup> The court of appeal determined that “the employment benefits provided by the county are part of each judge’s compensation and therefore *must be prescribed* by the Legislature.”<sup>28</sup> The court of appeal then explained that this is a nondelegable duty;<sup>29</sup> to protect the judicial branch “from excessive and improper political influence,” the Constitution “impose[s] rigid limits on judicial compensation”<sup>30</sup> and “the Legislature must set policy with respect to all aspects of judicial compensation.”<sup>31</sup>

The court of appeal acknowledged that “even when a legislative body bears a nondelegable duty, it may nonetheless permit other bodies to take action based on a general principle established by the legislative body *so long as the Legislature provides either standards or safeguards which assure that the Legislature’s fundamental policy is effectively carried out.*”<sup>32</sup> The court of appeal was, however, “unable to identify any enactment of the Legislature” that provided such standards or

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23. *Sturgeon v. County of Los Angeles*, 167 Cal. App. 4th 630, 639, 843 Cal. Rptr. 3d 242 (2008) (hereafter, “*Sturgeon I*”).

24. *Id.*

25. *Id.* at 640.

26. *Id.* at 642.

27. Emphasis added.

28. *Sturgeon I*, 167 Cal. App. 4th at 645 (emphasis added).

29. *Id.* at 652-53.

30. *Id.* at 654.

31. *Id.* at 657.

32. *Id.* at 653 (emphasis added).

safeguards with regard to the supplemental judicial benefits paid by the County of Los Angeles.<sup>33</sup> The court of appeal explained that the *county's* choice “to tie its judicial benefits to the benefits it provides other salaried employees” was “not a substitute for a *legislative mandate* that it do so.”<sup>34</sup> Thus, the county’s practice of providing supplemental judicial benefits to local judges violated Article VI, Section 19.

On that basis, the court of appeal reversed the trial court’s order granting summary judgment in favor of the county and remanded the case for further proceedings.<sup>35</sup> Mr. Sturgeon sought review of that decision in the California Supreme Court, but the Court denied his petition.

### *Senate Bill X2 11 (Steinberg)*

In response to *Sturgeon I*, the California Judges Association, Los Angeles Superior Court (“LASC”), several judicial leaders, and Judicial Council staff (then referred to as the Administrative Office of the Courts) collaborated to propose legislation to fix the constitutional flaw identified by the court of appeal.<sup>36</sup> This effort “was pursued so that the hundreds of superior court judges who had accepted their appointments to the bench with an expectation of a compensation package that provides both state and supplemental benefits could continue to receive the supplemental benefits, at least for the duration of their terms of office.”<sup>37</sup>

The proposed legislation was inserted into a pending bill (SBX2 11 (Steinberg)) in a special session of the Legislature and enacted through an expedited process shortly thereafter, in February 2009.<sup>38</sup> The bill included the following findings, which refer to the Lockyer-Isenberg Trial Court Funding Act:

The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to address the decision of the Court of Appeal in *Sturgeon v. County of Los Angeles* (2008) 167 Cal.App.4th 630, regarding county-provided benefits for judges.

(b) *These county-provided benefits were considered by the Legislature in enacting the Lockyer-Isenberg Trial Court Funding Act, in which counties could receive a reduction in the county’s maintenance of effort obligations if counties elected to provide benefits pursuant to*

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33. *Id.* at 654; see also *id.* at 654-57.

34. *Id.* at 656 (emphasis added).

35. *Id.* at 635, 656-57.

36. *Judicial Council Report on Judicial Benefits, supra* note 2, at 12.

37. *Id.*

38. 2009 Cal. Stat. ch. 9.

paragraph (1) of subdivision (c) of Section 77201 of the Government Code for trial court judges of that county.

(c) Numerous counties and courts established local or court supplemental benefits to retain qualified applicants for judicial office, and trial court judges relied upon the existence of these longstanding supplemental benefits provided by the counties or the court.<sup>39</sup>

The bill added Section 68220 to the Government Code, which mandates that judges of any court (not just LASC) whose judges received supplemental judicial benefits from the court or county, or both, as of July 1, 2008, “shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date.”<sup>40</sup> Section 68220 further provides that a county may terminate its obligation to provide such benefits “upon providing the Administrative Director of the Courts and the impacted judges with 180 days’ written notice.”<sup>41</sup> However, the termination will not be effective as to a judge during the judge’s current term of office.<sup>42</sup>

SBX2 11 also included a provision directing the Judicial Council to “report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.”<sup>43</sup> SBX2 was apparently viewed as an “interim solution”<sup>44</sup> that “simply preserves the status quo for an undefined period.”<sup>45</sup> The required report was “presumably ... prelude to a comprehensive, long-term solution.”<sup>46</sup>

### ***Judicial Council Report: Historical Analysis of Disparities in Judicial Benefits***

In late 2009, the Judicial Council completed its report analyzing the disparities in judicial benefits across the state.<sup>47</sup> The report starts by examining the history of judicial salaries, as opposed to benefits. That history “illustrates

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39. 2009 Cal. Stat. ch. 9, § 1 (emphasis added).

40. Section 68220(a).

41. Section 68220(b).

42. *Id.*

43. 2009 Cal. Stat. ch. 9, § 6.

44. *Sturgeon v. County of Los Angeles*, 191 Cal. App. 4th 344, 352, 119 Cal. Rptr. 3d 332 (2010) (hereafter, “*Sturgeon II*”).

45. *Judicial Council Report on Judicial Benefits*, *supra* note 2, at 13; see also Chief Justice Ronald M. George, State of the Judiciary Address (March 10, 2009) (thanking legislators for “allowing the continuation of long-standing, county-level judicial benefits” and promising to “continue to work with [them] to fashion an appropriate benefit system applicable statewide to all judges.”).

46. *Judicial Council Report on Judicial Benefits*, *supra* note 2, at 13.

47. *Judicial Council Report on Judicial Benefits*, *supra* note 2.

how the Legislature reformed a system of disparate salaries primarily funded by the counties into a uniform statewide structure entirely funded by the state.”<sup>48</sup>

The report then examines inconsistencies in judicial benefits. The Judicial Council drew four broad conclusions based on data from the 58 superior courts:

1. About 90 percent of superior court judges serve in courts where some form of supplemental benefits is provided, which demonstrates the widespread acceptance of the need for and appropriateness of providing judges with a better benefits package than that currently provided by the state.
2. The variance among supplemental benefits provided to superior court judges in California is the result of the individual history of each court and county and is not based on any rational or consistent statewide plan or formula.<sup>49</sup>
3. The disparity among judges can be significant. Some judges receive no supplemental benefits while others receive a supplemental benefits package worth approximately \$50,000 a year.
4. Supplemental benefits make the overall compensation structure for judges inconsistent and, in some cases, result in justices of an appellate court receiving lower compensation than judges of a trial court in the same geographic area.<sup>50</sup>

Given those facts, the Judicial Council further concluded that judicial benefits “need the same kind of reform that the Legislature brought to judicial salaries.”<sup>51</sup>

The Judicial Council pledged to continue working on the matter:

The council supports further investigation into this issue and a resolution of the inconsistencies that will not reduce the benefits currently provided to any judge. Therefore, the Judicial Council will later submit a second report to the Legislature that provides further information about the impact of the current approach to judicial benefits and, if appropriate, will make recommendations regarding options for reforming judicial benefits in order to move toward a more consistent approach that would better attract the most qualified judicial candidates and maintain the excellence of California’s judiciary.<sup>52</sup>

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48. *Id.* at 1; see *id.* at 5-7.

49. There does, however, appear to be a tendency to provide supplemental judicial benefits in areas with a relatively high cost of living, as well as a tendency for adjacent counties to provide similar benefits packages. See *id.* at 9 & Appendix A (Senate Committee on Judiciary, *Judicial Compensation in California* (Feb. 1991)).

50. *Id.* at 1-2, 17-18; see *id.* at 8-20.

51. *Id.* at 2.

52. *Id.*; see also *id.* at 20.



## ***Sturgeon II***

After the remand of *Sturgeon I* and the enactment of SBX2 11, the County of Los Angeles again moved for summary judgment, contending that the new legislation remedied the problem that the court of appeal identified in *Sturgeon I*. Mr. Sturgeon also moved for summary judgment. He contended that the new legislation was invalid on several grounds, including in particular failure to properly “prescribe” judicial benefits as constitutionally required, and violation of equal protection principles “by continuing a statewide system of unequal judicial benefits.”<sup>53</sup> The trial court granted summary judgment in favor of the county and Mr. Sturgeon appealed.

In late 2010, the same appellate panel that decided *Sturgeon I* issued its decision in *Sturgeon II*, affirming the summary judgment in favor of the county. In so doing, however, the panel emphasized that SBX2 11 was just a temporary solution:

As the parties have recognized, SBX2 11 both preserved the *status quo ante* *Sturgeon I* and commenced a process by which the Legislature looks to adoption of a comprehensive judicial compensation scheme.... [T]his response to *Sturgeon I* meets the requirements of the Constitution and is wholly sensible under the circumstances....

However, on its face SBX2 11 is not a permanent response to either the constitutional issues we identified in *Sturgeon I* or the difficult problem of adopting a compensation scheme that deals with varying economic circumstances in an equitable and efficient manner. Thus, we would be remiss in discharging our duties if we did not state that while the Legislature’s *interim* response to *Sturgeon I* defeats the particular challenges asserted by Sturgeon in this litigation, that interim remedy, if not supplanted by the more comprehensive response SBX2 11 plainly contemplates, most likely will give rise to further challenges by taxpayers or members of the bench themselves.... We are confident that the Legislature within a reasonable period of time will act to adopt a uniform statewide system of judicial compensation.<sup>54</sup>

## ***Sturgeon III***

In 2014, Mr. Sturgeon (again represented by counsel from Judicial Watch) , filed another taxpayer lawsuit against the County of Los Angeles, alleging that the county’s continued payment of supplemental judicial benefits was unlawful in the absence of a permanent, statewide, comprehensive judicial compensation

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53. *Sturgeon II*, 191 Cal. App. 4th at 347.

54. *Id.* at 355-56 (emphasis in original).

scheme as contemplated in SBX2 11. The trial court dismissed the case, and Mr. Sturgeon appealed.

The court of appeal said that Mr. Sturgeon's new challenge was framed in a manner that was "not barred by res judicata or collateral estoppel."<sup>55</sup> The appellate court went on to reject the challenge on the merits.

It is unnecessary to recount all of the details of that decision here. In short, the court of appeal concluded that although SBX2 11 was intended as a temporary fix and "may not be a perfect solution to *Sturgeon I*,"<sup>56</sup> the Legislature "built better than it knew."<sup>57</sup> The court explained:

Section 68220 subdivision (a) plainly requires any county paying its judges supplemental benefits as of July 1, 2008 to continue to pay its judges supplemental benefits, including all judges who took office after July 1, 2008 — albeit subject to the right of the county in the first two sentences of subdivision (b) to terminate those benefits after specified notice. The county has no choice and no discretion to "fix" judicial compensation, *which has thus been prescribed by the Legislature*.<sup>58</sup>

In the "spirit of *Sturgeon II*," the court of appeal offered these additional comments:

Even though it is not required, the Legislature may want to revisit the trial court compensation problem. Groups as diverse as Judicial Watch and the Daily Kos continue to inveigh against county payments to trial judges. The 2009 Judicial Council Report ... noted wide disparities in judicial compensation around the state. Judges of the Superior Court of Los Angeles County now receive supplemental benefits worth about \$57,000. By contrast, judges in the Superior Courts of Alpine, Inyo, and San Benito Counties receive no supplemental benefits at all. These are among the disparities in compensation around the state the Legislature might care to consider. Or might not.<sup>59</sup>

As before, Mr. Sturgeon sought further review, but the California Supreme Court declined to hear the case. The staff is not aware of any litigation, legislation, or Judicial Council report on county disparities in supplemental judicial benefits since that development in early 2016. **We encourage**

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55. *Sturgeon v. County of Los Angeles*, 242 Cal. App. 4th 1437, 1445, 195 Cal. Rptr. 3d 909 (2015) (hereafter, "*Sturgeon III*").

56. *Id.* at 1449.

57. *Id.* at 1441.

58. *Id.* at 1450 (emphasis added).

59. *Id.* (footnotes omitted).

**knowledgeable sources to provide information about anything we might have missed that would be relevant to this study.**

ANALYSIS OF THE JUDICIAL BENEFITS PROVISIONS REMOVED  
FROM THE 2001 TENTATIVE RECOMMENDATION

With that historical background, it is time to turn back to the statutory provisions on judicial benefits that the Commission removed from the 2001 tentative recommendation on trial court restructuring. In the attached compilation, those provisions are grouped in the following categories:

- I. County-specific statutes relating solely to benefits of municipal court judges (Sections 73640-73642, 73950-73952, 74130-74145, 74340-74342, 74740-74742).
- II. Statewide statute only specifying certain benefits of some retired municipal court judges (Section 77210).
- III. County-specific statutes relating solely to benefits of superior court judges (Sections 69907, 69909).
- IV. County-specific statute relating to municipal and superior court personnel, including judges (Section 69893.7).
- V. County-specific statutes relating solely to superior court personnel (Sections 69894.3, 69894.4).
- VI. Statewide statutes relating to court personnel, including municipal and superior court judges (Sections 53200.3, 53214.5).

Categories I-IV are discussed in order below. Categories V and VI will be discussed in a future memorandum.

**I. County-Specific Statutes Relating Solely to Benefits of Municipal Court Judges**

Chapter 10 of Title 8 of the Government Code contains several articles that consist of (1) a provision stating that the article applies to a particular municipal court district, and (2) a provision specifying benefits for judges of that municipal court district. For example, Article 20 consists of the following provisions:

74130. This article applies to the municipal courts established in Riverside County.

74145. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the county flexible benefits plan.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive the same long-term disability

insurance as provided by the County of Riverside for other elected county officials.

Similarly, Article 9 provides:

73640. This article applies to the municipal court established in a district embracing the Judicial District of El Cajon.

73642. (a) In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan, except that if deferred compensation is selected, no adjustment based on retirement tier shall apply, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the municipal court shall receive one or more of the following benefits: the same long-term disability insurance as provided by the County of San Diego for the classification of chief administrative officer or retiree health benefits whereby each judge of the municipal court serving on or after October 1, 1987, who retires from the municipal court on or after January 1, 1989, shall receive the same amount of insurance premium for retiree health benefits under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title 2) that the state provides to retired superior court judges under that act.

Articles 16, 25, and 30 are almost the same as Article 9, but they are for other municipal court districts within the same county (San Diego).<sup>60</sup>

Now that the trial courts in all 58 counties have unified their operations in the local superior court, municipal courts no longer exist. The five articles discussed above are only relevant with regard to benefits of *former* municipal court judges.

For that purpose, it might not be necessary to retain those articles in the codes. It has been almost twenty years since the last trial courts unified. There probably are still sitting and retired judges who used to serve the municipal courts in question. However, their rights could be preserved through the use of a saving clause.

**More specifically, Articles 9, 16, 20, 25, and 30 could be repealed subject to the same saving clause that the Legislature used (on Commission**

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60. Article 16 contains an extra provision (Section 73956). That provision is of no consequence for purposes of this study, because it will be repealed on January 1, 2021. See 2020 Cal. Stat. ch. 210, § 42.

recommendation) **when repealing numerous other provisions that specified employment terms of municipal court personnel:**

If a right, privilege, duty, authority, or status, including, but not limited to, a qualification for office, salary range, or employment benefit, is based on a provision of law repealed by this act, and if a statute, order, rule of court, memorandum of understanding, or other legally effective instrument provides that the right, duty, authority, or status continues for a period beyond the effective date of the repeal, that provision of law continues in effect for that purpose, notwithstanding its repeal by this act.<sup>61</sup>

**Another possibility would be to (1) add a sunset clause to each article, which would repeal the article on a specified date, and (2) include the same saving provision shown above,** to preserve the rights of former municipal court judges after the sunset date. By leaving the articles intact for a longer time, this “belt-and-suspenders” approach would arguably provide some extra protection, but it might be overkill.

**For purposes of a tentative recommendation, which approach would the Commission like to follow?** If the Commission decides to follow the “belt and suspenders” approach, it will also need to decide how long the sunset period should be.

## **II. Statewide Statute Only Specifying Certain Benefits of Some Retired Municipal Court Judges**

Section 77210 pertains to municipal court judges who retired under the Judges’ Retirement System (“JRS”), which only applies to judges first appointed or elected before November 9, 1994.<sup>62</sup> Unlike the provisions discussed above, the section applies statewide, not just to a particular municipal court district. It requires the state to give a municipal court judge retired under JRS the same health, dental, and vision benefits as a retired superior court judge:

77210. (a) The state shall provide municipal court judges retired under the Judges’ Retirement System with retiree health, dental, and vision care plans equal to and in the same manner as the health, dental, and vision benefits provided to retired superior court judges.

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

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61. 2002 Cal. Stat. ch. 784, § 622; see also *TCR: Part 1, supra* note 9, at 20, 566; 2020 Cal. Stat. ch. 210, § 65.

62. *Judicial Council Report on Judicial Benefits, supra* note 2, at 15.

**Here again, it might suffice to repeal the statute subject to the saving clause shown above.** Trial court unification was complete in early 2001; any judge who served a municipal court before unification would have either retired or been elevated to the superior court by then. Thus, Section 77210 only applies to judges who retired almost twenty years ago. It might not be necessary to keep this section in the codes, as long as the rights of those retired judges are preserved with a saving clause.

**Alternatively, the Commission could use the same “belt-and-suspenders” approach described above, setting a sunset date of reasonable length and bolstering it with a saving clause.** Keeping the section in the codes until the sunset date might not be strictly necessary, but it might give comfort to those potentially affected.

**For purposes of a tentative recommendation, how would the Commission like to handle Section 77210?**

### **III. County-Specific Statutes Relating Solely to Benefits of Superior Court Judges**

Section 69907 requires the County of San Diego to provide supplemental benefits to each judge of the local superior court:

69907. (a) In the County of San Diego, *in addition to any other compensation and benefits*, each judge of the superior court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, executive flexible benefits plan (except that if deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

(b) Subject to approval by the board of supervisors, each judge of the superior court shall receive long-term disability insurance to the same extent as provided by the County of San Diego for the classification of chief administrative officer.<sup>63</sup>

Similarly, Section 69909 requires the County of Riverside to provide supplemental benefits to each judge of the local superior court:

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63. Emphasis added.

69909. (a) In the County of Riverside, *in addition to any other compensation and benefits*, each judge of the superior court shall receive the county flexible benefits plan.

(b) Subject to approval by the board of supervisors, each judge of the superior court shall receive long-term disability insurance to the same extent as provided by the County of Riverside for other elected county officials.<sup>64</sup>

Sections 69907 and 69909 are comparable to the Los Angeles requirement on supplemental judicial benefits that was the subject of the three *Sturgeon* decisions. The Commission's role is to determine whether any material in those sections was made obsolete by trial court restructuring.<sup>65</sup>

In *Sturgeon I*, the court of appeal considered and squarely rejected the argument that county-provided, supplemental judicial benefits violate the Lockyer-Isenberg Trial Court Funding Act.<sup>66</sup> Nothing in *Sturgeon II* or *Sturgeon III* altered that conclusion,<sup>67</sup> and the Legislature expressly affirmed in SBX2 11 that it took such benefits into account when enacting the Lockyer-Isenberg Trial Court Funding Act.<sup>68</sup>

Given that history, **it is clear that the Commission should leave Sections 69907 and 69909 alone.** They do not appear to contain any material made obsolete by trial court restructuring, so there is no need for the Commission to propose any revisions. It is not the Commission's job to assess the policy merits of providing supplemental judicial benefits. That is the Legislature's nondelegable, constitutional duty, which it fulfilled by enacting SBX2 11, a statutory fix that has twice survived judicial scrutiny.<sup>69</sup>

**Does the Commission agree with this analysis?**

#### IV. COUNTY-SPECIFIC STATUTE RELATING TO MUNICIPAL AND SUPERIOR COURT PERSONNEL, INCLUDING JUDGES

Section 69893.7 (reproduced at pages 7-8 of the attached statutory compilation) applies to Yolo County. It relates to both municipal and superior court personnel. Among other things, it permits the board of supervisors to "extend the management benefits package to officers, assistants, and employees

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64. Emphasis added.

65. See Section 71674.

66. See discussion of "*Sturgeon I*" *supra*.

67. See discussions of "*Sturgeon II*" and "*Sturgeon III*" *supra*.

68. See discussion of "*Senate Bill X2 11 (Steinberg)*" *supra*.

69. See discussions of "*Sturgeon I*," "*Sturgeon II*," and "*Sturgeon III*" *supra*.

of the superior and municipal courts, *including judges*, on the same basis as it is extended to other officers and employees of the county.”<sup>70</sup>

Section 69893.7 also contains some provisions that relate specifically to compensation and employment of official court reporters and court reporters pro tempore.<sup>71</sup> Earlier this year, the Commission tested the water and determined that it is still not an opportune time to update the court reporter compensation statutes to reflect trial court restructuring.<sup>72</sup>

Any attempt to remove obsolete material from Section 69893.7 is likely to get mired in issues relating to court reporter compensation, even if the proposal tries not to address that topic. For that reason, **the staff recommends leaving the section alone until the Commission is ready to consider the court reporter compensation issues.** At that time, the Commission could comprehensively update Section 69893.7 to reflect trial court restructuring.

**Is that approach acceptable to the Commission?**

#### NEXT STEP

The staff is in the process of alerting knowledgeable sources to this study. **We encourage comments on any of the matters discussed in this memorandum.**

For the next meeting, we plan to discuss how to revise Sections 69894.3, 69894.4, 53200.3, 53214.5 to reflect trial court restructuring. **It would be helpful to receive input on which, if any, material in those sections has become obsolete due one or more of the trial court restructuring reforms.**

Respectfully submitted,

Barbara Gaal  
Chief Deputy Director

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70. Emphasis added.

71. See Section 69893.7(a), (c).

72. See Minutes (Aug. 2020), p. 3; see also Memorandum 2020-39; First Supplement to Memorandum 2020-39.



## Judicial Benefits Statutes from the 2001 Tentative Recommendation

1       **Staff Note.** In 2001, the Law Revision Commission solicited comment on its Tentative  
2 Recommendation on *Statutes Made Obsolete by Trial Court Restructuring* (Nov. 2001)  
3 (hereafter, “2001 tentative recommendation”). Among other things, the tentative recommendation  
4 included some statutes relating to judicial benefits.

5       The Commission did not include any proposed revisions of those statutes in its final  
6 recommendation on *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L.  
7 Revision Comm’n Reports 1 (2002) (hereafter, “TCR: Part 1”). Stakeholders were still  
8 considering issues relating to judicial benefits, so it was not yet possible to reach consensus on  
9 how to revise the statutes to remove material made obsolete by trial court restructuring.

10       One of those statutes (former Gov’t Code § 22754.35) has since been repealed. See 2004 Cal.  
11 Stat. ch. 69, § 23. Shown below are the remaining statutes on judicial benefits that were included  
12 in the 2001 tentative recommendation. Each provision (or set of provisions) is accompanied by a  
13 Staff Note, which provides relevant background information.

14       Unless otherwise indicated, all further statutory references are to the Government Code.

### 15                   I. COUNTY-SPECIFIC STATUTES RELATING SOLELY TO 16                   BENEFITS OF MUNICIPAL COURT JUDGES

#### 17                           A. EL CAJON JUDICIAL DISTRICT 18                           (COUNTY OF SAN DIEGO)

19       The following article is located in Chapter 10 of Title 8 of the Government  
20 Code:

#### 21                                   Article 9. El Cajon Judicial District

22       73640. This article applies to the municipal court established in a district  
23 embracing the Judicial District of El Cajon.

24       73642. (a) In addition to any other compensation and benefits, each judge of the  
25 municipal court shall receive the same life insurance, accidental death and  
26 dismemberment insurance, comprehensive annual physical examinations,  
27 executive flexible benefits plan, except that if deferred compensation is selected,  
28 no adjustment based on retirement tier shall apply, and dental and vision insurance  
29 as provided by the County of San Diego for the classification of chief  
30 administrative officer. Changes in these benefits shall be effective on the same  
31 date as those for the classification of chief administrative officer.

32       (b) Subject to approval by the board of supervisors, each judge of the municipal  
33 court shall receive one or more of the following benefits: the same long-term  
34 disability insurance as provided by the County of San Diego for the classification  
35 of chief administrative officer or retiree health benefits whereby each judge of the  
36 municipal court serving on or after October 1, 1987, who retires from the  
37 municipal court on or after January 1, 1989, shall receive the same amount of

1 insurance premium for retiree health benefits under the Public Employees’  
2 Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title  
3 2) that the state provides to retired superior court judges under that act.

4 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
5 “Article 9. El Cajon Judicial District,” which then consisted of many provisions. A Note  
6 following the text of Section 73642 said:

7 Issues involving judicial benefits are still unsettled, but Government Code  
8 Section 73642 is proposed for repeal because it falls within a municipal court article.  
9 The Commission solicits comments on whether the section should be preserved  
10 pending further study and review by interested parties, including the Judicial  
11 Council’s Task Force on Judicial Service.

12 After receiving comments on the 2001 tentative recommendation, the Commission decided  
13 that Article 9 should be repealed as proposed (subject to a savings clause), but Sections 73640  
14 and 73642 should be reenacted so as to preserve them until the status of judicial benefits was  
15 more clear. See Minutes (March 2002), p. 11; *TCR: Part 1*, at 363-64. The Legislature followed  
16 the Commission’s recommendation on this point. See 2002 Cal. Stat. ch. 784, §§ 415, 416.

17 Section 73640 has not been revised since 2002. Section 73642 was amended in 2004 to  
18 correct a cross-reference and make another technical change. See 2004 Cal. Stat. ch. 69, § 28. The  
19 section has not been revised since then.

20 **B. NORTH COUNTY JUDICIAL DISTRICT**  
21 **(COUNTY OF SAN DIEGO)**

22 The following article is located in Chapter 10 of Title 8 of the Government  
23 Code:

24 **Article 16. North County Judicial District**

25 73950. This article applies to the Municipal Court of the North County Judicial  
26 District.

27 73952. (a) In addition to any other compensation and benefits, each judge of the  
28 municipal court shall receive the same life insurance, accidental death and  
29 dismemberment insurance, comprehensive annual physical examinations,  
30 executive flexible benefits plan, except that if deferred compensation is selected,  
31 no adjustment based on retirement tier shall apply, and dental and vision insurance  
32 as provided by the County of San Diego for the classification of chief  
33 administrative officer. Changes in these benefits shall be effective on the same  
34 date as for those for the classification of chief administrative officer.

35 (b) Subject to approval by the board of supervisors, each judge of the municipal  
36 court shall receive one or more of the following benefits: the same long-term  
37 disability insurance as provided by the County of San Diego for the classification  
38 of chief administrative officer or retiree health benefits whereby each judge of the  
39 municipal court serving on or after October 1, 1987, who retires from the  
40 municipal court on or after January 1, 1989, shall receive the same amount of

1 insurance premium for retiree health benefits under the Public Employees’  
2 Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title  
3 2) that the state provides to retired superior court judges under that act.

4 73956. [Section 73956 is irrelevant for present purposes, because it will be  
5 repealed on January 1, 2021. See 2020 Cal. Stat. ch. 210, § 42.]

6 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
7 “Article 16. North County Judicial District,” which then consisted of many provisions. A Note  
8 following the text of Section 73952 said:

9 Issues involving judicial benefits are still unsettled, but Government Code  
10 Section 73952 is proposed for repeal because it falls within a municipal court article.  
11 The Commission solicits comments on whether the section should be preserved  
12 pending further study and review by interested parties, including the Judicial  
13 Council’s Task Force on Judicial Service.

14 After receiving comments on the 2001 tentative recommendation, the Commission decided  
15 that Article 16 should be repealed as proposed (subject to a savings clause), but Sections 73950  
16 and 73952 should be reenacted so as to preserve them until the status of judicial benefits was  
17 more clear. See Minutes (March 2002), p. 11; *TCR: Part 1*, at 381-83. The Legislature followed  
18 the Commission’s recommendation on this point. See 2002 Cal. Stat. ch. 784, §§ 438, 439.

19 Section 73950 has not been revised since 2002. Section 73952 was amended in 2004 to  
20 correct a cross-reference and make another technical change. See 2004 Cal. Stat. ch. 69, § 29. The  
21 section has not been revised since then.

## 22 C. RIVERSIDE COUNTY

23 The following article is located in Chapter 10 of Title 8 of the Government  
24 Code:

### 25 Article 20. Riverside County

26 74130. This article applies to the municipal courts established in Riverside  
27 County.

28 74145. (a) In addition to any other compensation and benefits, each judge of the  
29 municipal court shall receive the county flexible benefits plan.

30 (b) Subject to approval by the board of supervisors, each judge of the municipal  
31 court shall receive the same long-term disability insurance as provided by the  
32 County of Riverside for other elected county officials.

33 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
34 “Article 20. Riverside County,” which then consisted of many provisions. A Note following the  
35 text of Section 74145 said:

36 Issues involving judicial benefits are still unsettled, but Government Code  
37 Section 74145 is proposed for repeal because it falls within a municipal court article.  
38 The Commission solicits comments on whether the section should be preserved  
39 pending further study and review by interested parties, including the Judicial  
40 Council’s Task Force on Judicial Service.

1 After receiving comments on the 2001 tentative recommendation, the Commission decided  
2 that Article 20 should be repealed as proposed (subject to a savings clause), but Sections 74130  
3 and 74145 should be reenacted so as to preserve them until the status of judicial benefits was  
4 more clear. See Minutes (March 2002), p. 11; *TCR: Part 1*, at 384-85. The Legislature followed  
5 the Commission's recommendation on this point. See 2002 Cal. Stat. ch. 784, §§ 442, 443.  
6 Sections 74130 and 74145 have not been revised since 2002.

7 D. SAN DIEGO JUDICIAL DISTRICT  
8 (COUNTY OF SAN DIEGO)

9 The following article is located in Chapter 10 of Title 8 of the Government  
10 Code:

11 Article 25. San Diego Judicial District

12 74340. This article applies to the municipal court established in a district  
13 embracing that portion of the City of San Diego not included within the South Bay  
14 Municipal Court District.

15 74342. (a) In addition to any other compensation and benefits, each judge of the  
16 municipal court shall receive the same life insurance, accidental death and  
17 dismemberment insurance, comprehensive annual physical examinations,  
18 executive flexible benefits plan, except that if deferred compensation is selected,  
19 no adjustment based on retirement tier shall apply, and dental and vision insurance  
20 as provided by the County of San Diego for the classification of chief  
21 administrative officer. Changes in these benefits shall be effective on the same  
22 date as for those for the classification of chief administrative officer.

23 (b) Subject to approval by the board of supervisors, each judge of the municipal  
24 court shall receive one or more of the following benefits: the same long-term  
25 disability insurance as provided by the County of San Diego for the classification  
26 of chief administrative officer or retiree health benefits whereby each judge of the  
27 municipal court serving on or after October 1, 1987, who retires from the  
28 municipal court on or after January 1, 1989, shall receive the same amount of  
29 insurance premium for retiree health benefits under the Public Employees'  
30 Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title  
31 2) that the state provides to retired superior court judges under that act.

32 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
33 "Article 25. San Diego Judicial District," which then consisted of many provisions. A Note  
34 following the text of Section 74342 said:

35 Issues involving judicial benefits are still unsettled, but Government Code  
36 Section 74342 is proposed for repeal because it falls within a municipal court article.  
37 The Commission solicits comments on whether the section should be preserved  
38 pending further study and review by interested parties, including the Judicial  
39 Council's Task Force on Judicial Service.

1 After receiving comments on the 2001 tentative recommendation, the Commission decided  
2 that Article 25 should be repealed as proposed (subject to a savings clause), but Sections 74340  
3 and 74342 should be reenacted so as to preserve them until the status of judicial benefits was  
4 more clear. See Minutes (March 2002), p. 11; *TCR: Part 1*, at 387-88. The Legislature followed  
5 the Commission's recommendation on this point. See 2002 Cal. Stat. ch. 784, §§ 446, 447.

6 Section 74340 has not been revised since 2002. Section 74342 was amended in 2004 to  
7 correct a cross-reference and make another technical change. See 2004 Cal. Stat. ch. 69, § 30. The  
8 section has not been revised since then.

9 E. SOUTH BAY JUDICIAL DISTRICT  
10 (COUNTY OF SAN DIEGO)

11 The following article is located in Chapter 10 of Title 8 of the Government  
12 Code:

13 Article 30. South Bay Judicial District

14 74740. Notwithstanding Section 71040, there shall be a municipal court in a  
15 judicial district, embracing the Cities of Chula Vista, Coronado, Imperial Beach,  
16 National City, that portion of the City of San Diego lying southerly of the City of  
17 Chula Vista and the portion of the City of San Diego lying within San Diego Bay  
18 south of a westerly continuation of the northern boundary of National City to the  
19 point of intersection with the eastern boundary of the City of Coronado, and such  
20 other contiguous area as the board of supervisors may direct, designated the South  
21 Bay Judicial District.

22 This article applies to the municipal court established pursuant to this section.

23 74742. (a) In addition to any other compensation and benefits, each judge of the  
24 municipal court shall receive the same life insurance, accidental death and  
25 dismemberment insurance, comprehensive annual physical examinations,  
26 executive flexible benefits plan, except that if deferred compensation is selected,  
27 no adjustment based on retirement tier shall apply, and dental and vision insurance  
28 as provided by the County of San Diego for the classification of chief  
29 administrative officer. Changes in those benefits shall be effective on the same  
30 date as for those for the classification of chief administrative officer.

31 (b) Subject to approval by the board of supervisors, each judge of the municipal  
32 court shall receive one or more of the following benefits: the same long-term  
33 disability insurance as provided by the County of San Diego for the classification  
34 of chief administrative officer or retiree health benefits whereby each judge of the  
35 municipal court serving on or after October 1, 1987, who retires from the  
36 municipal court on or after January 1, 1989, shall receive the same amount of  
37 insurance premium for retiree health benefits under the Public Employees'  
38 Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Title  
39 2) that the state provides to retired superior court judges under that act.

1 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
2 “Article 30. South Bay Judicial District,” which then consisted of many provisions. A Note  
3 following the text of Section 74742 said:

4 Issues involving judicial benefits are still unsettled, but Government Code  
5 Section 74742 is proposed for repeal because it falls within a municipal court article.  
6 The Commission solicits comments on whether the section should be preserved  
7 pending further study and review by interested parties, including the Judicial  
8 Council’s Task Force on Judicial Service.

9 After receiving comments on the 2001 tentative recommendation, the Commission decided  
10 that Article 30 should be repealed as proposed (subject to a savings clause), but Sections 74740  
11 and 74742 should be reenacted so as to preserve them until the status of judicial benefits was  
12 more clear. See *TCR: Part 1*, at 396-98. The Legislature followed the Commission’s  
13 recommendation on this point. See 2002 Cal. Stat. ch. 784, §§ 459, 460.

14 Section 74740 has not been revised since 2002. Section 74742 was amended in 2004 to  
15 correct a cross-reference and make another technical change. See Minutes (March 2002), p. 11;  
16 2004 Cal. Stat. ch. 69, § 31. The section has not been revised since then.

## 17 II. STATEWIDE STATUTE ONLY SPECIFYING CERTAIN BENEFITS 18 OF SOME RETIRED MUNICIPAL COURT JUDGES

19 77210. (a) The state shall provide municipal court judges retired under the  
20 Judges’ Retirement System with retiree health, dental, and vision care plans equal  
21 to and in the same manner as the health, dental, and vision benefits provided to  
22 retired superior court judges.

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

25 **Staff Note.** The Commission included Section 77210 in the 2001 tentative recommendation,  
26 but did not propose any revisions to the section. Instead, an accompanying Note said:

27 Issues involving judicial benefits are still unsettled. The Commission proposes to  
28 defer work on Section 77210 pending further study and review by interested parties,  
29 including the Judicial Council’s Task Force on Judicial Service. The Commission  
30 solicits comments on these issues.

31 The section is retirement-related, so the reference to municipal court judges would  
32 be retained.

33 After receiving comments on the 2001 tentative recommendation, the Commission decided  
34 not to propose any revision of Section 77210 in its final recommendation. See *TCR: Part 1*, at 25.  
35 Section 77210 was last amended in 1997.

## 36 III. COUNTY-SPECIFIC STATUTES RELATING SOLELY TO 37 BENEFITS OF SUPERIOR COURT JUDGES

### 38 A. SAN DIEGO COUNTY

39 69907. (a) In the County of San Diego, in addition to any other compensation  
40 and benefits, each judge of the superior court shall receive the same life insurance,  
41 accidental death and dismemberment insurance, comprehensive annual physical

1 examinations, executive flexible benefits plan (except that if deferred  
2 compensation is selected, no adjustment based on retirement tier shall apply), and  
3 dental and vision insurance as provided by the County of San Diego for the  
4 classification of chief administrative officer. Changes in these benefits shall be  
5 effective on the same date as for those for the classification of chief administrative  
6 officer.

7 (b) Subject to approval by the board of supervisors, each judge of the superior  
8 court shall receive long-term disability insurance to the same extent as provided by  
9 the County of San Diego for the classification of chief administrative officer.

10 **Staff Note.** The Commission included Section 69907 in the 2001 tentative recommendation,  
11 but did not propose any revisions to the section. Instead, an accompanying Note said:

12 Issues involving judicial benefits are still unsettled. The Commission proposes to  
13 defer work on Section 69907 pending further study and review by interested parties,  
14 including the Judicial Council’s Task Force on Judicial Service. The Commission  
15 solicits comments on these issues.

16 After receiving comments on the 2001 tentative recommendation, the Commission  
17 decided not to propose any revision of Section 69907 in its final recommendation. See *TCR: Part*  
18 *I*, at 25.

19 Section 69907 was last amended in 1990.

## 20 B. RIVERSIDE COUNTY

21 69909. (a) In the County of Riverside, in addition to any other compensation and  
22 benefits, each judge of the superior court shall receive the county flexible benefits  
23 plan.

24 (b) Subject to approval by the board of supervisors, each judge of the superior  
25 court shall receive long-term disability insurance to the same extent as provided by  
26 the County of Riverside for other elected county officials.

27 **Staff Note.** The Commission included Section 69909 in the 2001 tentative recommendation,  
28 but did not propose any revisions to the section. Instead, an accompanying Note said:

29 Issues involving judicial benefits are still unsettled. The Commission proposes to  
30 defer work on Section 69909 pending further study and review by interested parties,  
31 including the Judicial Council’s Task Force on Judicial Service. The Commission  
32 solicits comments on these issues.

33 After receiving comments on the 2001 tentative recommendation, the Commission  
34 decided not to propose any revision of Section 69909 in its final recommendation. See *TCR: Part*  
35 *I*, at 25.

36 Section 69909 has not been revised since being renumbered in 1991.

1 IV. COUNTY-SPECIFIC STATUTE RELATING TO MUNICIPAL AND  
2 SUPERIOR COURT PERSONNEL, INCLUDING JUDGES  
3 (YOLO COUNTY)

4 69893.7. Notwithstanding any other provision of law, the following provisions  
5 shall apply to the Yolo County superior and municipal courts.

6 (a) To assist the court in the performance of its duties and the exercise of the  
7 powers conferred by law upon the court, a majority of the judges of the superior  
8 and municipal courts, with the approval of the board of supervisors, may establish  
9 such job classifications and may appoint a clerk and such officers, assistants, and  
10 employees, including official court reporters, as necessary. A majority of the  
11 judges of the superior and municipal courts may delegate the creation of job  
12 classifications and the appointment of employees to the court executive officer.  
13 Official court reporters shall hold office at the pleasure of the appointing officer.

14 (b) The compensation, including salary, retirement, vacations, and other  
15 benefits, of all Yolo County superior and municipal court officers and employees  
16 may be adjusted by the board of supervisors. The board of supervisors may extend  
17 the management benefits package to officers, assistants, and employees of the  
18 superior and municipal courts, including judges, on the same basis as it is  
19 extended to other officers and employees of the county. Unless otherwise provided  
20 by law, employees of the superior and municipal courts are subject to the  
21 personnel regulations, memoranda of understanding and affirmative action plan of  
22 the county.

23 (c) In addition to the official court reporters, the presiding judge of the superior  
24 and municipal courts may appoint as many court reporters pro tempore as the  
25 business of the court requires, who shall hold office at his or her pleasure. The  
26 court reporters pro tempore shall be unsalaried, but shall be compensated at a rate  
27 to be established by joint action of the board of supervisors and a majority of the  
28 judges of the superior and municipal courts. In criminal cases, the compensation of  
29 the court reporters pro tempore shall, upon order of the court, be a charge against  
30 the general fund of the county. The presiding judge of the superior and municipal  
31 courts may delegate the appointment of court reporters pro tempore and the  
32 determination of their salary to the court executive officer.

33 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
34 Section 69893.7. There was no accompanying Note soliciting comments.

35 After receiving comments on the tentative recommendation, the Commission decided not to  
36 propose any revision of Section 69893.7 in its final recommendation. See Minutes (March 2002),  
37 p. 11; *TCR: Part 1*, at 15 (discussing court reporter compensation), 25 (discussing judicial  
38 compensation).

39 Section 69893.7 has not been amended since 1996.



1           V. COUNTY-SPECIFIC STATUTES RELATING SOLELY TO  
2           SUPERIOR COURT PERSONNEL (APPLICABLE WHERE COUNTY  
3           POPULATION EXCEEDS 2,000,000)

4           69894.3. Employees of the superior court in each county having a population of  
5 over 2,000,000 shall be entitled to step advancement, vacation, sick leave, holiday  
6 benefits and other leaves of absence and other benefits as may be directed by rules  
7 of the court. Where statutes require implementation by local ordinances for the  
8 extension of benefits to local officers and employees, these may be made  
9 applicable by rule to court personnel, including but not limited to jurors, and  
10 judges.

11          These benefits shall also include the same lump sum payments for sick leave  
12 and vacation for the superior court employees when they are separated from the  
13 service as are made to county employees of the county; except that lump-sum  
14 payments to court commissioners when separated from the service of the superior  
15 court shall be limited to accrued vacation if any, as is provided by local rule of  
16 court, exclusive of accrued sick leave.

17          Court employees under this section shall have the right to transfer to other  
18 departments in the county government, subject to the approval of the board of  
19 supervisors, the county charter, and other usual conditions that may be placed  
20 upon the transfer, including, but not limited to, a requirement that the transferee  
21 successfully complete an appropriate civil service examination. The right of  
22 transfer shall not give any employee any additional rights by reason of his  
23 employment with the court, other than those to which he would have been entitled  
24 if the employment had been with a different department of the county government.

25          Employment by the court shall be deemed to be employment by the county, if  
26 approved by rule of court, for the purpose of determining a court employee's  
27 rights with respect to a county's ordinances providing for salary step  
28 advancements and other employee benefits and rights, including, but not limited  
29 to, amount of compensation, vacations, sick leave, and accumulated sick leave.

30          In any such county attachés may be voluntarily transferred from a position in  
31 one judicial district to a position in another within the county and promoted or  
32 voluntarily demoted from a position in one judicial district to a position in another  
33 within the county in substantially the same manner as transfers, demotions and  
34 promotions are authorized generally in county departments or between  
35 departments of the county.

36          Rules of the court may include other matters pertaining to the general  
37 administration of the court, including conditions of employment of court  
38 personnel, including but not limited to jurors and judges. When rules are adopted  
39 by a majority of the judges and filed with the Judicial Council they shall have the  
40 same status as other rules of court adopted pursuant to Section 68070.

1 When requested to do so by the court the county shall through the county civil  
2 service commission furnish to the court services as may be required in connection  
3 with the recruitment and employment of court officers and employees.

4 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
5 Section 69894.3. An accompanying Note said:

6 The Commission solicits comments regarding the continuing usefulness of  
7 Government Code Section 69894.3 or any of its provisions, particularly those  
8 that refer to jury benefits and the right of court employees to transfer to  
9 employment in county departments.

10 Issues involving judicial benefits are still unsettled, but Section 69894.3 is  
11 proposed for repeal because most of the provisions appear to be superseded  
12 by the Trial Court Employment Protection and Governance Act and the Trial  
13 Court Funding Act. The Commission solicits comments on whether the  
14 provisions regarding judicial benefits should be preserved pending further  
15 study and review by interested parties, including the Judicial Council's Task  
16 Force on Judicial Service.

17 Section 69894.3 could potentially apply to Los Angeles, Orange, and San  
18 San Diego Counties.

19 After receiving comments on the tentative recommendation, the Commission decided not to  
20 propose any revision of Section 69894.3 in its final recommendation. See Minutes (March 2002),  
21 p. 11; *TCR: Part I*, at 25.

22 Section 69894.3 has not been amended since 1994.

23 69894.4. All of the employees provided for in Section 69894.1 and judges of the  
24 superior court in each county having a population of over 2,000,000 shall be  
25 allowed actual traveling and necessary expenses incurred while engaged in the  
26 duties of their office, which shall be the same as allowed to officers and  
27 employees of such county. Any expenses for travel outside of the county shall  
28 require the prior approval of the board of supervisors.

29 Whenever, because of the nature of the duties of any judge or officer of the  
30 court, the board of supervisors determines that the best interest of the county and  
31 the court would be served, it may assign an automobile in lieu of allowing travel  
32 expenses.

33 The salaries provided for in said Section 69894.1 shall be paid by the county out  
34 of such fund as other salary demands against the county are paid. The expenses  
35 provided for in this section shall be paid in monthly installments out of the general  
36 fund. Salaries and expenses shall be audited in the same manner as the law  
37 requires for other demands against the county.

38 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
39 Section 69894.4. An accompanying Note said:

40 Government Code Section 69894.4 could potentially apply to Los Angeles,  
41 Orange, and San Diego Counties.

42 After receiving comments on the tentative recommendation, the Commission decided not to  
43 propose any revision of Section 69894.4 in its final recommendation. See Minutes (March 2002),  
44 pp. 13-14; see also Memorandum 2002-17, pp. 27-28.

45 Section 69894.4 was added to the Government Code in 1959 and has never been amended.

1 VI. STATEWIDE STATUTES RELATING TO COURT PERSONNEL,  
2 INCLUDING MUNICIPAL AND SUPERIOR COURT JUDGES

3 53200.3. For the limited purpose of the application of this article, judges of the  
4 superior and municipal courts and the officers and attachés of said courts whose  
5 salaries are paid either in whole or in part from the salary fund of the county are  
6 county employees and shall be subject to the same or similar obligations and be  
7 granted the same or similar employee benefits as are now required or granted to  
8 employees of the county in which the court of said judge, officer, or attaché is  
9 located.

10 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
11 Section 53200.3. An accompanying Note said:

12 Issues involving judicial benefits are still unsettled, but Section 53200.3 is  
13 proposed for repeal because most of the provisions appear to be superseded  
14 by the Trial Court Employment Protection and Governance Act or the Trial  
15 Court Funding Act. The Commission solicits comments on whether the  
16 provisions regarding judicial benefits should be preserved pending further  
17 study and review by interested parties, including the Judicial Council's Task  
18 Force on Judicial Service.

19 After receiving comments on the tentative recommendation, the Commission decided not  
20 to propose any revision of Section 53200.3 in its final recommendation. See Minutes (March  
21 2002), p. 11; see also *TCR: Part 1*, at 25.

22 Section 53200.3 has not been amended since 1977.

23 53214.5. A county or city and county which pays the salaries, either in whole or  
24 in part, of judges of the superior and municipal courts and the officers and attachés  
25 of those courts may allow the judges, officers, and attachés to participate in any  
26 deferred compensation plan established pursuant to this article. Any county or city  
27 and county is hereby authorized to enter into a written agreement with the judges,  
28 officers, and attachés providing for deferral of a portion of their wages. The  
29 judges, officers, and attachés may authorize deductions to be made from their  
30 wages for the purpose of participating in the deferred compensation plan.

31 **Staff Note.** In the 2001 tentative recommendation, the Commission proposed to repeal  
32 Section 53214.5. An accompanying Note said:

33 Issues involving judicial benefits are still unsettled, but Section 53214.5 is  
34 proposed for repeal because most of the provisions appear to be superseded  
35 by the Trial Court Employment Protection and Governance Act or the Trial  
36 Court Funding Act. The Commission solicits comments on whether the  
37 provisions regarding judicial benefits should be preserved pending further  
38 study and review by interested parties, including the Judicial Council's Task  
39 Force on Judicial Service.

40 After receiving comments on the tentative recommendation, the Commission decided not  
41 to propose any revision of Section 53214.5 in its final recommendation. See Minutes (March  
42 2002), p. 11; see also *TCR: Part 1*, at 25.

43 Section 53214.5 has not been revised since being renumbered in 1981.