

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Statutes Made Obsolete by Trial Court Restructuring

November 2001

This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be a part of the public record and will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made in the tentative recommendation.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN February 15, 2002.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING

SUMMARY OF TENTATIVE RECOMMENDATION

In the late 1990's, California's trial court system was substantially restructured through state funding of trial court operations, trial court unification, and reforms relating to trial court employment. As a result, hundreds of statutes are now obsolete. The Law Revision Commission proposes amendment or repeal of the obsolete provisions to reflect the restructuring of the trial court system.

In addition to the numerous revisions proposed in this recommendation, other statutes require amendment or repeal but are not included here because stakeholders have not yet reached agreement on key issues, further research is necessary in light of the complexity of the law, or additional time is required to prepare appropriate revisions due to the sheer volume of statutory material involved. The Commission will continue its work on statutes made obsolete by trial court restructuring with the objective of recommending further clean up of the statutes from time to time.

This recommendation was prepared pursuant to Government Code Section 71674.

STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING

INTRODUCTION

The Legislature has directed the California Law Revision Commission to recommend the repeal of statutes made obsolete by trial court funding reform, trial court unification, and trial court employment reform.¹ The recommendation is due by January 1, 2002.

The Law Revision Commission submits this recommendation in fulfillment of the legislative directive. In addition to the numerous revisions proposed, many other statutes require amendment or repeal but are not included in this recommendation because stakeholders have not yet reached agreement on key issues, further research is required due to complexity of the law, or additional time is required to prepare appropriate revisions due to the sheer volume of statutory material involved.

For these reasons, the Law Revision Commission recommends that the January 1, 2002, deadline be removed from the statute. Elimination of the deadline will allow the Commission to continue its work in this area and recommend further clean up of the statutes from time to time.

METHODOLOGY

The body of existing statutory material affected by trial court restructuring is immense. Nearly every provision of Title 8 of the Government Code, relating to the organization and government of the courts, requires review and evaluation. That Title alone occupies several volumes of the annotated codes, comprising more than 2,000 statute sections.² Trial court restructuring also affects provisions in other parts of the Government Code and in other codes, particularly the Code of Civil Procedure and Penal Code.

To handle this massive amount of statutory material, the Commission has dealt with it thematically, systematically examining different types of provisions: statutes dealing with the number of judges, statutes dealing with the court clerk, statutes dealing with official reporters, statutes unique to a specific county, and the like. The Commission prepared preliminary drafts relating to each topic and sent them to interested persons and organizations for review and comment. Drafts were circulated to courts, counties, labor unions, professional associations, the Administrative Office of the Courts, and state bar committees, among others.

After reviewing comments and making appropriate adjustments in the drafts, the Commission assembled all the material into a comprehensive document: this tentative recommendation on *Statutes Made Obsolete by Trial Court Restructuring*. To facilitate review of the substantial volume of material, **the Commission has inserted Notes in appropriate places in the draft calling attention to specific issues.** The Commission

1. Gov't Code § 71674. The directive is part of the Trial Court Employment Protection and Governance Act, operative January 1, 2001.

2. The reasons for this are historical. The California Constitution provides that the Legislature must prescribe the number, qualifications, and compensation of municipal court employees, as well as provide for the officers and employees of the superior courts. Cal. Const. art. VI, §§ 4, 5.

has identified these matters as nonroutine and specifically solicits comment on these potentially problematic provisions.

Although the proposed legislation was prepared during 2001, amendments are directed towards the statutes as they will exist on January 1, 2002. The changes proposed would be enacted during 2002 and become operative on January 1, 2003.

The deadline for comments on the tentative recommendation is February 15, 2002. The Commission will review comments at its mid-March, 2002, meeting and make any necessary revisions before submitting its report to the Legislature.

BACKGROUND

The restructuring of the trial court system during the late 1990's was monumental. It included (1) the state's assumption of responsibility for trial court funding, (2) unification of the justice courts, municipal courts, and superior courts, and (3) transfer of control of trial court employment to the courts.

These enactments override a massive statutory structure that is now at odds with the governing law. To date, the only systematic effort to conform existing statutes to the new law is the Law Revision Commission's overhaul of the codes in 1998 to accommodate trial court unification.³ Even that effort is incomplete, since municipal courts still existed at the time.⁴ County-specific statutes dealing with individual municipal courts in the various counties were not addressed at that time, pending resolution of employment issues. Many statutes still reflect a dual court system.

Trial Court Funding

The major event in trial court funding reform was enactment of the Trial Court Funding Act of 1997.⁵ That legislation consolidated funding of the trial courts at the state level.

Under the new system the state has assumed full responsibility for funding trial court operations.⁶ The Judicial Council annually submits a trial court budget to the Governor for inclusion in the state budget, which is intended to meet the needs of all trial courts. The Judicial Council administers the budgetary allotment by making payments to the courts.

The counties annually make a contribution to the state, based on fiscal year 1994-95 levels, with a mechanism for adjustment to correct inequities. The counties are required to continue funding court facilities and court-related costs that are not considered part of court operations, such as indigent defense, pretrial release, and probation costs.

The funding reform also contemplates a decentralized system of trial court management. The Judicial Council is required to adopt rules of court to promote such a system.

To the extent that existing statutes are inconsistent with this scheme, they need to be reformed. For example, some statutes still vest control over court operations in county boards of supervisors. These statutes are inconsistent with the concepts of state control of trial court funding and court control of court operations. However, county control of

3. *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51 (1998). See 1998 Cal. Stat. ch. 931; see also 1999 Cal. Stat. ch. 344.

4. Unification proceeded on a county by county basis. The municipal and superior courts in Kings County unified on February 8, 2001, eliminating the last remaining municipal courts.

5. See Gov't Code §§ 77000-77655.

6. *Cf.* Gov't Code § 77003 and Cal. R. Ct. 810 ("court operations").

some of these matters may still be appropriate. It is necessary to treat the issues on a section by section basis.

Trial Court Unification

The California Constitution was amended in 1998 to permit the municipal and superior courts in each county to unify.⁷ As of February 8, 2001, the courts in all of California's 58 counties have unified.

Although many of the key statutes have been revised to accommodate unification of the trial courts, two significant chores remain in the wake of unification. Now that all courts have unified, the general statutes should be cleared of remnants relating to the former municipal courts. In addition, various county-specific statutes relating to individual municipal courts must be repealed or recast. To a large extent, this involves eliminating superseded employment statutes for the courts.

Trial Court Employment Protection and Governance

The Trial Court Employment Protection and Governance Act was adopted effective January 1, 2001.⁸ It establishes the basis for a new personnel system for employees of California's trial courts. Under the act, trial court employees become employees of the court, not of the state or county. The employees may be considered county employees for the purpose of certain benefits. The local court is given control over budget and personnel decisions.

The act maintains employees' current classifications and salaries, and current levels of benefits. It provides discipline for cause and due process hearing procedures as part of the employment protection system. It establishes a personnel system based on merit, for purposes of employment selection and advancement. It does not alter the means by which memoranda of understanding and personnel policies, procedures, and plans are modified.

More than half of Title 8 of the Government Code (organization and governance of courts) is devoted to detailed statutes governing employment in every former municipal court. These statutes have been rendered largely obsolete by the enactment of trial court funding, unification, and employment reforms. They are ripe for repeal.

SPECIFIC ISSUES

Due to the volume of obsolete statutory material proposed for amendment or repeal, it is impossible to detail here every type of revision being proposed. For each section being revised, the Commission has prepared commentary citing relevant constitutional or statutory provisions relating to trial court restructuring. The general approach proposed for certain types of statutes, and the proposed resolution of key substantive issues, is described below.

7. Cal. Const. art. VI, § 5(e).

8. See Gov't Code §§ 71600-71674.

California Constitution

A number of provisions of the California Constitution reflect a trial court structure that included municipal courts.⁹ The constitutional provisions should be amended to reflect unification of the trial courts.

The proposed legislation includes repeal of Article VI, Section 23, of the Constitution, containing transitional provisions for trial court unification. The transitional provisions have little effect now that unification is complete, and in any event there remain statutory transitional provisions that are more comprehensive.¹⁰

Judges

The California Constitution requires the Legislature to prescribe the number of judges in each county.¹¹ The Legislature has prescribed the number of judges in various counties,¹² but the statutes are incorrect as a result of unification of the courts.¹³

As part of this project, the Commission recommends that the statutes be corrected to conform to the actual number of superior court judgeships in each county after unification with the municipal courts. The corresponding municipal court statutes should be repealed.

Many statutes refer to “the judge” or judges of the superior court, to the presiding judge or “senior judge” of the court, or to the presiding judge or “sole judge” of the court.¹⁴ Every superior court now has a presiding judge¹⁵ and, as a result of unification, every superior court has at least two judgeships. The proposed legislation would clean up language reflective of an earlier era.

Subordinate Judicial Officers

The California Constitution authorizes the Legislature to provide for subordinate judicial officers.¹⁶ Subordinate judicial officers include commissioners and referees. The Legislature has provided for subordinate judicial officers through a number of statutes.¹⁷

9. See Cal. Const. art. VI, §§ 1 (judicial power), 5 (municipal court), 6 (Judicial Council), 8 (Commission on Judicial Performance), 10 (original jurisdiction), 15 (qualifications of judges), 16 (election of judges), and 23 (transitional provisions).

10. See Gov’t Code §§ 70200-70218.

11. Cal. Const. art. VI, §§ 4, 5.

12. Gov’t Code §§ 69580-69620 (superior court), 72600-74997 (municipal court).

13. On unification of the superior and municipal courts in a county, the previously selected municipal court judges become superior court judges. Cal. Const. art. VI, § 23(b); Gov’t Code § 70211(a). Until revised by statute, the total number of judgeships in the unified superior court equals the previously authorized number of judgeships in the municipal court and superior court combined. Gov’t Code § 70211(a).

14. See, e.g., Code Civ. Proc. § 404.9; Gov’t Code §§ 23396, 68115, 68546, 69753, 71341, 72190, 72190.1, 72190.2, 72196; Penal Code §§ 924.4, 6031.1; Welf. & Inst. Code § 1737.

15. Gov’t Code § 69508.5 (presiding judge).

16. Cal. Const. Art. VI, § 22 (“The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties.”)

The proposed legislation would revise Government Code Section 71601(i) to eliminate the implication that a commissioner serving as a temporary judge acts under auspices of Article 1, Section 22. The authority of a temporary judge is derived from Article 1, Section 21, of the California Constitution (temporary judges). See also Code Civ. Proc. § 259(e) (powers of court commissioners); Fam. Code § 4251(b) (powers of child support commissioners).

17. See, e.g., Gov’t Code §§ 70140-70148 (court commissioners).

The Trial Court Employment Protection and Governance Act has established far-reaching provisions relating to subordinate judicial officers that appear to eclipse much of existing law relating to authorization and appointment of subordinate judicial officers.¹⁸ Pursuant to this statute the Legislature has exercised its constitutional authority to “provide for” appointment of subordinate judicial officers by delegating the matter to the courts, subject to the control of the Judicial Council. This renders obsolete much of the existing statutory structure relating to subordinate judicial officers, which should be repealed.¹⁹

Court Clerks

Many statutes relating to trial court operations involve the county clerk. These statutes date from an era when the county clerk was ex officio clerk of the superior court.²⁰

These statutes are now obsolete. Pursuant to statutory authority,²¹ every superior court now has an executive or administrative officer who serves as court clerk. Moreover, the shift of trial court funding from the county to the state renders inappropriate statutes that impose court-related duties on the county clerk.²² The proposed legislation revises statutes designating the “county clerk” as the relevant officer for court-related functions. These provisions would refer instead to the “court clerk.” The statutes will operate satisfactorily regardless of whether the particular function is performed by the county clerk, court executive officer, or another court appointee.²³

Official Reporters

The Legislature has enacted an extensive body of law governing official reporters and official reporters pro tempore in each county. Issues covered include appointment, tenure, compensation, benefits, and the like.²⁴ The statutes are remarkably detailed and diverse.

To a large extent these provisions are superseded by the Trial Court Employment Protection and Governance Act. For example, statutes providing that superior court or municipal court official reporters hold office “during the pleasure” of the appointing court, as well as municipal court statutes providing civil service protections to official

18. Gov’t Code § 71622.

19. Many general and county-specific statutes limit or prohibit the practice of law by a subordinate judicial officer. See, e.g., Gov’t Code §§ 70141.1 (superior court commissioner in El Dorado County), 70142 (superior court commissioners), 72190 (municipal court commissioners), 72450 (municipal court traffic trial commissioners), 74703(e) (temporary municipal court traffic referees in Sonoma County), 74925 (municipal court commissioner in Tulare County), 74982(d) (part-time municipal court commissioners in Shasta County). These provisions would be replaced by a general prohibition on the practice of law by a subordinate judicial officer except to the extent permitted by Judicial Council rules. See proposed revision of Gov’t Code § 71622 (subordinate judicial officers), *infra*.

20. See, e.g., former Cal Const. art. I, § 4.

21. Gov’t Code §§ 26800, 69898.

22. See Gov’t Code § 77200.

23. The proposed law would make clear the authority of the court to appoint a deputy court clerk who has the authority of a court clerk, just as a deputy county clerk has the authority of a county clerk. See proposed Gov’t Code § 69840 (powers, duties, and responsibilities of clerk of court and deputy clerk of court) and the proposed revision of Gov’t Code § 71620 (trial court personnel), *infra*.

24. See, e.g., Gov’t Code §§ 69941-69959 (general provisions governing superior court reporters throughout state).

reporters, are generally superseded by the employment protection provisions of the new law.²⁵

It should be noted, however, that not all official reporters are court employees. Some, particularly those appointed as official reporters pro tempore, are not necessarily employees and may be subject to different governing principles.

Moreover, some provisions governing official reporters cannot necessarily be considered obsolete. General statutes dealing with fees and allocation of costs, for example, appear to reflect deliberate policy choices regarding not only compensation of court reporters, but the costs of court reporting to the court and to the parties.²⁶ These provisions should be preserved in the law.²⁷

Several issues relating to official reporters have been the subject of extended debate. In particular, it is unsettled whether the basic compensation and benefit-setting mechanism of the Trial Court Employment Protection and Governance Act supersedes specific statutes relating to compensation in individual counties. The individual county statutes are obsolete and are in need of revision, if not outright repeal, since most of them still appear to involve county boards of supervisors in the bargaining process. This scheme is no longer appropriate for court employees under state funding and court control. To resolve this matter and permit repeal of hundreds of obsolete statutes concerning official reporter compensation, the Law Revision Commission plans to recommend appropriate revision of the statutes. **The Commission has not yet determined the content of its recommendation on this matter. The Commission solicits commentary addressed to it.**

The issue of electronic reporting is also highly politicized. The proposed legislation seeks to avoid disturbing the status quo on the matter.²⁸

Sheriffs and Marshals

Historically, sheriffs, marshals, and constables each served a different trial court. Sheriffs were associated with the superior court, marshals with the municipal court, and constables with the justice court. Each of these officers has non-court, as well as court-related, functions. In the aftermath of trial court funding reform, the courts contract directly for the provision of court security services.²⁹

Consolidation of sheriff and marshal operations has been an ongoing process.³⁰ In most counties, the sheriff has assumed operations formerly performed by the marshal. In four

25. Compare, e.g., Gov't Code § 69941 ("at pleasure" tenure of superior court reporters) with Gov't Code §§ 71620 (trial court personnel), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court).

26. See, e.g., Gov't Code § 69950 (transcription fees).

27. Some provisions relating to court reporters should be simplified and clarified without substantive change, as proposed in the Commission's recommendation on *Cases in Which Court Reporter is Required*. These nonsubstantive revisions have been incorporated in this tentative recommendation on *Statutes Made Obsolete by Trial Court Restructuring*.

28. For example, the proposed legislation would preserve the provision of Government Code Section 70141.11 (subordinate judicial officers in Contra Costa County) to the effect that, "Any court reporting functions for the commissioner may be by electronic or mechanical means and devices."

29. Gov't Code § 77212.5 (contracts for court security services). This provision is limited to courts for which sheriff-provision of services is required by law. Trial courts that employ marshals are not required to hire sheriffs under this section, nor are they required to enter into agreements with sheriffs.

30. See, e.g., Gov't Code §§ 26625-26625.15 (Contra Costa County), 26630-26637 (Ventura County), 26638.1-26638.11 (Sacramento County), 26639-26639.3 (Los Angeles County), 26639.5-26639.6 (Solano

counties the marshal's office currently performs services for the superior court.³¹ The consolidation statutes may continue to serve functions in some counties to the extent that they guarantee continuing rights of former marshal personnel. The proposed legislation accommodates this situation by generally preserving the existing consolidation statutes but adding a 15-year sunset clause to each of the statutes.³²

County-Specific Municipal Court Statutes

More than half of Title 8 of the Government Code (Organization and Government of Courts) — in excess of 1,000 statute provisions — is devoted to details of structure and employment in the municipal courts in various judicial districts in the state. That voluminous legislation is the result of the constitutional requirement that the Legislature prescribe the number, qualifications, and compensation of judges, officers, and employees of the municipal courts.³³ With unification of the trial courts in every county, and with the elimination of the municipal courts on unification, these statutes are now largely obsolete.³⁴

The transitional provisions for trial court unification make clear that, pending further legislative action, municipal court personnel become superior court personnel. The transitional provisions also preserve the salaries, benefits, and employment rights of municipal court personnel.³⁵

The Legislature has now acted to provide a statewide structure for trial court employees, officers, and other personnel.³⁶ The Trial Court Employment Protection and Governance Act generally supersedes comparable county-specific provisions, such as statutes governing authority to hire, classification, compensation, labor relations, employment selection and advancement, employment protection, and personnel files. The act eclipses the unification transitional provisions; the detailed county-specific municipal court statutes may now be repealed.

General Municipal Court Statutes

In addition to county-specific statutes governing the various municipal courts, there are statutes that refer to municipal courts generally. Now that all municipal and superior courts have unified, general statutory references to municipal courts should be corrected. The groundwork for much of the necessary revision has already been accomplished, by referring to limited civil cases and to misdemeanor and infraction cases rather than to the

County), 72110 (Riverside County), 72114.2 (San Diego County), 72115 (San Bernardino County), 72116 (Shasta County).

31. These are the counties of Merced, San Benito, Shasta, and Trinity.

32. The proposed legislation recognizes a few variants to accommodate circumstances in particular counties. For example, the sunset clause in San Diego County would be five years; there would be no sunset clause for Shasta County; the Orange County statute would be repealed outright.

33. Cal. Const. art. VI, § 5(c).

34. See Cal. Const. art. VI, § 5(e). Statutes governing unification prevail over contrary county-specific statutes relating to the municipal courts. Gov't Code § 70215.

35. See Cal. Const. art. VI, § 23; Gov't Code §§ 70210-70218.

36. See Gov't Code §§ 71600-71674 (Trial Court Employment Protection and Governance Act).

municipal court, and by referring to unlimited civil cases and to felony cases rather than to the superior court.³⁷ The conversion now should be completed throughout the codes.³⁸

County-Specific Superior Court Statutes

Although the Legislature is not constitutionally obligated to enact detailed staffing statutes for superior courts,³⁹ the Legislature has enacted a number of statutes for superior courts, particularly in the larger counties.⁴⁰

Generally, these statutes authorize a superior court to appoint a certain number of persons to a position at a specified salary, with the possibility of establishing additional positions only with county approval. When salaries are not set by the statute, they are generally set by joint action of the court and county. Positions are typically “at will” and exempt from civil service.

The superior court staffing statutes substantially overlap and are largely inconsistent with the Trial Court Employment Protection and Governance Act. Under that act, authority to establish titles is granted exclusively to the court,⁴¹ and salaries are set by the court.⁴² Most employees are covered by the employment protection system.

The county-specific superior court statutes are thus contrary to basic principles of local court authority and state trial court funding, rendering them obsolete. The proposed legislation would repeal the obsolete provisions.

37. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51 (1998).

38. For examples of various types of corrective legislation proposed in this recommendation, see, e.g., Bus. & Prof. Code § 6079.1 (judges of State Bar Court); Code Civ. Proc. §§ 84 (process), 85.1 (original jurisdiction), 116.210 (small claims division), 575 (promulgation of rules by Judicial Council), 1132 (confession of judgment), *infra*.

Some municipal court references need to be retained, particularly in the retirement context, because they have continuing utility. See, e.g., Gov’t Code §§ 22825.2 (vesting of retirement benefits on ten years of state service), 26625.8 (credit for bailiff-related services in municipal court), 31640 (county service for purposes of County Employees Retirement Law). See also Penal Code § 190.7 (record of capital case on appeal). See also Gov’t Code §§ 71042.5 (preservation of judicial districts for purposes of publication), 71042.6 (map to establish district boundaries). The Commission plans to study issues relating to publication of legal notice. See *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51, 85-86 (1998).

Other municipal court references are being left in place pending further analysis of how to dispose of them. For example, Code of Civil Procedure Section 395(c) raises issues relating to local venue (venue within a county), which require careful study. See the discussion of “Local Venue” below.

The Commission has not yet systematically searched the codes for provisions that refer to the municipal courts indirectly (e.g., provisions that refer to “the proper court,” “judicial district,” or “jurisdiction”) or provisions that refer to “the superior court” but require adjustment to reflect unification. Once identified, these provisions will require analysis and revision.

39. See Cal. Const. art. VI, § 4 (Legislature shall “provide for” officers and employees of superior court).

40. There are approximately 160 county-specific superior court staffing statutes. See Gov’t Code §§ 69890-70148. About 40 of the statutes dealing with trial court employees other than court reporters are found in Article 8 of Chapter 5 of Title 8 of the Government Code (§§ 69890-69915). Approximately 25 statutes dealing with subordinate judicial officers are found in Article 13 of Chapter 5 of Title 8 of the Government Code (§§ 70141-70148). The remaining 95 or so statutes dealing with court reporters are contained in Articles 9 through 12.8 of Chapter 5 of Title 8 of the Government Code (§§ 69941-70139).

41. Gov’t Code § 71620.

42. Gov’t Code § 71623.

Jury Venires

The Code of Civil Procedure authorizes smaller-than-countywide jury venires in counties where sessions of the superior court are held outside the county seat.⁴³ These venires are based on municipal court districts.

A number of statutes also prescribe special rules for superior court jury venires in physically isolated areas of specified counties.⁴⁴ These venires are based on supervisorial districts or on municipal court districts.

The proposed legislation would replace these obsolete provisions with a general statute that incorporates the various existing standards in one comprehensive section, and enables the courts to adopt governing local rules. There would be a one year deferred operative date to enable courts to adopt local rules.

Transitional Issues

A substantial amount of the statutory material made obsolete by trial court restructuring relates to employment status, rights, and benefits. Although much of this material is now obsolete, currently effective memoranda of understanding may be based on the statutes. To help assure trial court employees that repeal of obsolete statutes does not jeopardize their current rights, the proposed legislation includes a saving clause that continues the effect of the repealed statutes to the extent that a current employment right may be based on them.

In addition, many statutes govern ongoing retirement benefits of former employees of superseded courts and offices. Because they have continuing effect, they are preserved intact notwithstanding apparently obsolete language in them.⁴⁵

MATTERS NOT COVERED IN THIS RECOMMENDATION

Many statutes that require amendment or repeal are not included in this recommendation because stakeholders have not yet reached agreement on key issues, further research is required due to complexity of the law, or additional time is required to prepare appropriate revisions as a consequence of the sheer volume of statutory material involved. A few of the major unresolved matters are indicated below.

Trial Court Facilities

Responsibility for trial court facilities is a complex matter. The Legislature has established a Task Force on Court Facilities.⁴⁶ The Task Force is charged with identifying needs related to trial and appellate court facilities, and options and recommendations for funding maintenance, improvements, and expansion of court facilities, including specific responsibilities of each entity of government.⁴⁷ Because the policies in this area have yet to be determined, and the Legislature has yet to act on the matter, it is not possible to clean up statutes relating to facilities.

43. Code Civ. Proc. § 198.5.

44. See, e.g., Code Civ. Proc. §§ 199-199.5 (El Dorado, Placer, Nevada, and Santa Barbara counties).

45. See, e.g., note 38, *supra*.

46. Gov't Code § 77650.

47. The Task Force issued its final report on October 1, 2001.

Trial Court Sessions

The numerous statutes relating to general and special court sessions require separate and careful treatment. Sessions are tied to court facilities, which have historically been county structures. Under trial court unification procedures, municipal court locations are preserved as superior court locations until superseding legislation is enacted. Statutes requiring a session in a particular location are dependent in part on control of that facility; they are problematic in part because they implicate the need to maintain facilities where sessions are mandated. In addition, statutes requiring a session in a particular location may serve the function of ensuring convenient access for citizens in remote parts of a county. These provisions are not dealt with in this recommendation.

Local Venue

A number of statutes require venue in the particular judicial district within the county in which the cause of action arose.⁴⁸ Elimination of judicial districts through unification raises the question whether provisions of this sort should be preserved in some fashion. The Administrative Office of the Courts has organized a Joint Working Group on Sub-County Venue Issues. The proposed legislation solicits comment concerning the appropriate disposition of such provisions.

Concurrent Jurisdiction

Some statutes can (but need not necessarily) be construed to confer concurrent jurisdiction on the municipal and superior courts.⁴⁹ The proper treatment of these statutes in a unified court is problematic.⁵⁰ The Commission is studying this matter and solicits comment on how to revise the statutes.

Fees and Fines Paid to County

Many statutes provide that fees and fines collected by court officers are transmitted to the county treasury for deposit in the general fund.⁵¹ Other statutes allow the county to obtain reimbursement of expenses incurred by the court.⁵² Although these funds are generated by court processes or are court-related in nature, the statutes were not revised as part of trial court funding reform. The shift of trial court funding from the counties to the state was accomplished in a comprehensive negotiated agreement that identified

48. See, e.g., Code Civ. Proc. § 392 (venue for certain proceedings involving real property). See also Bus. & Prof. Code § 17511.12; Civ. Code §§ 798.61, 1780, 1812.10, 2984.4; Code Civ. Proc. §§ 393, 395, 396a, 402.5; Educ. Code § 48295; Fish & Game Code §§ 12150, 12151; Food & Agric. Code §§ 29733, 59289; Harb. & Nav. Code §§ 664, 667; Health & Safety Code §§ 108580, 110375, 111880, 111895, 117070, 117120; Lab. Code § 6436; Penal Code §§ 1034, 1035, 1038, 1039, 1462.2; Pub. Res. Code § 5560; Water Code § 310.

49. See, e.g., Code Civ. Proc. § 688.010; Food & Agric. Code §§ 25565, 29733, 43039, 59289; Health & Safety Code §§ 108580, 110375, 111880, 111895.

50. Should a party be permitted to choose whether a proceeding under such a provision is treated as a limited civil case or as an unlimited civil case, regardless of the amount in controversy? Or should the provisions be revised to follow normal procedural rules, under which the proper jurisdictional classification of a case depends on the amount in controversy or other circumstances, instead of being left to the discretion of the plaintiff?

51. See, e.g., Bus. & Prof. Code § 25762 (fines and forfeitures of bail).

52. See, e.g., Prob. Code §§ 1513.1, 1851.5 (county may assess county expenses incurred for cost of court investigation of a guardianship or conservatorship estate).

specific responsibilities and funding arrangements for each party. Revenues not specifically shifted from the county to the state continue to go to the county.

Mechanisms are in place to attempt to resolve some of these issues. A Joint Court-County Working Group on Trial Court Funding has been seeking to address the matter. The Bureau of State Audits is conducting an audit of revenues governed by these statutes. It is premature to attempt to revise the statutes until these processes have been completed.

Duties of County

Generally, the proposed legislation implements the transfer of court governance from the county to the courts by proposing appropriate conforming revisions in statutes that impose court-related duties on the county. However, some of the court-related duties directly affect costs to the courts and counties.⁵³ Just as issues related to court-generated fees cannot yet be resolved,⁵⁴ issues related to court-generated costs cannot yet be resolved. Issues on fees and costs should be dealt with comprehensively, rather than piecemeal. The Commission has not recommended disposition of these matters, pending a consensus among the stakeholders.

Personnel Not Covered by Trial Court Employment Protection and Governance Act

Although statutes governing compensation of court employees generally are superseded by the Trial Court Employment Protection and Governance Act, this is not necessarily true of all court employees or non-employee court personnel.

Judges are not treated as “employees” for purposes of the act.⁵⁵ The proposed legislation does not address statutes governing compensation of judges,⁵⁶ pending development of proposals by the Judicial Council’s Task Force on Judicial Service.⁵⁷

In some counties, official reporters and official reporters pro tempore may be independent contractors rather than court employees. The proposed legislation does not address compensation issues for these court personnel.

Most court interpreters are independent contractors and not court employees. The employment status of court interpreters is the subject of debate among the stakeholders, is highly politicized, and is currently unresolved. The proposed legislation does not address this matter.⁵⁸

53. For example, the propriety of continued county liability for criminal witness fees is in question. See, e.g., Gov’t Code §§ 29603 (payments to jurors and witnesses), 72232 (“Witnesses and jurors in criminal cases shall be paid by the county in the manner provided for the payment of such fees in the county or city and county in which any such municipal court is situated.”); Penal Code § 1329 (court may “direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness’ fees”).

54. See discussion of “Fees and Fines Paid to County” immediately above.

55. Gov’t Code § 71601(m).

56. See, e.g., Gov’t Code §§ 69907 (San Diego County), 69909 (Riverside County).

57. A provision governing business-related travel expenses of trial court judges was enacted in 2001. See Gov’t Code § 69505.

58. The Commission has under review, but has not yet made recommendations relating to, possible revisions of statutes concerning the appointment of interpreters by the court (as opposed to the county clerk) and payment of interpreters’ fees and compensation (to conform to the Trial Court Funding Act).

Trial Court Coordination

A number of statutes pertain to coordination of operations of the municipal and superior courts in a county.⁵⁹ The statutes are obsolete as a consequence of unification of the courts. However, the statutes are left intact temporarily, pending consideration of the possibility of applying coordination principles to inter-county superior court operations in appropriate circumstances.

CONCLUSION

The sheer bulk of statutory material involved in this project presents significant challenges in ensuring that it receives adequate review by interested persons and organizations. To this end, **the Commission has added Notes at appropriate points in the draft**. These Notes solicit comment on non-routine, problematic matters.


This is a tentative recommendation and is not the final recommendation that the Commission will submit to the Legislature. This document has been prepared to assist persons in the review of the material. The Commission seeks comments to help ensure that any legislation enacted on the matter is sound.

The proposed revisions are directed to the statutes as they will exist during 2002, after legislation enacted in 2001 becomes operative.

Due to the size of the project, and the statutory deadline associated with it, this tentative recommendation does not purport to deal with all statutes made obsolete by trial court unification. Many statutes are not yet ripe for revision. Others are ripe for revision but require more time and care to address. The fact that this recommendation does not address a particular statute should not be construed to indicate that the Commission has decided that the statute should be preserved over the general restructuring provisions. These statutes may be the subject of a future recommendation by the Commission.

59. Gov't Code §§ 68112, 68112.5, 68114, 68114.5, 68114.6, 68114.7, 68114.9.

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PROPOSED LEGISLATION

1

CONSTITUTION

2 **Cal. Const. Art. VI, § 1 (amended). Judicial power**

3 SEC. ____ . Section 1 of Article 6 of the Constitution is amended to read:

4 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, and
5 superior courts, and ~~municipal courts~~, all of which are courts of record.

6 **Comment.** Section 1 is amended to reflect unification of the municipal and superior courts
7 pursuant to Article VI, Section 5(e), of the California Constitution.

8 **Cal. Const. Art. VI, § 5 (repealed). Municipal court**

9 SEC. ____ . Section 5 of Article 6 of the Constitution is repealed.

10 ~~5. (a) Each county shall be divided into municipal court districts as provided by statute,~~
11 ~~but a city may not be divided into more than one district. Each municipal court shall have~~
12 ~~one or more judges. Each municipal court district shall have no fewer than 40,000~~
13 ~~residents; provided that each county shall have at least one municipal court district. The~~
14 ~~number of residents shall be determined as provided by statute.~~

15 ~~(b) On the operative date of this subdivision, all existing justice courts shall become~~
16 ~~municipal courts, and the number, qualifications, and compensation of judges, officers,~~
17 ~~attaches, and employees shall continue until changed by the Legislature. Each judge of a~~
18 ~~part-time municipal court is deemed to have agreed to serve full time and shall be~~
19 ~~available for assignment by the Chief Justice for the balance of time necessary to~~
20 ~~comprise a full-time workload.~~

21 ~~(c) The Legislature shall provide for the organization and prescribe the jurisdiction of~~
22 ~~municipal courts. It shall prescribe for each municipal court the number, qualifications,~~
23 ~~and compensation of judges, officers, and employees.~~

24 ~~(d) Notwithstanding subdivision (a), any city in San Diego County may be divided into~~
25 ~~more than one municipal court district if the Legislature determines that unusual~~
26 ~~geographic conditions warrant such division.~~

27 ~~(e) Notwithstanding subdivision (a), the municipal and superior courts shall be unified~~
28 ~~upon a majority vote of superior court judges and a majority vote of municipal court~~
29 ~~judges within the county. In those counties, there shall be only a superior court.~~

30 **Comment.** Section 5 is repealed to reflect unification of the municipal and superior courts
31 pursuant to former subdivision (e).

32 This repeal deletes the requirement of subdivision (a) that each county be divided into
33 municipal court districts as provided by statute. Statutes provide the manner of creation of judicial
34 districts, and these statutes have continuing relevance for legal publication purposes. See Gov't
35 Code §§ 71042.5, 71042.6. These statutes are not affected by repeal of Section 5.

36 **Cal. Const. Art. VI, § 6 (amended). Judicial Council**

37 SEC. ____ . Section 6 of Article 6 of the Constitution is amended to read:

38 6. The Judicial Council consists of the Chief Justice and one other judge of the
39 Supreme Court, 3 judges of courts of appeal, 5 ~~10~~ judges of superior courts, ~~5~~ judges of
40 ~~municipal courts~~, 2 nonvoting court administrators, and such other nonvoting members as
41 determined by the voting membership of the council, each appointed by the Chief Justice

1 for a 3-year term pursuant to procedures established by the council; 4 members of the
2 State Bar appointed by its governing body for 3-year terms; and one member of each
3 house of the Legislature appointed as provided by the house. ~~Vacancies in the~~
4 ~~memberships on the Judicial Council otherwise designated for municipal court judges~~
5 ~~shall be filled by judges of the superior court in the case of appointments made when~~
6 ~~fewer than 10 counties have municipal courts.~~

7 Council membership terminates if a member ceases to hold the position that qualified
8 the member for appointment. A vacancy shall be filled by the appointing power for the
9 remainder of the term.

10 The council may appoint an Administrative Director of the Courts, who serves at its
11 pleasure and performs functions delegated by the council or the Chief Justice, other than
12 adopting rules of court administration, practice and procedure.

13 To improve the administration of justice the council shall survey judicial business and
14 make recommendations to the courts, make recommendations annually to the Governor
15 and Legislature, adopt rules for court administration, practice and procedure, and perform
16 other functions prescribed by statute. The rules adopted shall not be inconsistent with
17 statute.

18 The Chief Justice shall seek to expedite judicial business and to equalize the work of
19 judges. The Chief Justice may provide for the assignment of any judge to another court
20 but only with the judge's consent if the court is of lower jurisdiction. A retired judge who
21 consents may be assigned to any court.

22 Judges shall report to the council as the Chief Justice directs concerning the condition
23 of judicial business in their courts. They shall cooperate with the council and hold court
24 as assigned.

25 **Comment.** Section 6 is amended to reflect unification of the municipal and superior courts
26 pursuant to Article VI, Section 5(e), of the California Constitution.

27 **Cal. Const. Art. VI, § 8 (amended). Commission on Judicial Performance**

28 SEC. ____ . Section 8 of Article 6 of the Constitution is amended to read:

29 8. (a) The Commission on Judicial Performance consists of one judge of a court of
30 appeal, ~~one judge of a superior court, and one judge of a municipal court~~ and two judges
31 of superior courts, each appointed by the Supreme Court; 2 members of the State Bar of
32 California who have practiced law in this State for 10 years, each appointed by the
33 Governor; and 6 citizens who are not judges, retired judges, or members of the State Bar
34 of California, 2 of whom shall be appointed by the Governor, 2 by the Senate Committee
35 on Rules, and 2 by the Speaker of the Assembly.

36 Except as provided in subdivisions (b) and (c), all terms are for 4 years. No member
37 shall serve more than 2 4-year terms, or for more than a total of 10 years if appointed to
38 fill a vacancy. ~~A vacancy in the membership on the Commission on Judicial Performance~~
39 ~~otherwise designated for a municipal court judge shall be filled by a judge of the superior~~
40 ~~court in the case of an appointment made when fewer than 10 counties have municipal~~
41 ~~courts.~~

42 (b) Commission membership terminates if a member ceases to hold the position that
43 qualified the member for appointment. A vacancy shall be filled by the appointing power
44 for the remainder of the term. A member whose term has expired may continue to serve
45 until the vacancy has been filled by the appointing power. ~~Appointing powers may~~
46 ~~appoint members who are already serving on the commission prior to March 1, 1995, to a~~
47 ~~single 2-year term, but may not appoint them to an additional term thereafter.~~

1 (c) To create staggered terms among the members of the Commission on Judicial
2 Performance, the following members shall be appointed, as follows:

3 (1) Two members appointed by the Supreme Court to a term commencing March 1,
4 1995, shall each serve a term of 2 years and may be reappointed to one full term.

5 (2) One attorney appointed by the Governor to a term commencing March 1, 1995,
6 shall serve a term of 2 years and may be reappointed to one full term.

7 (3) One citizen member appointed by the Governor to a term commencing March 1,
8 1995, shall serve a term of 2 years and may be reappointed to one full term.

9 (4) One member appointed by the Senate Committee on Rules to a term commencing
10 March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

11 (5) One member appointed by the Speaker of the Assembly to a term commencing
12 March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

13 (6) All other members shall be appointed to full 4-year terms commencing March 1,
14 1995.

15 **Comment.** Subdivision (a) of Section 8 is amended reflect unification of the municipal and
16 superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

17 Subdivision (b) is amended to delete obsolete language.

18 **Cal. Const. Art. VI, § 10 (amended). Original jurisdiction**

19 SEC. ____ . Section 10 of Article 6 of the Constitution is amended to read:

20 10. The Supreme Court, courts of appeal, superior courts, and their judges have original
21 jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in
22 proceedings for extraordinary relief in the nature of mandamus, certiorari, and
23 prohibition. The appellate division of the superior court has original jurisdiction in
24 proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition
25 directed to the superior court in causes subject to its appellate jurisdiction.

26 Superior courts have original jurisdiction in all other causes ~~except those given by~~
27 ~~statute to other trial courts.~~

28 The court may make such comment on the evidence and the testimony and credibility
29 of any witness as in its opinion is necessary for the proper determination of the cause.

30 **Comment.** Section 10 is amended to reflect unification of the municipal and superior courts
31 pursuant to Article VI, Section 5(e), of the California Constitution. This amendment does not
32 affect the power of the Legislature to establish divisions within the superior court, such as the
33 small claims court or the juvenile court, or to create administrative tribunals that make
34 adjudicative decisions, subject to judicial review.

35 **Cal. Const. Art. VI, § 15 (amended). Qualifications of judges**

36 SEC. ____ . Section 15 of Article 6 of the Constitution is amended to read:

37 15. A person is ineligible to be a judge of a court of record unless for ~~5 years~~
38 ~~immediately preceding selection to a municipal court or 10 years immediately preceding~~
39 ~~selection to other courts,~~ the person has been a member of the State Bar or served as a
40 judge of a court of record in this State. ~~A judge eligible for municipal court service may~~
41 ~~be assigned by the Chief Justice to serve on any court.~~

42 **Comment.** Section 15 is amended to reflect unification of the municipal and superior courts
43 pursuant to Article VI, Section 5(e), of the California Constitution.

44 **Cal. Const. Art. VI, § 16 (amended). Election of judges**

45 SEC. ____ . Section 16 of Article 6 of the Constitution is amended to read:

1 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of
2 appeal shall be elected in their districts at general elections at the same time and places as
3 the Governor. Their terms are 12 years beginning the Monday after January 1 following
4 their election, except that a judge elected to an unexpired term serves the remainder of the
5 term. In creating a new court of appeal district or division the Legislature shall provide
6 that the first elective terms are 4, 8, and 12 years.

7 (b) ~~(1) In counties in which there is no municipal court, judges~~ Judges of superior
8 courts shall be elected in their counties at general elections except as otherwise necessary
9 to meet the requirements of federal law. In the latter case the Legislature, by two-thirds
10 vote of the membership of each house thereof, with the advice of judges within the
11 affected court, may provide for their election by the system prescribed in subdivision (d),
12 or by any other arrangement. The Legislature may provide that an unopposed
13 incumbent's name not appear on the ballot.

14 ~~(2) In counties in which there is one or more municipal court districts, judges of~~
15 ~~superior and municipal courts shall be elected in their counties or districts at general~~
16 ~~elections. The Legislature may provide that an unopposed incumbent's name not appear~~
17 ~~on the ballot.~~

18 (c) Terms of judges of superior courts are 6 years beginning the Monday after January
19 1 following their election. A vacancy shall be filled by election to a full term at the next
20 general election after the second January 1 following the vacancy, but the Governor shall
21 appoint a person to fill the vacancy temporarily until the elected judge's term begins.

22 (d) Within 30 days before August 16 preceding the expiration of the judge's term, a
23 judge of the Supreme Court or a court of appeal may file a declaration of candidacy to
24 succeed to the office presently held by the judge. If the declaration is not filed, the
25 Governor before September 16 shall nominate a candidate. At the next general election,
26 only the candidate so declared or nominated may appear on the ballot, which shall present
27 the question whether the candidate shall be elected. The candidate shall be elected upon
28 receiving a majority of the votes on the question. A candidate not elected may not be
29 appointed to that court but later may be nominated and elected.

30 The Governor shall fill vacancies in those courts by appointment. An appointee holds
31 office until the Monday after January 1 following the first general election at which the
32 appointee had the right to become a candidate or until an elected judge qualifies. A
33 nomination or appointment by the Governor is effective when confirmed by the
34 Commission on Judicial Appointments.

35 Electors of a county, by majority of those voting and in a manner the Legislature shall
36 provide, may make this system of selection applicable to judges of superior courts.

37 **Comment.** Section 16 is amended to reflect unification of the municipal and superior courts
38 pursuant to Article VI, Section 5(e), of the California Constitution.

39 **Cal. Const. Art. VI, § 23 (repealed). Transitional provision**

40 SEC. ____ . Section 23 of Article 6 of the Constitution is repealed.

41 ~~23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this~~
42 ~~article, and the amendments to Section 16 of Article I, approved at the June 2, 1998,~~
43 ~~primary election is to permit the Legislature to provide for the abolition of the municipal~~
44 ~~courts and unify their operations within the superior courts. Notwithstanding Section 8 of~~
45 ~~Article IV, the implementation of, and orderly transition under, the provisions of the~~
46 ~~measure adding this section may include urgency statutes that create or abolish offices or~~
47 ~~change the salaries, terms, or duties of offices, or grant franchises or special privileges, or~~
48 ~~create vested rights or interests, where otherwise permitted under this Constitution.~~

1 (b) ~~When the superior and municipal courts within a county are unified, the judgeships~~
2 ~~in each municipal court in that county are abolished and the previously selected~~
3 ~~municipal court judges shall become judges of the superior court in that county. The term~~
4 ~~of office of a previously selected municipal court judge is not affected by taking office as~~
5 ~~a judge of the superior court. The 10-year membership or service requirement of Section~~
6 ~~15 does not apply to a previously selected municipal court judge. Pursuant to Section 6,~~
7 ~~the Judicial Council may prescribe appropriate education and training for judges with~~
8 ~~regard to trial court unification.~~

9 (e) ~~Except as provided by statute to the contrary, in any county in which the superior~~
10 ~~and municipal courts become unified, the following shall occur automatically in each~~
11 ~~preexisting superior and municipal court:~~

12 (1) ~~Previously selected officers, employees, and other personnel who serve the court~~
13 ~~become the officers and employees of the superior court.~~

14 (2) ~~Preexisting court locations are retained as superior court locations.~~

15 (3) ~~Preexisting court records become records of the superior court.~~

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

19 (5) ~~Matters of a type previously within the appellate jurisdiction of the superior court~~
20 ~~remain within the jurisdiction of the appellate division of the superior court.~~

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

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

27 **Comment.** Section 23 is repealed to reflect completion of the process of unification of the
28 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.
29 Statutory transitional provisions for trial court unification based on this section are more
30 complete. See Gov't Code §§ 70200-70219.

31 BUSINESS AND PROFESSIONS CODE

32 **Bus. & Prof. Code § 470.3 (amended). Fee for filing first paper in civil action**

33 SEC. ____ . Section 470.3 of the Business and Professions Code is amended to read:

34 470.3. (a) Except as provided in subdivision (b), a fee of not less than one dollar (\$1)
35 and not more than eight dollars (\$8) may be added to the total fees collected and fixed
36 pursuant to Sections 26820.4, 26826, 26827, 68090, 72055, and 72056 of the
37 Government Code for the filing of a first paper in a civil action in superior ~~or municipal~~
38 court, other than a small claims action.

39 (b) A fee of not less than one dollar (\$1) and not more than three dollars (\$3) may be
40 added to the total fees collected and fixed pursuant to Sections 26820.4, 26826, 26827,
41 68090, 72055, and 72056 of the Government Code for the filing of a first paper in a civil
42 action in superior ~~or municipal~~ court, for those cases where the monetary damages do not
43 exceed the sum of two thousand five hundred dollars (\$2,500). To facilitate the
44 computation of the correct fee pursuant to this section, the complaint shall contain a
45 declaration under penalty of perjury executed by a party requesting a reduction in fees
46 that the case filed qualifies for the lower fee because claim for money damages will not
47 exceed the sum of two thousand five hundred dollars (\$2,500).

1 (c) The fees described in subdivisions (a) and (b) shall only be utilized for the support
2 of the dispute resolution programs authorized by this chapter.

3 (d) A county may carry over moneys received from the additional fees authorized
4 pursuant to subdivisions (a) and (b), that shall be deposited in a special fund created for
5 those purposes, until such time as the county elects to fund a dispute resolution program.
6 Records of those fees shall be available for inspection by the public, upon request.

7 **Comment.** Subdivisions (a) and (b) of Section 470.3 are amended to reflect unification of the
8 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

9 **Bus. & Prof. Code § 6079.1 (amended). Judges of State Bar Court**

10 SEC. ____ . Section 6079.1 of the Business and Professions Code is amended to read:

11 6079.1. (a) The Supreme Court shall appoint a presiding judge of the State Bar Court.
12 In addition, five hearing judges shall be appointed, two by the Supreme Court, one by the
13 Governor, one by the Senate Committee on Rules, and one by the Speaker of the
14 Assembly, to efficiently decide any and all regulatory matters pending before the Hearing
15 Department of the State Bar Court. The presiding judge and all other judges of that
16 department shall be appointed for a term of six years and may be reappointed for
17 additional six-year terms. Any judge appointed under this section shall be subject to
18 admonition, censure, removal, or retirement by the Supreme Court upon the same
19 grounds as provided for judges of courts of record of this state.

20 (b) Judges of the State Bar Court appointed under this section shall not engage in the
21 private practice of law. The State Bar Court shall be broadly representative of the ethnic,
22 sexual, and racial diversity of the population of California and composed in accordance
23 with Sections 11140 and 11141 of the Government Code. Each judge:

24 (1) Shall have been a member of the State Bar for at least five years.

25 (2) Shall not have any record of the imposition of discipline as an attorney in California
26 or any other jurisdiction.

27 (3) Shall meet such other requirements as may be established by subdivision (d) of
28 Section 12011.5 of the Government Code.

29 (c) Applicants for appointment or reappointment as a State Bar Court judge shall be
30 screened by an applicant evaluation committee as directed by the Supreme Court. The
31 committee, appointed by the Supreme Court, shall submit evaluations and
32 recommendations to the appointing authority and the Supreme Court as provided in Rule
33 961 of the California Rules of Court, or as otherwise directed by the Supreme Court. The
34 committee shall submit no fewer than three recommendations for each available position.

35 (d) For judges appointed pursuant to this section or Section 6086.65, the board shall fix
36 and pay reasonable compensation and expenses and provide adequate supporting staff
37 and facilities. Hearing judges shall be paid ~~the same salary as municipal court judges~~
38 91.3225 percent of the salary of a superior court judge. The presiding judge shall be paid
39 the same salary as a superior court judge.

40 (e) From among the members of the State Bar or retired judges, the Supreme Court or
41 the board may appoint pro tempore judges to decide matters in the Hearing Department of
42 the State Bar Court when a judge of the State Bar Court is unavailable to serve without
43 undue delay to the proceeding. Subject to modification by the Supreme Court, the board
44 may set the qualifications, terms, and conditions of service for pro tempore judges and
45 may, in its discretion, compensate some or all of them out of funds appropriated by the
46 board for this purpose.

47 (f) A judge or pro tempore judge appointed under this section shall hear every
48 regulatory matter pending in the Hearing Department of the State Bar Court as to which

1 the taking of testimony or offering of evidence at trial has not commenced, and when so
2 assigned, shall sit as the sole adjudicator, except for rulings that are to be made by the
3 presiding judge of the State Bar Court or referees of other departments of the State Bar
4 Court.

5 (g) Any judge or pro tempore judge of the State Bar Court as well as any employee of
6 the State Bar assigned to the State Bar Court shall have the same immunity that attaches
7 to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters
8 the immunities accorded the State Bar, its officers and employees, or any judge or referee
9 of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not
10 constitute a change in, but is cumulative with, existing law.

11 (h) Nothing in this section shall be construed to prohibit the board from appointing
12 persons to serve without compensation to arbitrate fee disputes under Article 13
13 (commencing with Section 6200) of this chapter or to monitor the probation of a member
14 of the State Bar, whether those appointed under Section 6079, as added by Chapter 1114
15 of the Statutes of 1986, serve in the State Bar Court or otherwise.

16 **Comment.** Section 6079.1 is amended to convert the basis of a hearing judge's salary from that
17 of a municipal court judge to that of a superior court judge. This change anticipates that municipal
18 court judge salaries will not be maintained after abolition of the municipal courts through
19 unification. A municipal court judge's salary is approximately 91.3225 percent of a superior court
20 judge's salary. See former Gov't Code § 68202 (1984 Cal. Stat. ch. 1758, § 3); see also Gov't
21 Code § 68203.

22 **Bus. & Prof. Code § 6152 (amended). Runners and cappers**

23 SEC. ____ . Section 6152 of the Business and Professions Code is amended to read:

24 6152. (a) It is unlawful for:

25 (1) Any person, in an individual capacity or in a capacity as a public or private
26 employee, or for any firm, corporation, partnership or association to act as a runner or
27 capper for any attorneys or to solicit any business for any attorneys in and about the state
28 prisons, county jails, city jails, city prisons, or other places of detention of persons, city
29 receiving hospitals, city and county receiving hospitals, county hospitals, municipal
30 courts, superior courts, or in any public institution or in any public place or upon any
31 public street or highway or in and about private hospitals, sanitariums or in and about any
32 private institution or upon private property of any character whatsoever.

33 (2) Any person to solicit another person to commit or join in the commission of a
34 violation of subdivision (a).

35 (b) A general release from a liability claim obtained from any person during the period
36 of the first physical confinement, whether as an inpatient or outpatient, in a clinic or
37 health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a
38 result of the injury alleged to have given rise to the claim and primarily for treatment of
39 the injury, is presumed fraudulent if the release is executed within 15 days after the
40 commencement of confinement or prior to release from confinement, whichever occurs
41 first.

42 (c) Nothing in this section shall be construed to prevent the recommendation of
43 professional employment where that recommendation is not prohibited by the Rules of
44 Professional Conduct of the State Bar of California.

45 (d) Nothing in this section shall be construed to mean that a public defender or assigned
46 counsel may not make known his or her services as a criminal defense attorney to persons
47 unable to afford legal counsel whether those persons are in custody or otherwise.

1 **Comment.** Subdivision (a) of Section 6152 is amended to reflect unification of the municipal
2 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

3 **Bus. & Prof. Code § 6302.5 (amended). Board of law library trustees of Los Angeles County**

4 SEC. ____ . Section 6302.5 of the Business and Professions Code is amended to read:

5 6302.5. Notwithstanding any other provision of law, in Los Angeles County
6 appointments made by judges of the superior court ~~or municipal court~~ shall be for a term
7 of four years, and appointments made by the board of supervisors of the county shall be
8 for a term of two years.

9 ~~Trustees who are incumbents on the effective date of this section shall be considered to~~
10 ~~have started their terms on the effective date of this section.~~

11 ~~At the first regular meeting following the effective date of this section, the members~~
12 ~~appointed by the judiciary shall classify themselves by lot so that three members shall~~
13 ~~serve for four years, and two members for two years. Thereafter, the term of office of~~
14 ~~each member so appointed shall be four years.~~

15 ~~At the first regular meeting following the effective date of this section, the members~~
16 ~~appointed by the board of supervisors shall classify themselves by lot so that one member~~
17 ~~shall serve for two years, and one member for one year. Thereafter the term of office of~~
18 ~~each member so appointed shall be two years.~~

19 **Comment.** Section 6302.5 is amended to reflect unification of the municipal and superior
20 courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution,
21 effective January 22, 2000.

22 The section is also amended to delete obsolete language regarding the manner of establishing a
23 system of staggered terms.

24  **Note: Comment Requested**

25 The Commission solicits comment on whether the last three paragraphs of Business and
26 Professions Code Section 6302.5 continue to serve a useful purpose.

27 **Bus. & Prof. Code § 6321 (amended). Filing fee**

28 SEC. ____ . Section 6321 of the Business and Professions Code is amended to read:

29 6321. On the commencement in, or the removal to, the superior court of any county in
30 this state, of any civil action, proceeding, or appeal, ~~and on the commencement in, or~~
31 ~~removal to, the municipal court in any county, of any civil action or proceeding,~~ the party
32 instituting such proceeding, or filing the first papers, shall pay to the clerk of the court,
33 for the law library, on filing the first papers, the sum of one dollar (\$1) as costs, in
34 addition to the fees fixed by law.

35 **Comment.** Section 6321 is amended to reflect unification of the municipal and superior courts
36 pursuant to Article VI, Section 5(e), of the California Constitution.

37 **Bus. & Prof. Code § 6322 (amended). First appearance fee**

38 SEC. ____ . Section 6322 of the Business and Professions Code is amended to read:

39 6322. Thereafter, any defendant, respondent, adverse party, or intervening party, on
40 making a first appearance in a superior ~~or municipal court~~, or any number of defendants,
41 respondents, or parties, appearing jointly, shall pay to the clerk of the court, for the law
42 library, the sum of one dollar (\$1) as costs, in addition to the fees fixed by law.

43 **Comment.** Section 6322 is amended to reflect unification of the municipal and superior courts
44 pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Bus. & Prof. Code § 6324 (amended). Additions to law library fund**

2 SEC. ____ . Section 6324 of the Business and Professions Code is amended to read:

3 6324. The board of supervisors of any county may set apart from the fees collected by
4 the county clerk ~~of the court~~, sums not exceeding one thousand two hundred dollars
5 (\$1,200) in any one fiscal year, to be paid by the county clerk into the law library fund in
6 addition to the moneys otherwise provided to be deposited in that fund by law. The board
7 of supervisors may also appropriate from the county treasury for law library purposes
8 such additional sums as may in their discretion appear proper. When so paid into the law
9 library fund, such sums shall constitute a part of the fund and be used for the same
10 purposes.

11 **Comment.** Section 6324 is amended to reflect elimination of the county clerk's role as ex
12 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
13 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
14 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
15 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
16 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

17 **Bus. & Prof. Code § 6341 (amended). Law library branches**

18 SEC. ____ . Section 6341 of the Business and Professions Code is amended to read:

19 6341. Any board of law library trustees may establish and maintain a branch of the law
20 library in any city in the county, other than the county seat, in which a session of the
21 superior court ~~or of a municipal court is held, or in which a municipal court has been~~
22 ~~authorized by statute but has not yet begun to operate.~~ In any city constituting the county
23 seat, any board of law library trustees may establish and maintain a branch of the law
24 library at any location therein where four or more judges ~~of the municipal court, or of the~~
25 ~~superior court in a county in which there is no municipal court,~~ are designated to hold
26 sessions more than 10 miles distant from the principal office of the court. In any city and
27 county any board of law library trustees may establish and maintain branches of the law
28 library. A branch is in all respects a part of the law library and is governed accordingly.

29 **Comment.** Section 6341 is amended to reflect unification of the municipal and superior courts
30 pursuant to Article VI, Section 5(e), of the California Constitution.

31 **Note: Comment Requested**

32 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
33 further work on Business and Professions Code Section 6341 pending (1) any implementation of
34 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
35 among the interested parties. The Commission solicits comments on these issues.

36 **Bus. & Prof. Code § 6365 (repealed). Discontinuance of law library**

37 SEC. ____ . Section 6365 of the Business and Professions Code is repealed.

38 ~~6365. Whenever the board of supervisors in any county in this State in which there is~~
39 ~~but one judge of the superior court, which board shall have adopted the provisions of this~~
40 ~~chapter and established a law library, desire to discontinue such law library, they shall by~~
41 ~~ordinance declare their intention so to do, and shall provide in such ordinance that the~~
42 ~~books already in the library shall be transferred to and kept in the chambers of the judge~~
43 ~~of the superior court of such county. All moneys on hand in the law library fund of such~~
44 ~~county shall be by the same ordinance transferred to the school fund of such county, and~~
45 ~~the office of member of the board of law library trustees of such law library shall be~~

1 ~~abolished. After such an ordinance takes effect, the county clerk of the court of such~~
2 ~~county shall not collect the fees and costs provided for the law library.~~

3 **Comment.** Section 6365 is repealed as obsolete. Every superior court has at least two
4 judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq.* (number of
5 judges).

6 **Note: Comment Requested**

7 The Commission solicits comment on the question whether Business and Professions Code
8 Section 6365 should be amended rather than repealed. Are there any counties in which the law
9 library has been discontinued under this section and, if so, should reinstatement of the law library
10 be required?

11 **Bus. & Prof. Code § 6405 (amended). Bond of legal document assistant or unlawful detainer**
12 **assistant**

13 SEC. ____ . Section 6405 of the Business and Professions Code is amended to read:

14 6405. (a)(1) An application for a certificate of registration by an individual shall be
15 accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a
16 corporate surety qualified to do business in this state and conditioned upon compliance
17 with this chapter. The total aggregate liability on the bond shall be limited to twenty-five
18 thousand dollars (\$25,000). An application for secondary registration shall meet all of the
19 requirements of this subdivision, except that in place of posting another original bond or
20 cash deposit, the applicant shall include a certified copy of the bond or cash deposit
21 posted in the county in which the applicant filed the primary registration.

22 (2) An application for a certificate of registration by a partnership or corporation shall
23 be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a
24 corporate surety qualified to do business in this state and conditioned upon compliance
25 with this chapter. The total aggregate liability on the bond shall be limited to twenty-five
26 thousand dollars (\$25,000). An application for a certificate of registration by a person
27 employed by a partnership or corporation shall be accompanied by a bond of twenty-five
28 thousand dollars (\$25,000) only if the partnership or corporation has not posted a bond of
29 twenty-five thousand dollars (\$25,000) as required by this subdivision. An application for
30 secondary registration shall meet all of the requirements of this subdivision, except that in
31 place of posting another original bond or cash deposit, the applicant shall include a
32 certified copy of the bond or cash deposit posted in the county in which the applicant
33 filed the primary registration.

34 (3) The bond may be terminated pursuant to Section 995.440 of, and Article 13
35 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of
36 Civil Procedure.

37 (b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the
38 county recorder for recording. The recording fee specified in Section 27361 of the
39 Government Code shall be paid by the registrant. The fee may be paid to the county clerk
40 who shall transmit it to the recorder.

41 (c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars
42 (\$7).

43 (d) The county recorder shall record the bond and any notice of cancellation,
44 revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless
45 specified to the contrary, to the person named in the instrument and, if no person is
46 named, to the party leaving it for recording. The recording fee specified in Section 27361
47 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond
48 shall be paid to the county clerk, who shall transmit it to the county recorder.

1 (e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five
2 thousand dollars (\$25,000) in cash with the county clerk.

3 (f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding
4 party or depositor subject to subdivision (g) and the right of a person to recover against
5 the bond or cash deposit under Section 6412.

6 (g) The county clerk may retain a cash deposit until the expiration of three years from
7 the date the registrant has ceased to do business, or three years from the expiration or
8 revocation date of the registration, in order to ensure there are no outstanding claims
9 against the deposit. A judge of a ~~municipal~~ or superior court may order the return of the
10 deposit prior to the expiration of three years upon evidence satisfactory to the judge that
11 there are no outstanding claims against the deposit.

12 (h) The bond required by this section shall be in favor of the State of California for the
13 benefit of any person who is damaged as a result of the violation of this chapter or by the
14 fraud, dishonesty, or incompetency of an individual, partnership, or corporation registered
15 under this chapter. The bond required by this section shall also indicate the name of the
16 county in which it will be filed.

17 **Comment.** Subdivision (g) of Section 6405 is amended to reflect unification of the municipal
18 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

19 **Note: Comment Requested**

20 Business & Professions Code Section 6405 does not specify the procedure for seeking a court
21 order requiring return of a deposit. Would it be helpful to address this point? Is it necessary to
22 provide guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc.
23 § 86(a) (case at law in which demand or value of property in controversy is \$25,000 or less is
24 limited civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases).
25 The Commission solicits comment on the proper treatment of this provision.

26 **Bus. & Prof. Code § 6412.1 (unchanged). Remedies**

27 6412.1. (a) Any person injured by the unlawful act of a legal document assistant or
28 unlawful detainer assistant shall retain all rights and remedies cognizable under law. The
29 penalties, relief, and remedies provided in this chapter are not exclusive, and do not affect
30 any other penalties, relief, and remedies provided by law.

31 (b) Any person injured by a violation of this chapter by a legal document assistant or
32 unlawful detainer assistant may file a complaint and seek redress in any municipal or
33 superior court for injunctive relief, restitution, and damages. Attorney's fees shall be
34 awarded to the prevailing plaintiff.

35 (c) This section shall remain in effect only until January 1, 2003, or the date the director
36 suspends the requirements of this chapter applicable to legal document assistants pursuant
37 to Section 6416, whichever first occurs, and as of that date is repealed, unless a later
38 enacted statute, that is enacted before that date, deletes or extends that date.

39 **Note: Comment Requested**

40 Subdivision (b) of Business and Professions Code Section 6412.1 can be construed to confer
41 concurrent jurisdiction on the municipal and superior courts. Further study is required to
42 determine how to amend this provision so as to provide appropriate guidance regarding
43 jurisdictional classification, if necessary. The Commission solicits comment on the proper
44 treatment of this provision.

1 **Bus. & Prof. Code § 6455 (unchanged). Violations**

2 6455. (a) Any consumer injured by a violation of this chapter may file a complaint and
3 seek redress in any municipal or superior court for injunctive relief, restitution, and
4 damages. Attorney's fees shall be awarded in this action to the prevailing plaintiff.

5 (b) Any person who violates the provisions of Section 6451 or 6452 is guilty of an
6 infraction for the first violation, which is punishable upon conviction by a fine of up to
7 two thousand five hundred dollars (\$2,500) as to each consumer with respect to whom a
8 violation occurs, and is guilty of a misdemeanor for the second and each subsequent
9 violation, which is punishable upon conviction by a fine of two thousand five hundred
10 dollars (\$2,500) as to each consumer with respect to whom a violation occurs, or
11 imprisonment in a county jail for not more than one year, or by both that fine and
12 imprisonment. Any person convicted of a violation of this section shall be ordered by the
13 court to pay restitution to the victim pursuant to Section 1202.4 of the Penal Code.

14 **Note: Comment Requested**

15 Subdivision (a) of Business and Professions Code Section 6455 can be construed to confer
16 concurrent jurisdiction on the municipal and superior courts. Further study is required to
17 determine how to amend this provision so as to provide appropriate guidance regarding
18 jurisdictional classification, if necessary. The Commission solicits comment on the proper
19 treatment of this provision.

20 **Bus. & Prof. Code § 12606 (unchanged). Deceptive packaging**

21 12606. (a) No container wherein commodities are packed shall have a false bottom,
22 false sidewalls, false lid or covering, or be otherwise so constructed or filled, wholly or
23 partially, as to facilitate the perpetration of deception or fraud.

24 (b) No container shall be made, formed, or filled as to be misleading. A container that
25 does not allow the consumer to fully view its contents shall be considered to be filled as
26 to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between
27 the actual capacity of a container and the volume of product contained therein.
28 Nonfunctional slack fill is the empty space in a package that is filled to less than its
29 capacity for reasons other than the following:

30 (1) Protection of the contents of the package.

31 (2) The requirements of machines used for enclosing the contents of the package.

32 (3) Unavoidable product settling during shipping and handling.

33 (4) The need to utilize a larger than required package or container to provide adequate
34 space for the legible presentation of mandatory and necessary labeling information, such
35 as those based on the regulations adopted by the Food and Drug Administration or state
36 or federal agencies under federal or state law, laws or regulations adopted by foreign
37 governments, or under an industrywide voluntary labeling program.

38 (5) The fact that the product consists of a commodity that is packaged in a decorative or
39 representational container where the container is part of the presentation of the product
40 and has value that is both significant in proportion to the value of the product and
41 independent of its function to hold the product, such as a gift combined with a container
42 that is intended for further use after the product is consumed, or durable commemorative
43 or promotional packages.

44 (6) An inability to increase the level of fill or to further reduce the size of the package,
45 such as where some minimum package size is necessary to accommodate required
46 labeling, discourage pilfering, facilitate handling, or accommodate tamper-resistant
47 devices.

1 (7) The product container bears a reasonable relationship to the actual amount of
2 product contained inside, and the dimensions of the actual product container, the product,
3 or the amount of product therein is visible to the consumer at the point of sale, or where
4 obvious secondary use packaging is involved.

5 (8) The dimensions of the product or immediate product container are visible through
6 the exterior packaging, or where the actual size of the product or immediate product
7 container is clearly and conspicuously depicted on the exterior packaging, accompanied
8 by a clear and conspicuous disclosure that the representation is the “actual size” of the
9 product or the immediate product container.

10 (9) The presence of any head space within an immediate product container necessary to
11 facilitate the mixing, adding, shaking, or dispensing of liquids or powders by consumers
12 prior to use.

13 (10) The exterior packaging contains a product delivery or dosing device if the device
14 is visible, or a clear and conspicuous depiction of the device appears on the exterior
15 packaging, or it is readily apparent from the conspicuous exterior disclosures or the
16 nature and name of the product that a delivery or dosing device is contained in the
17 package.

18 (11) The exterior packaging or immediate product container is a kit that consists of a
19 system, or multiple components, designed to produce a particular result that is not
20 dependent upon the quantity of the contents, if the purpose of the kit is clearly and
21 conspicuously disclosed on the exterior packaging.

22 (12) The exterior packaging of the product is routinely displayed using tester units or
23 demonstrations to consumers in retail stores, so that customers can see the actual,
24 immediate container of the product being sold, or a depiction of the actual size thereof
25 prior to purchase.

26 (13) The exterior packaging consists of single or multi-unit presentation boxes of
27 holiday or gift packages if the purchaser can adequately determine the quantity and sizes
28 of the immediate product container at the point of sale.

29 (14) The exterior packaging is for a combination of one purchased product, together
30 with a free sample or gift, wherein the exterior packaging is necessarily larger than it
31 would otherwise be due to the inclusion of the sample or gift, if the presence of both
32 products and the quantity of each product are clearly and conspicuously disclosed on the
33 exterior packaging.

34 (15) The exterior packaging or immediate product container encloses computer
35 hardware or software designed to serve a particular computer function, if the particular
36 computer function to be performed by the computer hardware or software is clearly and
37 conspicuously disclosed on the exterior packaging.

38 (c) Any sealer may seize a container that facilitates the perpetration of deception or
39 fraud and the contents of the container. By order of the municipal or superior court of the
40 city or county within which a violation of this section occurs, the containers seized shall
41 be condemned and destroyed or released upon such conditions as the court may impose to
42 insure against their use in violation of this chapter. The contents of any condemned
43 container shall be returned to the owner thereof if the owner furnishes proper facilities for
44 the return.

45 **Note: Comment Requested**

46 Subdivision (c) of Business and Professions Code Section 12606 can be construed to confer
47 concurrent jurisdiction on the municipal and superior courts. Further study is required to
48 determine how to amend this provision so as to provide appropriate guidance regarding

1 jurisdictional classification, if necessary. The Commission solicits comment on the proper
2 treatment of this provision.

3 **Bus. & Prof. Code § 12606.2 (unchanged). Misleading food containers**

4 12606.2. (a) This section applies to food containers subject to Section 403 (d) of the
5 Federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 343 (d)), and Section 100.100 of
6 Title 21 of the Code of Federal Regulations. Section 12606 does not apply to food
7 containers subject to this section.

8 (b) No food containers shall be made, formed, or filled as to be misleading.

9 (c) A container that does not allow the consumer to fully view its contents shall be
10 considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack fill
11 is the difference between the actual capacity of a container and the volume of product
12 contained therein. Nonfunctional slack fill is the empty space in a package that is filled to
13 less than its capacity for reasons other than the following:

14 (1) Protection of the contents of the package.

15 (2) The requirements of the machines used for enclosing the contents in the package.

16 (3) Unavoidable product settling during shipping and handling.

17 (4) The need for the package to perform a specific function, such as where packaging
18 plays a role in the preparation or consumption of a food, if that function is inherent to the
19 nature of the food and is clearly communicated to consumers.

20 (5) The fact that the product consists of a food packaged in a reusable container where
21 the container is part of the presentation of the food and has value that is both significant
22 in proportion to the value of the product and independent of its function to hold the food,
23 such as a gift product consisting of a food or foods combined with a container that is
24 intended for further use after the food is consumed or durable commemorative or
25 promotional packages.

26 (6) Inability to increase the level of fill or to further reduce the size of the package, such
27 as where some minimum package size is necessary to accommodate required food
28 labeling exclusive of any vignettes or other nonmandatory designs or label information,
29 discourage pilfering, facilitate handling, or accommodate tamper-resistant devices.

30 This section shall be interpreted consistent with the comments by the United States
31 Food and Drug Administration on the regulations contained in Section 100.100 of Title
32 21 of the Code of Federal Regulations, interpreting Section 403(d) of the Federal Food,
33 Drug and Cosmetic Act (21 U.S.C. Sec. 343(d)), as those comments are reported on
34 pages 64123 to 64137, inclusive, of Volume 58 of the Federal Register.

35 (d) If the requirements of this section do not impose the same requirements as are
36 imposed by Section 403(d) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. Sec.
37 343(d), or any regulation promulgated pursuant thereto, then this section is not operative
38 to the extent that it is not identical to the federal requirements, and for this purpose those
39 federal requirements are incorporated into this section and shall apply as if they were set
40 forth in this section.

41 (e) Any sealer may seize any container that is in violation of this section and the
42 contents of the container. By order of the municipal or superior court of the city or county
43 within which a violation of this section occurs, the containers seized shall be condemned
44 and destroyed or released upon any conditions that the court may impose to ensure
45 against their use in violation of this chapter. The contents of any condemned container
46 shall be returned to the owner thereof if the owner furnishes proper facilities for the
47 return.

Note: Comment Requested

Subdivision (e) of Business and Professions Code Section 12606.2 can be construed to confer concurrent jurisdiction on the municipal and superior courts. Further study is required to determine how to amend this provision so as to provide appropriate guidance regarding jurisdictional classification, if necessary. The Commission solicits comment on the proper treatment of this provision.

(The Commission is aware that “tamper-resistant” is misspelled in subdivision (c) and a left parentheses is missing after “343(d)” in subdivision (d). The Commission will seek to correct these mistakes once the proper treatment of subdivision (e) is determined.)

Bus. & Prof. Code § 17511.12 (amended). Bond of telephonic seller

SEC. ____ . Section 17511.12 of the Business and Professions Code is amended to read:

17511.12. (a) Every telephonic seller shall maintain a bond issued by a surety company admitted to do business in this state. The bond shall be in the amount of one hundred thousand dollars (\$100,000) in favor of the State of California for the benefit of any person suffering pecuniary loss in a transaction commenced during the period of bond coverage with a telephonic seller who violated this chapter. The bond shall include coverage for the payment of the portion of any judgment, including a judgment entered pursuant to Section 17203 or 17535, that provides for restitution to any person suffering pecuniary loss, notwithstanding whether the surety is joined or served in the action or proceeding. A copy of the bond shall be filed with the Consumer Law Section of the Department of Justice. This bond shall not be required of any cable television operator franchised or licensed pursuant to Section 53066 of the Government Code.

(b)(1) At least 10 days prior to the inception of any promotion offering a premium with an actual market value or advertised value of five hundred dollars (\$500) or more, the telephonic seller shall notify the Attorney General in writing of the details of the promotion, describing the premium, its current market value, the value at which it is advertised or held out to the customer, and the date the premium shall be awarded. All premiums offered shall be awarded. The telephonic seller shall maintain an additional bond for the total current market value or advertised value, whichever is greater, of the premiums held out or advertised to be available to a purchaser or recipient. A copy of the bond shall be filed with the Consumer Law Section of the Department of Justice. The bond shall be for the benefit of any person entitled to the premium who did not receive it within 30 days of the date disclosed to the Attorney General as the date on which the premium would be awarded. The amount paid to a person under a bond required by this subdivision shall not exceed the greater of the current market value or advertised or represented value of the premium offered to that person. The bond shall include coverage for the payment of any judgment, including a judgment entered pursuant to Section 17203 or 17535, that provides for payment of the value of premiums that were not timely awarded, notwithstanding whether the surety is joined or served in the action or proceeding. The bond shall also provide for payment upon motion by the Attorney General pursuant to subdivision (d) in the event the seller fails to provide the Attorney General with proof of the award of premiums as required in paragraph (2).

(2) Within 45 days after the date disclosed to the Attorney General for the award of premiums, the seller shall provide to the Attorney General proof that all premiums were awarded. The proof shall include the names, addresses, and telephone numbers of the recipients of the premiums and the date or dates on which the premiums were awarded. The bond shall be maintained until the seller files proof with the Attorney General as

1 required by this subdivision or until payment of the amount of the bond is ordered
2 pursuant to subdivision (d).

3 (c)(1) In addition to any other means for the enforcement of the surety's liability on a
4 bond required by this section, the surety's liability on the bond may be enforced by
5 motion, as provided in this subdivision, after a judgment has been obtained against the
6 seller.

7 (2) The Attorney General, district attorney, city attorney, or any other person who
8 obtained a judgment for restitution against the seller, as described in subdivision (a), may
9 file a motion in the court that entered the judgment to enforce liability on the bond
10 without first attempting to enforce the judgment against any party liable under the
11 judgment.

12 (3) The notice of motion, the motion, and a copy for the judgment shall be served on
13 the surety as provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2
14 of the Code of Civil Procedure. The notice shall set forth the amount of the claim and a
15 brief statement indicating that the claim is covered by the bond. Service shall also be
16 made on the Consumer Law Section of the Department of Justice.

17 (4) The court shall grant the motion unless (A) the surety establishes that the claim is
18 not covered by the bond or (B) the court sustains an objection made by the Attorney
19 General that the grant of the motion might impair the rights of actual or potential
20 claimants or is not in the public interest.

21 (d)(1) In addition to any other means for the enforcement of the surety's liability on a
22 bond required by subdivision (b), the surety's liability on the bond may be enforced by
23 motion as provided in this subdivision.

24 (2) The Attorney General, district attorney, city attorney, or any person who claims the
25 premium, may file a motion in ~~a court of competent jurisdiction in~~ the superior court of
26 ~~the county or judicial district from which the seller made an offer of a premium, in which~~
27 ~~the seller maintains any office or place of business, or in which an offeree of the premium~~
28 ~~resides. The motion shall set forth the nature of the seller's offer, the greater of the~~
29 ~~current market value or advertised or represented value of the premium, the date by~~
30 ~~which the premium should have been awarded, and the fact that the premium was not~~
31 ~~awarded as represented.~~

32 (3) The notice of motion and motion shall be served on the surety as provided in
33 Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of the Code of Civil
34 Procedure.

35 (4) The court shall grant the motion unless the surety establishes that the claim is untrue
36 or is not covered by the bond.

37 (5) The Attorney General may file a motion in ~~a court of competent jurisdiction in~~ the
38 superior court of ~~the county or judicial district from which the seller made an offer of a~~
39 ~~premium, or in which an offeree of a premium resides, for the payment of the entire bond~~
40 ~~if the seller fails to file proof with the Attorney General of the award of all premiums as~~
41 ~~required by paragraph (2) of subdivision (b). The notice of motion and motion shall be~~
42 ~~served as provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of~~
43 ~~the Code of Civil Procedure. The motion shall be granted if the Attorney General~~
44 ~~establishes that the seller failed to file proof of making the timely award of all premiums.~~
45 ~~The recovery on the bond shall be distributed pro rata to the promised recipients of the~~
46 ~~premiums to the extent their identity is actually known to the Attorney General at the~~
47 ~~time payment is made by the surety. The balance of the recovery shall be paid to any~~
48 ~~judicially established consumer protection trust fund designated by the Attorney General~~
49 ~~or as directed by the court under the cy pres doctrine.~~

1 (e) No stay of a motion filed pursuant to this section shall be granted pending the
2 determination of conflicting claims among beneficiaries. An order enforcing liability on a
3 bond may be enforced in the same manner as a money judgment pursuant to Title 9
4 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure. Nothing
5 herein affects the rights of the surety against the principal.

6 (f) The surety shall not be liable on the bond for payment of a judgment against a seller
7 for any violation of this chapter unless the action or proceeding is filed within two years
8 after the cancellation or termination of the bond, the termination of the seller's
9 registration, or the seller's cessation of business, whichever is later.

10 (g) The surety shall not be liable on a motion made pursuant to subdivision (d) unless
11 the motion is filed within two years of the date on which the seller represented the
12 premium was to have been awarded.

13 (h) For the purpose of this section, "judgment" includes a final order in a proceeding
14 for the termination of telephone service pursuant to Public Utilities Commission Tariff
15 Rule 31.

16 (i) Chapter 2 (commencing with Section 995.010) of Title 14 of Part 2 of the Code of
17 Civil Procedure shall apply to the enforcement of a bond given pursuant to this section
18 except to the extent of any inconsistency with this section, in which event this section
19 shall apply.

20 **Comment.** Subdivision (d) of Section 17511.12 is amended to reflect unification of the
21 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.
22 See Code Civ. Proc. § 38 (judicial districts).

23  **Note: Comment Requested**

24 Business and Professions Code Section 17511.12 raises issues relating to local venue. The
25 Commission and the Judicial Council are studying this area and may propose further revisions to
26 address local venue issues. The Commission solicits comment on the proper treatment of the
27 section.

28 **Bus. & Prof. Code § 22391 (amended). Deposit in lieu of bond of invention developer**

29 SEC. ____ . Section 22391 of the Business and Professions Code is amended to read:

30 22391. (a) When a deposit has been made in lieu of a bond pursuant to Section 995.710
31 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in
32 lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing
33 evidence to the Secretary of State of a money judgment entered by a court together with
34 evidence that the claimant is a person described in Section 22390.

35 (b) When a person has established the claim with the Secretary of State, the Secretary
36 of State shall review and approve the claim and enter the date of approval thereon. The
37 claim shall be designated an "approved claim."

38 (c) When the first claim against a particular deposit account has been approved, it shall
39 not be paid until the expiration of a period of 240 days after the date of its approval by the
40 Secretary of State. Subsequent claims that are approved by the Secretary of State within
41 the same 240-day period shall similarly not be paid until the expiration of the 240-day
42 period. Upon the expiration of the 240-day period, the Secretary of State shall pay all
43 approved claims from that 240-day period in full unless the deposit is insufficient, in
44 which case each approved claim shall be paid a pro rata share of the deposit.

45 (d) When the Secretary of State approves the first claim against a particular deposit
46 account after the expiration of a 240-day period, the date of approval of that claim shall
47 begin a new 240-day period to which subdivision (c) shall apply with respect to the
48 amount remaining in the deposit account.

1 (e) After a deposit account is exhausted, no further claims shall be paid by the Secretary
2 of State. Claimants who have had their claims paid in full or in part pursuant to
3 subdivisions (c) and (d) shall not be required to return funds received from the deposit for
4 the benefit of other claimants.

5 (f) When a deposit has been made in lieu of a bond, the amount of the deposit shall not
6 be subject to attachment, garnishment, or execution with respect to an action or judgment
7 against the invention developer, other than as to an amount no longer needed or required
8 for the purpose of this chapter which would otherwise be returned to the invention
9 developer by the Secretary of State.

10 (g) The Secretary of State shall retain a cash deposit for two years from the date the
11 Secretary of State receives written notification from the assignor of the deposit that the
12 assignor has ceased to engage in the business of an invention developer or has filed a
13 bond pursuant to Section 22389, provided that there are no outstanding claims against the
14 deposit. The written notice shall include all of the following: (1) name, address, and
15 telephone number of the assignor; (2) name, address, and telephone number of the bank at
16 which the deposit is located; (3) account number of the deposit; and (4) a statement
17 whether the assignor is ceasing to engage in the business of an invention developer or has
18 filed a bond with the Secretary of State. The Secretary of State shall forward an
19 acknowledgment of receipt of the written notification to the assignor at the address
20 indicated therein, specifying the date of receipt of the written notice and anticipated date
21 of release of the deposit.

22 (h) This section shall apply to all deposits retained by the Secretary of State.

23 (i) A judge of a ~~municipal~~ or superior court may order the return of the deposit prior to
24 the expiration of two years upon evidence satisfactory to the judge that there are no
25 outstanding claims against the deposit or order the Secretary of State to retain the deposit
26 for a sufficient period beyond the two years specified in subdivision (g) to resolve
27 outstanding claims against the deposit.

28 **Comment.** Subdivision (i) of Section 22391 is amended to reflect unification of the municipal
29 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

30  **Note: Comment Requested**

31 Business & Professions Code Section 22391 does not specify the procedure for seeking a court
32 order requiring return of a deposit. Would it be helpful to address this point? Is it necessary to
33 provide guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc.
34 § 86(a) (case at law in which demand or value of property in controversy is \$25,000 or less is
35 limited civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases).
36 The Commission solicits comment on the proper treatment of this provision.

37 **Bus. & Prof. Code § 22455 (amended). Bond or deposit of professional photocopier**

38 SEC. ____ . Section 22455 of the Business and Professions Code is amended to read:

39 22455. (a) A certificate of registration shall be accompanied by a bond of five thousand
40 dollars (\$5,000) which is executed by a corporate surety qualified to do business in this
41 state and conditioned upon compliance with the provisions of this chapter and all laws
42 governing the transmittal of confidential documentary information under the code
43 sections specified in Section 22450. The total aggregate liability on the bond shall be
44 limited to five thousand dollars (\$5,000). The bond may be terminated pursuant to the
45 provisions of Section 995.440 and Article 13 (commencing with Section 996.310) of
46 Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure.

47 (1) The county clerk shall, upon filing the bond, deliver the bond forthwith to the
48 county recorder for recording. The recording fee specified in Section 27361 of the

1 Government Code shall be paid by the registered professional photocopier. The fee may
2 be paid to the county clerk, who shall transmit it to the recorder.

3 (2) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars
4 (\$7).

5 (3) The county recorder shall record the bond and any notice of cancellation,
6 revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless
7 specified to the contrary, to the person named in the instrument and, if no person is
8 named, to the party leaving it for recording. The recording fee specified in Section 27361
9 of the Government Code for the notice of cancellation, revocation, or withdrawal of the
10 bond shall be paid to the county clerk, who shall transmit it to the county recorder.

11 (b) In lieu of the bond required by subdivision (a), a registrant may deposit five
12 thousand dollars (\$5,000) in cash with the county clerk.

13 (c) If the certificate is revoked, the bond or cash deposit shall be returned to the
14 bonding party or depositor subject to the provisions of subdivision (d) and the right of a
15 person to recover against the bond or cash deposit under Section 22459.

16 (d) The county clerk may retain a cash deposit until the expiration of three years from
17 the date the registrant has ceased to do business, or three years from the expiration or
18 revocation date of the registration, in order to ensure there are no outstanding claims
19 against the deposit. A judge of a ~~municipal~~ or superior court may order the return of the
20 deposit prior to the expiration of three years upon evidence satisfactory to the judge that
21 there are no outstanding claims against the deposit.

22 **Comment.** Subdivision (d) of Section 22455 is amended to reflect unification of the municipal
23 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

24 **Note: Comment Requested**

25 Business & Professions Code Section 22455 does not specify the procedure for seeking a court
26 order requiring return of a deposit. Would it be helpful to address this point? Is it necessary to
27 provide guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc.
28 § 86(a) (case at law in which demand or value of property in controversy is \$25,000 or less is
29 limited civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases).
30 The Commission solicits comment on the proper treatment of this provision.

31 **Bus. & Prof. Code § 25361 (amended). Notice of seizure and intended forfeiture proceeding**

32 SEC. ____ . Section 25361 of the Business and Professions Code is amended to read:
33 25361. Notice of the seizure and of the intended forfeiture proceeding shall be filed
34 with the ~~county~~ clerk of the court and shall be served on all persons, firms, or
35 corporations having any right, title, or interest in the alcoholic beverages or other
36 property seized. If the owner or owners are unknown or cannot be found, notice of the
37 seizure and intended forfeiture proceedings shall be made upon such owners by
38 publication pursuant to Section 6061 of the Government Code in the county where the
39 seizure was made.

40 **Comment.** Section 25361 is amended to reflect elimination of the county clerk's role as ex
41 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
42 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
43 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
44 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
45 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

46 **Bus. & Prof. Code § 25762 (amended). Fines and forfeitures of bail**

47 SEC. ____ . Section 25762 of the Business and Professions Code is amended to read:

1 25762. All fines and forfeitures of bail imposed for a violation of this division and
2 collected in any court other than a municipal court shall be paid to the county treasurer of
3 the county in which the court is held.

4 All fines and forfeitures of bail imposed for violation of this division and collected
5 upon conviction or upon forfeiture of bail, together with money deposited as bail, in any
6 municipal court shall be deposited with the county treasurer of the county in which the
7 court is situated and the money deposited shall be distributed and disposed of pursuant to
8 Section 1463 of the Penal Code.

9 **Comment.** Section 25762 is amended to reflect unification of the municipal and superior courts
10 pursuant to Article VI, Section 5(e), of the California Constitution.

11 **Note: Comment Requested**

12 The Commission is reviewing whether county treasury provisions remain viable, given the
13 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
14 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
15 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
16 (state funding of trial court operations). These matters are also being examined by a Joint Court-
17 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
18 treatment of Business and Professions Code Section 25762.

19 **CIVIL CODE**

20 **Civ. Code § 52.1 (amended). Protection of rights guaranteed by federal or state constitution**

21 SEC. ____ . Section 52.1 of the Civil Code is amended to read:

22 52.1. (a) If a person or persons, whether or not acting under color of law, interferes by
23 threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or
24 coercion, with the exercise or enjoyment by any individual or individuals of rights
25 secured by the Constitution or laws of the United States, or of the rights secured by the
26 Constitution or laws of this state, the Attorney General, or any district attorney or city
27 attorney may bring a civil action for injunctive and other appropriate equitable relief in
28 the name of the people of the State of California, in order to protect the peaceable
29 exercise or enjoyment of the right or rights secured. An action brought by the Attorney
30 General, any district attorney, or any city attorney may also seek a civil penalty of
31 twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be
32 assessed individually against each person who is determined to have violated this section
33 and the penalty shall be awarded to each individual whose rights under this section are
34 determined to have been violated.

35 (b) Any individual whose exercise or enjoyment of rights secured by the Constitution
36 or laws of the United States, or of rights secured by the Constitution or laws of this state,
37 has been interfered with, or attempted to be interfered with, as described in subdivision
38 (a), may institute and prosecute in his or her own name and on his or her own behalf a
39 civil action for damages, including, but not limited to, damages under Section 52,
40 injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or
41 enjoyment of the right or rights secured.

42 (c) An action brought pursuant to subdivision (a) or (b) may be filed either in the
43 superior court for the county in which the conduct complained of occurred or in the
44 superior court for the county in which a person whose conduct complained of resides or
45 has his or her place of business. An action brought by the Attorney General pursuant to
46 subdivision (a) also may be filed in the superior court for any county wherein the

1 Attorney General has an office, and in such a case, the jurisdiction of the court shall
2 extend throughout the state.

3 (d) If a court issues a temporary restraining order or a preliminary or permanent
4 injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to
5 refrain from conduct or activities, the order issued shall include the following statement:
6 VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9
7 OF THE PENAL CODE.

8 (e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the
9 county clerk of the court to mail, two copies of any order, extension, modification, or
10 termination thereof granted pursuant to this section, by the close of the business day on
11 which the order, extension, modification, or termination was granted, to each local law
12 enforcement agency having jurisdiction over the residence of the plaintiff and any other
13 locations where the court determines that acts of violence against the plaintiff are likely to
14 occur. Those local law enforcement agencies shall be designated by the plaintiff or the
15 attorney for the plaintiff. Each appropriate law enforcement agency receiving any order,
16 extension, or modification of any order issued pursuant to this section shall serve
17 forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency
18 shall provide to any law enforcement officer responding to the scene of reported violence,
19 information as to the existence of, terms, and current status of, any order issued pursuant
20 to this section.

21 (f) A court shall not have jurisdiction to issue an order or injunction under this section,
22 if that order or injunction would be prohibited under Section 527.3 of the Code of Civil
23 Procedure.

24 (g) An action brought pursuant to this section is independent of any other action,
25 remedy, or procedure that may be available to an aggrieved individual under any other
26 provision of law, including, but not limited to, an action, remedy, or procedure brought
27 pursuant to Section 51.7.

28 (h) In addition to any damages, injunction, or other equitable relief awarded in an
29 action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff
30 reasonable attorney's fees.

31 (i) A violation of an order described in subdivision (d) may be punished either by
32 prosecution under Section 422.9 of the Penal Code, or by a proceeding for contempt
33 brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of
34 Civil Procedure. However, in any such proceeding pursuant to the Code of Civil
35 Procedure, if it be determined that the person proceeded against is guilty of the contempt
36 charged, in addition to any other relief, a fine may be imposed not exceeding one
37 thousand dollars (\$ 1,000), or the person may be ordered imprisoned in a county jail not
38 exceeding six months, or the court may order both the imprisonment and fine.

39 (j) Speech alone is not sufficient to support an action brought pursuant to subdivision
40 (a) or (b), except upon a showing that the speech itself threatens violence against a
41 specific person or group of persons; and the person or group of persons against whom the
42 threat is directed reasonably fears that, because of the speech, violence will be committed
43 against them or their property and that the person threatening violence had the apparent
44 ability to carry out the threat.

45 (k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall
46 restrict the content of any person's speech. An order restricting the time, place, or manner
47 of any person's speech shall do so only to the extent reasonably necessary to protect the
48 peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the
49 constitutional rights of the person sought to be enjoined.

1 **Comment.** Section 52.1 is amended to reflect elimination of the county clerk’s role as ex
2 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
3 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
4 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
5 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
6 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

7  **Note.** Civil Code Section 52.1 reflects legislative changes made in AB 587 (Firebaugh). See
8 2001 Cal. Stat. ch. 261, § 2.

9 **Civ. Code § 798.61 (amended). Abandoned mobilehomes**

10 SEC. ____ . Section 798.61 of the Civil Code is amended to read:

11 798.61. (a)(1) As used in this section, “abandoned mobilehome” means a mobilehome
12 about which all of the following are true:

13 (A) It is located in a mobilehome park on a site for which no rent has been paid to the
14 management for the preceding 60 days.

15 (B) It is unoccupied.

16 (C) A reasonable person would believe it to be abandoned.

17 (2) For purposes of this section:

18 (A) “Mobilehome” shall include a trailer coach, as defined in Section 635 of the
19 Vehicle Code, or a recreational vehicle, as defined in Section 18010 of the Health and
20 Safety Code, if the trailer coach or recreational vehicle also satisfies the requirements of
21 paragraph (1), including being located on any site within a mobilehome park, even if the
22 site is in a separate designated section pursuant to Section 18215 of the Health and Safety
23 Code.

24 (B) “Abandoned mobilehome” shall include a mobilehome that is uninhabitable
25 because of its total or partial destruction that cannot be rehabilitated, if the mobilehome
26 also satisfies the requirements of paragraph (1).

27 (b) After determining a mobilehome in a mobilehome park to be an abandoned
28 mobilehome, the management shall post a notice of belief of abandonment on the
29 mobilehome for not less than 30 days, and shall deposit copies of the notice in the United
30 States mail, postage prepaid, addressed to the homeowner at the last known address and
31 to any known registered owner, if different from the homeowner, and to any known
32 holder of a security interest in the abandoned mobilehome. This notice shall be mailed by
33 registered or certified mail with a return receipt requested.

34 (c) Thirty or more days following posting pursuant to subdivision (b), the management
35 may file a petition in the municipal court for the judicial district in which the mobilehome
36 park is located, or in the superior court in a county in which there is no municipal court
37 the county in which the mobilehome park is located, for a judicial declaration of
38 abandonment of the mobilehome. A proceeding under this subdivision is a limited civil
39 case. Copies of the petition shall be served upon the homeowner, any known registered
40 owner, and any known person having a lien or security interest of record in the
41 mobilehome by posting a copy on the mobilehome and mailing copies to those persons at
42 their last known addresses by registered or certified mail with a return receipt requested
43 in the United States mail, postage prepaid.

44 (d)(1) Hearing on the petition shall be given precedence over other matters on the
45 court’s calendar.

46 (2) If, at the hearing, the petitioner shows by a preponderance of the evidence that the
47 criteria for an abandoned mobilehome has been satisfied and no party establishes an
48 interest therein at the hearing, the court shall enter a judgment of abandonment, determine

1 the amount of charges to which the petitioner is entitled, and award attorney's fees and
2 costs to the petitioner. For purposes of this subdivision, an interest in the mobilehome
3 shall be established by evidence of a right to possession of the mobilehome or a security
4 or ownership interest in the mobilehome.

5 (3) A default may be entered by the court clerk upon request of the petitioner, and a
6 default judgment shall be thereupon entered, if no responsive pleading is filed within 15
7 days after service of the petition by mail.

8 (e)(1) Within 10 days following a judgment of abandonment, the management shall
9 enter the abandoned mobilehome and complete an inventory of the contents and submit
10 the inventory to the court.

11 (2) During this period the management shall post and mail notice of intent to sell the
12 abandoned mobilehome and its contents under this section, and announcing the date of
13 sale, in the same manner as provided for the notice of determination of abandonment
14 under subdivision (b).

15 (3) At any time prior to the sale of a mobilehome under this section, any person having
16 a right to possession of the mobilehome may recover and remove it from the premises
17 upon payment to the management of all rent or other charges due, including reasonable
18 costs of storage and other costs awarded by the court. Upon receipt of this payment and
19 removal of the mobilehome from the premises pursuant to this paragraph, the
20 management shall immediately file an acknowledgment of satisfaction of judgment
21 pursuant to Section 724.030 of the Code of Civil Procedure.

22 (f) Following the judgment of abandonment, but not less than 10 days following the
23 notice of sale specified in subdivision (e), the management may conduct a public sale of
24 the abandoned mobilehome and its contents. The management may bid at the sale and
25 shall have the right to offset its bids to the extent of the total amount due it under this
26 section. The proceeds of the sale shall be retained by the management, but any unclaimed
27 amount thus retained over and above the amount to which the management is entitled
28 under this section shall be deemed abandoned property and shall be paid into the treasury
29 of the county in which the sale took place within 30 days of the date of the sale. The
30 former homeowner or any other owner may claim any or all of that unclaimed amount
31 within one year from the date of payment to the county by making application to the
32 county treasurer or other official designated by the county. If the county pays any or all of
33 that unclaimed amount to a claimant, neither the county nor any officer or employee of
34 the county is liable to any other claimant as to the amount paid.

35 (g) Within 30 days of the date of the sale, the management shall submit to the court an
36 accounting of the moneys received from the sale and the disposition of the money and the
37 items contained in the inventory submitted to the court pursuant to subdivision (e).

38 (h) The management shall provide the purchaser at the sale with a copy of the judgment
39 of abandonment and evidence of the sale, as shall be specified by the State Department of
40 Housing and Community Development or the Department of Motor Vehicles, which shall
41 register title in the abandoned mobilehome to the purchaser upon presentation thereof.
42 The sale shall pass title to the purchaser free of any prior interest, including any security
43 interest or lien, except the lien provided for in Section 18116.1 of the Health and Safety
44 Code, in the abandoned mobilehome.

45 **Comment.** Subdivision (c) of Section 798.61 is amended to reflect unification of the municipal
46 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Code
47 Civ. Proc. § 38 (judicial districts).

Note: Comment Requested

Civil Code Section 798.61 raises issues relating to local venue. The Commission and the Judicial Council are studying this area and may propose further revisions to address local venue issues. The Commission solicits comment on the proper treatment of the section.

Civ. Code § 1181 (amended). Proof of acknowledgment of instrument

SEC. ____ . Section 1181 of the Civil Code is amended to read:

1181. The proof or acknowledgment of an instrument may be made before a notary public at any place within this state, or within the county or city and county in this state in which the officer specified below was elected or appointed, before either:

- (a) A clerk of a superior or municipal court.
- (b) A county clerk.
- (c) A court commissioner.
- (d) A judge or retired judge of a municipal or justice court.
- (e) A district attorney.
- (f) A clerk of a board of supervisors.
- (g) A city clerk.
- (h) A county counsel.
- (i) A city attorney.
- (j) Secretary of the Senate.
- (k) Chief Clerk of the Assembly.

Comment. Subdivisions (a) and (d) of Section 1181 are amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Civ. Code § 1780 (amended). Action for unlawful method, act, or practice

SEC. ____ . Section 1780 of the Civil Code is amended to read:

1780. (a) Any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by Section 1770 may bring an action against that person to recover or obtain any of the following:

- (1) Actual damages, but in no case shall the total award of damages in a class action be less than one thousand dollars (\$1,000).
- (2) An order enjoining the methods, acts, or practices.
- (3) Restitution of property.
- (4) Punitive damages.
- (5) Any other relief that the court deems proper.

(b) Any consumer who is a senior citizen or a disabled person, as defined in subdivisions (f) and (g) of Section 1761, as part of an action under subdivision (a), may seek and be awarded, in addition to the remedies specified therein, up to five thousand dollars (\$5,000) where the trier of fact (1) finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, (2) makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345, and (3) finds that an additional award is appropriate. Judgment in a class action by senior citizens or disabled persons under Section 1781 may award each class member such an additional award where the trier of fact has made the foregoing findings.

(c) An action under subdivision (a) or (b) may be commenced in the county in which the person against whom it is brought resides, has his or her principal place of business, or is doing business, or in the county where the transaction or any substantial portion thereof occurred.

1 If within the county there is a municipal court, having jurisdiction of the subject matter,
2 established in the city and county or judicial district in which the person against whom
3 the action is brought resides, has his or her principal place of business, or is doing
4 business, or in which the transaction or any substantial portion thereof occurred, then that
5 court is the proper court for the trial of the action. Otherwise, any court in the county
6 having jurisdiction of the subject matter is the proper court for the trial thereof.

7 In any action subject to the provisions of this section, concurrently with the filing of the
8 complaint, the plaintiff shall file an affidavit stating facts showing that the action has
9 been commenced in a county or judicial district described in this section as a proper place
10 for the trial of the action. If a plaintiff fails to file the affidavit required by this section,
11 the court shall, upon its own motion or upon motion of any party, dismiss the action
12 without prejudice.

13 (d) The court shall award court costs and attorney's fees to a prevailing plaintiff in
14 litigation filed pursuant to this section. Reasonable attorney's fees may be awarded to a
15 prevailing defendant upon a finding by the court that the plaintiff's prosecution of the
16 action was not in good faith.

17 **Comment.** Subdivision (c) of Section 1780 is amended to reflect unification of the municipal
18 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Code
19 Civ. Proc. § 38 (judicial districts).

20 **Note: Comment Requested**

21 Civil Code Section 1780 raises issues relating to local venue. The Commission and the Judicial
22 Council are studying this area and may propose further revisions to address local venue issues.
23 The Commission solicits comment on the proper treatment of the section.

24 **Civ. Code § 1789.24 (amended). Deposit in lieu of bond of credit services organization**

25 SEC. ____ . Section 1789.24 of the Civil Code is amended to read:

26 1789.24. (a) When a deposit has been made in lieu of a bond pursuant to Section
27 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit
28 shall, in lieu of proceeding under Section 996.430 of the Code of Civil Procedure,
29 establish the claim by furnishing evidence to the Secretary of State of a money judgment
30 entered by a court, together with evidence that the claimant is a person described in
31 subdivision (b) of Section 1789.18.

32 (b) When a person has established the claim with the Secretary of State, the Secretary
33 of State shall review and approve the claim and enter the date of approval thereon. The
34 claim shall be designated an "approved claim."

35 (c) When the first claim against a particular deposit has been approved, it shall not be
36 paid until the expiration of a period of 240 days after the date of its approval by the
37 Secretary of State. Subsequent claims that are approved by the Secretary of State within
38 the same 240-day period shall similarly not be paid until the expiration of the 240-day
39 period. Upon the expiration of the 240-day period, the Secretary of State shall pay all
40 approved claims from that 240-day period in full unless the deposit is insufficient, in
41 which case each approved claim shall be paid a pro rata share of the deposit.

42 (d) When the Secretary of State approves the first claim against a particular deposit
43 after the expiration of a 240-day period, the date of approval of that claim shall begin a
44 new 240-day period to which subdivision (c) shall apply with respect to any amount
45 remaining in the deposit.

46 (e) After a deposit is exhausted, no further claims shall be paid by the Secretary of
47 State. Claimants who have had their claims paid in full or in part pursuant to subdivision

1 (c) or (d) shall not be required to return funds received from the deposit for the benefit of
2 other claimants.

3 (f) When a deposit has been made in lieu of a bond, as specified in subdivision (a), the
4 amount of the deposit shall not be subject to attachment, garnishment, or execution with
5 respect to an action or judgment against the credit services organization, other than as to
6 an amount as no longer needed or required for the purpose of this title which would
7 otherwise be returned to the credit services organization by the Secretary of State.

8 (g) The Secretary of State shall retain a cash deposit for two years from the date the
9 Secretary of State receives written notification from the assignor of the deposit that the
10 assignor has ceased to engage in the business of a credit services organization or has filed
11 a bond pursuant to Section 1789.18, provided that there are no outstanding claims against
12 the deposit. The written notice shall include all of the following: (1) name, address, and
13 telephone number of the assignor; (2) name, address, and telephone number of the bank at
14 which the deposit is located; (3) account number of the deposit; and (4) a statement
15 whether the assignor is ceasing to engage in the business of a credit services organization
16 or has filed a bond with the Secretary of State. The Secretary of State shall forward an
17 acknowledgment of receipt of the written notice to the assignor at the address indicated
18 therein, specifying the date of receipt of the written notice and anticipated date of release
19 of the deposit.

20 (h) This section shall apply to all deposits retained by the Secretary of State.

21 (i) A judge of a ~~municipal or~~ superior court may order the return of the deposit prior to
22 the expiration of two years upon evidence satisfactory to the judge that there are no
23 outstanding claims against the deposit or order the Secretary of State to retain the deposit
24 for a sufficient period beyond the two years specified in subdivision (g) to resolve
25 outstanding claims against the deposit account.

26 **Comment.** Subdivision (i) of Section 1789.24 is amended to reflect unification of the
27 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

28  **Note: Comment Requested**

29 Civil Code Section 1789.24 does not specify the procedure for seeking a court order requiring
30 return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance
31 regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at
32 law in which demand or value of property in controversy is \$25,000 or less is limited civil case);
33 see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission
34 solicits comment on the proper treatment of this provision.

35 **Civ. Code § 1812.10 (amended). Action on contract or installment account**

36 SEC. ____ . Section 1812.10 of the Civil Code is amended to read:

37 1812.10. An action on a contract or installment account under the provisions of this
38 chapter shall be tried in the county in which the contract was in fact signed by the buyer,
39 in the county in which the buyer resided at the time the contract was entered into, in the
40 county in which the buyer resides at the commencement of the action, or in the county in
41 which the goods purchased pursuant to the contract have been so affixed to real property
42 as to become a part of that real property.

43 ~~If within the county there is a municipal court, having jurisdiction of the subject matter,~~
44 ~~established in the city and county or judicial district in which the contract was in fact~~
45 ~~signed by the buyer, or in which the buyer resided at the time the contract was entered~~
46 ~~into, or in which the buyer resides at the commencement of the action or in which the~~
47 ~~goods purchased pursuant to the contract have been so affixed to real property as to~~
48 ~~become a part of that real property, then that court is the proper court for the trial of the~~

1 action. Otherwise, any court in the county, having jurisdiction of the subject matter, is the
2 proper court for the trial thereof.

3 In any action subject to the provisions of this section, concurrently with the filing of the
4 complaint, the plaintiff shall file an affidavit stating facts showing that the action has
5 been commenced in a county or judicial district described in this section as a proper place
6 for the trial of the action. Those facts may be stated in a verified complaint and shall not
7 be stated on information or belief. When that affidavit is filed with the complaint, a copy
8 thereof shall be served with the summons. If a plaintiff fails to file the affidavit or state
9 facts in a verified complaint required by this section, no further proceedings shall be had,
10 but the court shall, upon its own motion or upon motion of any party, dismiss the action
11 without prejudice; however, the court may, on such terms as may be just, permit the
12 affidavit to be filed subsequent to the filing of the complaint and a copy of the affidavit
13 shall be served on the defendant. The time to answer or otherwise plead shall date from
14 that service.

15 **Comment.** Section 1812.10 is amended to reflect unification of the municipal and superior
16 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Code Civ. Proc. §
17 38 (judicial districts).

18 **Note: Comment Requested**

19 Civil Code Section 1812.10 raises issues relating to local venue. The Commission and the
20 Judicial Council are studying this area and may propose further revisions to address local venue
21 issues. The Commission solicits comment on the proper treatment of the section.

22 **Civ. Code § 1812.105 (amended). Deposit in lieu of bond of discount buying organization**

23 SEC. ____ . Section 1812.105 of the Civil Code is amended to read:

24 1812.105. (a) When a deposit has been made in lieu of a bond pursuant to Section
25 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit
26 shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by
27 furnishing evidence to the Secretary of State of a money judgment entered by a court
28 together with evidence that the claimant is a person described in Section 1812.104.

29 (b) When a person has established the claim with the Secretary of State, the Secretary
30 of State shall review and approve the claim and enter the date of approval on the claim.
31 The claim shall be designated an “approved claim.”

32 (c) When the first claim against a particular deposit has been approved, it shall not be
33 paid until the expiration of a period of 240 days after the date of its approval by the
34 Secretary of State. Subsequent claims that are approved by the Secretary of State within
35 the same 240-day period shall similarly not be paid until the expiration of the 240-day
36 period. Upon the expiration of the 240-day period, the Secretary of State shall pay all
37 approved claims from that 240-day period in full unless the deposit is insufficient, in
38 which case each approved claim shall be paid a pro rata share of the deposit.

39 (d) When the Secretary of State approves the first claim against a particular deposit
40 after the expiration of a 240-day period, the date of approval of that claim shall begin a
41 new 240-day period to which subdivision (c) shall apply with respect to the amount
42 remaining in the deposit.

43 (e) After a deposit is exhausted, no further claims shall be paid by the Secretary of
44 State. Claimants who have had their claims paid in full or in part pursuant to subdivisions
45 (c) and (d) shall not be required to return funds received from the deposit for the benefit
46 of other claimants.

1 (f) When a deposit has been made in lieu of a bond, the amount of the deposit shall not
2 be subject to attachment, garnishment, or execution with respect to an action or judgment
3 against the discount buying organization, other than as to an amount as no longer needed
4 or required for the purpose of this title that would otherwise be returned to the discount
5 buying organization by the Secretary of State.

6 (g) The Secretary of State shall retain a cash deposit for two years from the date the
7 Secretary of State receives written notification from the assignor of the deposit that the
8 assignor has ceased to engage in the business of a discount buying organization or has
9 filed a bond pursuant to Section 1812.103, provided that there are no outstanding claims
10 against the deposit. This written notice shall include all of the following: (1) name,
11 address, and telephone number of the assignor; (2) name, address, and telephone number
12 of the bank at which the deposit is located; (3) account number of the deposit; and (4) a
13 statement whether the assignor is ceasing to engage in the business of a discount buying
14 organization or has filed a bond with the Secretary of State. The Secretary of State shall
15 forward an acknowledgment of receipt of the written notice to the assignor at the address
16 indicated therein, specifying the date of receipt of the written notice and anticipated date
17 of release of the deposit, provided there are no outstanding claims against the deposit.

18 (h) A judge of a ~~municipal~~ or superior court may order the return of the deposit prior to
19 the expiration of two years upon evidence satisfactory to the judge that there are no
20 outstanding claims against the deposit or order the Secretary of State to retain the deposit
21 for a sufficient period beyond the two years specified in subdivision (g) to resolve
22 outstanding claims against the deposit.

23 **Comment.** Subdivision (h) of Section 1812.105 is amended to reflect unification of the
24 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

25 **Note: Comment Requested**

26 Civil Code Section 1812.105 does not specify the procedure for seeking a court order requiring
27 return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance
28 regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at
29 law in which demand or value of property in controversy is \$25,000 or less is limited civil case);
30 see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission
31 solicits comment on the proper treatment of this provision.

32 **Civ. Code § 1812.503 (amended). Bond or deposit of employment agency**

33 SEC. ____ . Section 1812.503 of the Civil Code is amended to read:

34 1812.503. (a) Every employment agency subject to this title shall maintain a bond
35 issued by a surety company admitted to do business in this state. The principal sum of the
36 bond shall be three thousand dollars (\$3,000). A copy of the bond shall be filed with the
37 Secretary of State.

38 (b) The bond required by this section shall be in favor of, and payable to, the people of
39 the State of California and shall be conditioned that the person obtaining the bond will
40 comply with this title and will pay all sums due any individual or group of individuals
41 when the person or his or her representative, agent, or employee has received those sums.
42 The bond shall be for the benefit of any person or persons damaged by any violation of
43 this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or
44 omissions, or failure to provide the services of the employment agency in performance of
45 the contract with the jobseeker, by the employment agency or its agents, representatives,
46 or employees while acting within the scope of their employment.

1 (c)(1) No employment agency shall conduct any business without having a current
2 surety bond in the amount prescribed by this title and filing a copy of the bond with the
3 Secretary of State.

4 (2) Thirty days prior to the cancellation or termination of any surety bond required by
5 this section, the surety shall send a written notice of that cancellation or termination to
6 both the employment agency and the Secretary of State, identifying the bond and the date
7 of cancellation or termination.

8 (3) If any employment agency fails to obtain a new bond and file a copy of that bond
9 with the Secretary of State by the effective date of the cancellation or termination of the
10 former bond, the employment agency shall cease to conduct any business unless and until
11 a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

12 (d) When a deposit has been made in lieu of the bond pursuant to Section 995.710 of
13 the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu
14 of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing
15 evidence to the Secretary of State of a money judgment entered by a court together with
16 evidence that the claimant is a person described in subdivision (b).

17 (e) When a claimant has established the claim with the Secretary of State, the Secretary
18 of State shall review and approve the claim and enter the date of approval thereon. The
19 claim shall be designated an "approved claim."

20 (f) When the first claim against a particular deposit has been approved, it shall not be
21 paid until the expiration of a period of 240 days after the date of its approval by the
22 Secretary of State. Subsequent claims that are approved by the Secretary of State within
23 the same 240-day period shall similarly not be paid until the expiration of the 240-day
24 period. Upon the expiration of the 240-day period, the Secretary of State shall pay all
25 approved claims from that 240-day period in full unless the deposit is insufficient, in
26 which case each approved claim shall be paid a pro rata share of the deposit.

27 (g) When the Secretary of State approves the first claim against a particular deposit
28 after the expiration of a 240-day period, the date of approval of that claim shall begin a
29 new 240-day period to which subdivision (f) shall apply with respect to any amount
30 remaining in the deposit.

31 (h) After a deposit is exhausted, no further claims shall be paid by the Secretary of
32 State. Claimants who have had their claims paid in full or in part pursuant to subdivision
33 (f) or (g) shall not be required to return funds received from the deposit for the benefit of
34 other claimants.

35 (i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not
36 be subject to attachment, garnishment, or execution with respect to an action or judgment
37 against the employment agency, other than as to an amount as no longer needed or
38 required for the purpose of this title that would otherwise be returned to the employment
39 agency by the Secretary of State.

40 (j) The Secretary of State shall retain a cash deposit for two years from the date the
41 Secretary of State receives written notification from the assignor of the deposit that the
42 assignor has ceased to engage in the business of an employment agency or has filed a
43 bond pursuant to subdivision (a), provided that there are no outstanding claims against
44 the deposit. This written notice shall include all of the following: (1) name, address, and
45 telephone number of the assignor; (2) name, address, and telephone number of the bank at
46 which the deposit is located; (3) account number of the deposit; and (4) a statement
47 whether the assignor is ceasing to engage in the business of an employment agency or has
48 filed a bond with the Secretary of State. The Secretary of State shall forward an
49 acknowledgment of receipt of the written notice to the assignor at the address indicated

1 therein, specifying the date of receipt of the written notice and anticipated date of release
2 of the deposit, provided there are no outstanding claims against the deposit.

3 (k) A judge of a ~~municipal~~ or superior court may order the return of the deposit prior to
4 the expiration of two years upon evidence satisfactory to the judge that there are no
5 outstanding claims against the deposit or order the Secretary of State to retain the deposit
6 for a sufficient period beyond the two years pursuant to subdivision (j) to resolve
7 outstanding claims against the deposit account.

8 (l) The Secretary of State shall charge a filing fee not to exceed the cost of filing the
9 bond or deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil
10 Procedure.

11 (m) The Secretary of State shall enforce the provisions of this chapter that govern the
12 filing and maintenance of bonds and deposits in lieu of bonds.

13 **Comment.** Subdivision (k) of Section 1812.503 is amended to reflect unification of the
14 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

15 **Note: Comment Requested**

16 Civil Code Section 1812.503 does not specify the procedure for seeking a court order requiring
17 return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance
18 regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at
19 law in which demand or value of property in controversy is \$25,000 or less is limited civil case);
20 see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission
21 solicits comment on the proper treatment of this provision.

22 **Civ. Code § 1812.510 (amended). Bond or deposit of employment counseling service**

23 SEC. ____ . Section 1812.510 of the Civil Code is amended to read:

24 1812.510. (a) Every employment counseling service subject to this title shall maintain a
25 bond issued by a surety company admitted to do business in this state. The principal sum
26 of the bond shall be ten thousand dollars (\$10,000). A copy of the bond shall be filed with
27 the Secretary of State.

28 (b) The bond required by this section shall be in favor of, and payable to, the people of
29 the State of California, and shall be conditioned that the person obtaining the bond will
30 comply with this title and will pay all sums due any individual or group of individuals
31 when the person or his or her representative, agent, or employee has received those sums.
32 The bond shall be for the benefit of any person or persons damaged by any violation of
33 this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts of
34 or omissions, or failure to provide the services of the employment counseling service in
35 performance of the contract with the customer by the employment counseling service or
36 its agents, representatives, or employees while acting within the scope of their
37 employment.

38 (c)(1) No employment counseling service shall conduct any business without having a
39 current surety bond in the amount prescribed by this title and filing a copy of the bond
40 with the Secretary of State.

41 (2) Thirty days prior to the cancellation or termination of any surety bond required by
42 this section, the surety shall send a written notice of that cancellation or termination to
43 both the employment counseling service and the Secretary of State, identifying the bond
44 and the date of cancellation or termination.

45 (3) If any employment counseling service fails to obtain a new bond and file a copy of
46 that bond with the Secretary of State by the effective date of the cancellation or
47 termination of the former bond, the employment counseling service shall cease to conduct

1 any business unless and until a new surety bond is obtained and a copy of that bond is
2 filed with the Secretary of State.

3 (d) When a deposit has been made in lieu of the bond pursuant to Section 995.710 of
4 the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu
5 of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing
6 evidence to the Secretary of State of a money judgment entered by a court together with
7 evidence that the claimant is a person described in subdivision (b).

8 (e) When a person has established the claim with the Secretary of State, the Secretary
9 of State shall immediately review and approve the claim and enter the date of approval on
10 the claim. The claim shall be designated an “approved claim.”

11 (f) When the first claim against a particular deposit has been approved, it shall not be
12 paid until the expiration of a period of 240 days after the date of its approval by the
13 Secretary of State. Subsequent claims that are approved by the Secretary of State within
14 the same 240-day period shall similarly not be paid until the expiration of the 240-day
15 period. Upon the expiration of the 240-day period, the Secretary of State shall pay all
16 approved claims from that 240-day period in full unless the deposit is insufficient, in
17 which case each approved claim shall be paid a pro rata share of the deposit.

18 (g) When the Secretary of State approves the first claim against a particular deposit
19 account after the expiration of the 240-day period, the date of approval of that claim shall
20 begin a new 240-day period to which subdivision (f) shall apply with respect to the
21 amount remaining in the deposit account.

22 (h) After a deposit account is exhausted, no further claims shall be paid by the
23 Secretary of State. Claimants who have had their claims paid in full or in part pursuant to
24 subdivisions (f) and (g) shall not be required to return funds received from the deposit for
25 the benefit of other claimants.

26 (i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not
27 be subject to attachment, garnishment, or execution with respect to an action or judgment
28 against the employment counseling service, other than as to an amount as no longer
29 needed or required for the purpose of this title that would otherwise be returned to the
30 employment counseling service by the Secretary of State.

31 (j) The Secretary of State shall retain a cash deposit for two years from the date the
32 Secretary of State receives written notification from the assignor of the deposit that the
33 assignor has ceased to engage in the business of a counseling service or has filed a bond
34 pursuant to subdivision (a), provided that there are no outstanding claims against the
35 deposit. Written notification to the Secretary of State shall include all of the following:
36 (1) name, address, and telephone number of the assignor; (2) name, address, and
37 telephone number of the bank at which the deposit is located; (3) account number of the
38 deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a
39 counseling service or has filed a bond with the Secretary of State. The Secretary of State
40 shall forward an acknowledgment of receipt of the written notice to the assignor at the
41 address indicated in the notice, specifying the date of receipt of the written notice and
42 anticipated date of release of the deposit, provided there are no outstanding claims against
43 the deposit account.

44 (k) A judge of a ~~municipal~~ or superior court may order the return of the deposit prior to
45 the expiration of two years upon evidence satisfactory to the judge that there are no
46 outstanding claims against the deposit or order the Secretary of State to retain the deposit
47 for a sufficient period beyond the two years pursuant to subdivision (j) to resolve
48 outstanding claims against the deposit account.

1 (l) The Secretary of State shall charge a filing fee not to exceed the cost of filing the
2 bond or the deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of
3 Civil Procedure.

4 (m) The Secretary of State shall enforce the provisions of this chapter that govern the
5 filing and maintenance of bonds and deposits in lieu of bonds.

6 **Comment.** Subdivision (b) of Section 1812.510 is amended to make a technical change.

7 Subdivision (k) is amended to reflect unification of the municipal and superior courts pursuant
8 to Article VI, Section 5(e), of the California Constitution.

9 **Note: Comment Requested**

10 Civil Code Section 1812.510 does not specify the procedure for seeking a court order requiring
11 return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance
12 regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at
13 law in which demand or value of property in controversy is \$25,000 or less is limited civil case);
14 see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission
15 solicits comment on the proper treatment of this provision.

16 **Civ. Code § 1812.515 (amended). Bond or deposit of job listing service**

17 SEC. ____ . Section 1812.515 of the Civil Code is amended to read:

18 1812.515. (a) Every job listing service subject to this title shall maintain a bond issued
19 by a surety company admitted to do business in this state. The principal sum of the bond
20 shall be ten thousand dollars (\$10,000) for each location. A copy of the bond shall be
21 filed with the Secretary of State.

22 (b) The bond required by this section shall be in favor of, and payable to, the people of
23 the State of California, and shall be conditioned that the person obtaining the bond will
24 comply with this title and will pay all sums due any individual or group of individuals
25 when the person or his or her representative, agent, or employee has received those sums.
26 The bond shall be for the benefit of any person or persons damaged by any violation of
27 misrepresentation, deceit, unlawful acts of omissions, or failure to provide the services of
28 the job listing service in performance of the contract with the jobseeker, by the job listing
29 service or its agent, representatives, or employees while acting within the scope of their
30 employment.

31 (c)(1) No job listing service shall conduct any business without having a current surety
32 bond in the amount prescribed by this chapter and filing a copy of the bond with the
33 Secretary of State, identifying the bond and the date of cancellation or termination.

34 (2) Thirty days prior to the cancellation or termination of any surety bond required by
35 this section, the surety shall send a written notice of that cancellation or termination to
36 both the job listing service and the Secretary of State, identifying the bond and the date of
37 cancellation or termination.

38 (3) If any job listing service fails to obtain a new bond and file a copy of that bond with
39 the Secretary of State by the effective date of the cancellation or termination of the
40 former bond, the job listing service shall cease to conduct any business unless and until a
41 new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

42 (d) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the
43 Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of
44 Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing
45 evidence to the Secretary of State of a money judgment entered by a court together with
46 evidence that the claimant is a person described in subdivision (b).

1 (e) When a person has established the claim with the Secretary of State, the Secretary
2 of State shall review and approve the claim and enter the date of approval on the claim.
3 The claim shall be designated an “approved claim.”

4 (f) When the first claim against a particular deposit has been approved, it shall not be
5 paid until the expiration of a period of 240 days after the date of its approval by the
6 Secretary of State. Subsequent claims that are approved by the Secretary of State within
7 the same 240-day period shall similarly not be paid until the expiration of the 240-day
8 period. Upon the expiration of the 240-day period, the Secretary of State shall pay all
9 approved claims from that 240-day period in full unless the deposit is insufficient, in
10 which case each approved claim shall be paid in a pro rata share of the deposit.

11 (g) When the Secretary of State approves the first claim against a particular deposit
12 after the expiration of the 240-day period, the date of approval of that claim shall begin a
13 new 240-day period to which subdivision (f) shall apply with respect to the amount
14 remaining in the deposit.

15 (h) After a deposit is exhausted, no further claims shall be paid by the Secretary of
16 State. Claimants who have had their claims paid in full or in part pursuant to subdivisions
17 (f) and (g) shall not be required to return funds received from the deposit for the benefit
18 of other claimants.

19 (i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not
20 be subject to attachment, garnishment, or execution with respect to an action or judgment
21 against the job listing service, other than as to an amount as no longer needed or required
22 for the purpose of this title that would otherwise be returned to the job listing service by
23 the Secretary of State.

24 (j) The Secretary of State shall retain a cash deposit for two years from the date the
25 Secretary of State receives written notification from the assignor of the deposit that the
26 assignor has ceased to engage in the business of a job listing service or has filed a bond
27 pursuant to subdivision (a), provided that there are no outstanding claims against the
28 deposit. Written notification to the Secretary of State shall include all of the following:
29 (1) name, address, and telephone number of the assignor; (2) name, address, and
30 telephone number of the bank at which the deposit is located; (3) account number of the
31 deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a
32 job listing service or has filed a bond with the Secretary of State. The Secretary of State
33 shall forward an acknowledgment of receipt of the written notice to the assignor at the
34 address indicated therein, specifying the date of receipt of the written notice and
35 anticipated date of release of the deposit, provided there are no outstanding claims against
36 the deposit.

37 (k) A judge of a ~~municipal~~ or superior court may order the return of the deposit prior to
38 the expiration of two years upon evidence satisfactory to the judge that there are no
39 outstanding claims against the deposit or order the Secretary of State to retain the deposit
40 for a specified period beyond the two years pursuant to subdivision (j) to resolve
41 outstanding claims against the deposit account.

42 (l) The Secretary of State shall charge a filing fee not to exceed the cost of filing the
43 bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil
44 Procedure.

45 (m) The Secretary of State shall enforce the provisions of this chapter that govern the
46 filing and maintenance of bonds and deposits in lieu of bonds.

47 **Comment.** Subdivision (k) of Section 1812.515 is amended to reflect unification of the
48 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Note: Comment Requested

There appears to be an error in the last sentence of subdivision (b) of Civil Code Section 1812.515. The sentence probably should read: “The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the job listing service in performance of the contract with the jobseeker, by the job listing service or its agent, representatives, or employees while acting within the scope of their employment.” Cf. Civ. Code § 1812.510(b). The Commission has not proposed to make such a correction here, because it might be considered substantive, but this might be addressed in a future proposal. The Commission solicits comment on the proper treatment of the section.

Section 1812.515 does not specify the procedure for seeking a court order requiring return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at law in which demand or value of property in controversy is \$25,000 or less is limited civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission solicits comment on the proper treatment of this provision.

Civ. Code § 1812.525 (amended). Bond or deposit of nurses’ registry

SEC. ____ . Section 1812.525 of the Civil Code is amended to read:

1812.525. (a) Every nurses’ registry subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be three thousand dollars (\$3,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the nurses’ registry in performance of the contract with the nurse by the nurses’ registry or its agents, representatives, or employees while acting within the scope of their employment.

(c)(1) No nurses’ registry shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the nurses’ registry and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any nurses’ registry fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the nurses’ registry shall cease to conduct any business unless and until a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

1 (e) When a person has established the claim with the Secretary of State, the Secretary
2 of State shall review and approve the claim and enter the date of approval on the claim.
3 The claim shall be designated an “approved claim.”

4 (f) When the first claim against a particular deposit has been approved, it shall not be
5 paid until the expiration of a period of 240 days after the date of its approval by the
6 Secretary of State. Subsequent claims that are approved by the Secretary of State within
7 the same 240-day period shall similarly not be paid until the expiration of the 240-day
8 period. Upon the expiration of the 240-day period, the Secretary of State shall pay all
9 approved claims from that 240-day period in full unless the deposit is insufficient, in
10 which case each approved claim shall be paid a pro rata share of the deposit.

11 (g) When the Secretary of State approves the first claim against a particular deposit
12 after the expiration of a 240-day period, the date of approval of that claim shall begin a
13 new 240-day period to which subdivision (f) shall apply with respect to the amount
14 remaining in the deposit.

15 (h) After a deposit is exhausted, no further claims shall be paid by the Secretary of
16 State. Claimants who have had their claims paid in full or in part pursuant to subdivisions
17 (f) and (g) shall not be required to return funds received from the deposit for the benefit
18 of other claimants.

19 (i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not
20 be subject to attachment, garnishment, or execution with respect to an action or judgment
21 against the nurses’ registry, other than as to an amount as no longer needed or required
22 for the purpose of this title that would otherwise be returned to the nurses’ registry by the
23 Secretary of State.

24 (j) The Secretary of State shall retain a cash deposit for two years from the date the
25 Secretary of State receives written notification from the assignor of the deposit that the
26 assignor has ceased to engage in the business of a nurse’s registry or has filed a bond
27 pursuant to subdivision (a), provided that there are no outstanding claims against the
28 deposit. The written notice to the Secretary of State shall include all of the following: (1)
29 name, address, and telephone number of the assignor; (2) name, address, and telephone
30 number of the bank at which the deposit is located; (3) account number of the deposit;
31 and (4) a statement whether the assignor is ceasing to engage in the business of a nurse’s
32 registry or has filed a bond with the Secretary of State. The Secretary of State shall
33 forward an acknowledgment of receipt of the written notice to the assignor at the address
34 indicated therein, specifying the date of receipt of the written notice and anticipated date
35 of release of the deposit, provided there are no outstanding claims against the deposit.

36 (k) A judge of a ~~municipal~~ or superior court may order the return of the deposit prior to
37 the expiration of two years upon evidence satisfactory to the judge that there are no
38 outstanding claims against the deposit or order the Secretary of State to retain the deposit
39 for a specified period beyond the two years pursuant to subdivision (j) to resolve
40 outstanding claims against the deposit.

41 (l) The Secretary of State shall charge a filing fee not to exceed the cost of filing the
42 bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil
43 Procedure.

44 (m) The Secretary of State shall enforce the provisions of this chapter that govern the
45 filing and maintenance of bonds and deposits in lieu of bonds.

46 **Comment.** Subdivision (k) of Section 1812.525 is amended to reflect unification of the
47 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Note: Comment Requested**

2 Civil Code Section 1812.525 does not specify the procedure for seeking a court order requiring
3 return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance
4 regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at
5 law in which demand or value of property in controversy is \$25,000 or less is limited civil case);
6 see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission
7 solicits comment on the proper treatment of this provision.

8 **Civ. Code § 1812.600 (amended). Bond or deposit of auctioneer or auction company**

9 SEC. ____ . Section 1812.600 of the Civil Code is amended to read:

10 1812.600. (a) Every auctioneer and auction company shall maintain a bond issued by a
11 surety company admitted to do business in this state. The principal sum of the bond shall
12 be twenty thousand dollars (\$20,000). A copy of the bond shall be filed with the
13 Secretary of State.

14 (b) The bond required by this section shall be in favor of, and payable to, the people of
15 the State of California and shall be for the benefit of any person or persons damaged by
16 any fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or
17 omissions, or failure to provide the services of the auctioneer or auction company in
18 performance of the auction by the auctioneer or auction company or its agents,
19 representatives, or employees while acting within the scope of their employment.

20 (c)(1) No auctioneer or auction company shall conduct any business without having a
21 current surety bond in the amount prescribed by this section and without filing a copy of
22 the bond with the Secretary of State.

23 (2) Thirty days prior to the cancellation or termination of any surety bond required by
24 this section, the surety shall send a written notice of that cancellation or termination to
25 both the auctioneer or auction company and the Secretary of State, identifying the bond
26 and the date of cancellation or termination.

27 (3) If any auctioneer or auction company fails to obtain a new bond and file a copy of
28 that bond with the Secretary of State by the effective date of the cancellation or
29 termination of the former bond, the auctioneer or auction company shall cease to conduct
30 any business unless and until that time as a new surety bond is obtained and a copy of
31 that bond is filed with the Secretary of State.

32 (d) A deposit may be made in lieu of a bond as set forth in Section 995.710 of the Code
33 of Civil Procedure. When a deposit is made in lieu of the bond, the person asserting the
34 claim against the deposit shall establish the claim by furnishing evidence to the Secretary
35 of State of a money judgment entered by a court together with evidence that the claimant
36 is a person described in subdivision (b).

37 (e) When a claimant has established the claim with the Secretary of State, the Secretary
38 of State shall review and approve the claim and enter the date of approval on the claim.
39 The claim shall be designated an “approved claim.”

40 (f) When the first claim against a particular deposit has been approved, it shall not be
41 paid until the expiration of a period of 240 days after the date of its approval by the
42 Secretary of State. Subsequent claims that are approved by the Secretary of State within
43 the same 240-day period shall similarly not be paid until the expiration of the 240-day
44 period. Upon expiration of the 240-day period, the Secretary of State shall pay all
45 approved claims from that 240-day period in full unless the deposit is insufficient, in
46 which case each approved claim shall be paid a pro rata share of the deposit.

47 (g) When the Secretary of State approves the first claim against a particular deposit
48 after the expiration of a 240-day period, the date of approval of that claim shall begin a

1 new 240-day period to which subdivision (f) shall apply with respect to any amount
2 remaining in the deposit.

3 (h) After a deposit is exhausted, no further claims shall be paid by the Secretary of
4 State. Claimants who have had their claims paid in full or in part pursuant to subdivision
5 (f) or (g) shall not be required to return funds received from the deposit for the benefit of
6 other claimants.

7 (i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not
8 be subject to attachment, garnishment, or execution with respect to an action or judgment
9 against the auctioneer or auction company, other than as to that amount that is no longer
10 needed or required for the purpose of this section that otherwise would be returned to the
11 auctioneer or auction company by the Secretary of State.

12 (j) The Secretary of State shall retain a cash deposit for two years from the date the
13 Secretary of State receives written notification from the assignor of the deposit that the
14 assignor has ceased to engage in the business of an auctioneer or auction company or has
15 filed a bond pursuant to subdivision (a), provided that there are no outstanding claims
16 against the deposit. Written notification to the Secretary of State shall include all of the
17 following: (1) name, address, and telephone number of the assignor; (2) name, address,
18 and telephone number of the bank at which the deposit is located; (3) account number of
19 the deposit; and (4) a statement whether the assignor is ceasing to engage in the business
20 of an auctioneer or auction company or has filed a bond with the Secretary of State. The
21 Secretary of State shall forward an acknowledgment of receipt of the written notice to the
22 assignor at the address indicated in the notice, specifying the date of receipt of the written
23 notice and anticipated date of release of the deposit, provided there are no outstanding
24 claims against the deposit.

25 (k) A judge of a ~~municipal~~ or superior court may order the return of the deposit prior to
26 the expiration of two years upon evidence satisfactory to the judge that there are no
27 outstanding claims against the deposit or order the Secretary of State to retain the deposit
28 for a specified period beyond the two years pursuant to subdivision (j) to resolve
29 outstanding claims against the deposit.

30 (l) If an auctioneer or auction company fails to perform any of the duties specifically
31 imposed upon him or her pursuant to this title, any person may maintain an action for
32 enforcement of those duties or to recover a civil penalty in the amount of one thousand
33 dollars (\$1,000), or for both enforcement and recovery.

34 (m) In any action to enforce these duties or to recover civil penalties, or for both
35 enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable
36 attorney's fees and costs, in addition to the civil penalties provided under subdivision (l).

37 (n) Notwithstanding the repeal of Chapter 3.7 (commencing with Section 5700) of
38 Division 3 of the Business and Professions Code by the act adding this chapter, any cash
39 security in lieu of the surety bond formerly required and authorized by former Chapter
40 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code,
41 shall be transferred to, and maintained by, the Secretary of State.

42 (o) The Secretary of State shall charge and collect a filing fee not to exceed the cost of
43 filing the bond or deposit filed in lieu of a bond as set forth in Section 995.710 of the
44 Code of Civil Procedure.

45 (p) The Secretary of State shall enforce the provisions of this chapter that govern the
46 filing and maintenance of bonds and deposits in lieu of bonds.

47 **Comment.** Subdivision (k) of Section 1812.600 is amended to reflect unification of the
48 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Note: Comment Requested

Civil Code Section 1812.600 does not specify the procedure for seeking a court order requiring return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at law in which demand or value of property in controversy is \$25,000 or less is limited civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission solicits comment on the proper treatment of this provision.

Civ. Code § 2924j (amended). Proceeding to discharge trustee and distribute proceeds of sale under deed of trust

SEC. ____ . Section 2924j of the Civil Code is amended to read:

2924j. (a) Unless an interpleader action has been filed, within 30 days of the execution of the trustee's deed resulting from a sale in which there are proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section 2924k, the trustee shall send written notice to all persons with recorded interests in the real property as of the date immediately prior to the trustee's sale who would be entitled to notice pursuant to subdivisions (b) and (c) of Section 2924b. The notice shall be sent by first-class mail in the manner provided in paragraph (1) of subdivision (c) of Section 2924b and inform each entitled person of each of the following:

(1) That there has been a trustee's sale of the described real property.

(2) That the noticed person may have a claim to all or a portion of the sale proceeds remaining after payment of the amounts required by paragraphs (1) and (2) of subdivision (a) of Section 2924k.

(3) The noticed person may contact the trustee at the address provided in the notice to pursue any potential claim.

(4) That before the trustee can act, the noticed person may be required to present proof that the person holds the beneficial interest in the obligation and the security interest therefor. In the case of a promissory note secured by a deed of trust, proof that the person holds the beneficial interest may include the original promissory note and assignment of beneficial interests related thereto. The noticed person shall also submit a written claim to the trustee, executed under penalty of perjury, stating the following:

(A) The amount of the claim to the date of trustee's sale.

(B) An itemized statement of the principal, interest, and other charges.

(C) That claims must be received by the trustee at the address stated in the notice no later than 30 days after the date the trustee sends notice to the potential claimant.

(b) The trustee shall exercise due diligence to determine the priority of the written claims received by the trustee to the trustee's sale surplus proceeds from those persons to whom notice was sent pursuant to subdivision (a). In the event there is no dispute as to the priority of the written claims submitted to the trustee, proceeds shall be paid within 30 days after the conclusion of the notice period. If the trustee has failed to determine the priority of written claims within 90 days following the 30-day notice period, then within 10 days thereafter the trustee shall deposit the funds with the clerk of the court pursuant to subdivision (c) or file an interpleader action pursuant to subdivision (e). Nothing in this section shall preclude any person from pursuing other remedies or claims as to surplus proceeds.

(c) If, after due diligence, the trustee is unable to determine the priority of the written claims received by the trustee to the trustee's sale surplus of multiple persons or if the trustee determines there is a conflict between potential claimants, the trustee may file a declaration of the unresolved claims and deposit with the clerk of the superior or

1 ~~municipal court, as applicable, court~~ of the county in which the sale occurred, that portion
2 of the sales proceeds that cannot be distributed, less any fees charged by the clerk
3 pursuant to this subdivision. The declaration shall specify the date of the trustee's sale, a
4 description of the property, the names and addresses of all persons sent notice pursuant to
5 subdivision (a), a statement that the trustee exercised due diligence pursuant to
6 subdivision (b), that the trustee provided written notice as required by subdivisions (a)
7 and (d) and the amount of the sales proceeds deposited by the trustee with the ~~superior or~~
8 ~~municipal court~~. Further, the trustee shall submit a copy of the trustee's sales guarantee
9 and any information relevant to the identity, location, and priority of the potential
10 claimants with the ~~superior or municipal court~~ and shall file proof of service of the notice
11 required by subdivision (d) on all persons described in subdivision (a).

12 The clerk shall deposit the amount with the county treasurer subject to order of the
13 ~~superior or municipal court~~ upon the application of any interested party. The clerk may
14 charge a reasonable fee for the performance of activities pursuant to this subdivision
15 equal to the fee for filing an interpleader action pursuant to Article 2 (commencing with
16 Section 26820) of Division 2 of Title 3 of the Government Code. Upon deposit of that
17 portion of the sale proceeds that cannot be distributed by due diligence, the trustee shall
18 be discharged of further responsibility for the disbursement of sale proceeds. A deposit
19 with the clerk of the ~~superior or municipal court~~ pursuant to this subdivision may be
20 either for the total proceeds of the trustee's sale, less any fees charged by the clerk, if a
21 conflict or conflicts exist with respect to the total proceeds, or that portion that cannot be
22 distributed after due diligence, less any fees charged by the clerk.

23 (d) Before the trustee deposits the funds with the clerk of the court pursuant to
24 subdivision (c), the trustee shall send written notice by first-class mail, postage prepaid,
25 to all persons described in subdivision (a) informing them that the trustee intends to
26 deposit the funds with the clerk of the ~~superior or municipal court, as applicable,~~ and that
27 a claim for the funds must be filed with the court within 30 days from the date of the
28 notice, providing the address of the court in which the funds were deposited, and a phone
29 number for obtaining further information.

30 Within 90 days after deposit with the clerk, the court shall consider all claims filed at
31 least 15 days before the date on which the hearing is scheduled by the court, the clerk
32 shall serve written notice of the hearing by first-class mail on all claimants identified in
33 the trustees' declaration at the addresses specified therein. Where the amount of the
34 deposit is twenty-five thousand dollars (\$25,000) or less, a proceeding pursuant to this
35 section is a limited civil case. The court shall distribute the deposited funds to any and all
36 claimants entitled thereto.

37 (e) Nothing in this section restricts the ability of a trustee to file an interpleader action
38 in order to resolve a dispute about the proceeds of a trustee's sale. Once an interpleader
39 action has been filed, thereafter the provisions of this section shall not apply.


40 (f) "Due diligence," for the purposes of this section means that the trustee researched
41 the written claims submitted or other evidence of conflicts and determined that a conflict
42 of priorities exists between two or more claimants which the trustee is unable to resolve.

43 (g) To the extent required by the Unclaimed Property Law, a trustee in possession of
44 surplus proceeds not required to be deposited with the court pursuant to subdivision (b)
45 shall comply with the Unclaimed Property Law (Chapter 7 (commencing with Section
46 1500) of Title 10 of Part 3 of the Code of Civil Procedure).

47 (h) Prior to July 1, 2000, the Judicial Council shall adopt a form to accomplish the
48 filing authorized by this section.

1 **Comment.** Subdivisions (c) and (d) of Section 2924j are amended to reflect unification of the
2 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

3 Subdivision (d) is also amended to clarify the jurisdictional classification of a proceeding to
4 distribute excess sale proceeds. This is declaratory of existing law. See Code Civ. Proc. § 85
5 (limited civil cases & Comment). See also Code Civ. Proc. § 88 (unlimited civil cases).

6  **Note.** The Commission is examining other issues relating to Civil Code Section 2924j in its
7 study of *Civil Procedure: Technical Corrections* (Study J-1320). Additional reforms may be
8 proposed at a later date.

9 **Civ. Code § 2984.4 (amended). Action on contract or purchase order**

10 SEC. ____ . Section 2984.4 of the Civil Code is amended to read:

11 2984.4. An action on a contract or purchase order under the provisions of this chapter
12 shall be tried in the county in which the contract or purchase order was in fact signed by
13 the buyer, in the county in which the buyer resided at the time the contract or purchase
14 order was entered into, in the county in which the buyer resides at the commencement of
15 the action or in the county in which the motor vehicle purchased pursuant to the contract
16 or purchase order is permanently garaged.

17 In any action involving multiple claims, or causes of action, venue shall lie in such
18 counties so long as there is at least one claim or cause of action arising from a contract
19 subject to the provisions of this chapter.

20 ~~If within the county there is a municipal court, having jurisdiction of the subject matter,~~
21 ~~established in the judicial district in which the contract, conditional sale contract, or~~
22 ~~purchase order was in fact signed by the buyer, or in which the buyer resided at the time~~
23 ~~the contract, conditional sale contract, or purchase order was entered into, or in which the~~
24 ~~buyer resides at the commencement of the action, or in which the motor vehicle~~
25 ~~purchased pursuant to the contract is permanently garaged, that court is the proper court~~
26 ~~for the trial of the action. Otherwise, any court in the county, having jurisdiction of the~~
27 ~~subject matter, is the proper court for the trial of the action.~~

28 In any action subject to the provisions of this section, concurrently with the filing of the
29 complaint, the plaintiff shall file an affidavit stating facts showing that the action has
30 been commenced in a county or judicial district described in this section as a proper place
31 for the trial of the action. Those facts may be stated in a verified complaint and shall not
32 be stated on information or belief. When that affidavit is filed with the complaint, a copy
33 thereof shall be served with the summons. If a plaintiff fails to file the affidavit or state
34 facts in a verified complaint required by this section, no further proceedings shall be had,
35 but the court shall, upon its own motion or upon motion of any party, dismiss the action
36 without prejudice; however, the court may, on such terms as may be just, permit the
37 affidavit to be filed subsequent to the filing of the complaint and a copy of the affidavit
38 shall be served on the defendant. The time to answer or otherwise plead shall date from
39 that service.

40 **Comment.** Section 2984.4 is amended to reflect unification of the municipal and superior
41 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Code Civ. Proc. §
42 38 (judicial districts).

43  **Note: Comment Requested**

44 Civil Code Section 2984.4 raises issues relating to local venue. The Commission and the
45 Judicial Council are studying this area and may propose further revisions to address local venue
46 issues. The Commission solicits comment on the proper treatment of the section.

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CODE OF CIVIL PROCEDURE

Code Civ. Proc. § 17 (amended). Words and phrases

SEC. ____ . Section 17 of the Code of Civil Procedure is amended to read:
17. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word “person” includes a corporation as well as a natural person; the word “county” includes “city and county”; ~~and the words “judicial district” include “city and county”~~; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term “testify,” and every written one in the term “depose”; signature or subscription includes mark, when the person cannot write, his or her name or her being written near it by a person who writes his or her own name as a witness; provided, that when a signature is by mark it must, in order that the same may be acknowledged or may serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witness thereto.

The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word “property” includes both real and personal property;
2. The words “real property” are coextensive with lands, tenements, and hereditaments;
3. The words “personal property” include money, goods, chattels, things in action, and evidences of debt;
4. The word “month” means a calendar month, unless otherwise expressed;
5. The word “will” includes codicil;
6. The word “writ” signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer; and the word “process” a writ or summons issued in the course of judicial proceedings;
7. The word “state,” when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words “United States” may include the district and territories;
8. The word “section” whenever hereinafter employed, refers to a section of this code, unless some other code or statute is expressly mentioned;
9. The word “affinity” when applied to the marriage relation, signifies the connection existing in consequence of marriage, between each of the married persons and the blood relatives of the other;
10. The word “sheriff” shall include “marshal.”

Comment. Section 17 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial districts). Cf. Gov’t Code § 71042.5 (preservation of judicial districts for purposes of publication).

Code Civ. Proc. § 32.5 (amended). Jurisdictional classification

SEC. ____ . Section 32.5 of the Code of Civil Procedure is amended to read:
32.5. The “jurisdictional classification” of a case means its classification as a limited civil case or otherwise an unlimited civil case.

Comment. Section 32.5 is amended to replace the reference to “otherwise” with a reference to an “unlimited civil case.” See Section 88 (civil action or proceeding other than limited civil case may be referred to as unlimited civil case).

1 **Code Civ. Proc. § 34 (repealed). Application of code provisions to trial courts**

2 SEC. ____ . Section 34 of the Code of Civil Procedure is repealed.

3 ~~34. The provisions of this code relating to the commencement and prosecution of, and~~
4 ~~the practice, procedure, and enforcement of judgments and decrees in, actions and~~
5 ~~proceedings in trial courts, shall apply to all such courts, except where special provision~~
6 ~~is made for particular courts, or where a general provision is not applicable by reason of~~
7 ~~jurisdictional limitations.~~

8 **Comment.** Section 34 is repealed to reflect unification of the municipal and superior courts
9 pursuant to Article VI, Section 5(e), of the California Constitution.

10 **Code Civ. Proc. § 38 (unchanged). Judicial district**

11 38. Unless the provision or context otherwise requires, a reference in a statute to a
12 judicial district means:

13 (a) As it relates to a court of appeal, the court of appeal district.

14 (b) As it relates to a superior court, the county.

15 (c) As it relates to a municipal court, the municipal court district.

16 (d) As it relates to a county in which there is no municipal court, the county.

17  **Note: Comment Requested**

18 All of the various code sections using the term “judicial district” need to be reviewed before
19 any revisions are made to Code of Civil Procedure Section 38. The Commission has not yet
20 completed that process. The Commission solicits comment on the proper treatment of the section.

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

22 SEC. ____ . Section 73e of the Code of Civil Procedure is amended to read:

23 73e. Notwithstanding any other provisions of law, in each county wherein the juvenile
24 hall is not located at the county seat of the county, a majority of the judges of the superior
25 court in and for such county may by an order filed with the ~~county clerk of such county~~
26 clerk of the court direct that a session or sessions of the superior court, while sitting for
27 the purpose of hearing and determining cases and proceedings arising under Chapter 2 of
28 Part 1 of Division 2 or Chapter 2 of Part 1 of Division 6 or Chapter 4 of Part 4 of
29 Division 6 of the Welfare and Institutions Code, may be held or continued in any ~~judicial~~
30 district place in the county in which the juvenile hall is located and thereafter such
31 session or sessions of the ~~superior~~ court may be held or continued in the ~~judicial district~~
32 location designated in such order. In a county having two superior court judges the ~~senior~~
33 presiding judge may make the order.

34 **Comment.** Section 73e is amended to reflect unification of the municipal and superior courts
35 pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Section 38 (judicial
36 districts).

37 The section is also amended to reflect elimination of the county clerk’s role as ex officio clerk
38 of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk of superior
39 court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex
40 officio clerk of the court are delegated to the court administrative or executive officer, and the
41 county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§ 69840
42 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

43 The section is also amended to replace language referring to the senior judge with a reference
44 to the presiding judge. Every superior court has a presiding judge. See Gov’t Code §§ 69508,
45 69508.5.

1 **Note: Comment Requested**

2 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
3 further work on Code of Civil Procedure Section 73e pending (1) any implementation of
4 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
5 among the interested parties. The Commission solicits comments on these issues.

6 **Code Civ. Proc. § 75 (amended). Superior court with one judge**

7 SEC. ____ . Section 75 of the Code of Civil Procedure is amended to read:

8 75. The superior court in any county ~~in which there is only one judge~~ may by rule
9 provide that, ~~whenever the judge is absent from the county upon assignment by the~~
10 ~~Chairman of the Judicial Council,~~ any noncontested matter in which no evidence is
11 required, or which may be submitted upon affidavits, shall be deemed submitted upon the
12 filing with the clerk of a statement of submission by the party or his the party's attorney
13 or upon the date set for the hearing.

14 **Comment.** Section 75 is amended to reflect the fact that every superior court has at least two
15 judgeships due to unification of the municipal courts with the superior courts pursuant to Article
16 VI, Section 5(e), of the California Constitution.

17 **Code Civ. Proc. § 77 (amended). Appellate division**

18 SEC. ____ . Section 77 of the Code of Civil Procedure is amended to read:

19 77. (a) In every county and city and county, there is an appellate division of the
20 superior court consisting of three judges or, when the Chief Justice finds it necessary,
21 four judges.

22 The Chief Justice shall assign judges to the appellate division for specified terms
23 pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to
24 promote the independence and quality of each appellate division. Each judge assigned to
25 the appellate division of a superior court shall be a judge of that court, a judge of the
26 superior court of another county, or a judge retired from the superior court or a court of
27 higher jurisdiction in this state.

28 The Chief Justice shall designate one of the judges of each appellate division as the
29 presiding judge of the division.

30 (b) In each appellate division, no more than three judges shall participate in a hearing or
31 decision. The presiding judge of the division shall designate the three judges who shall
32 participate.

33 (c) In addition to their other duties, the judges designated as members of the appellate
34 division of the superior court shall serve for the period specified in the order of
35 designation. Whenever a judge is designated to serve in the appellate division of the
36 superior court of a county other than the county in which that judge was elected or
37 appointed as a superior court judge, or if the judge is retired, in a county other than the
38 county in which the judge resides, the judge shall receive ~~from the county to which the~~
39 ~~judge is designated~~ expenses for travel, board, and lodging. If the judge is out of the
40 judge's county overnight or longer, by reason of the designation, that judge shall be paid
41 a per diem allowance in lieu of expenses for board and lodging in the same amounts as
42 are payable for those purposes to justices of the Supreme Court under the rules of the
43 State Board of Control. In addition, a retired judge shall receive ~~from the state and the~~
44 ~~county to which the judge is designated,~~ for the time so served, amounts equal to that
45 which the judge would have received ~~from each~~ if the judge had been assigned to the
46 superior court of the county.

1 (d) The concurrence of two judges of the appellate division of the superior court shall
2 be necessary to render the decision in every case in, and to transact any other business
3 except business that may be done at chambers by the presiding judge of, the division. The
4 presiding judge shall convene the appellate division when necessary. The presiding judge
5 shall also supervise its business and transact any business that may be done at chambers.

6 (e) The appellate division of the superior court has jurisdiction on appeal from the
7 following courts in all cases in which an appeal may be taken to the superior court or the
8 appellate division of the superior court as provided by law, except where the appeal is a
9 retrial in the superior court:

10 (1) The municipal courts within the county.

11 (2) The superior court in a county in which there is no municipal court.

12 (f) The powers of each appellate division shall be the same as are now or may hereafter
13 be provided by law or rule of the Judicial Council relating to appeals to the appellate
14 division of the superior courts.

15 (g) The Judicial Council shall promulgate rules, not inconsistent with law, to promote
16 the independence of, and govern the practice and procedure and the disposition of the
17 business of the appellate division.

18 (h) Notwithstanding any other provision of law, the Chief Justice may designate any
19 municipal court judge as a member of the appellate division of the superior court if the
20 municipal court is participating in a trial court coordination plan approved by the Judicial
21 Council and the designated municipal court judge has been assigned to the superior court
22 of the county by the Chief Justice.

23 (i) A reference in any other statute to the appellate department of the superior court
24 means the appellate division of the superior court.

25 (j) Notwithstanding the provisions of subdivisions (b) and (d), appeals from convictions
26 of traffic infractions may be heard and decided by one judge of the appellate division of
27 the superior court.

28 **Comment.** Subdivision (c) of Section 77 is amended to reflect enactment of the Trial Court
29 Funding Act. See Gov't Code §§ 77003 ("court operations" defined), 77200 (state funding of trial
30 court operations).

31 Subdivisions (e) and (h) are amended to reflect unification of the municipal and superior courts
32 pursuant to Article VI, Section 5(e), of the California Constitution.

33 Subdivision (i) is deleted as obsolete.

34 **Note.** Two statutes other than Code of Civil Procedure Section 77 still use the term "appellate
35 department." See Gov't Code §§ 69894, 69894.1. The proposed deletion of Section 77(i) is
36 premised on repeal of those provisions.

37 **Code Civ. Proc. §§ 81-84 (repealed). Municipal courts**

38 SEC. ____ . Chapter 5 (commencing with Section 81) of Title 1 of Part 1 of the Code of
39 Civil Procedure is repealed.

40 **Comment.** Sections 81-84 are repealed to reflect unification of the municipal and superior
41 courts pursuant to Article VI, Section 5(e), of the California Constitution.

42 **Note.** The text of the repealed chapter is set out below.

43 Chapter 5. Municipal Courts

44 81. The headings to this chapter and the articles in this chapter shall not be deemed to govern or
45 limit the scope or meaning of such chapter and articles.

1 82. The establishment of a municipal court in a county, or city and county, or the determination
2 of the jurisdiction of a municipal court by the Legislature, shall not affect, alter or diminish the
3 previously existing jurisdiction of the superior court of any county, or city and county, other than
4 that of the county, or city and county, wherein such municipal court is established.

5 84. The process of the municipal courts shall extend throughout the State.

6 **Code Civ. Proc. § 85.1 (repealed). Original jurisdiction**

7 SEC. ____ . Section 85.1 of the Code of Civil Procedure is repealed.

8 ~~85.1. Except as otherwise provided by statute, the municipal court, or the superior court~~
9 ~~in a county in which there is no municipal court, has original jurisdiction in a limited civil~~
10 ~~case.~~

11 **Comment.** Section 85.1 is repealed to reflect unification of the municipal and superior courts
12 pursuant to Article VI, Section 5(e), of the California Constitution. See Cal. Const. art. VI, § 10
13 (original jurisdiction).

14 **Code Civ. Proc. § 86.1 (amended). Long-Term Care, Health, Safety, and Security Act**

15 SEC. ____ . Section 86.1 of the Code of Civil Procedure is amended to read:

16 86.1. An action brought pursuant to the Long-Term Care, Health, Safety, and Security
17 Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health
18 and Safety Code) is a limited civil case if civil penalties are not sought or amount to
19 twenty-five thousand dollars (\$25,000) or less. ~~An action brought in a municipal court~~
20 ~~may be transferred to the superior court for consolidation with any other citation~~
21 ~~enforcement action pending in that court, on the motion of either party.~~

22 **Comment.** Section 86.1 is amended to reflect unification of the municipal and superior courts
23 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 1048
24 (consolidation of actions in superior court).

25 **Code Civ. Proc. § 116.210 (amended). Small claims division**

26 SEC. ____ . Section 116.210 of the Code of Civil Procedure is amended to read:

27 116.210. In each ~~municipal court and each superior court in a county in which there is~~
28 ~~no municipal court~~, there shall be a small claims division. The small claims division may
29 be known as the small claims court.

30 **Comment.** Section 116.210 is amended to reflect unification of the municipal and superior
31 courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

33 SEC. ____ . Section 116.250 of the Code of Civil Procedure is amended to read:

34 116.250. (a) Sessions of the small claims court may be scheduled at any time and on
35 any day, including Saturdays, but excluding other judicial holidays. They may also be
36 scheduled at any public building within the ~~judicial district~~ county, including places
37 outside the courthouse.

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

1 **Comment.** Section 116.250 is amended to reflect unification of the municipal and superior
2 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial
3 districts).

4 **Note: Comment Requested**

5 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
6 further work on Code of Civil Procedure Section 116.250 pending (1) any implementation of
7 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
8 among the interested parties. The Commission solicits comments on these issues.

9 **Code Civ. Proc. § 116.940 (amended). Advisory services**

10 SEC. ____ . Section 116.940 of the Code of Civil Procedure is amended to read:

11 116.940. (a) Except as otherwise provided in this section or in rules adopted by the
12 Judicial Council, the characteristics of the small claims advisory service required by
13 Section 116.260 shall be determined by each ~~county~~ superior court in accordance with
14 local needs and conditions.

15 (b) Each advisory service shall provide the following services:

16 (1) Individual personal advisory services, in person or by telephone, and by any other
17 means reasonably calculated to provide timely and appropriate assistance.

18 (2) Recorded telephone messages may be used to supplement the individual personal
19 advisory services, but shall not be the sole means of providing advice available in the
20 county.

21 (3) Adjacent Superior courts in adjacent counties may provide advisory services jointly.

22 (c) In any county in which the number of small claims actions filed annually is 1,000 or
23 less as averaged over the immediately preceding two fiscal years, the ~~county~~ superior
24 court may elect to exempt itself from the requirements set forth in subdivision (b). This
25 exemption shall be formally noticed through the adoption of a ~~resolution by the board of~~
26 supervisors local rule. If a ~~county~~ court so exempts itself, the ~~county~~ court shall
27 nevertheless provide the following minimum advisory services in accordance with rules
28 adopted by the Judicial Council:

29 (1) Recorded telephone messages providing general information relating to small
30 claims actions filed in the county shall be provided during regular business hours.

31 (2) Small claims information booklets shall be provided in the court clerk's office of
32 each ~~municipal~~ superior court, ~~the court clerk's office of each superior court in a county~~
33 ~~in which there is no municipal court, the county administrator's office,~~ other appropriate
34 county offices, and in any other location that is convenient to prospective small claims
35 litigants in the county.

36 (d) The advisory service shall operate in conjunction and cooperation with the small
37 claims division, and shall be administered so as to avoid the existence or appearance of a
38 conflict of interest between the individuals providing the advisory services and any party
39 to a particular small claims action or any judicial officer deciding small claims actions.

40 (e) Advisors may be volunteers, and shall be members of the State Bar, law students,
41 paralegals, or persons experienced in resolving minor disputes, and shall be familiar with
42 small claims court rules and procedures. Advisors shall not appear in court as an advocate
43 for any party.

44 (f) Advisors and other court employees and volunteers have the immunity conferred by
45 Section 818.9 of the Government Code with respect to advice provided under this
46 chapter.

47 **Comment.** Section 116.940 is amended to reflect unification of the municipal and superior
48 courts pursuant to Article VI, Section 5(e), of the California Constitution. The section is also

1 amended to reflect enactment of the Trial Court Funding Act. See Gov't Code §§ 77003 ("court
2 operations" defined), 77200 (state funding of trial court operations); Cal. R. Court 810, Function
3 10.

4 **Note: Comment Requested**

5 The Commission solicits comment on the proper treatment of Code of Civil Procedure Section
6 116.940.

7 **Code Civ. Proc. § 116.950 (amended). Advisory committee**

8 SEC. ____ . Section 116.950 of the Code of Civil Procedure is amended to read:

9 116.950. (a) This section shall become operative only if the Department of Consumer
10 Affairs determines that sufficient private or public funds are available in addition to the
11 funds available in the department's current budget to cover the costs of implementing this
12 section.

13 (b) There shall be established an advisory committee, constituted as set forth in this
14 section, to study small claims practice and procedure, with particular attention given to
15 the improvement of procedures for the enforcement of judgments.

16 (c) The members of the advisory committee shall serve without compensation, but shall
17 be reimbursed for expenses actually and necessarily incurred by them in the performance
18 of their duties.

19 (d) The advisory committee shall be composed as follows:

20 (1) The Attorney General or a representative.

21 (2) Two consumer representatives from consumer groups or agencies, appointed by the
22 Secretary of the State and Consumer Services Agency.

23 (3) One representative appointed by the Speaker of the Assembly and one
24 representative appointed by the President pro Tempore of the Senate.

25 (4) Two representatives appointed by the Board of Governors of the State Bar.

26 (5) Two representatives of the business community, appointed by the Secretary of the
27 Trade and Commerce Agency.

28 (6) Six judicial officers who have extensive experience presiding in small claims court,
29 appointed by the Judicial Council. Judicial officers appointed under this subdivision may
30 include judicial officers of the superior court, ~~judicial officers of the municipal court,~~
31 judges of the appellate courts, retired judicial officers, and temporary judges.

32 (7) One representative appointed by the Governor.

33 (8) Two clerks of the court appointed by the Judicial Council.

34 (e) Staff assistance to the advisory committee shall be provided by the Department of
35 Consumer Affairs, with the assistance of the Judicial Council, as needed.

36 **Comment.** Section 116.950 is amended to reflect unification of the municipal and superior
37 courts pursuant to Article VI, Section 5(e), of the California Constitution.

38 **Note.** Code of Civil Procedure Section 116.950 reflects legislative changes made in SB 1191
39 (Speier). See 2001 Cal. Stat. ch. 745, § 8.

40 **Code Civ. Proc. § 134 (amended). Court closure on judicial holidays**

41 SEC. ____ . Section 134 of the Code of Civil Procedure is amended to read:

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

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

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

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

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

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

6 (c) In any superior ~~or municipal~~ court, one or more departments of the court may
7 remain open and in session for the transaction of any business that may come before the
8 department in the exercise of the civil or criminal jurisdiction of the court, or both, on a
9 judicial holiday or at any hours of the day or night, or both, as the judges of the court
10 prescribe.

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

16 **Comment.** Section 134 is amended to reflect unification of the municipal and superior courts
17 pursuant to Article VI, Section 5(e), of the California Constitution.

18 **Note: Comment Requested**

19 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
20 further work on Code of Civil Procedure Section 134 pending (1) any implementation of
21 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
22 among the interested parties. The Commission solicits comments on these issues.

23 **Code Civ. Proc. § 166 (amended). Authority of superior court judge**

24 SEC. ____ . Section 166 of the Code of Civil Procedure is amended to read:

25 166. (a) The judge ~~or judges~~ of the superior and ~~municipal~~ courts may, in chambers, ~~in~~
26 ~~the matters within the jurisdiction of their respective courts:~~

27 (1) Grant all orders and writs that are usually granted in the first instance upon an ex
28 parte application, and hear and dispose of those orders and writs, appoint referees, require
29 and receive inventories and accounts to be filed, order notice of settlement of
30 supplemental accounts, suspend the powers of personal representatives, guardians, or
31 conservators in the cases allowed by law, appoint special administrators, grant letters of
32 temporary guardianship or conservatorship, approve or reject claims, and direct the
33 issuance from the court of all writs and process necessary in the exercise of their powers
34 in matters of probate.

35 (2) Hear and determine all motions made pursuant to Section 657 or 663.

36 (3) Hear and determine all uncontested actions, proceedings, demurrers, motions,
37 petitions, applications, and other matters pending before the court other than actions for
38 dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage,
39 and except also applications for confirmation of sale of real property in probate
40 proceedings.

41 (4) Hear and determine motions to tax costs of enforcing a judgment.

42 (5) Approve bonds and undertakings.

43 (b) A judge may, out of court, anywhere in the state, exercise all the powers and
44 perform all the functions and duties conferred upon a judge as contradistinguished from
45 the court, or that a judge may exercise or perform in chambers.

46 **Comment.** Subdivision (a) of Section 166 is amended to reflect unification of the municipal
47 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 Subdivision (a) is also amended to delete language referring to “the judge” of the court. Every
2 superior court has at least two judgeships as a result of trial court unification. See Gov’t Code §
3 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
4 otherwise, a reference to the judges of the court means the sole judge of the court. See Gov’t
5 Code § 13 (plural includes singular).

6 **Code Civ. Proc. § 170.5 (amended). Definitions**

7 SEC. ____ . Section 170.5 of the Code of Civil Procedure is amended to read:

8 170.5. For the purposes of Sections 170 to 170.5, inclusive, the following definitions
9 apply:

10 (a) “Judge” means judges of the ~~municipal~~ and superior courts, and court
11 commissioners and referees.

12 (b) “Financial interest” means ownership of more than a 1 percent legal or equitable
13 interest in a party, or a legal or equitable interest in a party of a fair market value in
14 excess of one thousand five hundred dollars (\$1,500), or a relationship as director,
15 advisor or other active participant in the affairs of a party, except as follows:

16 (1) Ownership in a mutual or common investment fund that holds securities is not a
17 “financial interest” in those securities unless the judge participates in the management of
18 the fund.

19 (2) An office in an educational, religious, charitable, fraternal, or civic organization is
20 not a “financial interest” in securities held by the organization.

21 (3) The proprietary interest of a policyholder in a mutual insurance company, or a
22 depositor in a mutual savings association, or a similar proprietary interest, is a “financial
23 interest” in the organization only if the outcome of the proceeding could substantially
24 affect the value of the interest.

25 (c) “Officer of a public agency” does not include a Member of the Legislature or a state
26 or local agency official acting in a legislative capacity.

27 (d) The third degree of relationship shall be calculated according to the civil law
28 system.

29 (e) “Private practice of law” includes a fee for service, retainer, or salaried
30 representation of private clients or public agencies, but excludes lawyers as full-time
31 employees of public agencies or lawyers working exclusively for legal aid offices, public
32 defender offices, or similar nonprofit entities whose clientele is by law restricted to the
33 indigent.

34 (f) “Proceeding” means the action, case, cause, motion, or special proceeding to be
35 tried or heard by the judge.

36 (g) “Fiduciary” includes any executor, trustee, guardian, or administrator.

37 **Comment.** Section 170.5 is amended to reflect unification of the municipal and superior courts
38 pursuant to Article VI, Section 5(e), of the California Constitution.

39 **Code Civ. Proc. § 170.6 (amended). Prejudice against party or attorney**

40 SEC. ____ . Section 170.6 of the Code of Civil Procedure is amended to read:

41 170.6. (1) No judge, court commissioner, or referee of any superior ~~or municipal~~ court
42 of the State of California shall try any civil or criminal action or special proceeding of
43 any kind or character nor hear any matter therein that involves a contested issue of law or
44 fact when it shall be established as hereinafter provided that the judge or court
45 commissioner is prejudiced against any party or attorney or the interest of any party or
46 attorney appearing in the action or proceeding.

1 (2) Any party to or any attorney appearing in any such action or proceeding may
2 establish this prejudice by an oral or written motion without notice supported by affidavit
3 or declaration under penalty of perjury or an oral statement under oath that the judge,
4 court commissioner, or referee before whom the action or proceeding is pending or to
5 whom it is assigned is prejudiced against any such party or attorney or the interest of the
6 party or attorney so that the party or attorney cannot or believes that he or she cannot
7 have a fair and impartial trial or hearing before the judge, court commissioner, or referee.
8 Where the judge, other than a judge assigned to the case for all purposes, court
9 commissioner, or referee assigned to or who is scheduled to try the cause or hear the
10 matter is known at least 10 days before the date set for trial or hearing, the motion shall
11 be made at least five days before that date. If directed to the trial of a cause where there is
12 a master calendar, the motion shall be made to the judge supervising the master calendar
13 not later than the time the cause is assigned for trial. If directed to the trial of a cause that
14 has been assigned to a judge for all purposes, the motion shall be made to the assigned
15 judge or to the presiding judge by a party within 10 days after notice of the all purpose
16 assignment, or if the party has not yet appeared in the action, then within 10 days after the
17 appearance. If the court in which the action is pending is authorized to have no more than
18 one judge and the motion claims that the duly elected or appointed judge of that court is
19 prejudiced, the motion shall be made before the expiration of 30 days from the date of the
20 first appearance in the action of the party who is making the motion or whose attorney is
21 making the motion. In no event shall any judge, court commissioner, or referee entertain
22 the motion if it be made after the drawing of the name of the first juror, or if there be no
23 jury, after the making of an opening statement by counsel for plaintiff, or if there is no
24 such statement, then after swearing in the first witness or the giving of any evidence or
25 after trial of the cause has otherwise commenced. If the motion is directed to a hearing
26 (other than the trial of a cause), the motion shall be made not later than the
27 commencement of the hearing. In the case of trials or hearings not herein specifically
28 provided for, the procedure herein specified shall be followed as nearly as may be. The
29 fact that a judge, court commissioner, or referee has presided at or acted in connection
30 with a pretrial conference or other hearing, proceeding or motion prior to trial and not
31 involving a determination of contested fact issues relating to the merits shall not preclude
32 the later making of the motion provided for herein at the time and in the manner
33 hereinbefore provided.

34 A motion under this paragraph may be made following reversal on appeal of a trial
35 court's decision, or following reversal on appeal of a trial court's final judgment, if the
36 trial judge in the prior proceeding is assigned to conduct a new trial on the matter.
37 Notwithstanding paragraph (3) of this section, the party who filed the appeal that resulted
38 in the reversal of a final judgment of a trial court may make a motion under this section
39 regardless of whether that party or side has previously done so. The motion shall be made
40 within 60 days after the party or the party's attorney has been notified of the assignment.

41 (3) If the motion is duly presented and the affidavit or declaration under penalty of
42 perjury is duly filed or such oral statement under oath is duly made, thereupon and
43 without any further act or proof, the judge supervising the master calendar, if any, shall
44 assign some other judge, court commissioner, or referee to try the cause or hear the
45 matter. In other cases, the trial of the cause or the hearing of the matter shall be assigned
46 or transferred to another judge, court commissioner, or referee of the court in which the
47 trial or matter is pending or, if there is no other judge, court commissioner, or referee of
48 the court in which the trial or matter is pending, the Chair of the Judicial Council shall
49 assign some other judge, court commissioner, or referee to try the cause or hear the

1 matter as promptly as possible. Except as provided in this section, no party or attorney
2 shall be permitted to make more than one such motion in any one action or special
3 proceeding pursuant to this section; and in actions or special proceedings where there
4 may be more than one plaintiff or similar party or more than one defendant or similar
5 party appearing in the action or special proceeding, only one motion for each side may be
6 made in any one action or special proceeding.

7 (4) Unless required for the convenience of the court or unless good cause is shown, a
8 continuance of the trial or hearing shall not be granted by reason of the making of a
9 motion under this section. If a continuance is granted, the cause or matter shall be
10 continued from day to day or for other limited periods upon the trial or other calendar and
11 shall be reassigned or transferred for trial or hearing as promptly as possible.

12 (5) Any affidavit filed pursuant to this section shall be in substantially the following
13 form:

14 (Here set forth court and cause)

15 State of California,) PEREMPTORY CHALLENGE
16 County of _____) ss.

17 _____, being duly sworn, deposes and says: That he or she is a party (or attorney
18 for a party) to the within action (or special proceeding). That _____ the judge, court
19 commissioner, or referee before whom the trial of the (or a hearing in the) aforesaid
20 action (or special proceeding) is pending (or to whom it is assigned) is prejudiced against
21 the party (or his or her attorney) or the interest of the party (or his or her attorney) so that
22 affiant cannot or believes that he or she cannot have a fair and impartial trial or hearing
23 before the judge, court commissioner, or referee.

24 Subscribed and sworn to before me this
25 _____ day of _____, 1920 ____ .
26 (Clerk or notary public or
27 other officer administering oath)

28 (6) Any oral statement under oath or declaration under penalty of perjury made
29 pursuant to this section shall include substantially the same contents as the affidavit
30 above.

31 (7) Nothing in this section shall affect or limit Section 170 or Title 4 (commencing with
32 Section 392) of Part 2, and this section shall be construed as cumulative thereto.

33 (8) If any provision of this section or the application to any person or circumstance is
34 held invalid, that invalidity shall not affect other provisions or applications of the section
35 that can be given effect without the invalid provision or application and to this end the
36 provisions of this section are declared to be severable.

37 **Comment.** Section 170.6 is amended to reflect unification of the municipal and superior courts
38 pursuant to Article VI, Section 5(e), of the California Constitution.

39 **Code Civ. Proc. § 170.9 (amended). Gifts to judges**

40 SEC. ____ . Section 170.9 of the Code of Civil Procedure is amended to read:

41 170.9. (a) No judge shall accept gifts from any single source in any calendar year with a
42 total value of more than two hundred fifty dollars (\$250). This section shall not be
43 construed to authorize the receipt of gifts that would otherwise be prohibited by the

1 California Code of Judicial Ethics adopted by the California Supreme Court or any other
2 provision of law.

3 (b) This section shall not prohibit or limit the following:

4 (1) Payments, advances, or reimbursements for travel and related lodging and
5 subsistence permitted by subdivision (e).

6 (2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays and
7 other similar occasions, provided that the gifts exchanged are not substantially
8 disproportionate in value.

9 (3) A gift, bequest, favor, or loan from any person whose preexisting relationship with
10 a judge would prevent the judge from hearing a case involving that person, under the
11 Code of Judicial Ethics adopted by the California Supreme Court.

12 (c) For purposes of this section, “judge” means judges of the ~~municipal~~ or superior
13 courts, and justices of the courts of appeal or the Supreme Court.

14 (d) The gift limitation amounts in this section shall be adjusted biennially by the
15 Commission on Judicial Performance to reflect changes in the Consumer Price Index,
16 rounded to the nearest ten dollars (\$10).

17 (e) Payments, advances, or reimbursements, for travel, including actual transportation
18 and related lodging and subsistence which is reasonably related to a judicial or
19 governmental purpose, or to an issue of state, national, or international public policy, is
20 not prohibited or limited by this section if any of the following apply:

21 (1) The travel is in connection with a speech, practice demonstration, or group or panel
22 discussion given or participated in by the judge, the lodging and subsistence expenses are
23 limited to the day immediately preceding, the day of, and the day immediately following
24 the speech, demonstration, or discussion, and the travel is within the United States.

25 (2) The travel is provided by a government, a governmental agency or authority, a
26 foreign government, a foreign bar association, an international service organization, a
27 bona fide public or private educational institution, as defined in Section 203 of the
28 Revenue and Taxation Code, or a nonprofit charitable or religious organization which is
29 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a
30 person domiciled outside the United States who substantially satisfies the requirements
31 for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

32 For purposes of this section, “foreign bar association” means an association of
33 attorneys located outside the United States (A) that performs functions substantially
34 equivalent to those performed by state or local bar associations in this state and (B) that
35 permits membership by attorneys in that country representing various legal specialties
36 and does not limit membership to attorneys generally representing one side or another in
37 litigation. “International service organization” means a bona fide international service
38 organization of which the judge is a member. A judge who accepts travel payments from
39 an international service organization pursuant to this subdivision shall not preside over or
40 participate in decisions affecting that organization, its state or local chapters, or its local
41 members.

42 (3) The travel is provided by a state or local bar association or judges professional
43 association in connection with testimony before a governmental body or attendance at
44 any professional function hosted by the bar association or judges professional association,
45 the lodging and subsistence expenses are limited to the day immediately preceding, the
46 day of, and the day immediately following the professional function.

47 (f) Payments, advances, and reimbursements for travel not described in subdivision (e)
48 are subject to the limit in subdivision (a).

49 (g) No judge shall accept any honorarium.

1 (h) “Honorarium” means any payment made in consideration for any speech given,
2 article published, or attendance at any public or private conference, convention, meeting,
3 social event, meal or like gathering.

4 (i) “Honorarium” does not include earned income for personal services which are
5 customarily provided in connection with the practice of a bona fide business, trade, or
6 profession, such as teaching or writing for a publisher, and does not include fees or other
7 things of value received pursuant to Section 94.5 of the Penal Code for performance of a
8 marriage.

9 For purposes of this section, “teaching” shall include presentations to impart
10 educational information to lawyers in events qualifying for credit under Mandatory
11 Continuing Legal Education, to students in bona fide educational institutions, and to
12 associations or groups of judges.

13 (j) Subdivision (a) and (e) shall apply to all payments, advances, reimbursements for
14 travel and related lodging and subsistence.

15 (k) This section does not apply to any honorarium that is not used and, within 30 days
16 after receipt, is either returned to the donor or delivered to the Controller for deposit in
17 the General Fund without being claimed as a deduction from income for tax purposes.

18 (l) “Gift” means any payment to the extent that consideration of equal or greater value
19 is not received and includes a rebate or discount in the price of anything of value unless
20 the rebate or discount is made in the regular course of business to members of the public
21 without regard to official status. Any person, other than a defendant in a criminal action,
22 who claims that a payment is not a gift by reason of receipt of consideration has the
23 burden of proving that the consideration received is of equal or greater value. However,
24 the term “gift” does not include:

25 (1) Informational material such as books, reports, pamphlets, calendars, periodicals,
26 cassettes and discs, or free or reduced-price admission, tuition, or registration, for
27 informational conferences or seminars. No payment for travel or reimbursement for any
28 expenses shall be deemed “informational material.”

29 (2) Gifts which are not used and which, within 30 days after receipt, are returned to the
30 donor or delivered to a charitable organization without being claimed as a charitable
31 contribution for tax purposes.

32 (3) Gifts from a judge’s spouse, child, parent, grandparent, grandchild, brother, sister,
33 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or
34 the spouse of any such person; provided that a gift from any such person shall be
35 considered a gift if the donor is acting as an agent or intermediary for any person not
36 covered by this paragraph.

37 (4) Campaign contributions required to be reported under Chapter 4 (commencing with
38 Section 84100) of Title 9 of the Government Code.

39 (5) Any devise or inheritance.

40 (6) Personalized plaques and trophies with an individual value of less than two hundred
41 fifty dollars (\$250).

42 (7) Admission to events hosted by state or local bar associations or judges’ professional
43 associations, and provision of related food and beverages at such events, when attendance
44 does not require “travel” as described in paragraph (3) of subdivision (e).

45 (m) The Commission on Judicial Performance shall enforce the prohibitions of this
46 section.

47 **Comment.** Subdivision (c) of Section 170.9 is amended to reflect unification of the municipal
48 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Code Civ. Proc. § 179 (amended). Taking and certifying acknowledgments, affidavits, or**
2 **depositions**

3 SEC. ____ . Section 179 of the Code of Civil Procedure is amended to read:

4 179. Each of the justices of the Supreme Court and of any court of appeal and the
5 judges of the superior courts, shall have power in any part of the state, ~~and every~~
6 ~~municipal court judge shall have power within the county or city and county in which the~~
7 ~~judge is elected or appointed,~~ to take and certify:

8 1. The proof and acknowledgment of a conveyance of real property, or of any other
9 written instrument.

10 2. The acknowledgment of satisfaction of a judgment of any court.

11 3. An affidavit or deposition to be used in this state.

12 **Comment.** Section 179 is amended to reflect unification of the municipal and superior courts
13 pursuant to Article VI, Section 5(e), of the California Constitution.

14 **Code Civ. Proc. § 194 (amended). Definitions**

15 SEC. ____ . Section 194 of the Code of Civil Procedure is amended to read:

16 194. The following definitions govern the construction of this chapter:

17 (a) “County” means any county or any coterminous city and county.

18 (b) “Court” means the ~~a superior and municipal courts~~ court of this state, and includes,
19 when the context requires, any judge of the court.

20 (c) “Deferred jurors” are those prospective jurors whose request to reschedule their
21 service to a more convenient time is granted by the jury commissioner.

22 (d) “Excused jurors” are those prospective jurors who are excused from service by the
23 jury commissioner for valid reasons based on statute, state or local court rules, and
24 policies.

25 (e) “Juror pool” means the group of prospective qualified jurors appearing for
26 assignment to trial jury panels.

27 (f) “Jury of inquest” is a body of persons summoned from the citizens before the
28 sheriff, coroner, or other ministerial officers, to inquire of particular facts.

29 (g) “Master list” means a list of names randomly selected from the source lists.

30 (h) “Potential juror” means any person whose name appears on a source list.

31 (i) “Prospective juror” means a juror whose name appears on the master list.

32 (j) “Qualified juror” means a person who meets the statutory qualifications for jury
33 service.

34 (k) “Qualified juror list” means a list of qualified jurors.

35 (l) “Random” means that which occurs by mere chance indicating an unplanned
36 sequence of selection where each juror’s name has substantially equal probability of
37 being selected.

38 (m) “Source list” means a list used as a source of potential jurors.

39 (n) “Summons list” means a list of prospective or qualified jurors who are summoned
40 to appear or to be available for jury service.

41 (o) “Trial jurors” are those jurors sworn to try and determine by verdict a question of
42 fact.

43 (p) “Trial jury” means a body of persons selected from the citizens of the area served
44 by the court and sworn to try and determine by verdict a question of fact.

45 (q) “Trial jury panel” means a group of prospective jurors assigned to a courtroom for
46 the purpose of voir dire.

47 **Comment.** Subdivision (b) of Section 194 is amended to reflect unification of the municipal
48 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Code Civ. Proc. § 195 (amended). Jury commissioner**

2 SEC. ____ . Section 195 of the Code of Civil Procedure is amended to read:

3 195. (a) In each county, there shall be one jury commissioner who shall be appointed
4 by, and serve at the pleasure of, a majority of the judges of the superior court. In any
5 county where there is a superior court administrator or executive officer, that person shall
6 serve as ex officio jury commissioner. ~~The person so appointed shall serve as jury~~
7 ~~commissioner for all trial courts within the county. In any municipal court district in the~~
8 ~~county, a majority of the judges may appoint the clerk/administrator to select jurors for~~
9 ~~their court pursuant to this chapter. In any court jurisdiction where any person other than~~
10 ~~a court administrator or clerk/administrator is serving as jury commissioner on the~~
11 ~~effective date of this section, that person shall continue to so serve at the pleasure of a~~
12 ~~majority or the judges of the appointing court.~~

13 (b) ~~Except where the superior court administrator or executive officer serves as ex~~
14 ~~officio jury commissioner, the jury commissioner's salary shall be set by joint action of~~
15 ~~the board of supervisors and a majority of the superior court judges. Any jury~~
16 ~~commissioner may, whenever the business of court requires, and with the consent of the~~
17 ~~board of supervisors, appoint deputy jury commissioners. Salaries and benefits of those~~
18 ~~deputies shall be fixed in the same manner as salaries and benefits of other court~~
19 ~~employees.~~

20 (c) The jury commissioner shall be primarily responsible for managing the jury system
21 under the general supervision of the court in conformance with the purpose and scope of
22 this act. He or she shall have authority to establish policies and procedures necessary to
23 fulfill this responsibility.

24 **Comment.** Subdivision (a) of Section 195 is amended to reflect unification of the municipal
25 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

26 Subdivision (b) is amended to reflect enactment of the Trial Court Employment Protection and
27 Governance Act. See Gov't Code §§ 71620 (trial court personnel), 71623 (salaries).

28  **Note: Comment Requested**

29 The Commission is researching several issues pertaining to jury commissioners, including
30 whether the court executive or administrative officer serves as the jury commissioner in all 58
31 counties. If so, further revisions to Code of Civil Procedure Section 195 may be made to reflect
32 this fact. The Commission is also considering whether provisions relating to jury commissioners
33 in other codes should be relocated to the Code of Civil Procedure. The Commission solicits
34 comments on these points.

35 **Code Civ. Proc. § 198.5 (amended). Superior court venires**

36 SEC. ____ . Section 198.5 of the Code of Civil Procedure is amended to read:

37 198.5. (a) ~~Except as provided in subdivision (b), in counties where sessions of the~~
38 ~~superior court are held in cities other than the county seat, the names for master jury lists~~
39 ~~and qualified jury lists to serve in those cities may be selected from the judicial district in~~
40 ~~which the city is located and, if the judges of the court determine that it is necessary or~~
41 ~~advisable, from a judicial district adjacent to a judicial district in which the city is located.~~

42 (b) ~~In a county in which there is no municipal court, if~~ If sessions of the superior court
43 are held in a location other than the county seat, the names for master jury lists and
44 qualified jury lists to serve in a session may be selected from the area in which the
45 session is held, pursuant to a local superior court rule that (1) divides the county in a
46 manner that provides all qualified persons in the county an equal opportunity to be
47 considered for jury service and (2) gives each prospective juror residing in the county an
48 opportunity to elect to serve on a jury with respect to a trial held anywhere in the county.

1 Nothing in this section precludes the court, in its discretion, from ordering a countywide
2 venire in the interest of justice.

3 **Comment.** Section 198.5 is amended to reflect unification of the municipal and superior courts
4 pursuant to Article VI, Section 5(e), of the California Constitution. It incorporates provisions
5 drawn from former Sections 199 (El Dorado County venires), 199.2 (Placer County venires),
6 199.3 (Nevada County venires), and 199.5 (Santa Barbara County venires).

7 **Note: Comment Requested**

8 (1) It is proposed that Code of Civil Procedure Section 198.5 be amended with a one-year
9 deferred operative date; this will allow adequate time for a superior court to revise any local rule
10 on the matter.

11 (2) The Commission particularly solicits comment on the following matter: Is the provision
12 appropriate that would require each prospective juror to be given an opportunity to elect to serve
13 on a jury with respect to a trial held anywhere in the county?

14 (3) The amendment by this act of Section 198.5 of the Code of Civil Procedure is operative
15 January 1, 2004.

16 (4) Issues involving sessions and facilities are still unsettled. The Commission proposes to
17 defer further work on Section 198.5 pending (1) any implementation of recommendations made
18 by the Task Force on Court Facilities, and (2) completion of negotiations among the interested
19 parties. The Commission solicits comments on these issues.

20 **Code Civ. Proc. § 199 (repealed). El Dorado County venires**

21 SEC. ____ . Section 199 of the Code of Civil Procedure is repealed.

22 ~~199. In El Dorado County, trial jury venires for the superior court shall be drawn from~~
23 ~~residents of the supervisorial district, or a portion thereof, within which the court will sit~~
24 ~~for such trial and from residents of such other immediately adjacent supervisorial district,~~
25 ~~or portion thereof, as may be specified by local superior court rules. Such venireman shall~~
26 ~~serve the court sitting in the geographical portion of the county from which this section~~
27 ~~and such court rules specify trial jury venires shall be drawn; provided that such rules~~
28 ~~shall afford to each eligible resident of such county an opportunity for selection as a trial~~
29 ~~jury venireman. Such court may, in its discretion, order a countywide venire in the~~
30 ~~interest of justice.~~

31 **Comment.** The special rule of Section 199 is superseded by the general rule of Section 198.5
32 (superior court venires).

33 **Note.** The purpose of Code of Civil Procedure Section 199 — to enable smaller than county-
34 wide jury venires in El Dorado County — can be achieved by local court rule, without the need
35 for special legislation. See Code of Civil Procedure Section 198.5. It is unnecessary to provide a
36 deferred operative date for repeal of Section 199, since the El Dorado County Superior Court has
37 a local rule on the matter. See El Dorado County Superior Court Rules, Rule 3.00.01.

38 **Code Civ. Proc. § 199.2 (repealed). Placer County venires**

39 SEC. ____ . Section 199.2 of the Code of Civil Procedure is repealed.

40 ~~199.2. In Placer County prospective jurors residing in the Tahoe Division of the Placer~~
41 ~~County Municipal Court, except as otherwise provided in this section, shall only be~~
42 ~~included in trial court venires for sessions of the superior court held within that division.~~
43 ~~However, each prospective juror residing in the county shall be given the opportunity to~~
44 ~~elect to serve on juries with respect to trials held anywhere in the county in accordance~~
45 ~~with the rules of the superior court, which shall afford to each eligible resident of the~~
46 ~~county an opportunity for selection as a trial jury venireman. Additionally, nothing in this~~

1 ~~section shall preclude the superior or municipal court, in its discretion, from ordering a~~
2 ~~countywide venire in the interest of justice.~~

3 **Comment.** The special rule of Section 199.2 is superseded by the general rule of Section 198.5
4 (superior court venires).

5 **Note: Comment Requested**

6 The purpose of Code of Civil Procedure Section 199.2 — to enable smaller than county-wide
7 jury venires in Placer County — can be achieved by local court rule, without the need for special
8 legislation. See Code of Civil Procedure Section 198.5. It is proposed that Section 199.2 be
9 repealed with a one-year deferred operative date; this will allow adequate time for the Placer
10 County Superior Court to adopt a satisfactory local rule on the matter.

11 The repeal by this act of Section 199.2 of the Code of Civil Procedure is operative January 1,
12 2004.

13 **Code Civ. Proc. § 199.3 (repealed). Nevada County venires**

14 SEC. ____ . Section 199.3 of the Code of Civil Procedure is repealed.

15 ~~199.3. In Nevada County, trial jury venires for the Truckee Branch of the Superior~~
16 ~~Court shall be drawn from residents of the Truckee Division of the Nevada County~~
17 ~~Municipal Court, except as otherwise provided in this section. Prospective jurors residing~~
18 ~~in the Truckee Division of Nevada County Municipal Court, except as otherwise~~
19 ~~provided in this section, shall only be included in trial court venires or sessions of the~~
20 ~~municipal and superior court held within that division. However, each prospective juror~~
21 ~~residing in the county shall be given the opportunity to elect to serve on juries with~~
22 ~~respect to trials held anywhere in the county in accordance with the rules of the superior~~
23 ~~and municipal court, which shall afford to each eligible resident of the county an~~
24 ~~opportunity for selection as a trial jury venireman. Additionally, nothing in this section~~
25 ~~shall preclude the superior or municipal court, in its discretion, from ordering a~~
26 ~~countywide venire in the interest of justice.~~

27 **Comment.** The special rule of Section 199.3 is superseded by the general rule of Section 198.5
28 (superior court venires).

29 **Note: Comment Requested**

30 The purpose of Code of Civil Procedure Section 199.3 — to enable smaller than county-wide
31 jury venires in Nevada County — can be achieved by local court rule, without the need for
32 special legislation. See Code of Civil Procedure Section 198.5. It is proposed that Section 199.3
33 be repealed with a one-year deferred operative date; this will allow adequate time for the Nevada
34 County Superior Court to adopt a satisfactory local rule on the matter.

35 The repeal by this act of Section 199.3 of the Code of Civil Procedure is operative January 1,
36 2004.

37 **Code Civ. Proc. § 199.5 (repealed). Santa Barbara County venires**

38 SEC. ____ . Section 199.5 of the Code of Civil Procedure is repealed.

39 ~~199.5. In Santa Barbara County, trial jury venires for the superior court shall be drawn~~
40 ~~from residents of the supervisorial district within which the court will sit for that trial and~~
41 ~~from residents of such other immediately adjacent supervisorial district, or portion~~
42 ~~thereof, as may be specified by local superior court rules. The venireman shall serve the~~
43 ~~court sitting in the geographical portion of the county from which this section and such~~
44 ~~court rules specify trial jury venires shall be drawn. However, those rules shall afford to~~
45 ~~each eligible resident of such county an opportunity for selection as a trial jury~~

1 venireman. The court may, in its discretion, order a countywide venire in the interest of
2 justice.

3 **Comment.** The special rule of Section 199.5 is superseded by the general rule of Section 198.5
4 (superior court venires).

5 **Note: Comment Requested**

6 The purpose of Code of Civil Procedure Section 199.5 — to enable smaller than county-wide
7 jury venires in Santa Barbara County — can be achieved by local court rule, without the need for
8 special legislation. See Code of Civil Procedure Section 198.5. It is unnecessary to provide a
9 deferred operative date for repeal of Section 199.5, since the Santa Barbara County Superior
10 Court has a local rule on the matter. See Santa Barbara County Unified Superior Court Rules,
11 Rule 801

12 **Code Civ. Proc. § 200 (repealed). Municipal court jury pools**

13 SEC. ____ . Section 200 of the Code of Civil Procedure is repealed.

14 ~~200. When authorized by local superior court rules, a municipal court district pursuant~~
15 ~~to duly adopted court rule may use the same juror pool as that summoned for use in the~~
16 ~~superior court. Persons so selected for jury service in those municipal courts need not be~~
17 ~~residents of the judicial district. In Los Angeles County, the municipal courts shall use~~
18 ~~the same jury pool as that summoned for use in the superior court.~~

19 **Comment.** Section 200 is repealed to reflect unification of the municipal and superior courts
20 pursuant to Article VI, Section 5(e), of the California Constitution.

21 **Code Civ. Proc. § 201 (amended). Jury panels**

22 SEC. ____ . Section 201 of the Code of Civil Procedure is amended to read:

23 ~~201. In any county having two or more judges of the superior court, or in any judicial~~
24 ~~district, or city and county, in which a municipal court having two or more judges is~~
25 ~~established, a In any superior court, a separate trial jury panel may be drawn, summoned,~~
26 ~~and impaneled for each judge, or any one panel may be drawn, summoned, and~~
27 ~~impaneled by any one of the judges, for use in the trial of cases before any of the judges,~~
28 ~~as occasion may require. In those counties or judicial districts courts, when a panel of~~
29 ~~jurors is in attendance for service before one or more of the judges, whether impaneled~~
30 ~~for common use or not, the whole or any number of the jurors from such panel may be~~
31 ~~required to attend and serve in the trial of cases, or to complete a panel, or jury, before~~
32 ~~any other of the judges.~~

33 **Comment.** Section 201 is amended to reflect unification of the municipal and superior courts
34 pursuant to Article VI, Section 5(e), of the California Constitution.

35 The section is also amended to reflect the fact that every superior court has at least two
36 judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq.* (number of
37 judges).

38 **Code Civ. Proc. § 215 (amended). Fees and mileage for jurors**

39 SEC. ____ . Section 215 of the Code of Civil Procedure is amended to read:

40 215. (a) Beginning July 1, 2000, the fee for jurors in the superior ~~and municipal courts~~
41 ~~court,~~ in civil and criminal cases, is fifteen dollars (\$15) a day for each day's attendance
42 as a juror after the first day.

43 (b) Unless a higher rate of mileage is otherwise provided by statute or by county or city
44 and county ordinance, jurors in the superior ~~and municipal courts~~ court shall be

1 reimbursed for mileage at the rate of fifteen cents (\$0.15) per mile for each mile actually
2 traveled in attending court as a juror, in going only.

3 **Comment.** Section 215 is amended to reflect unification of the municipal and superior courts
4 pursuant to Article VI, Section 5(e), of the California Constitution.

5 **Code Civ. Proc. § 217 (amended). Food, lodging, and necessities for jurors in criminal cases**

6 SEC. ____ . Section 217 of the Code of Civil Procedure is amended to read:

7 217. In criminal cases only, while the jury is kept together, either during the progress of
8 the trial or after their retirement for deliberation, the court may direct the sheriff or
9 marshal to provide the jury with suitable and sufficient food and lodging, or other
10 reasonable necessities. ~~In the superior and municipal courts, the~~ The expenses incurred
11 under the provisions of this section shall be charged against the ~~county or city and county~~
12 court operations fund of the county in which the court is held. All those expenses shall be
13 paid on the order of the court.

14 **Comment.** Section 217 is amended to reflect unification of the municipal and superior courts
15 pursuant to Article VI, Section 5(e), of the California Constitution.

16 The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't
17 Code §§ 77003 ("court operations" defined), 77200 (state funding of trial court operations).

18 **Code Civ. Proc. § 234 (amended). Alternate jurors**

19 SEC. ____ . Section 234 of the Code of Civil Procedure is amended to read:

20 234. Whenever, in the opinion of a judge of a superior ~~or municipal~~ court about to try a
21 civil or criminal action or proceeding, the trial is likely to be a protracted one, or upon
22 stipulation of the parties, the court may cause an entry to that effect to be made in the
23 minutes of the court and thereupon, immediately after the jury is impaneled and sworn,
24 the court may direct the calling of one or more additional jurors, in its discretion, to be
25 known as "alternate jurors."

26 These alternate jurors shall be drawn from the same source, and in the same manner,
27 and have the same qualifications, as the jurors already sworn, and shall be subject to the
28 same examination and challenges. However, each side, or each defendant, as provided in
29 Section 231, shall be entitled to as many peremptory challenges to the alternate jurors as
30 there are alternate jurors called.

31 The alternate jurors shall be seated so as to have equal power and facilities for seeing
32 and hearing the proceedings in the case, and shall take the same oath as the jurors already
33 selected, and shall, unless excused by the court, attend at all times upon the trial of the
34 cause in company with the other jurors, but shall not participate in deliberation unless
35 ordered by the court, and for a failure to do so are liable to be punished for contempt.

36 They shall obey the orders of and be bound by the admonition of the court, upon each
37 adjournment of the court; but if the regular jurors are ordered to be kept in the custody of
38 the sheriff or marshal during the trial of the cause, the alternate jurors shall also be kept in
39 confinement with the other jurors; and upon final submission of the case to the jury, the
40 alternate jurors shall be kept in the custody of the sheriff or marshal who shall not suffer
41 any communication to be made to them except by order of the court, and shall not be
42 discharged until the original jurors are discharged, except as provided in this section.

43 If at any time, whether before or after the final submission of the case to the jury, a
44 juror dies or becomes ill, or upon other good cause shown to the court is found to be
45 unable to perform his or her duty, or if a juror requests a discharge and good cause
46 appears therefor, the court may order the juror to be discharged and draw the name of an

1 alternate, who shall then take his or her place in the jury box, and be subject to the same
2 rules and regulations as though he or she has been selected as one of the original jurors.

3 All laws relative to fees, expenses, and mileage or transportation of jurors shall be
4 applicable to alternate jurors, except that in civil cases the sums for fees and mileage or
5 transportation need not be deposited until the judge directs alternate jurors to be
6 impaneled.

7 **Comment.** Section 234 is amended to reflect unification of the municipal and superior courts
8 pursuant to Article VI, Section 5(e), of the California Constitution.

9 **Code Civ. Proc. § 259 (amended). Powers of court commissioners**

10 SEC. ____ . Section 259 of the Code of Civil Procedure is amended to read:

11 259. Subject to the supervision of the court, every court commissioner shall have power
12 to do all of the following:

13 (a) Hear and determine ex parte motions for orders and alternative writs and writs of
14 habeas corpus in the superior court for which the court commissioner is appointed.

15 (b) Take proof and make and report findings thereon as to any matter of fact upon
16 which information is required by the court. Any party to any contested proceeding may
17 except to the report and the subsequent order of the court made thereon within five days
18 after written notice of the court's action. A copy of the exceptions shall be filed and
19 served upon opposing party or counsel within the five days. The party may argue any
20 exceptions before the court on giving notice of motion for that purpose within 10 days
21 from entry thereof. After a hearing before the court on the exceptions, the court may
22 sustain, or set aside, or modify its order.

23 (c) Take and approve any bonds and undertakings in actions or proceedings, and
24 determine objections to the bonds and undertakings.

25 (d) Administer oaths and affirmations, and take affidavits and depositions in any action
26 or proceeding in any of the courts of this state, or in any matter or proceeding whatever,
27 and take acknowledgments and proof of deeds, mortgages, and other instruments
28 requiring proof or acknowledgment for any purpose under the laws of this or any other
29 state or country.

30 (e) Act as temporary judge when otherwise qualified so to act and when appointed for
31 that purpose, ~~or by written consent of an appearing party~~. While acting as temporary
32 judge the commissioner shall receive no compensation therefor other than compensation
33 as commissioner.

34 (f) Hear and report findings and conclusions to the court for approval, rejection, or
35 change, all preliminary matters including motions or petitions for the custody and support
36 of children, the allowance of temporary spousal support, costs and attorneys' fees, and
37 issues of fact in contempt proceedings in proceedings for support, dissolution of
38 marriage, nullity of marriage, or legal separation.

39 (g) Hear actions to establish paternity and to establish or enforce child and spousal
40 support pursuant to subdivision (a) of Section 4251 of the Family Code.

41 (h) Hear, report on, and determine all uncontested actions and proceedings subject to
42 the requirements of subdivision (e).

43 (i) Charge and collect the same fees for the performance of official acts as are allowed
44 by law to notaries public in this state for like services. This subdivision does not apply to
45 any services of the commissioner, the compensation for which is expressly fixed by law.
46 The fees so collected shall be paid to the treasurer of the county, for deposit in the general
47 fund of the county.

1 (j) Provide an official seal, upon which must be engraved the words “Court
2 Commissioner” and the name of the county, or city and county, in which the
3 commissioner resides is appointed.

4 (k) Authenticate with the official seal the commissioner’s official acts.

5 **Comment.** Subdivision (e) of Section 259 is amended to eliminate the implication that a
6 commissioner may act as a temporary judge with the written consent of one party. The court may
7 order a cause to be tried by a temporary judge only on stipulation of all parties. Cal. Const. art.
8 VI, § 21.

9 Subdivision (j) is amended in recognition of the fact that a Commissioner may be appointed in
10 more than one county. Gov’t Code § 71622(e).

11 **Code Civ. Proc. § 269 (amended). Reporting of cases**

12 SEC. ____ . Section 269 of the Code of Civil Procedure is amended to read:

13 269. (a) ~~The official reporter of a superior court, or any of them where there are two or~~
14 ~~more, shall, at the request of either party, or of the court in a civil case other than a~~
15 ~~limited civil case, and on the order of the court, the district attorney, or the attorney for~~
16 ~~the defendant in a felony case, An official reporter or official reporter pro tempore of the~~
17 ~~superior court shall take down in shorthand all testimony, objections made, rulings of the~~
18 ~~court, exceptions taken, all arraignments, pleas, and sentences of defendants in felony~~
19 ~~cases, arguments of the prosecuting attorney attorneys to the jury, and all statements and~~
20 ~~remarks made and oral instructions given by the judge. If directed judge or other judicial~~
21 ~~officer, in the following cases:~~

22 (1) In a civil case, on order of the court or at the request of a party.

23 (2) In a felony case, on order of the court or at the request of the prosecution, the
24 defendant, or the attorney for the defendant.

25 (3) In a misdemeanor or infraction case, on order of the court.

26 (b) Where a transcript is ordered by the court, or requested by either a party, or where a
27 nonparty requests a transcript that the nonparty is entitled to receive, regardless of
28 whether the nonparty was permitted to attend the proceeding to be transcribed, the official
29 reporter or official reporter pro tempore shall, within such a reasonable time after the trial
30 of the case as that the court may designate designates, write the transcripts out, or the
31 specific portions thereof as may be requested, in plain and legible longhand, or by
32 typewriter, or other printing machine, and certify that the transcripts were correctly
33 reported and transcribed, and when directed by the court, file the transcripts with the clerk
34 of the court.

35 (b) (c) In any case where a defendant is convicted of a felony, after a trial on the merits,
36 the record on appeal shall be prepared immediately after the verdict or finding of guilt is
37 announced unless the court determines that it is likely that no appeal from the decision
38 will be made. The court’s determination of a likelihood of appeal shall be based upon
39 standards and rules adopted by the Judicial Council.

40 ~~(e) Any court, party, or person may request delivery of any transcript in a computer-~~
41 ~~readable form, except that an original transcript shall be on paper. A copy of the original~~
42 ~~transcript ordered within 120 days of the filing or delivery of the transcript by the official~~
43 ~~reporter shall be delivered in computer-readable form upon request if the proceedings~~
44 ~~were produced utilizing computer-aided transcription equipment. Except as modified by~~
45 ~~standards adopted by the Judicial Council, the computer-readable transcript shall be on~~
46 ~~disks in standard ASCII code unless otherwise agreed by the reporter and the court, party,~~
47 ~~or person requesting the transcript. Each disk shall be labeled with the case name and~~
48 ~~court number, the dates of proceedings contained on the disk, and the page and volume~~

1 numbers of the data contained on the disk. Each disk as produced by the court reporter
2 shall contain the identical volume divisions, pagination, line numbering, and text of the
3 certified original paper transcript or any portion thereof. Each disk shall be sequentially
4 numbered within the series of disks.

5 **Comment.** Subdivision (a) of Section 269 is amended to:

6 (1) Continue former Section 274c without substantive change.

7 (2) Refer to official reporters pro tempore, as well as official reporters. This is not a
8 substantive change. See Gov't Code § 69941 (appointment of official reporters).

9 (3) Substitute "arguments of the attorneys" for "arguments of the prosecuting attorney,"
10 consistent with standard practice. See, e.g., Gov't Code § 72194.5 ("arguments of the attorneys").

11 (4) Substitute "prosecution" for "district attorney," to reflect that the Attorney General
12 sometimes acts as prosecutor in place of the district attorney. See Gov't Code § 12553
13 (disqualification of district attorney); see also Penal Code § 1424 (motion to disqualify district
14 attorney).

15 (5) Make clear that it requires shorthand reporting regardless of whether a proceeding is
16 conducted by a judge or by another type of judicial officer (e.g., a commissioner). For an
17 exception to this rule, see Gov't Code § 70141.11 (court reporting for Contra Costa County
18 Commissioner).

19 (6) Make clear that a felony defendant, whether represented by counsel or in pro per, is
20 entitled to a court reporter on request by the defendant personally or by the defendant's attorney
21 (if any). This is not a substantive change. See generally *People v. Turner*, 67 Cal. App. 4th 1258,
22 1266, 79 Cal. Rptr. 2d 740 (1998) ("a verbatim record is implicitly among the rights of which a
23 defendant appearing in propria persona must be apprised"); *Andrus v. Municipal Court*, 143 Cal.
24 App. 3d 1041, 1050, 192 Cal. Rptr. 341 (1983) (California confers right to free verbatim record
25 "in felony proceedings by statute (Code Civ. Proc., § 269)."); *In re Armstrong*, 126 Cal. App. 3d
26 565, 572, 178 Cal. Rptr. 902 (1981) (a "felony defendant *is*, as a matter of right, entitled to have
27 'taken down,' all related testimony and oral proceedings") (emphasis in original); *People v.*
28 *Godeau*, 8 Cal. App. 3d 275, 279-80, 87 Cal. Rptr. 424 (1970) ("In California felony proceedings
29 a court reporter must be present if requested by the defendant, the district attorney, or an order of
30 the court. (Code Civ. Proc., § 269.)"); *People v. Hollander*, 194 Cal. App. 2d 386, 391-93, 14 Cal.
31 Rptr. 917 (1961) (denial of transcript to pro per indigent defendant was prejudicial error).

32 Subdivision (b) is amended to make clear that a nonparty is generally entitled to request
33 preparation of a transcript. This is consistent with longstanding practice and conforms to
34 constitutional constraints. See, e.g., *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986)
35 (media request for transcript of preliminary hearing); *Fisher v. King*, 232 F.3d 391, 397 (4th Cir.
36 2000) (general public and press "enjoy a qualified right of access under the First Amendment to
37 criminal proceedings *and transcripts thereof*") (emphasis added); *United States v. Antar*, 38 F.3d
38 1348, 1360-61 (3d Cir. 1994) ("First Amendment right of access must extend equally to
39 transcripts as to live proceedings"); *United States v. Berger*, 990 F. Supp. 1054, 1057 (C.D. Ill.
40 1998) (there "is no question that a written transcript of the Governor's deposition would be made
41 available to the public upon admission of his testimony before the jury"); *State ex rel. Scripps*
42 *Howard Broadcasting Co. v. Cuyahoga County Court of Common Pleas*, 73 Ohio St. 3d 19, 21,
43 652 N.E.2d 179 (1995) (right of access "includes both the live proceedings and the transcripts
44 which document those proceedings"); see also *NBC Subsidiary (KNBC-TV), Inc. v. Superior*
45 *Court*, 20 Cal. 4th 1178, 980 P.2d 337, 86 Cal. Rptr. 2d 778 (1999) (constitutional right of access
46 applies to civil as well as criminal cases). A nonparty is entitled to a transcript of (1) a proceeding
47 that was open to the public, see *Scripps Howard Broadcasting*, 73 Ohio St. 3d at 21; (2) a
48 proceeding that was erroneously closed to the public, see generally *Press-Enterprise*, 478 U.S. at
49 15; and (3) a proceeding that was properly closed, once "the competing interests precipitating
50 closure are no longer viable," see *Phoenix Newspapers, Inc. v. KPNX*, 156 F.3d 940, 947-48 (9th
51 Cir. 1998).

52 Subdivision (b) is also amended to refer to official reporters pro tempore, as well as official
53 reporters.

1 Former subdivision (c) is continued in Section 271 without substantive change.
2 The other revisions in Section 269 are technical, nonsubstantive changes.

3 **Code Civ. Proc. § 271 (added). Computer-readable transcripts**

4 SEC. ____ . Section 271 is added to the Code of Civil Procedure, to read:

5 271. (a) Any court, party, or other person entitled to a transcript may request that it be
6 delivered in a computer-readable form, except that an original transcript shall be on
7 paper. A copy of the original transcript ordered within 120 days of the filing or delivery
8 of the transcript by the official reporter or official reporter pro tempore shall be delivered
9 in computer-readable form upon request if the proceedings were produced utilizing
10 computer-aided transcription equipment.

11 (b) Except as modified by standards adopted by the Judicial Council, the computer-
12 readable transcript shall be on disks in standard ASCII code unless otherwise agreed by
13 the reporter and the court, party, or other person requesting the transcript. Each disk shall
14 be labeled with the case name and court number, the dates of proceedings contained on
15 the disk, and the page and volume numbers of the data contained on the disk. Except
16 where modifications are necessary to reflect corrections of a transcript, each disk as
17 produced by the official reporter shall contain the identical volume divisions, pagination,
18 line numbering, and text of the certified original paper transcript or any portion thereof.
19 Each disk shall be sequentially numbered within the series of disks.

20 **Comment.** Section 271 continues former Section 269(c) without change, except to insert
21 subdivisions, refer to official reporters pro tempore as well as official reporters, make clear that a
22 computer-readable version of a transcript is available only where a person is entitled to a hard-
23 copy version, and clarify how the provision applies where a transcript is corrected. These
24 revisions are nonsubstantive. See Gov't Code § 69945 (official reporter pro tempore shall
25 perform same duties as official reporter).

26 **Code Civ. Proc. § 274a (amended). Reporting and transcription of proceedings**

27 SEC. ____ . Section 274a of the Code of Civil Procedure is amended to read:

28 274a. Any judge of the superior court may have any opinion given or rendered by the
29 judge in the trial of a felony case or a civil case other than a limited an unlimited civil
30 case, pending in that court, or any necessary order, petition, citation, commitment or
31 judgment in any probate proceeding, proceeding concerning new or additional bonds of
32 county officials or juvenile court proceeding, ~~or necessary order, petition, citation,~~
33 ~~commitment, or oral testimony or judgment in any insanity proceeding or proceedings~~
34 ~~relative to an alleged feebleminded person, or the testimony or judgment relating to the~~
35 ~~custody or support of minor children in any proceeding in which the custody or support~~
36 ~~of minor children is involved, taken down in shorthand and transcribed together with~~
37 ~~such copies as the court may deem necessary by the official reporter or an official~~
38 ~~reporter pro tempore of the court, but if there be no official reporter for the court, then by~~
39 ~~any competent stenographer; the cost thereof shall be a legal charge against the county,~~
40 ~~payable out of the county treasury, except the fee for reporting and transcribing in any~~
41 ~~civil action or proceeding or in any probate proceeding, in the manner set forth in~~
42 ~~Sections 69947 to 69953, inclusive, of the Government Code.~~

43 **Comment.** Section 274a is amended to reflect enactment of the Trial Court Funding Act. See
44 Gov't Code §§ 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
45 (state funding of trial court operations). See also Gov't Code §§ 68073 (responsibility for court
46 operations and facilities), 69941 (appointment of official reporters), 69947 (compensation of
47 official reporter).

1 The section is also amended to delete the reference to insanity proceedings or proceedings for
2 the feebleminded. That provision is superseded by Government Code Section 69952(a)(4)
3 (verbatim record in proceedings under Lanterman-Petris-Short Act).

4 The section is also amended to replace “civil case other than a limited civil case” with a
5 reference to “unlimited civil case.” See Section 88 (civil action or proceeding other than limited
6 civil case may be referred to as unlimited civil case).

7 **Code Civ. Proc. § 274c (repealed). Reporting of limited civil cases and misdemeanor and**
8 **infraction cases**

9 SEC. ____ . Section 274c of the Code of Civil Procedure is repealed.

10 ~~274c. Official reporters shall, at the request of either party or of the court in a limited~~
11 ~~civil case, or on the order of the court in a misdemeanor or infraction case, take down in~~
12 ~~shorthand all the testimony, the objections made, the rulings of the court, the exceptions~~
13 ~~taken, all arraignments, pleas and sentences of defendants in criminal cases, the~~
14 ~~arguments of the prosecuting attorney to the jury, and all statements and remarks made~~
15 ~~and oral instructions given by the judge; and if directed by the court, or requested by~~
16 ~~either party, must, within such reasonable time after the trial of such case as the court~~
17 ~~may designate, write out the same, or such specific portions thereof as may be requested,~~
18 ~~in plain and legible longhand, or by typewriter, or other printing machine, and certify to~~
19 ~~the same as being correctly reported and transcribed, and when directed by the court, file~~
20 ~~the same with the clerk of the court.~~

21 **Comment.** Section 274c is continued in Section 269(a) without substantive change.

22 **Code Civ. Proc. § 392 (amended). Venue in real property actions**

23 SEC. ____ . Section 392 of the Code of Civil Procedure is amended to read:

24 392. (1) Subject to the power of the court to transfer actions and proceedings as
25 provided in this title, the county in which the real property, that is the subject of the
26 action, or some part thereof, is situated, is the proper county for the trial of the following
27 actions:

28 (a) For the recovery of real property, or of an estate or interest therein, or for the
29 determination in any form, of that right or interest, and for injuries to real property;

30 (b) For the foreclosure of all liens and mortgages on real property.

31 (2) ~~The proper court for the trial of any such action, in the county hereinabove~~
32 ~~designated as the proper county, shall be determined as follows:~~

33 ~~If there is a municipal court, having jurisdiction of the subject matter of the action,~~
34 ~~established in the city and county or judicial district in which the real property that is the~~
35 ~~subject of the action, or some part thereof, is situated, that court is the proper court for the~~
36 ~~trial of the action; otherwise any court in the county having jurisdiction of the subject~~
37 ~~matter of the action, is a proper court for the trial thereof.~~

38 **Comment.** Section 392 is amended to reflect unification of the municipal and superior courts
39 pursuant to Article VI, Section 5(e), of the California Constitution.

40 **Note: Comment Requested**

41 Code of Civil Procedure Section 392 raises issues relating to local venue. The Commission and
42 the Judicial Council are studying this area and may propose further revisions to address local
43 venue issues. The Commission solicits comment on the proper treatment of the section.

1 **Code Civ. Proc. § 393 (amended). Venue in actions for statutory penalty or forfeiture and**
2 **against public officers**

3 SEC. ____ . Section 393 of the Code of Civil Procedure is amended to read:

4 393. (4) Subject to the power of the court to transfer actions and proceedings as
5 provided in this title, the county in which the cause, or some part thereof, arose, is the
6 proper county for the trial of the following actions:

7 (a) For the recovery of a penalty or forfeiture imposed by statute; except, that when it is
8 imposed for an offense committed on a lake, river, or other stream of water, situated in
9 two or more counties, the action may be tried in any county bordering on the lake, river,
10 or stream, and opposite to the place where the offense was committed;

11 (b) Against a public officer or person especially appointed to execute the duties of a
12 public officer, for an act done by the officer or person in virtue of the office; or against a
13 person who, by the officer's command or in the officer's aid, does anything touching the
14 duties of the officer.

15 ~~(2) The proper court for the trial of any such action, in the county hereinabove~~
16 ~~designated as the proper county, shall be determined as follows:~~

17 ~~If there is a municipal court having jurisdiction of the subject matter of the action,~~
18 ~~established in the city and county or judicial district in which the cause, or some part~~
19 ~~thereof, arose, that court is the proper court for the trial of the action; otherwise, any court~~
20 ~~in the county, having jurisdiction of the subject matter of the action, is a proper court for~~
21 ~~the trial thereof. In the case of offenses committed on a lake, river, or stream, hereinabove~~
22 ~~mentioned, the court, having jurisdiction of the subject matter of the action, nearest to the~~
23 ~~place where the offense was committed, in any county mentioned in subdivision 1 of this~~
24 ~~section, is a proper court for the trial of the action.~~

25 **Comment.** Section 393 is amended to reflect unification of the municipal and superior courts
26 pursuant to Article VI, Section 5(e), of the California Constitution.

27 **Note: Comment Requested**

28 Code of Civil Procedure Section 393 raises issues relating to local venue. The Commission and
29 the Judicial Council are studying this area and may propose further revisions to address local
30 venue issues. The Commission solicits comment on the proper treatment of the section.

31 **Code Civ. Proc. § 394 (amended). Venue in action against county, city, or local agency**

32 SEC. ____ . Section 394 of the Code of Civil Procedure is amended to read:

33 394. (a) An action or proceeding against a county, or city and county, a city, or local
34 agency, may be tried in such county, or city and county, or the county in which such city
35 or local agency is situated, unless the action or proceeding is brought by a county, or city
36 and county, a city, or local agency, in which case it may be tried in any county, or city
37 and county, not a party thereto and in which the city or local agency is not situated.
38 Except for actions initiated by the district attorney pursuant to Section 11350, 11350.1,
39 11475.1, or 11476.1 of the Welfare and Institutions Code, any action or proceeding
40 brought by a county, city and county, city, or local agency within a certain county, or city
41 and county, against a resident of another county, city and county, or city, or a corporation
42 doing business in the latter, shall be, on motion of either party, transferred for trial to a
43 county, or city and county, other than the plaintiff, if the plaintiff is a county, or city and
44 county, and other than that in which the plaintiff is situated, if the plaintiff is a city, or a
45 local agency, and other than that in which the defendant resides, or is doing business, or
46 is situated. Whenever an action or proceeding is brought against a county, city and
47 county, city, or local agency, in any county, or city and county, other than the defendant,

1 if the defendant is a county, or city and county, or, if the defendant is a city, or local
2 agency, other than that in which the defendant is situated, the action or proceeding must
3 be, on motion of the said defendant, transferred for trial to a county, or city and county,
4 other than that in which the plaintiff, or any of the plaintiffs, resides, or is doing business,
5 or is situated, and other than the plaintiff county, or city and county, or county in which
6 such plaintiff city or local agency is situated, and other than the defendant county, or city
7 and county, or county in which such defendant city or local agency is situated; provided,
8 however, that any action or proceeding against the city, county, city and county, or local
9 agency for injury occurring within the city, county, or city and county, or within the
10 county in which such local agency is situated, to person or property or person and
11 property caused by the negligence or alleged negligence of such city, county, city and
12 county, local agency, or its agents or employees, shall be tried in such county, or city and
13 county, or if a city is a defendant, in such city or in the county in which such city is
14 situated, or if a local agency is a defendant, in such county in which such local agency is
15 situated. In any such action or proceeding, the parties thereto may, by stipulation in
16 writing, or made in open court, and entered in the minutes, agree upon any county, or city
17 and county, for the place of trial thereof. When the action or proceeding is one in which a
18 jury is not of right, or in case a jury be waived, then in lieu of transferring the cause the
19 court in the original county may request the chairman of the Judicial Council to assign a
20 disinterested judge from a neutral county to hear said cause and all proceedings in
21 connection therewith. When such action or proceeding is transferred to another county for
22 trial, a witness required to respond to a subpoena for a hearing within the original county
23 shall be compelled to attend hearings in the county to which the cause is transferred. If
24 the demand for transfer be made by one party and the opposing party does not consent
25 thereto the additional costs of the nonconsenting party occasioned by the transfer of the
26 cause, including living and traveling expenses of said nonconsenting party and material
27 witnesses, found by the court to be material, and called by such nonconsenting party, not
28 to exceed five dollars (\$5) per day each in excess of witness fees and mileage otherwise
29 allowed by law, shall be assessed by the court hearing the cause against the party
30 requesting the transfer. To the extent of such excess, such costs shall be awarded to the
31 nonconsenting party regardless of the outcome of the trial. This section shall apply to
32 actions or proceedings now pending or hereafter brought.

33 ~~(b) Any court in a county hereinabove designated as a proper county, which has~~
34 ~~jurisdiction of the subject matter of the action or proceeding, is a proper court for the trial~~
35 ~~thereof.~~

36 (e) For the purposes of this section, “local agency” shall mean any governmental
37 district, board, or agency, or any other local governmental body or corporation, but shall
38 not include the State of California or any of its agencies, departments, commissions, or
39 boards.

40 **Comment.** Section 394 is amended to reflect unification of the municipal and superior courts
41 pursuant to Article VI, Section 5(e), of the California Constitution.

42 **Code Civ. Proc. § 395 (amended). Venue in actions generally**

43 SEC. ____ . Section 395 of the Code of Civil Procedure is amended to read:

44 395. (a) Except as otherwise provided by law and subject to the power of the court to
45 transfer actions or proceedings as provided in this title, the county in which the
46 defendants or some of them reside at the commencement of the action is the proper
47 county for the trial of the action. If the action is for injury to person or personal property
48 or for death from wrongful act or negligence, either the county where the injury occurs or

1 the injury causing death occurs or the county in which the defendants, or some of them
2 reside at the commencement of the action, shall be a proper county for the trial of the
3 action. In a proceeding for dissolution of marriage, the county in which either the
4 petitioner or respondent has been a resident for three months next preceding the
5 commencement of the proceeding is the proper county for the trial of the proceeding. In a
6 proceeding for nullity of marriage or legal separation of the parties, the county in which
7 either the petitioner or the respondent resides at the commencement of the proceeding is
8 the proper county for the trial of the proceeding. In a proceeding to enforce an obligation
9 of support under Section 3900 of the Family Code, the county in which the child resides
10 is the proper county for the trial of the action. In a proceeding to establish and enforce a
11 foreign judgment or court order for the support of a minor child, the county in which the
12 child resides is the proper county for the trial of the action. Subject to subdivision (b),
13 when a defendant has contracted to perform an obligation in a particular county, either
14 the county where the obligation is to be performed or in which the contract in fact was
15 entered into or the county in which the defendant or any defendant resides at the
16 commencement of the action shall be a proper county for the trial of an action founded on
17 that obligation, and the county in which the obligation is incurred shall be deemed to be
18 the county in which it is to be performed unless there is a special contract in writing to
19 the contrary. If none of the defendants reside in the state or if residing in the state and the
20 county in which they reside is unknown to the plaintiff, the action may be tried in any
21 county that the plaintiff may designate in his or her complaint, and, if the defendant is
22 about to depart from the state, the action may be tried in any county where either of the
23 parties reside or service is made. If any person is improperly joined as a defendant or has
24 been made a defendant solely for the purpose of having the action tried in the county or
25 judicial district where he or she resides, his or her residence shall not be considered in
26 determining the proper place for the trial of the action.

27 (b) Subject to the power of the court to transfer actions or proceedings as provided in
28 this title, in an action arising from an offer or provision of goods, services, loans or
29 extensions of credit intended primarily for personal, family or household use, other than
30 an obligation described in Section 1812.10 or Section 2984.4 of the Civil Code, or an
31 action arising from a transaction consummated as a proximate result of either an
32 unsolicited telephone call made by a seller engaged in the business of consummating
33 transactions of that kind or a telephone call or electronic transmission made by the buyer
34 or lessee in response to a solicitation by the seller, the county in which the buyer or lessee
35 in fact signed the contract, the county in which the buyer or lessee resided at the time the
36 contract was entered into, or the county in which the buyer or lessee resides at the
37 commencement of the action is the proper county for the trial thereof.

38 ~~(c) If within the county there is a municipal court having jurisdiction of the subject~~
39 ~~matter established, in the cases mentioned in subdivision (a), in the judicial district in~~
40 ~~which the defendant or any defendant resides, in which the injury to person or personal~~
41 ~~property or the injury causing death occurs, or, in which the obligation was contracted to~~
42 ~~be performed or, in cases mentioned in subdivision (b), in the judicial district in which~~
43 ~~the buyer or lessee resides, in which the buyer or lessee in fact signed the contract, in~~
44 ~~which the buyer or lessee resided at the time the contract was entered into, or in which the~~
45 ~~buyer or lessee resides at the commencement of the action, then that court is the proper~~
46 ~~court for the trial of the action. Otherwise, any court in the county having jurisdiction of~~
47 ~~the subject matter is a proper court for the trial thereof.~~

48 (d) Any provision of an obligation described in subdivision (b) ~~or (c)~~ waiving those
49 subdivisions that subdivision is void and unenforceable.

1 **Comment.** Section 395 is amended to reflect unification of the municipal and superior courts
2 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial
3 districts).

4 **Note: Comment Requested**

5 Code of Civil Procedure Section 395 raises issues relating to local venue. The Commission and
6 the Judicial Council are studying this area and may propose further revisions to address local
7 venue issues. The Commission solicits comment on the proper treatment of this provision.

8 **Code Civ. Proc. § 396 (amended). Court without jurisdiction**

9 SEC. ____ . Section 396 of the Code of Civil Procedure is amended to read:

10 396. If an action or proceeding is commenced in a court that lacks jurisdiction of the
11 subject matter thereof, as determined by the complaint or petition, if there is a court of
12 this state that has subject matter jurisdiction, the action or proceeding shall not be
13 dismissed (except as provided in Section 399, and subdivision 1 of Section 581) but shall,
14 on the application of either party, or on the court's own motion, be transferred to a court
15 having jurisdiction of the subject matter that may be agreed upon by the parties, or, if
16 they do not agree, to a court having subject matter jurisdiction that is designated by law
17 as a proper court for the trial or determination thereof, and it shall thereupon be entered
18 and prosecuted in the court to which it is transferred as if it had been commenced therein,
19 all prior proceedings being saved. In any such case, if summons is served prior to the
20 filing of the action or proceeding in the court to which it is transferred, as to any
21 defendant, so served, who has not appeared in the action or proceeding, the time to
22 answer or otherwise plead shall date from service upon that defendant of written notice of
23 filing of the action or proceeding in the court to which it is transferred.

24 If an action or proceeding is commenced in or transferred to a court that has jurisdiction
25 of the subject matter thereof as determined by the complaint or petition, and it thereafter
26 appears from the verified pleadings, or at the trial, or hearing, that the determination of
27 the action or proceeding, or of a cross-complaint, will necessarily involve the
28 determination of questions not within the jurisdiction of the court, in which the action or
29 proceeding is pending, the court, whenever that lack of jurisdiction appears, must suspend
30 all further proceedings therein and transfer the action or proceeding and certify the
31 pleadings (or if the pleadings be oral, a transcript of the same), and all papers and
32 proceedings therein to a court having jurisdiction thereof that may be agreed upon by the
33 parties, or, if they do not agree, to a court having subject matter jurisdiction that is
34 designated by law as a proper court for the trial or determination thereof.

35 An action or proceeding that is transferred under the provisions of this section shall be
36 deemed to have been commenced at the time the complaint or petition was filed in the
37 court from which it was originally transferred.

38 Nothing herein shall be construed to preclude or affect the right to amend the pleadings
39 as provided in this code.

40 ~~Nothing herein shall be construed to require the superior court to transfer any action or~~
41 ~~proceeding because the judgment to be rendered, as determined at the trial or hearing, is~~
42 ~~one that might have been rendered by a municipal court in the same county or city and~~
43 ~~county.~~

44 ~~In any case where the lack of jurisdiction is due solely to an excess in the amount of the~~
45 ~~demand, the excess may be remitted and the action may continue in the court where it is~~
46 ~~pending.~~

47 Upon the making of an order for transfer, proceedings shall be had as provided in
48 Section 399 of this code, the costs and fees thereof, and of filing the case in the court to

1 which transferred, to be paid by the party filing the pleading in which the question
2 outside the jurisdiction of the court appears unless the court ordering the transfer shall
3 otherwise direct.

4 **Comment.** Section 396 is amended to reflect unification of the municipal and superior courts
5 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 403.040(e)-(f)
6 (reclassification where judgment could have been rendered in limited civil case; reclassification
7 where misclassification is due solely to excess in amount of demand).

8 **Note: Comment Requested**

9 The Commission and the Judicial Council are studying whether Code of Civil Procedure
10 Section 396 is still necessary in a unified trial court system. Further reforms may be proposed
11 later. The Commission solicits comment on the proper treatment of the section.

12 **Code Civ. Proc. § 396a (unchanged). Statement of jurisdictional facts**

13 396a. In a limited civil case that is subject to Sections 1812.10 and 2984.4 of the Civil
14 Code, or subdivision (b) of Section 395 of the Code of Civil Procedure, or is an action or
15 proceeding for an unlawful detainer as defined in Section 1161 of the Code of Civil
16 Procedure, the plaintiff shall state facts in the complaint, verified by the plaintiff's oath,
17 or the oath of the plaintiff's attorney, or in an affidavit of the plaintiff or of the plaintiff's
18 attorney filed with the complaint, showing that the action has been commenced in the
19 proper court for the trial of the action or proceeding, and showing that the action is
20 subject to the provisions of Sections 1812.10 and 2984.4 of the Civil Code or subdivision
21 (b) of Section 395 of the Code of Civil Procedure, or is an action for an unlawful
22 detainer. When the affidavit is filed with the complaint, a copy thereof shall be served
23 with the summons. Except as herein provided, if the complaint or affidavit be not so filed,
24 no further proceedings shall be had in the action or proceeding, except to dismiss the
25 same without prejudice. However, the court may, on such terms as may be just, permit
26 the affidavit to be filed subsequent to the filing of the complaint, and a copy of the
27 affidavit shall be served on the defendant and the time to answer or otherwise plead shall
28 date from that service. If it appears from the complaint or affidavit, or otherwise, that the
29 court in which the action or proceeding is commenced is not the proper court for the trial
30 thereof, the court in which the action or proceeding is commenced, or a judge thereof,
31 shall, whenever that fact appears, transfer it to the proper court, on its own motion, or on
32 motion of the defendant, unless the defendant consents in writing, or in open court
33 (consent in open court being entered in the minutes or docket of the court), to the keeping
34 of the action or proceeding in the court where commenced. If that consent be given, the
35 action or proceeding may continue in the court where commenced. Notwithstanding the
36 provisions of Section 1801.1 and subdivision (f) of Section 2983.7 of the Civil Code, that
37 consent may be given by a defendant who is represented by counsel at the time the
38 consent is given, and where an action or proceeding is subject to subdivision (b) of
39 Section 395 or is for an unlawful detainer, that consent may only be given by a defendant
40 who is represented by counsel at the time the consent is given. In any case where the
41 transfer of the action or proceeding is ordered under the provisions of this paragraph, if
42 summons is served prior to the filing of the action or proceeding in the court to which it
43 is transferred, as to any defendant, so served, who has not appeared in the action or
44 proceeding, the time to answer or otherwise plead shall date from service upon that
45 defendant of written notice of the filing.

46 When it appears from the complaint or affidavit of the plaintiff that the court in which
47 the action or proceeding is commenced is a proper court for the trial thereof, all proper
48 proceedings may be had, and the action or proceeding may be tried therein; provided,

1 however, that a motion for a transfer of the action or proceeding may be made as in other
2 cases, within the time, upon the grounds, and in the manner provided in this title, and if
3 upon that motion it appears that the action or proceeding is not pending in the proper
4 court, or should for other cause be transferred, the same shall be ordered transferred as
5 provided in this title.

6 When any action or proceeding is ordered transferred as herein provided, proceedings
7 shall be had, and the costs and fees shall be paid, as provided in Sections 398 and 399 of
8 this code.

9 **Note: Comment Requested**

10 Code of Civil Procedure Section 396a raises issues relating to local venue. The Commission
11 and the Judicial Council are studying this area and may propose further revisions to address local
12 venue issues. The Commission solicits comment on the proper treatment of the section.

13 **Code Civ. Proc. § 402 (repealed). Transfer for convenience of municipal court**

14 SEC. ____ . Section 402 of the Code of Civil Procedure is repealed.

15 ~~402. The presiding judge of a municipal court district may order, for the convenience of~~
16 ~~the court, that any case pending trial be transferred to a contiguous municipal court~~
17 ~~district in the same county if the presiding judge in the district to which the case is~~
18 ~~proposed to be transferred consents to the transfer and notice thereof is given to the~~
19 ~~parties or their attorneys at least 10 days in advance of the date fixed for trial.~~

20 ~~No fees shall be charged for the transfer of any case pursuant to this section.~~

21 **Comment.** Section 402 is repealed to reflect unification of the municipal and superior courts
22 pursuant to Article VI, Section 5(e), of the California Constitution.

23 **Code Civ. Proc. § 402.5 (repealed). Change of venue in limited civil case**

24 SEC. ____ . Section 402.5 of the Code of Civil Procedure is repealed.

25 ~~402.5. The superior court in a county in which there is no municipal court may transfer~~
26 ~~a limited civil case to another branch or location of the superior court in the same county.~~

27 **Comment.** Section 402.5 is repealed to reflect unification of the municipal courts and superior
28 courts pursuant to Article VI, Section 5(e), of the California Constitution. The section was a
29 transitional provision, to emphasize that there was to be no disparity of treatment between a party
30 appearing in a municipal court and a similarly situated party appearing in a unified superior court.
31 It is no longer necessary. For authority of the superior court to assign a case to a court location
32 within the county, see Gov't Code § 69508(a). See also Cal. R. Ct. 6.603(c)(1)(D).

33 **Note: Comment Requested**

34 Code of Civil Procedure Section 402.5 raises issues relating to local venue. The Commission
35 and the Judicial Council are studying this area and may propose further revisions to address local
36 venue issues. The Commission solicits comment on the proper treatment of the section.

37 **Code Civ. Proc. § 403 (amended). Transfer and coordination of noncomplex cases**

38 SEC. ____ . Section 403 of the Code of Civil Procedure is amended to read:

39 403. A judge may, on motion, transfer an action or actions from another court to that
40 judge's court for coordination with an action involving a common question of fact or law
41 within the meaning of Section 404. The motion shall be supported by a declaration stating
42 facts showing that the actions meet the standards specified in Section 404.1, are not
43 complex as defined by the Judicial Council and that the moving party has made a good
44 faith effort to obtain agreement to the transfer from all parties to each action. Notice of

1 the motion shall be served on all parties to each action and on each court in which an
2 action is pending. Any party to that action may file papers opposing the motion within the
3 time permitted by rule of the Judicial Council. The court to which a case is transferred
4 may order the cases consolidated for trial pursuant to Section 1048 without any further
5 motion or hearing.

6 ~~If the cases are pending in different courts of the same county, the judge who grants the~~
7 ~~motion to transfer may also order the cases consolidated for trial in the receiving court.~~

8 The Judicial Council may adopt rules to implement this section, including rules
9 prescribing procedures for preventing duplicative or conflicting transfer orders issued by
10 different courts.

11 **Comment.** Section 403 is amended to reflect unification of the municipal and superior courts
12 pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Sections 404-404.8
13 (coordination of complex cases).

14  **Note: Comment Requested**

15 The Commission is studying whether further revisions relating to coordination or consolidation
16 are necessary. The Commission solicits comment on the proper treatment of these areas.

17 **Code Civ. Proc. § 403.010 (amended). Effect of chapter**

18 SEC. ____ . Section 403.010 of the Code of Civil Procedure is amended to read:

19 403.010. (a) ~~This chapter applies in a county in which there is no municipal court.~~

20 (b) Nothing in this chapter expands or limits the law on whether a plaintiff, cross-
21 complainant, or petitioner may file an amended complaint or other amended initial
22 pleading. Nothing in this chapter expands or limits the law on whether, and to what
23 extent, an amendment relates back to the date of filing the original complaint or other
24 initial pleading.

25 **Comment.** Section 403.010 is amended to reflect unification of the municipal and superior
26 courts pursuant to Article VI, Section 5(e), of the California Constitution.

27 **Code Civ. Proc. § 404 (amended). Petition for coordination of complex cases**

28 SEC. ____ . Section 404 of the Code of Civil Procedure is amended to read:

29 404. When civil actions sharing a common question of fact or law are pending in
30 different courts, a petition for coordination may be submitted to the Chairperson of the
31 Judicial Council, by the presiding judge of any such court, or by any party to one of the
32 actions after obtaining permission from the presiding judge, or by all of the parties
33 plaintiff or defendant in any such action. A petition for coordination, or a motion for
34 permission to submit a petition, shall be supported by a declaration stating facts showing
35 that the actions are complex, as defined by the Judicial Council and that the actions meet
36 the standards specified in Section 404.1. On receipt of a petition for coordination, the
37 Chairperson of the Judicial Council may assign a judge to determine whether the actions
38 are complex, and if so, whether coordination of the actions is appropriate, or the
39 Chairperson of the Judicial Council may authorize the presiding judge of a court to assign
40 the matter to judicial officers of the court to make the determination in the same manner
41 as assignments are made in other civil cases.

42 ~~Notwithstanding any other provision of law, when civil actions sharing a common~~
43 ~~question of fact or law are pending in a superior court and in a municipal court of the~~
44 ~~same county, the superior court may, on the motion of any party supported by an affidavit~~
45 ~~stating facts showing that the actions meet the standards specified in Section 404.1, order~~
46 ~~transfer from the municipal court and consolidation of the actions in the superior court.~~

1 **Comment.** Section 404 is amended to reflect unification of the municipal and superior courts
2 pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Section 403 (transfer and
3 coordination of noncomplex cases).

4 **Note: Comment Requested**

5 The Commission is studying whether further revisions relating to coordination or consolidation
6 are necessary. The Commission solicits comment on the proper treatment of these areas.

7 **Code Civ. Proc. § 404.3 (amended). Order coordinating actions**

8 SEC. ____ . Section 404.3 of the Code of Civil Procedure is amended to read:

9 404.3. (a) A judge assigned pursuant to Section 404 who determines that coordination
10 is appropriate shall order the actions coordinated, report that fact to the Chairperson of
11 the Judicial Council, and the Chairperson of the Judicial Council shall either assign a
12 judge to hear and determine the actions in the site or sites the assigned judge finds
13 appropriate or authorize the presiding judge of a court to assign the matter to judicial
14 officers of the court in the same manner as assignments are made in other civil cases.

15 ~~(b) When an action pending in a superior court is sought to be coordinated with an~~
16 ~~action pending in a municipal court located in the same county, the presiding judge of the~~
17 ~~superior court may, as an alternative to coordination, order the municipal court action~~
18 ~~transferred to the superior court and consolidated with the superior court action.~~

19 **Comment.** Section 404.3 is amended to reflect unification of the municipal and superior courts
20 pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Section 403 (transfer and
21 coordination of noncomplex cases).

22 **Code Civ. Proc. § 404.9 (amended). Delegation of duties by presiding judge**

23 SEC. ____ . Section 404.9 of the Code of Civil Procedure is amended to read:

24 404.9. Any duties of the presiding judge specified in this chapter may be delegated by
25 the presiding judge to another judge of the court. ~~The term “presiding judge,” as used in~~
26 ~~this chapter, includes the sole judge of a court having only one judge.~~

27 ~~Notwithstanding any other provision of law, the Judicial Council shall provide by rule~~
28 ~~the practice and procedure for the transfer or coordination of civil actions in convenient~~
29 ~~courts under this chapter, including provision for giving notice and presenting evidence.~~

30 **Comment.** Section 404.9 is amended to reflect unification of the municipal and superior courts
31 pursuant to Article VI, Section 5(e), of the California Constitution.

32 The first paragraph is amended to delete language referring to the sole judge. Every superior
33 court has at least two judgeships as a result of trial court unification. See Gov’t Code § 69580 *et*
34 *seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, the
35 reference to the “presiding judge” means the sole judge of the court. See Gov’t Code § 69508.5
36 (presiding judge).

37 The second paragraph is deleted as unnecessary. The provision relating to proceedings for
38 transfer from a municipal court is obsolete. The provision for coordination rules is redundant. See
39 Section 404.7 (rules for coordination of complex cases). *Cf.* Section 403 (transfer and
40 coordination of noncomplex cases).

41 **Code Civ. Proc. § 422.30 (amended). Caption**

42 SEC. ____ . Section 422.30 of the Code of Civil Procedure is amended to read:

43 422.30. (a) Every pleading shall contain a caption setting forth:

44 (1) The name of the court and county, ~~and, in municipal courts, the name of the judicial~~
45 ~~district, in which the action is brought.~~

46 (2) The title of the action.

1 (b) In a limited civil case ~~in a county in which there is no municipal court~~, the caption
2 shall state that the case is a limited civil case, and the clerk shall classify the case
3 accordingly.

4 **Comment.** Section 422.30 is amended to reflect unification of the municipal and superior
5 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial
6 districts). *Cf.* Gov't Code § 71042.5 (preservation of judicial districts for purposes of publication).

7 **Code Civ. Proc. § 575 (amended). Promulgation of rules by Judicial Council**

8 SEC. ____ . Section 575 of the Code of Civil Procedure is amended to read:

9 575. The Judicial Council may promulgate rules governing pretrial conferences, and the
10 time, manner and nature thereof, in civil cases at issue, or in one or more classes thereof,
11 in the superior ~~and municipal~~ courts.

12 **Comment.** Section 575 is amended to reflect unification of the municipal and superior courts
13 pursuant to Article VI, Section 5(e), of the California Constitution.

14 **Code Civ. Proc. § 575.1 (amended). Local court rules**

15 SEC. ____ . Section 575.1 of the Code of Civil Procedure is amended to read:

16 575.1. (a) The presiding judge of each superior ~~and municipal~~ court may prepare, with
17 the assistance of appropriate committees of the court, proposed local rules designed to
18 expedite and facilitate the business of the court. The rules need not be limited to those
19 actions on the civil active list, but may provide for the supervision and judicial
20 management of actions from the date they are filed. Rules prepared pursuant to this
21 section shall be submitted for consideration to the judges of the court and, upon approval
22 by a majority of the judges, the judges shall have the proposed rules published and
23 submitted to the local bar and others, as specified by the Judicial Council, for
24 consideration and recommendations.

25 (b) After a majority of the judges have officially adopted the rules, 61 copies or a
26 greater number as specified by Judicial Council rule, or an electronic copy, shall be filed
27 with the Judicial Council as required by Section 68071 of the Government Code. The
28 Judicial Council shall deposit, by electronic or other means, a copy of each rule and
29 amendment with each county law library or ~~county clerk where it shall be made~~ clerk of
30 the superior court, which shall make a hard copy available for public examination. The
31 local rules shall also be published for general distribution in accordance with rules
32 adopted by the Judicial Council. Each court shall make its local rules available for
33 inspection and copying in every location of the court that generally accepts filing of
34 papers. The court may impose a reasonable charge for copying the rules and may impose
35 a reasonable page limit on copying. The rules shall be accompanied by a notice indicating
36 where a full set of the rules may be purchased.

37 (c) If a judge of a court adopts a rule that applies solely to cases in that judge's
38 courtroom, or a particular branch or district of a court adopts a rule that applies solely to
39 cases in that particular branch or district of a court, the court shall publish these rules as
40 part of the general publication of rules required by the California Rules of Court. The
41 court shall organize the rules so that rules on a common subject, whether individual,
42 branch, district, or courtwide appear sequentially. Individual judges' rules and branch and
43 district rules are local rules of court for purposes of this section and for purposes of the
44 adoption, publication, comment, and filing requirements set forth in the Judicial Council
45 rules applicable to local court rules.

46 **Comment.** Subdivision (a) of Section 575.1 is amended to reflect unification of the municipal
47 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 Subdivision (b) is amended to reflect elimination of the county clerk's role as ex officio clerk
2 of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior
3 court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex
4 officio clerk of the court are delegated to the court administrative or executive officer, and the
5 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
6 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

7 Subdivision (b) is also amended to make clear that a hard copy of each rule and amendment
8 must be made available for public examination. It is not sufficient for a county law library or
9 clerk of a superior court to provide the material to the public solely in electronic form. But the
10 material may be electronically transmitted from a court to the Judicial Council or from the
11 Judicial Council to the county law library or clerk of the superior court.

12  **Note: Comment Requested**

13 The Commission solicits comment on the proper treatment of Code of Civil Procedure Section
14 575.1. The Commission is particularly interested in whether it would make sense to require the
15 Judicial Council to deposit a copy of local rules with both the county law library and the clerk of
16 the superior court in every county, instead of with only one of these entities.

17 **Code Civ. Proc. § 594 (amended). Bringing issues to trial or hearing**

18 SEC. ____ . Section 594 of the Code of Civil Procedure is amended to read:

19 594. (a) In superior and municipal courts either party may bring an issue to trial or to a
20 hearing, and, in the absence of the adverse party, unless the court, for good cause,
21 otherwise directs, may proceed with the case and take a dismissal of the action, or a
22 verdict, or judgment, as the case may require; provided, however, if the issue to be tried is
23 an issue of fact, proof shall first be made to the satisfaction of the court that the adverse
24 party has had 15 days' notice of such trial or five days' notice of the trial in an unlawful
25 detainer action as specified in subdivision (b). If the adverse party has served notice of
26 trial upon the party seeking the dismissal, verdict, or judgment at least five days prior to
27 the trial, the adverse party shall be deemed to have had notice.

28 (b) The notice to the adverse party required by subdivision (a) shall be served by mail
29 on all the parties by the clerk of the court not less than 20 days prior to the date set for
30 trial. In an unlawful detainer action where notice is served by mail that service shall be
31 mailed not less than 10 days prior to the date set for trial. If notice is not served by the
32 clerk as required by this subdivision, it may be served by mail by any party on the
33 adverse party not less than 15 days prior to the date set for trial, and in an unlawful
34 detainer action where notice is served by mail that service shall be mailed not less than 10
35 days prior to the date set for trial. The time provisions of Section 1013 shall not serve to
36 extend the notice of trial requirements under this subdivision for unlawful detainer
37 actions. If notice is served by the clerk, proof thereof may be made by introduction into
38 evidence of the clerk's certificate pursuant to subdivision (3) of Section 1013a or other
39 competent evidence. If notice is served by a party, proof may be made by introduction
40 into evidence of an affidavit or certificate pursuant to subdivision (1) or (2) of Section
41 1013a or other competent evidence. The provisions of this subdivision are exclusive.

42 **Comment.** Section 594 is amended to reflect unification of the municipal and superior courts
43 pursuant to Article VI, Section 5(e), of the California Constitution.

44 **Code Civ. Proc. § 628 (amended). Entry upon receipt of verdict**

45 SEC. ____ . Section 628 of the Code of Civil Procedure is amended to read:

46 628. In superior and municipal courts upon receipt of a verdict, an entry must be made
47 in the minutes of the court, specifying the time of trial, the names of the jurors and

1 witnesses, and setting out the verdict at length; and where a special verdict is found,
2 either the judgment rendered thereon, or if the case be reserved for argument or further
3 consideration, the order thus reserving it.

4 **Comment.** Section 628 is amended to reflect unification of the municipal and superior courts
5 pursuant to Article VI, Section 5(e), of the California Constitution.

6 **Code Civ. Proc. § 632 (amended). Statement of decision**

7 SEC. ____ . Section 632 of the Code of Civil Procedure is amended to read:

8 632. In superior and ~~municipal~~ courts, upon the trial of a question of fact by the court,
9 written findings of fact and conclusions of law shall not be required. The court shall issue
10 a statement of decision explaining the factual and legal basis for its decision as to each of
11 the principal controverted issues at trial upon the request of any party appearing at the
12 trial. The request must be made within 10 days after the court announces a tentative
13 decision unless the trial is concluded within one calendar day or in less than eight hours
14 over more than one day in which event the request must be made prior to the submission
15 of the matter for decision. The request for a statement of decision shall specify those
16 controverted issues as to which the party is requesting a statement of decision. After a
17 party has requested the statement, any party may make proposals as to the content of the
18 statement of decision.

19 The statement of decision shall be in writing, unless the parties appearing at trial agree
20 otherwise; however, when the trial is concluded within one calendar day or in less than 8
21 hours over more than one day, the statement of decision may be made orally on the
22 record in the presence of the parties.

23 **Comment.** Section 632 is amended to reflect unification of the municipal and superior courts
24 pursuant to Article VI, Section 5(e), of the California Constitution.

25 **Code Civ. Proc. § 655 (repealed). Application of article**

26 SEC. ____ . Section 655 of the Code of Civil Procedure is repealed.

27 ~~655. The provisions of this article apply to superior or municipal courts.~~

28 **Comment.** Section 655 is repealed to reflect unification of the municipal and superior courts
29 pursuant to Article VI, Section 5(e), of the California Constitution.

30 **Code Civ. Proc. § 668 (amended). Judgment book**

31 SEC. ____ . Section 668 of the Code of Civil Procedure is amended to read:

32 668. Except as provided in Section 668.5, the clerk of the superior court and ~~municipal~~
33 ~~court~~, must keep, with the records of the court, a book called the “judgment book,” in
34 which judgments must be entered.

35 **Comment.** Section 668 is amended to reflect unification of the municipal and superior courts
36 pursuant to Article VI, Section 5(e), of the California Constitution.

37 **Code Civ. Proc. § 670 (amended). Judgment roll**

38 SEC. ____ . Section 670 of the Code of Civil Procedure is amended to read:

39 670. In superior and ~~municipal~~ courts the following papers, without being attached
40 together, shall constitute the judgment roll:

41 (a) In case the complaint is not answered by any defendant, the summons, with the
42 affidavit or proof of service; the complaint; the request for entry of default with a
43 memorandum indorsed thereon that the default of the defendant in not answering was
44 entered, and a copy of the judgment; if defendant has appeared by demurrer, and the

1 demurrer has been overruled, then notice of the overruling thereof served on defendant's
2 attorney, together with proof of the service; and in case the service so made is by
3 publication, the affidavit for publication of summons, and the order directing the
4 publication of summons.

5 (b) In all other cases, the pleadings, all orders striking out any pleading in whole or in
6 part, a copy of the verdict of the jury, the statement of decision of the court, or finding of
7 the referee, and a copy of any order made on demurrer, or relating to a change of parties,
8 and a copy of the judgment; if there are two or more defendants in the action, and any one
9 of them has allowed judgment to pass against him or her by default, the summons, with
10 proof of its service, on the defendant, and if the service on the defaulting defendant be by
11 publication, then the affidavit for publication, and the order directing the publication of
12 the summons.

13 **Comment.** Section 670 is amended to reflect unification of the municipal and superior courts
14 pursuant to Article VI, Section 5(e), of the California Constitution.

15 **Code Civ. Proc. § 688.010 (unchanged). Jurisdictional requirements**

16 688.010. For the purpose of the remedies provided under this article, jurisdiction is
17 conferred upon any of the following courts:

18 (a) The superior court, regardless of whether the municipal court also has jurisdiction
19 under subdivision (b).

20 (b) The municipal court if (1) the amount of liability sought to be collected does not
21 exceed the jurisdictional amount of the court and (2) the legality of the liability being
22 enforced is not contested by the person against whom enforcement is sought.

23 **Note: Comment Requested**

24 Code of Civil Procedure Section 688.010 requires further study, because it can be construed to
25 confer concurrent jurisdiction on the municipal and superior courts. The Commission solicits
26 comment on the proper treatment of the section and the cross-reference in Code of Civil
27 Procedure Section 688.030.

28 **Code Civ. Proc. § 701.530 (amended). Notice of sale of personal property**

29 SEC. ____ . Section 701.530 of the Code of Civil Procedure is amended to read:

30 701.530. (a) Notice of sale of personal property shall be in writing, shall state the date,
31 time, and place of sale, and shall describe the property to be sold.

32 (b) Not less than 10 days before a sale of personal property, notice of sale shall be
33 posted and served on the judgment debtor by the levying officer. Service shall be made
34 personally or by mail.

35 (c) Posting under this section shall be in three public places in:

36 (1) The city in which the property is to be sold if it is to be sold in a city.

37 (2) The ~~judicial district~~ county in which the property is to be sold if it is not to be sold
38 in a city.

39 (d) A sale of personal property of an individual may not take place until the expiration
40 of the time during which the judgment debtor may make a claim of exemption under
41 subdivision (a) of Section 703.520.

42 **Comment.** Subdivision (c)(2) of Section 701.530 is amended to reflect unification of the
43 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.
44 See Section 38 (judicial districts).

1 **Code Civ. Proc. § 701.540 (amended). Notice of sale of interest in real property**

2 SEC. ____ . Section 701.540 of the Code of Civil Procedure is amended to read:

3 701.540. (a) Notice of sale of an interest in real property shall be in writing, shall state
4 the date, time, and place of sale, shall describe the interest to be sold, and shall give a
5 legal description of the real property and its street address or other common designation,
6 if any. If the real property has no street address or other common designation, the notice
7 of sale shall include a statement that directions to its location may be obtained from the
8 levying officer upon oral or written request or, in the discretion of the levying officer, the
9 notice of sale may contain directions to its location. Directions are sufficient if
10 information as to the location of the real property is given by reference to the direction
11 and approximate distance from the nearest crossroads, frontage road, or access road. If an
12 accurate legal description of the real property is given, the validity of the notice and sale
13 is not affected by the fact that the street address or other common designation, or
14 directions to its location, are erroneous or omitted.

15 (b) Not less than 20 days before the date of sale, notice of sale of an interest in real
16 property shall be served, mailed, and posted by the levying officer as provided in
17 subdivisions (c), (d), (e), and (f).

18 (c) Notice of sale shall be served on the judgment debtor. Service shall be made
19 personally or by mail.

20 (d) Notice of sale shall be posted in the following places:

21 (1) One public place in the city in which the interest in the real property is to be sold if
22 it is to be sold in a city or, if not to be sold in a city, one public place in the ~~judicial~~
23 district county in which the interest in the real property is to be sold.

24 (2) A conspicuous place on the real property.

25 (e) At the time notice is posted pursuant to paragraph (2) of subdivision (d), notice of
26 sale shall be served or service shall be attempted on one occupant of the real property.
27 Service on the occupant shall be made by leaving the notice with the occupant personally
28 or, in the occupant's absence, with any person of suitable age and discretion found upon
29 the real property at the time service is attempted who is either an employee or agent of
30 the occupant or a member of the occupant's household. If the levying officer is unable to
31 serve such an occupant at the time service is attempted, the levying officer is not required
32 to make any further attempts to serve an occupant.

33 (f) If the property described in the notice of sale consists of more than one distinct lot,
34 parcel, or governmental subdivision and any of the lots, parcels, or governmental
35 subdivisions lies with relation to any of the others so as to form one or more continuous,
36 unbroken tracts, only one service pursuant to subdivision (e) and posting pursuant to
37 paragraph (2) of subdivision (d) need be made as to each continuous, unbroken tract.

38 (g) Notice of sale shall be published pursuant to Section 6063 of the Government Code,
39 with the first publication at least 20 days prior to the time of sale, in a newspaper of
40 general circulation published in the city in which the real property or a part thereof is
41 situated if any part thereof is situated in a city or, if not, in a newspaper of general
42 circulation published in the judicial district in which the real property or a part thereof is
43 situated. If no newspaper of general circulation is published in the city or judicial district,
44 notice of sale shall be published in a newspaper of general circulation in the county in
45 which the real property or a part thereof is situated.

46 (h) Not earlier than 30 days after the date of levy, the judgment creditor shall determine
47 the names of all persons having liens on the real property on the date of levy that are of
48 record in the office of the county recorder and shall instruct the levying officer to mail
49 notice of sale to each such person at the address used by the county recorder for the return

1 of the instrument creating the person's lien after recording. The levying officer shall mail
2 notice to each such person, at the address given in the instructions, not less than 20 days
3 before the date of sale.

4 **Comment.** Subdivision (d)(1) of Section 701.540 is amended to reflect unification of the
5 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.
6 See Section 38 (judicial districts). *Cf.* Gov't Code § 71042.5 (preservation of judicial districts for
7 purposes of publication).

8 **Code Civ. Proc. § 904.1 (amended). Taking appeal**

9 SEC. ____ . Section 904.1 of the Code of Civil Procedure is amended to read:

10 904.1. (a) An appeal, ~~other than in a limited civil case,~~ in an unlimited civil case is to
11 the court of appeal. An appeal, ~~other than in a limited civil case,~~ in an unlimited civil case
12 may be taken from any of the following:

13 (1) From a judgment, except (A) an interlocutory judgment, other than as provided in
14 paragraphs (8), (9), and (11), (B) a judgment of contempt that is made final and
15 conclusive by Section 1222, or (C) a judgment granting or denying a petition for issuance
16 of a writ of mandamus or prohibition directed to a municipal court or the superior court in
17 a county in which there is no municipal court or the judge or judges thereof that relates to
18 a matter pending in the municipal or superior court. However, an appellate court may, in
19 its discretion, review a judgment granting or denying a petition for issuance of a writ of
20 mandamus or prohibition, or a judgment or order for the payment of monetary sanctions,
21 upon petition for an extraordinary writ.

22 (2) From an order made after a judgment made appealable by paragraph (1).

23 (3) From an order granting a motion to quash service of summons or granting a motion
24 to stay or dismiss the action on the ground of inconvenient forum.

25 (4) From an order granting a new trial or denying a motion for judgment
26 notwithstanding the verdict.

27 (5) From an order discharging or refusing to discharge an attachment or granting a right
28 to attach order.

29 (6) From an order granting or dissolving an injunction, or refusing to grant or dissolve
30 an injunction.

31 (7) From an order appointing a receiver.

32 (8) From an interlocutory judgment, order, or decree, hereafter made or entered in an
33 action to redeem real or personal property from a mortgage thereof, or a lien thereon,
34 determining the right to redeem and directing an accounting.

35 (9) From an interlocutory judgment in an action for partition determining the rights and
36 interests of the respective parties and directing partition to be made.

37 (10) From an order made appealable by the provisions of the Probate Code or the
38 Family Code.

39 (11) From an interlocutory judgment directing payment of monetary sanctions by a
40 party or an attorney for a party if the amount exceeds five thousand dollars (\$5,000).

41 (12) From an order directing payment of monetary sanctions by a party or an attorney
42 for a party if the amount exceeds five thousand dollars (\$5,000).

43 (13) From an order granting or denying a special motion to strike under Section 425.16.

44 (b) Sanction orders or judgments of five thousand dollars (\$5,000) or less against a
45 party or an attorney for a party may be reviewed on an appeal by that party after entry of
46 final judgment in the main action, or, at the discretion of the court of appeal, may be
47 reviewed upon petition for an extraordinary writ.

1 **Comment.** The first sentence of Section 904.1 is amended to replace the references to “other
2 than a limited civil case” with references to an “unlimited civil case.” See Section 88 (civil action
3 or proceeding other than limited civil case may be referred to as unlimited civil case).

4 **Note: Comment Requested**

5 The Commission is studying whether to relocate Code of Civil Procedure Section
6 904.1(a)(1)(C) to Code of Civil Procedure Section 904.2, with revisions to reflect unification. The
7 Commission solicits comment on the proper treatment of these provisions.

8 **Code Civ. Proc. § 904.5 (amended). Small claims appeals**

9 SEC. ____ . Section 904.5 of the Code of Civil Procedure is amended to read:

10 904.5. Appeals from the small claims division of a municipal or superior court shall be
11 governed by the Small Claims Act (Chapter 5.5 (commencing with Section 116.110) of
12 Title 1 of Part 1).

13 **Comment.** Section 904.5 is amended to reflect unification of the municipal and superior courts
14 pursuant to Article VI, Section 5(e), of the California Constitution.

15 **Code Civ. Proc. § 1052 (repealed). Register of civil actions in municipal court**

16 SEC. ____ . Section 1052 of the Code of Civil Procedure is repealed.

17 ~~1052. The clerk of a municipal court may keep among the records of the court a register
18 of civil actions in which shall be entered the title of the action commenced in that court,
19 with brief notes under it, from time to time, of all papers filed and proceedings had
20 therein.~~

21 **Comment.** Section 1052 is repealed to reflect unification of the municipal and superior courts
22 pursuant to Article VI, Section 5(e), of the California Constitution. See Gov’t Code §§ 69845
23 (register of actions in superior court); 69845.5 (alternative to maintaining register of actions in
24 superior court). On unification of the municipal and superior courts in a county, the records of the
25 municipal court became records of the superior court. Cal. Const. art. VI, § 23(c)(3); Gov’t Code
26 § 70212(c).

27 **Code Civ. Proc. § 1052.5 (repealed). Alternative methods of keeping register of actions**

28 SEC. ____ . Section 1052.5 of the Code of Civil Procedure is repealed.

29 ~~1052.5. In lieu of maintaining a register of actions as described in Section 1052, the
30 clerk of the municipal court may maintain a register of actions by means of
31 photographing, microphotographing, or mechanically or electronically storing the whole
32 content of all papers and records, or any portion thereof, as will constitute a
33 memorandum, necessary to the keeping of a register of actions so long as the
34 completeness and chronological sequence of the register are not disturbed.~~

35 ~~All such reproductions shall be placed in convenient, accessible files, and provision
36 shall be made for preserving, examining, and using them.~~

37 ~~Any photograph, microphotograph, or photocopy that is made pursuant to this section
38 shall be made in such manner and on such paper as will comply with the minimum
39 standards of quality approved therefor by the National Bureau of Standards.~~

40 **Comment.** Section 1052.5 is repealed to reflect unification of the municipal and superior courts
41 pursuant to Article VI, Section 5(e), of the California Constitution. See Gov’t Code §§ 69845
42 (register of actions in superior court); 69845.5 (alternative to maintaining register of actions in
43 superior court).

1 **Code Civ. Proc. § 1060 (amended). Declaration of rights and duties**

2 SEC. ____ . Section 1060 of the Code of Civil Procedure is amended to read:

3 1060. Any person interested under a written instrument, excluding a will or a trust, or
4 under a contract, or who desires a declaration of his or her rights or duties with respect to
5 another, or in respect to, in, over or upon property, or with respect to the location of the
6 natural channel of a watercourse, may, in cases of actual controversy relating to the legal
7 rights and duties of the respective parties, bring an original action or cross-complaint in
8 the superior court ~~or in the municipal court to the extent allowed pursuant to Article 1~~
9 ~~(commencing with Section 85) of Chapter 5.1 of Title 1 of Part 1~~ for a declaration of his
10 or her rights and duties in the premises, including a determination of any question of
11 construction or validity arising under the instrument or contract. He or she may ask for a
12 declaration of rights or duties, either alone or with other relief; and the court may make a
13 binding declaration of these rights or duties, whether or not further relief is or could be
14 claimed at the time. The declaration may be either affirmative or negative in form and
15 effect, and the declaration shall have the force of a final judgment. The declaration may
16 be had before there has been any breach of the obligation in respect to which said
17 declaration is sought.

18 **Comment.** Section 1060 is amended to reflect unification of the municipal and superior courts
19 pursuant to Article VI, Section 5(e), of the California Constitution.

20 **Code Civ. Proc. § 1068 (amended). Courts authorized to grant writ of review**

21 SEC. ____ . Section 1068 of the Code of Civil Procedure is amended to read:

22 1068. (a) A writ of review may be granted by any ~~court, except a municipal court, court~~
23 when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded
24 the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the
25 judgment of the court, any plain, speedy, and adequate remedy.

26 (b) The appellate division of the superior court may grant a writ of review directed to
27 the superior court in a limited civil case or in a misdemeanor or infraction case. Where
28 the appellate division grants a writ of review directed to the superior court, the superior
29 court is an inferior tribunal for purposes of this chapter.

30 **Comment.** Section 1068 is amended to reflect unification of the municipal and superior courts
31 pursuant to Article VI, Section 5(e), of the California Constitution.

32 **Code Civ. Proc. § 1085 (amended). Courts authorized to grant writ of mandate**

33 SEC. ____ . Section 1085 of the Code of Civil Procedure is amended to read:

34 1085. (a) A writ of mandate may be issued by any ~~court, except a municipal court,~~
35 court to any inferior tribunal, corporation, board, or person, to compel the performance of
36 an act which the law specially enjoins, as a duty resulting from an office, trust, or station,
37 or to compel the admission of a party to the use and enjoyment of a right or office to
38 which the party is entitled, and from which the party is unlawfully precluded by such
39 inferior tribunal, corporation, board, or person.

40 (b) The appellate division of the superior court may grant a writ of mandate directed to
41 the superior court in a limited civil case or in a misdemeanor or infraction case. Where
42 the appellate division grants a writ of review directed to the superior court, the superior
43 court is an inferior tribunal for purposes of this chapter.

44 **Comment.** Section 1085 is amended to reflect unification of the municipal and superior courts
45 pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Code Civ. Proc. § 1103 (amended). Courts authorized to grant writ of prohibition**

2 SEC. ____ . Section 1103 of the Code of Civil Procedure is amended to read:

3 1103. (a) A writ of prohibition may be issued by any ~~court, except municipal courts,~~
4 court to an inferior tribunal or to a corporation, board, or person, in all cases where there
5 is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued
6 upon the verified petition of the person beneficially interested.

7 (b) The appellate division of the superior court may grant a writ of prohibition directed
8 to the superior court in a limited civil case or in a misdemeanor or infraction case. Where
9 the appellate division grants a writ of review directed to the superior court, the superior
10 court is an inferior tribunal for purposes of this chapter.

11 **Comment.** Section 1103 is amended to reflect unification of the municipal and superior courts
12 pursuant to Article VI, Section 5(e), of the California Constitution.

13 **Code Civ. Proc. § 1132 (amended). Confession of judgment**

14 SEC. ____ . Section 1132 of the Code of Civil Procedure is amended to read:

15 1132. (a) A judgment by confession may be entered without action either for money
16 due or to become due, or to secure any person against contingent liability on behalf of the
17 defendant, or both, in the manner prescribed by this chapter. Such judgment may be
18 entered in any superior court having jurisdiction for like amounts.

19 (b) A judgment by confession shall be entered only if an attorney independently
20 representing the defendant signs a certificate that the attorney has examined the proposed
21 judgment and has advised the defendant with respect to the waiver of rights and defenses
22 under the confession of judgment procedure and has advised the defendant to utilize the
23 confession of judgment procedure. The certificate shall be filed with the filing of the
24 statement required by Section 1133.

25 **Comment.** Section 1132 is amended to reflect unification of the municipal and superior courts
26 pursuant to Article VI, Section 5(e), of the California Constitution.

27 **Code Civ. Proc. § 1141.11 (amended). Arbitration of at-issue civil actions**

28 SEC. ____ . Section 1141.11 of the Code of Civil Procedure is amended to read:

29 1141.11. (a) In each superior court with ~~10 or more judges, or 18 or more judges in a~~
30 county in which there is no municipal court, all at-issue civil actions pending on or filed
31 after the operative date of this chapter, other than a limited civil case, shall be submitted
32 to arbitration, by the presiding judge or the judge designated, under this chapter if the
33 amount in controversy in the opinion of the court will not exceed fifty thousand dollars
34 (\$50,000) for each plaintiff, which decision shall not be appealable.

35 (b) In each superior court with ~~less than 10 judges, or fewer than 18 judges in a county~~
36 in which there is no municipal court, the court may provide by local rule, when it
37 determines that it is in the best interests of justice, that all at-issue civil actions pending
38 on or filed after the operative date of this chapter, shall be submitted to arbitration by the
39 presiding judge or the judge designated under this chapter if the amount in controversy in
40 the opinion of the court will not exceed fifty thousand dollars (\$50,000) for each plaintiff,
41 which decision shall not be appealable.

42 (c) Each ~~municipal court, or superior court in a county in which there is no municipal~~
43 court, may provide by local rule, when it is determined to be in the best interests of
44 justice, that all at-issue limited civil cases pending on or filed after the operative date of
45 this chapter, shall be submitted to arbitration by the presiding judge or the judge
46 designated under this chapter. This section does not apply to any action in small claims

1 court, or to any action maintained pursuant to Section 1781 of the Civil Code or Section
2 1161 of this code.

3 (d) In each court that has adopted judicial arbitration pursuant to subdivision (c), all
4 limited civil cases pending on or after July 1, 1990, that involve a claim for money
5 damages against a single defendant as a result of a motor vehicle collision, except those
6 heard in the small claims division, shall be submitted to arbitration within 120 days of the
7 filing of the defendant's answer to the complaint (except as may be extended by the court
8 for good cause) before an arbitrator selected by the court, subject to disqualification for
9 cause as specified in Sections 170.1 and 170.6.

10 The court may provide by local rule for the voluntary or mandatory use of case
11 questionnaires, established under Section 93, in any proceeding subject to these
12 provisions. Where local rules provide for the use of case questionnaires, the
13 questionnaires shall be exchanged by the parties upon the defendant's answer and
14 completed and returned within 60 days.

15 For the purposes of this subdivision, the term "single defendant" means (1) an
16 individual defendant, whether a person or an entity, (2) two or more persons covered by
17 the same insurance policy applicable to the motor vehicle collision, or (3) two or more
18 persons residing in the same household when no insurance policy exists that is applicable
19 to the motor vehicle collision. The naming of one or more cross-defendants, not a
20 plaintiff, shall constitute a multiple- defendant case not subject to the provisions of this
21 subdivision.

22 (e) No local rule of a superior court providing for judicial arbitration may dispense with
23 the conference required pursuant to Section 1141.16.

24 **Comment.** Subdivisions (a)-(c) of Section 1141.11 are amended to reflect unification of the
25 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

26 **Code Civ. Proc. § 1141.12 (amended). Arbitration**

27 SEC. ____ . Section 1141.12 of the Code of Civil Procedure is amended to read:

28 1141.12 (a) In each superior court in which arbitration ~~may be had~~ is required pursuant
29 to subdivision (a) ~~or (b)~~ of Section 1141.11, or pursuant to a local rule adopted under
30 subdivision (b) of Section 1141.11, upon stipulation of the parties, any at-issue civil
31 actions shall be submitted to arbitration regardless of the amount in controversy.

32 (b) In all other superior ~~and municipal~~ courts, the Judicial Council shall provide by rule
33 for a uniform system of arbitration of the following causes:

34 (i) Any cause upon stipulation of the parties.

35 (ii) Upon filing of an election by the plaintiff, any cause in which the plaintiff agrees
36 that the arbitration award shall not exceed the amount in controversy as specified in
37 Section 1141.11.

38 (c) Any election by a plaintiff shall be filed no sooner than the filing of the at-issue
39 memorandum, and no later than 90 days before trial, or at a later time if permitted by the
40 court.

41 **Comment.** Subdivision (a) of Section 1141.2 is amended to clarify its application. This is
42 declaratory of existing law.

43 Subdivision (b) is amended to reflect unification of the municipal and superior courts pursuant
44 to Article VI, Section 5(e), of the California Constitution.

45 **Note: Comment Requested**

46 The Commission solicits comment on the proper treatment of Code of Civil Procedure Section
47 1141.2.

1 **Code Civ. Proc. § 1141.29 (repealed). Judicial Council report**

2 SEC. ____ . Section 1141.29 of the Code of Civil Procedure is repealed.

3 ~~1141.29. The Judicial Council shall, by rule, require each superior and municipal court~~
4 ~~subject to the provisions of this chapter to file with it such data as will enable it to~~
5 ~~provide, on or before January 1, 1984, a report to the Governor and the Legislature which~~
6 ~~shall serve as a comprehensive review of the effectiveness of this chapter, and which~~
7 ~~shall include recommendations for future action.~~

8 ~~The Judicial Council, in consultation with the Department of Finance and the Auditor~~
9 ~~General, shall include in its study an estimate of the potential costs or savings, if any,~~
10 ~~should the program be continued beyond the life of the act.~~

11 **Comment.** Section 1141.29 is repealed as obsolete, because the report required by this section
12 was due in 1984.

13 **Note: Comment Requested**

14 Code of Civil Procedure Section 1141.29 appears to be obsolete. Amending it to delete the
15 reference to municipal courts would not make sense, because those courts were still in existence
16 when the data was supposed to be collected pursuant to the section. The Commission solicits
17 comment on whether the provision continues to serve a useful purpose.

18 **Code Civ. Proc. § 1161.2 (amended). Case court records**

19 SEC. ____ . Section 1161.2 of the Code of Civil Procedure is amended to read:

20 1161.2. (a) Except as provided in subdivision (g), in any case filed under this chapter as
21 a limited civil case, the court clerk shall not allow access to the court file, index, register
22 of actions, or other court records until 60 days following the date the complaint is filed,
23 except pursuant to an ex parte court order upon a showing of good cause therefor by any
24 person including, but not limited to, a newspaper publisher. However, the clerk of the
25 court shall allow access to the court file to a party in the action, an attorney of a party in
26 the action, or any other person who (1) provides to the clerk the names of at least one
27 plaintiff, one defendant, and the address, including the apartment, unit, or space number,
28 if applicable, of the subject premises, or (2) provides to the clerk the name of one of the
29 parties or the case number and can establish through proper identification that he or she
30 resides at the subject premises.

31 (b) For purposes of this section, “good cause” includes, but is not limited to, the
32 gathering of newsworthy facts by a person described in Section 1070 of the Evidence
33 Code. It is the intent of the Legislature that a simple procedure be established to request
34 the ex parte order described in subdivision (a).

35 (c) Except as provided in subdivision (g), upon the filing of any case so restricted, the
36 court clerk shall mail notice to each defendant named in the action. The notice shall be
37 mailed to the address provided in the complaint. The notice shall contain a statement that
38 an unlawful detainer complaint (eviction action) has been filed naming that party as a
39 defendant, and that access to the court file will be delayed for 60 days except to a party,
40 an attorney for one of the parties, or any other person who (1) provides to the clerk the
41 names of at least one plaintiff and one defendant in the action and provides to the clerk
42 the address, including any applicable apartment, unit, or space number, of the subject
43 premises, or (2) provides to the clerk the name of one of the parties in the action or the
44 case number and can establish through proper identification that he or she lives at the
45 subject premises. The notice shall also contain a statement that access to the court index,
46 register of actions, or other records is not permitted until 60 days after the complaint is
47 filed, except pursuant to an ex parte order upon a showing of good cause therefor. The

1 notice shall contain on its face the name and phone number of the county bar association
2 and the name and phone number of an office funded by the federal Legal Services
3 Corporation that provides legal services to low- income persons in the county in which
4 the action is filed. The notice shall state that these numbers may be called for legal advice
5 regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the
6 complaint, excluding weekends and holidays. One copy of the notice shall be addressed
7 to “all occupants” and mailed separately to the subject premises. The notice shall not
8 constitute service of the summons and complaint.


9 (d) Notwithstanding any other provision of law, the court shall charge an additional fee
10 of four dollars (\$4) for filing a first appearance by the plaintiff. This fee shall be included
11 as part of the total filing fee for actions filed under this chapter.

12 (e) A ~~municipal court or the superior court in a county in which there is no municipal~~
13 ~~court~~, after consultation with local associations of rental property owners, tenant groups,
14 and providers of legal services to tenants, may exempt itself from the operation of this
15 section upon a finding that unscrupulous eviction defense services are not a substantial
16 problem in the ~~judicial district~~ county. The court shall review the finding every 12
17 months. An exempt court shall not charge the additional fee authorized in subdivision (d).

18 (f) The Judicial Council shall examine the extent to which requests for access to files
19 pursuant to an ex parte order under subdivision (a) are granted or denied, and if denied,
20 the reason for the denial of access.

21 (g) This section shall not apply to a case that seeks to terminate a mobilehome park
22 tenancy if the statement of the character of the proceeding in the caption of the complaint
23 clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

24 **Comment.** Subdivision (e) of Section 1161.2 is amended to reflect unification of the municipal
25 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See
26 Section 38 (judicial districts).

27  **Note.** Code of Civil Procedure Section 1161.2 reflects legislative changes made in AB 1700
28 (Steinberg & Frommer). See 2001 Cal. Stat. ch. 824, § 11.

29 **Code Civ. Proc. § 1208.5 (amended). Satisfaction of liens for expense of keeping abused,
30 abandoned or neglected animals**

31 SEC. ____ . Section 1208.5 of the Code of Civil Procedure is amended to read:

32 1208.5. Any person having a lien upon any animal or animals under the provisions of
33 Section 597a or 597f of the Penal Code may satisfy such lien as follows: If such lien is
34 not discharged and satisfied, by the person responsible, within three days after the
35 obligation becomes due, then the person holding such lien may resort to the proper court
36 to satisfy the claim; or he may, three days after the charges against the property become
37 due, ~~may~~ sell the property, or an undivided fraction thereof as may become necessary, to
38 defray the amount due and costs of sale, by giving three days’ notice of the sale by
39 advertising in some newspaper published in the county, or city and county, in which the
40 lien has attached to the property; or, if there is no paper published in the county, then by
41 posting notices of the sale in three of the most public places in the town or ~~judicial district~~
42 county for three days previous to the sale. The notices shall contain an accurate
43 description of the property to be sold, together with the terms of sale, which must be for
44 cash, payable on the consummation of the sale. The proceeds of the sale shall be applied
45 to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over
46 to the owner, if known, and if not known shall be paid into the treasury of the humane

1 society of the county, or city and county, wherein the sale takes place; if no humane
2 society exists in the county, then the remainder shall be paid into the county treasury.

3 **Comment.** Section 1208.5 is amended to reflect unification of the municipal and superior
4 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 38 (judicial
5 districts).

6 **Code Civ. Proc. § 1281.5 (amended). Application to stay pending arbitration**

7 SEC. ____ . Section 1281.5 of the Code of Civil Procedure is amended to read:

8 1281.5. (a) Any person who proceeds to record and enforce a claim of lien by
9 commencement of an action pursuant to Title 15 (commencing with Section 3082) of Part
10 4 of Division 3 of the Civil Code, shall not thereby waive any right of arbitration which
11 that person may have pursuant to a written agreement to arbitrate, if, in filing an action to
12 enforce the claim of lien, the claimant at the same time presents to the court an
13 application that the action be stayed pending the arbitration of any issue, question, or
14 dispute which is claimed to be arbitrable under the agreement and which is relevant to the
15 action to enforce the claim of lien. ~~In a county in which there is a municipal court, the~~
16 ~~applicant may join with the application for the stay, pending arbitration, a claim of lien~~
17 ~~otherwise within the jurisdiction of the municipal court.~~

18 (b) The failure of a defendant to file a petition pursuant to Section 1281.2 at or before
19 the time he or she answers the complaint filed pursuant to subdivision (a) shall constitute
20 a waiver of that party's right to compel arbitration.

21 **Comment.** Subdivision (a) of Section 1281.5 is amended to reflect unification of the municipal
22 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

23 **Code Civ. Proc. § 1420 (amended). Escheat**

24 SEC. ____ . Section 1420 of the Code of Civil Procedure is amended to read:

25 1420. At any time after two years after the death of any decedent who leaves property
26 to which the State is entitled by reason of it having escheated to the State, the Attorney
27 General shall commence a proceeding on behalf of the State in the Superior Court for the
28 County of Sacramento to have it adjudged that the State is so entitled. Such action shall
29 be commenced by filing a petition, which shall be treated as the information elsewhere
30 referred to in this title.

31 There shall be set forth in such petition a description of the property, the name of the
32 person last possessed thereof, the name of the person, if any, claiming such property, or
33 portion thereof, and the facts and circumstances by virtue of which it is claimed the
34 property has escheated.

35 Upon the filing of such petition, the court must make an order requiring all persons
36 interested in the estate to appear and show cause, if any they have, within 60 days from
37 the date of the order, why such estate should not vest in the State. Such order must be
38 published at least once a week for four consecutive weeks in a newspaper published in
39 said County of Sacramento, the last publication to be at least 10 days prior to the date set
40 for the hearing. Upon the completion of the publication of such order, the court shall have
41 full and complete jurisdiction over the estate, the property, and the person of everyone
42 having or claiming any interest in the said property, and shall have full and complete
43 jurisdiction to hear and determine the issues therein, and render the appropriate judgment
44 thereon.

45 If proceedings for the administration of such estate have been instituted, a copy of such
46 order must be filed with the papers in such estate ~~in the office of the county clerk where~~
47 ~~such proceedings were had.~~ If proceedings for the administration of any estate of any

1 such decedent have been instituted and none of the persons entitled to succeed thereto
2 have appeared and made claim to such property or any portion thereof, before the decree
3 of final distribution therein is made, or before the commencement of such proceeding by
4 the Attorney General, or if the court shall find that such persons as have appeared are not
5 entitled to the property of such estate, or any portion thereof, the court shall, upon final
6 settlement of the proceedings for the administration of such estate, after the payment of
7 all debts and expenses of administration, distribute all moneys and other property
8 remaining to the State of California.

9 In any proceeding brought by the Attorney General under this chapter, any two or more
10 parties and any two or more causes of action may be joined in the same proceedings and
11 in the same petition without being separately stated; and it shall be sufficient to allege in
12 the petition that the decedent left no heirs to take the estate and the failure of heirs to
13 appear and set up their claims in any such proceeding, or in any proceedings for the
14 administration of such estate, shall be sufficient proof upon which to base the judgment in
15 any such proceeding or such decree of distribution.

16 Where proceedings for the administration of any estate have not been commenced
17 within six months from the death of any decedent the Attorney General may direct the
18 public administrator to commence the same forthwith.

19 **Comment.** Section 1420 is amended to reflect elimination of the county clerk's role as ex
20 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
21 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
22 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
23 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
24 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

25 **Code Civ. Proc. § 1607 (amended). Assertion of interest in unclaimed property**

26 SEC. ____ . Section 1607 of the Code of Civil Procedure is amended to read:

27 1607. When a report is received from the Comptroller General or other proper officer
28 of the United States, the Controller shall prepare and forward a copy thereof to the county
29 clerk of the superior court of each county within this State and the said clerk shall post
30 such copy at the courthouse for a period of 60 days. Any person asserting an interest in
31 property mentioned in the report may elect to claim against the United States under the
32 laws of the United States, in which event and within 90 days following the date of initial
33 posting by the county clerk such person shall notify the State Controller of his the
34 asserted interest and intention to so claim. The Controller shall omit such property from
35 any claim by the State until such time as the asserted interest may be finally determined
36 against the claimant. Such interest shall not thereafter be asserted against the State.

37 **Comment.** Section 1607 is amended to reflect elimination of the county clerk's role as ex
38 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
39 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
40 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
41 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
42 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

43 **Code Civ. Proc. § 1609 (amended). Commencement of proceeding by Attorney General**

44 SEC. ____ . Section 1609 of the Code of Civil Procedure is amended to read:

45 1609. Within 120 days following the date of initial posting by the county clerk, the
46 Attorney General shall commence a proceeding by filing a petition to determine the
47 State's right to custody of all property mentioned in such report and unclaimed within the

1 time and in the manner provided by Section 1607. The proceeding shall be commenced
2 and heard in the superior court in the County of Sacramento and venue shall not be
3 affected by the provisions of Section 401, Code of Civil Procedure.

4 **Comment.** Section 1609 is amended to reflect elimination of the county clerk's role as ex
5 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
6 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
7 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
8 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
9 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

10 **Code Civ. Proc. § 1710.20 (amended). Filing of application**

11 SEC. ____ . Section 1710.20 of the Code of Civil Procedure is amended to read:

12 1710.20. (a) ~~In a county in which there is a municipal court, the application shall be~~
13 ~~filed in a municipal court in all cases in which the sister state judgment amounts to~~
14 ~~twenty-five thousand dollars (\$25,000) or less. The An application for entry of a~~
15 ~~judgment based on a sister state judgment shall be filed in a superior court in all other~~
16 ~~cases.~~

17 (b) Subject to the power of the court to transfer proceedings under this chapter pursuant
18 to Title 4 (commencing with Section 392) of Part 2, the proper county for the filing of an
19 application is any of the following:

20 (1) The county in which any judgment debtor resides.

21 (2) If no judgment debtor is a resident, any county in this state.

22 (c) A case in which the sister state judgment amounts to twenty-five thousand dollars
23 (\$25,000) or less is a limited civil case.

24 **Comment.** Subdivision (a) of Section 1710.20 is amended to reflect unification of the
25 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

26 **Code Civ. Proc. § 1775.1 (amended). Definitions**

27 SEC. ____ . Section 1775.1 of the Code of Civil Procedure is amended to read:

28 1775.1. (a) As used in this title:

29 (1) "Court" means a superior court or municipal court.

30 (2) "Mediation" title, "mediation" means a process in which a neutral person or persons
31 facilitate communication between the disputants to assist them in reaching a mutually
32 acceptable agreement.

33 (b) Unless otherwise specified in this title or ordered by the court, any act to be
34 performed by a party may also be performed by his or her counsel of record.

35 **Comment.** Section 1775.1 is amended to reflect unification of the municipal and superior
36 courts pursuant to Article VI, Section 5(e), of the California Constitution.

37 **Code Civ. Proc. § 2015.3 (amended). Certificate of sheriff, marshal, or court clerk**

38 SEC. ____ . Section 2015.3 of the Code of Civil Procedure is amended to read:

39 2015.3. The certificate of a sheriff, marshal, or the clerk of the superior ~~or municipal~~
40 court, has the same force and effect as his or her affidavit.

41 **Comment.** Section 2015.3 is amended to reflect unification of the municipal and superior
42 courts pursuant to Article VI, Section 5(e), of the California Constitution.

CORPORATIONS CODE

Corp. Code § 420 (amended). Transfer of shares

SEC. ____ . Section 420 of the Corporations Code is amended to read:

420. Neither a domestic nor foreign corporation nor its transfer agent or registrar is liable:

(a) For transferring or causing to be transferred on the books of the corporation to the surviving joint tenant or tenants any share or shares or other securities issued to two or more persons in joint tenancy, whether or not the transfer is made with actual or constructive knowledge of the existence of any understanding, agreement, condition or evidence that the shares or securities were held other than in joint tenancy or of a breach of trust by any joint tenant.

(b) To a minor or incompetent person in whose name shares or other securities are of record on its books or to any transferee of or transferor to either for transferring the shares or other securities on its books at the instance of or to the minor or incompetent or for the recognition of or dealing with the minor or incompetent as a shareholder or security holder, whether or not the corporation, transfer agent or registrar had notice, actual or constructive, of the nonage or incompetency, unless a guardian or conservator of the property of the minor or incompetent has been appointed and the corporation, transfer agent or registrar has received written notice thereof.

(c) To any married person or to any transferee of such person for transferring shares or other securities on its books at the instance of the person in whose name they are registered, without the signature of such person's spouse and regardless of whether the registration indicates that the shares or other securities are community property, in the same manner as if such person were unmarried.

(d) For transferring or causing to be transferred on the books of the corporation shares or other securities pursuant to a judgment or order of a court which has been set aside, modified or reversed unless, prior to the registration of the transfer on the books of the corporation, written notice is served upon the corporation or its transfer agent in the manner provided by law for the service of a summons in a civil action, stating that an appeal or other further court proceeding has been or is to be taken from or with regard to such judgment or order. After the service of such notice neither the corporation nor its transfer agent has any duty to register the requested transfer until the corporation or its transfer agent has received a certificate of the ~~county clerk of the county~~ clerk of the court in which the judgment or order was entered or made, showing that the judgment or order has become final.

(e) The Commercial Code shall not affect the limitations of liability set forth in this section. Section 1100 of the Family Code shall be subject to the provisions of this section and shall not be construed to prevent transfers, or result in liability to the corporation, transfer agent or registrar permitting or effecting transfers, which comply with this section.

Comment. Section 420 is amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

1 EDUCATION CODE

2 **Educ. Code § 48295 (amended). Jurisdiction**

3 SEC. ____ . Section 48295 of the Education Code is amended to read:

4 48295. Any judge of a ~~municipal~~ the superior court, in the ~~judicial district~~ county in
5 which the school district is located, or in which the offense is committed, ~~or judge of the~~
6 ~~superior court in a county in which there is no municipal court~~, has jurisdiction of
7 offenses committed under this article. A juvenile court has jurisdiction of a violation of
8 Section 48293 as provided by Section 601.4 of the Welfare and Institutions Code.

9 **Comment.** Section 48295 is amended to reflect unification of the municipal and superior courts
10 pursuant to Article VI, Section 5(e), of the California Constitution.

11  **Note: Comment Requested**

12 Education Code Section 482.95 raises issues relating to local venue. The Commission and the
13 Judicial Council are studying this area and may propose revisions to address local venue issues.
14 The Commission solicits comment on the proper treatment of the section with regard to venue.

15 **Educ. Code § 69763.1 (amended). Default on student loan**

16 SEC. ____ . Section 69763.1 of the Education Code is amended to read:

17 69763.1. (a) If a borrower defaults on a guaranteed student loan and the lender's default
18 claim has been paid, the Student Aid Commission shall fulfill the collection efforts
19 required by federal law, which includes initiating a civil suit against the borrower for
20 repayment of the loan.

21 (b) After the period specified in federal law for commencing action, the amount of the
22 promissory note, plus interest and costs, may be collected by the filing of a certificate
23 requesting judgment pursuant to subdivision (c) or by other appropriate civil action.

24 (c) If the loan principal, interest, and predefault and collection costs are not paid when
25 due, and there is evidence that the borrower does not intend to pay under the terms of the
26 promissory note or promissory notes, the commission may file in the office of the ~~County~~
27 Clerk of the Superior Court of Sacramento County, or any other county, a certificate
28 specifying the amount of the loan principal, interest, and predefault and collection costs
29 due, the name and last known address of the individual liable for the amount due, the fact
30 that the commission has complied with all applicable state and federal laws in the
31 computation of the amount due, and a request that judgment be entered against the
32 individual in the amount of the loan principal, interest, and predefault and collection costs
33 specified in the certificate.

34 (d) Prior to the filing of the certificate, the commission shall, by mail, notify the
35 individual of the amount that is due and of the opportunity for a hearing. If a hearing is
36 requested, 10 days' notice shall be given of the time and place of the hearing, which shall
37 be held in Sacramento County or, if properly requested, the county of residence of the
38 person requesting the hearing. The hearing shall be conducted by a referee who shall
39 submit findings and recommendations to the director of the commission, or an authorized
40 representative, who shall decide the matter. The decision shall be effective upon notice to
41 the interested parties. The director of the commission, or the authorized representative,
42 may rescind the decision and reconsider the matter for good cause shown at any time
43 within three years after the date the disputed loan first became due, or within one year
44 from the hearing, whichever is later. If no hearing is requested within 15 days after
45 mailing the notice required by this subdivision, the certificate required by subdivision (b)
46 may be filed.

1 **Comment.** Section 69763.1 is amended to reflect elimination of the county clerk’s role as ex
2 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
3 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
4 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
5 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
6 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

7 **Educ. Code § 69763.2 (amended). Entry and enforcement of judgment**

8 SEC. ____ . Section 69763.2 of the Education Code is amended to read:

9 69763.2. (a) The county clerk, immediately upon the filing of the certificate specified in
10 Section 69763.1, shall enter a judgment for the people of the State of California against
11 the individual in the amount of the loan principal, interest, and predefault and collection
12 costs listed on the certificate. The county clerk may file the judgment in the book entitled
13 “California Student Aid Commission Judgments.”

14 (b) Execution shall issue upon the judgment specified in subdivision (a) upon request of
15 the Student Aid Commission in the same manner as execution may issue upon other
16 judgments as prescribed in the Code of Civil Procedure.

17 (c) At least 10 days before executing any writ to collect, the commission shall send
18 notice of the intent to execute upon a writ to the borrower and to any cosigners, by
19 certified mail, to the most recent addresses maintained in the files of the commission.
20 Any person receiving the notice of the intent to execute upon a writ may request a hearing
21 to contest the existence or the amount of the writ.

22 At the request of the individual, the commission shall conduct a hearing pursuant to
23 Section 69763.1, at which it shall be determined whether the loan principal, interest, and
24 predefault and collection costs in the amount claimed by the commission are due and
25 whether the individual named on the certificate is liable for the amount. If no hearing is
26 requested, the execution shall be commenced for the garnishment of wages, the
27 attachment of property, or other legal collection action.

28 **Comment.** Section 69763.2 is amended to reflect elimination of the county clerk’s role as ex
29 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
30 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
31 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
32 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
33 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

34 **ELECTIONS CODE**

35 **Elec. Code § 13.5 (amended). Filing requirements**

36 SEC. ____ . Section 13.5 of the Elections Code is amended to read:

37 13.5. (a)(1) Notwithstanding subdivision (a) of Section 13, no person shall be
38 considered a legally qualified candidate for any of the offices set forth in subdivision (b)
39 unless that person has filed a declaration of candidacy, nomination papers, or statement of
40 write-in candidacy, accompanied by documentation, including, but not necessarily
41 limited to, certificates, declarations under penalty of perjury, diplomas, or official
42 correspondence, sufficient to establish, in the determination of the official with whom the
43 declaration or statement is filed, that the person meets each qualification established for
44 service in that office by the provision referenced in subdivision (b).

45 (2) The provision of “documentation,” for purposes of compliance with the
46 requirements of paragraph (1), may include the submission of either an original, as

1 defined in Section 255 of the Evidence Code, or a duplicate, as defined in Section 260 of
2 the Evidence Code.

3 (b) This section shall be applicable to the following offices and qualifications thereof:

4 (1) For the office of county auditor, the qualifications set forth in Sections 26945 and
5 26946 of the Government Code.

6 (2) For the office of county district attorney, the qualifications set forth in Sections
7 24001 and 24002 of the Government Code.

8 (3) For the office of county sheriff, the qualifications set forth in Section 24004.3 of the
9 Government Code.

10 (4) For the office of county superintendent of schools, the qualifications set forth in
11 Sections 1205 to 1208, inclusive, of the Education Code.

12 (5) For the office of judge of the municipal court, the qualifications set forth in Article
13 4 (commencing with Section 71140) of Chapter 6 of Title 8 of the Government Code.

14 (6) For the office of judge of the superior court, the qualifications set forth in Section
15 15 of Article VI of the California Constitution.

16 (7) (6) For the office of county treasurer, county tax collector, or county treasurer-tax
17 collector, the qualifications set forth in Section 27000.7 of the Government Code,
18 provided that the board of supervisors has adopted the provisions of that section pursuant
19 to Section 27000.6 of the Government Code.

20 **Comment.** Subdivision (b) of Section 13.5 is amended to reflect unification of the municipal
21 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

22 **Elec. Code § 325 (repealed). Judicial district**

23 SEC. ____ . Section 325 of the Elections Code is repealed.

24 325. “Judicial district” includes a municipal court district.

25 **Comment.** Section 325 is repealed to reflect unification of the municipal and superior courts
26 pursuant to Article VI, Section 5(e), of the California Constitution.

27 **Elec. Code § 327 (amended). Judicial officer**

28 SEC. ____ . Section 327 of the Elections Code is amended to read:

29 325. “Judicial officer” means any Justice of the Supreme Court, justice of a court of
30 appeal, or judge of the superior court, ~~or judge of a municipal court.~~

31 **Comment.** Section 327 is amended to reflect unification of the municipal and superior courts
32 pursuant to Article VI, Section 5(e), of the California Constitution.

33 **Elec. Code § 2212 (amended). Report of persons convicted of felonies**

34 SEC. ____ . Section 2212 of the Elections Code is amended to read:

35 2212. (a) ~~As used in this section, “county clerk” does not include “registrar of voters.”~~

36 (b) ~~The county clerk, on the basis of the records of courts in the county having~~
37 jurisdiction of those offenses, The clerk of the superior court of each county, on the basis
38 of the records of the court, shall furnish to the chief elections official of the county, not
39 less frequently than the first day of April and the first day of September of each year, a
40 statement showing the names, addresses, and dates of birth of all persons who have been
41 convicted of felonies since the county clerk’s last report, ~~and who are currently~~
42 ~~imprisoned.~~ The elections official shall, during the first week of April and the first week
43 of September in each year, cancel the affidavits of registration of those persons who are
44 currently imprisoned or on parole for the conviction of a felony. The county clerk shall
45 certify the statement under the seal of his or her office the court .

1 **Comment.** Section 2212 is amended to reflect elimination of the county clerk's role as ex
2 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
3 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
4 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
5 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
6 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

7 The section is also amended to eliminate certification of which felons remain imprisoned; that
8 determination may not be ascertainable on the basis of court records.

9 **Note: Comment Requested**

10 The Commission particularly solicits comment on the following matter: Should the requirement
11 of reporting which felons remain imprisoned be deleted, leaving the matter to determination by
12 the county elections official?

13 **Elec. Code § 8203 (amended). Incumbent as only nominee**

14 SEC. ____ . Section 8203 of the Elections Code is amended to read:

15 8203. In any county ~~or any judicial district~~ in which only the incumbent has filed
16 nomination papers for the office of superior court judge ~~or municipal court judge~~, his or
17 her name shall not appear on the ballot unless there is filed with the elections official,
18 within 10 days after the final date for filing nomination papers for the office, a petition
19 indicating that a write-in campaign will be conducted for the office and signed by 100
20 registered voters qualified to vote with respect to the office.

21 If a petition indicating that a write-in campaign will be conducted for the office at the
22 general election, signed by 100 registered voters qualified to vote with respect to the
23 office, is filed with the elections official not less than 83 days before the general election,
24 the name of the incumbent shall be placed on the general election ballot if it has not
25 appeared on the direct primary election ballot.

26 If, in conformity with this section, the name of the incumbent does not appear either on
27 the primary ballot or general election ballot, the elections official, on the day of the
28 general election, shall declare the incumbent reelected. Certificates of election specified
29 in Section 15401 or 15504 shall not be issued to a person reelected pursuant to this
30 section before the day of the general election.

31 **Comment.** Section 8203 is amended to reflect unification of the municipal and superior courts
32 pursuant to Article VI, Section 5(e), of the California Constitution.

33 **Elec. Code § 11221 (amended). Number of qualified signatures required to qualify recall for**
34 **ballot**

35 SEC. ____ . Section 11221 of the Elections Code is amended to read:

36 11221. The number of qualified signatures required in order to qualify a recall for the
37 ballot shall be as follows:

38 (a) In the case of an officer of a city, county, school district, community college district,
39 county board of education, or resident voting district, the number of signatures shall be
40 equal in number to not less than the following percent of the registered voters in the
41 electoral jurisdiction:

- 42 (1) Thirty percent if the registration is less than 1,000.
- 43 (2) Twenty-five percent if the registration is less than 10,000 but at least 1,000.
- 44 (3) Twenty percent if the registration is less than 50,000 but at least 10,000.
- 45 (4) Fifteen percent if the registration is less than 100,000 but at least 50,000.
- 46 (5) Ten percent if the registration is 100,000 or above.

1 (b) For purposes of this section, the number of registered voters shall be calculated as
2 of the time of the last report of registration by the county elections official to the
3 Secretary of State pursuant to Section 2187, and prior to the finding by the elections
4 official or Secretary of State that no alterations are required in the form of the recall
5 petition pursuant to Section 11042.

6 (c)(1) In the case of a state officer, including judges of courts of appeal and trial courts,
7 the number of signatures shall be as provided for in subdivision (b) of Section 14 of
8 Article II of the California Constitution. In the case of a judge of a superior ~~or municipal~~
9 court, which office has never appeared on the ballot since its creation, or did not appear
10 on the ballot at its last election pursuant to Section 8203, the number of signatures shall
11 be as provided in subdivision (b) of Section 14 of Article II of the California
12 Constitution, except that the percentage shall be based on the number of votes cast within
13 the judicial jurisdiction for the countywide office which had the least number of votes in
14 the most recent general election in the county in which the judge holds his or her office.

15 (2) For purposes of this subdivision, “countywide office” means an elective office
16 wholly within the county which is voted on throughout the county.

17 (d) In the case of a landowner voting district, signatures of voters owning at least 10
18 percent of the assessed value of land within the electoral jurisdiction of the officer sought
19 to be recalled.

20 **Comment.** Subdivision (c) of Section 11221 is amended to reflect unification of the municipal
21 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

22 **Elec. Code § 13107 (amended). Ballot designations**

23 SEC. ____ . Section 13107 of the Elections Code is amended to read:

24 13107. (a) With the exception of candidates for Justice of the State Supreme Court or
25 court of appeal, immediately under the name of each candidate, and not separated from
26 the name by any line, may appear at the option of the candidate only one of the following
27 designations:

28 (1) Words designating the elective city, county, district, state, or federal office which
29 the candidate holds at the time of filing the nomination documents to which he or she was
30 elected by vote of the people, or to which he or she was appointed, in the case of a
31 superior ~~or municipal~~ court judge.

32 (2) The word “incumbent” if the candidate is a candidate for the same office which he
33 or she holds at the time of filing the nomination papers, and was elected to that office by
34 a vote of the people, or, in the case of a superior ~~or municipal~~ court judge, was appointed
35 to that office.

36 (3) No more than three words designating either the current principal professions,
37 vocations, or occupations of the candidate, or the principal professions, vocations, or
38 occupations of the candidate during the calendar year immediately preceding the filing of
39 nomination documents. For purposes of this section, all California geographical names
40 shall be considered to be one word. Hyphenated words that appear in any generally
41 available standard reference dictionary, published in the United States at any time within
42 the 10 calendar years immediately preceding the election for which the words are
43 counted, shall be considered as one word. Each part of all other hyphenated words shall
44 be counted as a separate word.

45 (4) The phrase “appointed incumbent” if the candidate holds an office other than a
46 judicial office by virtue of appointment, and the candidate is a candidate for election to
47 the same office, or, if the candidate is a candidate for election to the same office or to
48 some other office, the word “appointed” and the title of the office. In either instance, the

1 candidate may not use the unmodified word “incumbent” or any words designating the
2 office unmodified by the word “appointed.” However, the phrase “appointed incumbent”
3 shall not be required of a candidate who seeks reelection to an office which he or she
4 holds and to which he or she was appointed, as a nominated candidate, in lieu of an
5 election, pursuant to Sections 5326 and 5328 of the Education Code or Section 7228,
6 7423, 7673, 10229, or 10515 of this code.

7 (b) Neither the Secretary of State nor any other election official shall accept a
8 designation of which any of the following would be true:

9 (1) It would mislead the voter.

10 (2) It would suggest an evaluation of a candidate, such as outstanding, leading, expert,
11 virtuous, or eminent.

12 (3) It abbreviates the word “retired” or places it following any word or words which it
13 modifies.

14 (4) It uses a word or prefix, such as “former” or “ex-,” which means a prior status. The
15 only exception is the use of the word “retired.”

16 (5) It uses the name of any political party, whether or not it has qualified for the ballot.

17 (6) It uses a word or words referring to a racial, religious, or ethnic group.

18 (7) It refers to any activity prohibited by law.

19 (c) If, upon checking the nomination documents, the election official finds the
20 designation to be in violation of any of the restrictions set forth in this section, the
21 election official shall notify the candidate by registered or certified mail return receipt
22 requested, addressed to the mailing address appearing on the candidate’s nomination
23 documents.

24 (1) The candidate shall, within three days from the date of receipt of the notice, appear
25 before the election officer or, in the case of the Secretary of State, notify the Secretary of
26 State by telephone, and provide an alternate designation.

27 (2) In the event the candidate fails to provide an alternate designation, no designation
28 shall appear after the candidate’s name.

29 (d) No designation given by a candidate shall be changed by the candidate after the
30 final date for filing nomination documents, except as specifically requested by the
31 elections official as specified in subdivision (c) or as provided in subdivision (e).

32 (e) The designation shall remain the same for all purposes of both primary and general
33 elections, unless the candidate, at least 98 days prior to the general election, requests in
34 writing a different designation which the candidate is entitled to use at the time of the
35 request.

36 (f) In all cases, words so used shall be printed in 8-point roman uppercase and
37 lowercase type except that, if the designation selected is so long that it would conflict
38 with the space requirements of Sections 13207 and 13211, the elections official shall use
39 a type size for the designation for each candidate for that office sufficiently smaller to
40 meet these requirements.

41 (g) Whenever a foreign language translation of a candidate’s designation is required
42 under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971), as amended, to appear on
43 the ballot in addition to the English language version, it shall be as short as possible, as
44 consistent as is practicable with this section, and shall employ abbreviations and initials
45 wherever possible in order to avoid undue length.

46 **Comment.** Subdivision (a) of Section 13107 is amended to reflect unification of the municipal
47 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Elec. Code § 13109 (amended). Order of offices on ballot**

2 SEC. ____ . Section 13109 of the Elections Code is amended to read:

3 13109. The order of precedence of offices on the ballot shall be as listed below for
4 those offices and measures that apply to the election for which this ballot is provided.
5 Beginning in the column to the left:

6 (a) Under the heading, **PRESIDENT AND VICE PRESIDENT:**

7 Nominees of the qualified political parties and independent nominees for President and
8 Vice President.

9 (b) Under the heading, **PRESIDENT OF THE UNITED STATES:**

10 (1) Names of the presidential candidates to whom the delegates are pledged.

11 (2) Names of the chairpersons of unpledged delegations.

12 (c) Under the heading, **STATE:**

13 (1) Governor.

14 (2) Lieutenant Governor.

15 (3) Secretary of State.

16 (4) Controller.

17 (5) Treasurer.

18 (6) Attorney General.

19 (7) Insurance Commissioner.

20 (8) Member, State Board of Equalization.

21 (d) Under the heading, **UNITED STATES SENATOR:**

22 Candidates or nominees to the United States Senate.

23 (e) Under the heading, **UNITED STATES REPRESENTATIVE:**

24 Candidates or nominees to the House of Representatives of the United States.

25 (f) Under the heading, **STATE SENATOR:**

26 Candidates or nominees to the State Senate.

27 (g) Under the heading, **MEMBER OF THE STATE ASSEMBLY:**

28 Candidates or nominees to the Assembly.

29 (h) Under the heading, **COUNTY COMMITTEE:**

30 Members of the County Central Committee.

31 (i) Under the heading, **JUDICIAL:**

32 (1) Chief Justice of California.

33 (2) Associate Justice of the Supreme Court.

34 (3) Presiding Justice, Court of Appeal.

35 (4) Associate Justice, Court of Appeal.

36 (5) Judge of the Superior Court.

37 (6) ~~Judge of the Municipal Court.~~

38 (7) Marshal.

39 (j) Under the heading, **SCHOOL:**

40 (1) Superintendent of Public Instruction.

41 (2) County Superintendent of Schools.

42 (3) County Board of Education Members.

43 (4) College District Governing Board Members.

44 (5) Unified District Governing Board Members.

45 (6) High School District Governing Board Members.

46 (7) Elementary District Governing Board Members.

47 (k) Under the heading, **COUNTY:**

48 (1) County Supervisor.

49 (2) Other offices in alphabetical order by the title of the office.

- 1 (l) Under the heading, CITY:
2 (1) Mayor.
3 (2) Member, City Council.
4 (3) Other offices in alphabetical order by the title of the office.
5 (m) Under the heading, DISTRICT:
6 Directors or trustees for each district in alphabetical order according to the name of the
7 district.
8 (n) Under the heading, MEASURES SUBMITTED TO THE VOTERS and the
9 appropriate heading from subdivisions (a) through (m), above, ballot measures in the
10 order, state through district shown above, and within each jurisdiction, in the order
11 prescribed by the official certifying them for the ballot.
12 (o) In order to allow for the most efficient use of space on the ballot in counties that use
13 a voting system, as defined in Section 362, the county elections official may vary the
14 order of subdivisions (j), (k), (l), (m), and (n) as well as the order of offices within these
15 subdivisions. However, the office of Superintendent of Public Instruction shall always
16 precede any school, county, or city office, and state measures shall always precede local
17 measures.
18 **Comment.** Subdivision (i) of Section 13109 is amended to reflect unification of the municipal
19 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

20 **Elec. Code § 13111 (amended). Order of candidates names**

21 SEC. ____ . Section 13111 of the Elections Code is amended to read:

22 13111. Candidates for each office shall be printed on the ballot in accordance with the
23 following rules:

24 (a) The names of presidential candidates to whom candidates for delegate to the
25 national convention are pledged, and the names of chairpersons of groups of candidates
26 for delegate expressing no preference, shall be arranged on the primary election ballot by
27 the Secretary of State by the names of the candidates in accordance with the randomized
28 alphabet as provided for in Section 13112 in the case of the ballots for the First Assembly
29 District. Thereafter, for each succeeding Assembly district, the name appearing first in
30 the last preceding Assembly district shall be placed last, the order of the other names
31 remaining unchanged.

32 (b) The names of the pairs of candidates for President and Vice President shall be
33 arranged on the general election ballot by the Secretary of State by the names of the
34 candidates for President in accordance with the randomized alphabet as provided for in
35 Section 13112 in the case of the ballots for the First Assembly District. Thereafter, for
36 each succeeding Assembly district, the pair appearing first in the last preceding Assembly
37 district shall be placed last, the order of the other pairs remaining unchanged.

38 (c) In the case of all other offices, the candidates for which are to be voted on
39 throughout the state, the Secretary of State shall arrange the names of the candidates for
40 the office in accordance with the randomized alphabet as provided for in Section 13112
41 for the First Assembly District. Thereafter, for each succeeding Assembly district, the
42 name appearing first in the last preceding Assembly district shall be placed last, the order
43 of the other names remaining unchanged.

44 (d) If the office is that of Representative in Congress or member of the State Board of
45 Equalization, the Secretary of State shall arrange the names of candidates for the office in
46 accordance with the randomized alphabet as provided for in Section 13112 for that
47 Assembly district that has the lowest number of all the Assembly districts in which
48 candidates are to be voted on. Thereafter, for each succeeding Assembly district in which

1 the candidates are to be voted on, the names appearing first in the last preceding
2 Assembly district shall be placed last, the order of the other names remaining unchanged.

3 (e) If the office is that of State Senator or Member of the Assembly, the county
4 elections official shall arrange the names of the candidates for the office in accordance
5 with the randomized alphabet as provided for in Section 13112, unless the district
6 encompasses more than one county, in which case the arrangement shall be made
7 pursuant to subdivision (i).

8 (f) If the office is to be voted upon wholly within, but not throughout, one county, as in
9 the case of municipal, district, county supervisor, ~~municipal court~~, and county central
10 committee offices, the official responsible for conducting the election shall determine the
11 order of names in accordance with the randomized alphabet as provided for in Section
12 13112.

13 (g) If the office is to be voted on throughout a single county, and there are not more
14 than four Assembly districts wholly or partly in the county, the county elections official
15 shall determine the order of names in accordance with the randomized alphabet as
16 provided for in Section 13112 for the first supervisorial district. Thereafter, for each
17 succeeding supervisorial district, the name appearing first for each office in the last
18 preceding supervisorial district shall be placed last, the order of the other names
19 remaining unchanged.

20 (h) If there are five or more Assembly districts wholly or partly in the county, an
21 identical procedure shall be followed, except that rotation shall be by Assembly district,
22 commencing with the Assembly district which has the lowest number.

23 (i) Except as provided in subdivision (d) of Section 13112, if the office is that of State
24 Senator or Member of the Assembly, and the district includes more than one county, the
25 county elections official in each county shall conduct a drawing of the letters of the
26 alphabet, pursuant to the same procedures specified in Section 13112. The results of the
27 drawing shall be known as a county randomized ballot and shall be used only to arrange
28 the names of the candidates when the district includes more than one county.

29 (j) If the office is that of Justice of the California Supreme Court or a Court of Appeal,
30 the appropriate elections officials shall arrange the names of the candidates for the office
31 in accordance with the randomized alphabet as provided for in Section 13112. However,
32 the names of the judicial candidates shall not be rotated among the applicable districts.

33 **Comment.** Subdivision (f) of Section 13111 is amended to reflect unification of the municipal
34 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

35 EVIDENCE CODE

36 **Evid. Code § 300 (amended). Applicability of code**

37 SEC. ____ . Section 300 of the Evidence Code is amended to read:

38 300. Except as otherwise provided by statute, this code applies in every action before
39 the Supreme Court or a court of appeal, ~~superior court, or municipal or superior court~~,
40 including proceedings in such actions conducted by a referee, court commissioner, or
41 similar officer, but does not apply in grand jury proceedings.

42 **Comment.** Section 300 is amended to reflect unification of the municipal and superior courts
43 pursuant to Article VI, Section 5(e), of the California Constitution.

44 **Evid. Code § 452.5 (amended). Computer-generated record of criminal conviction**

45 SEC. ____ . Section 452.5 of the Evidence Code is amended to read:

1 452.5. (a) The official acts and records specified in subdivisions (c) and (d) of Section
2 452 include any computer-generated official court records, as specified by the Judicial
3 Council which relate to criminal convictions, when the record is certified by a clerk of the
4 ~~municipal~~ or superior court pursuant to Section 69844.5 ~~or 71280.5~~ of the Government
5 Code at the time of computer entry.

6 (b) An official record of conviction certified in accordance with subdivision (a) of
7 Section 1530 is admissible pursuant to Section 1280 to prove the commission, attempted
8 commission, or solicitation of a criminal offense, prior conviction, service of a prison
9 term, or other act, condition, or event recorded by the record.

10 **Comment.** Subdivision (a) of Section 452.5 is amended to reflect unification of the municipal
11 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. The
12 reference to former Government Code Section 71280.5 is deleted, because that provision
13 concerned certification and submission of municipal court records relating to criminal
14 convictions. Government Code Section 69844.5 is the comparable superior court provision.

15 **Evid. Code § 1061 (amended). Procedure for assertion of trade secret privilege**

16 SEC. ____ . Section 1061 of the Evidence Code is amended to read:

17 1061. (a) For purposes of this section, and Sections 1062 and 1063:

18 (1) "Trade secret" means "trade secret," as defined in subdivision (d) of Section 3426.1
19 of the Civil Code, or paragraph (9) of subdivision (a) of Section 499c of the Penal Code.

20 (2) "Article" means "article," as defined in paragraph (2) of subdivision (a) of Section
21 499c of the Penal Code.

22 (b) In addition to Section 1062, the following procedure shall apply whenever the
23 owner of a trade secret wishes to assert his or her trade secret privilege, as provided in
24 Section 1060, during a criminal proceeding:

25 (1) The owner of the trade secret shall file a motion for a protective order, or the People
26 may file the motion on the owner's behalf and with the owner's permission. The motion
27 shall include an affidavit based upon personal knowledge listing the affiant's
28 qualifications to give an opinion concerning the trade secret at issue, identifying, without
29 revealing, the alleged trade secret and articles which disclose the secret, and presenting
30 evidence that the secret qualifies as a trade secret under either subdivision (d) of Section
31 3426.1 of the Civil Code or paragraph (9) of subdivision (a) of Section 499c of the Penal
32 Code. The motion and affidavit shall be served on all parties in the proceeding.

33 (2) Any party in the proceeding may oppose the request for the protective order by
34 submitting affidavits based upon the affiant's personal knowledge. The affidavits shall be
35 filed under seal, but shall be provided to the owner of the trade secret and to all parties in
36 the proceeding. Neither the owner of the trade secret nor any party in the proceeding may
37 disclose the affidavit to persons other than to counsel of record without prior court
38 approval.

39 (3) The movant shall, by a preponderance of the evidence, show that the issuance of a
40 protective order is proper. The court may rule on the request without holding an
41 evidentiary hearing. However, in its discretion, the court may choose to hold an in camera
42 evidentiary hearing concerning disputed articles with only the owner of the trade secret,
43 the People's representative, the defendant, and defendant's counsel present. If the court
44 holds such a hearing, the parties' right to examine witnesses shall not be used to obtain
45 discovery, but shall be directed solely toward the question of whether the alleged trade
46 secret qualifies for protection.

47 (4) If the court finds that a trade secret may be disclosed during any criminal
48 proceeding unless a protective order is issued and that the issuance of a protective order

1 would not conceal a fraud or work an injustice, the court shall issue a protective order
2 limiting the use and dissemination of the trade secret, including, but not limited to,
3 articles disclosing that secret. The protective order may, in the court's discretion, include
4 the following provisions:

5 (A) That the trade secret may be disseminated only to counsel for the parties, including
6 their associate attorneys, paralegals, and investigators, and to law enforcement officials or
7 clerical officials.

8 (B) That the defendant may view the secret only in the presence of his or her counsel,
9 or if not in the presence of his or her counsel, at counsel's offices.

10 (C) That any party seeking to show the trade secret, or articles containing the trade
11 secret, to any person not designated by the protective order shall first obtain court
12 approval to do so:

13 (i) The court may require that the person receiving the trade secret do so only in the
14 presence of counsel for the party requesting approval.

15 (ii) The court may require the person receiving the trade secret to sign a copy of the
16 protective order and to agree to be bound by its terms. The order may include a provision
17 recognizing the owner of the trade secret to be a third-party beneficiary of that agreement.

18 (iii) The court may require a party seeking disclosure to an expert to provide that
19 expert's name, employment history, and any other relevant information to the court for
20 examination. The court shall accept that information under seal, and the information shall
21 not be disclosed by any court except upon termination of the action and upon a showing
22 of good cause to believe the secret has been disseminated by a court-approved expert.
23 The court shall evaluate the expert and determine whether the expert poses a discernible
24 risk of disclosure. The court shall withhold approval if the expert's economic interests
25 place the expert in a competitive position with the victim, unless no other experts are
26 available. The court may interview the expert in camera in aid of its ruling. If the court
27 rejects the expert, it shall state its reasons for doing so on the record and a transcript of
28 those reasons shall be prepared and sealed.

29 (D) That no articles disclosing the trade secret shall be filed or otherwise made a part of
30 the court record available to the public without approval of the court and prior notice to
31 the owner of the secret. The owner of the secret may give either party permission to
32 accept the notice on the owner's behalf.

33 (E) Other orders as the court deems necessary to protect the integrity of the trade secret.

34 (c) A ruling granting or denying a motion for a protective order filed pursuant to
35 subdivision (b) shall not be construed as a determination that the alleged trade secret is or
36 is not a trade secret as defined by subdivision (d) of Section 3426.1 of the Civil Code or
37 paragraph (9) of subdivision (a) of Section 499c of the Penal Code. Such a ruling shall
38 not have any effect on any civil litigation.

39 ~~(d) A protective order entered by a municipal court pursuant to this section shall remain~~
40 ~~in effect in a superior court unless that order is amended or vacated for good cause~~
41 ~~shown.~~

42 (e) This section shall have prospective effect only and shall not operate to invalidate
43 previously entered protective orders.

44 **Comment.** Former subdivision (d) of Section 1061 is deleted to reflect unification of the
45 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.
46 On unification of the municipal and superior courts in a county, preexisting records of the
47 municipal court automatically became records of the superior court. Cal. Const. art. VI,
48 § 23(c)(3); Gov't Code § 70212(c).

Note: Comment Requested

Subdivision (d) of Evidence Code Section 1061 appears to be obsolete. The Commission solicits comment on whether it continues to serve a useful purpose.

The proposed Comment refers to Article VI, Section 23 of the California Constitution, which the Commission is proposing to repeal. If this constitutional provision is repealed as the Commission recommends, the Comment will need to be revised to refer to “Former Cal. Const. art. VI, § 23(c)(3).”

FAMILY CODE

Fam. Code § 240.5 (repealed). Issuance by municipal court judge upon unavailability of superior court judge

SEC. ____ . Section 240.5 of the Family Code is repealed.

~~240.5. Notwithstanding Section 200, a judge of the municipal court may issue an order described in Section 240 when relief cannot be obtained in a timely manner from a judge of the superior court. In such a case, the applicant for the order shall set forth in the affidavit in support of the application for the order the reasons that relief could not be obtained in a timely manner from a judge of the superior court. Jurisdiction for the hearing described in Section 242 and all subsequent proceedings shall be in the superior court.~~

~~Nothing in this section shall be construed to prevent a judge of the municipal court who is serving as a judge of the superior court from issuing an order described in Section 240 without a showing that relief cannot be obtained in a timely manner from a judge of the superior court.~~

Comment. Section 240.5 is repealed to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Fam. Code § 4252 (amended). Appointment of child support commissioners and Judicial Council standards

SEC. ____ . Section 4252 of the Family Code is amended to read:

~~4252. (a) One or more child support commissioners shall be appointed by the superior court~~ The superior court shall appoint one or more subordinate judicial officers as child support commissioners to perform the duties specified in Section 4251. The child support commissioners’ first priority always shall be to hear Title IV-D child support cases. The child support commissioners shall specialize in hearing child support cases, and their primary responsibility shall be to hear Title IV-D child support cases. ~~Child support commissioner positions shall not be subject to the limitation on other commissioner positions imposed upon the counties by Article 13 (commencing with Section 70140) of Chapter 5 of Title 8 of the Government Code. The Notwithstanding Section 71622 of the~~ Government Code, the number of child support commissioner positions allotted to each superior court shall be determined by the Judicial Council in accordance with caseload standards developed pursuant to paragraph (3) of subdivision (b), subject to appropriations in the annual Budget Act.

(b) The Judicial Council shall do all of the following:

(1) Establish minimum qualifications for child support commissioners.

(2) Establish minimum educational and training requirements for child support commissioners and other court personnel that are assigned to Title IV-D child support

1 cases. Training programs shall include both federal and state laws concerning child
2 support and related issues.

3 (3) Establish caseload, case processing, and staffing standards for child support
4 commissioners on or before April 1, 1997, which shall set forth the maximum number of
5 cases that each child support commissioner can process. These standards shall be
6 reviewed and, if appropriate, revised by the Judicial Council every two years.

7 (4) Adopt uniform rules of court and forms for use in Title IV-D child support cases.

8 (5) Offer technical assistance to ~~counties~~ courts regarding issues relating to
9 implementation and operation of the child support commissioner system, including
10 assistance related to funding, staffing, and the sharing of resources between ~~counties~~
11 courts.

12 (6) Establish procedures for the distribution of funding to the courts for child support
13 commissioners, family law facilitators pursuant to Division 14 (commencing with Section
14 10000), and related allowable costs.

15 (7) Adopt rules that define the exceptional circumstances in which judges may hear
16 Title IV-D child support matters as provided in subdivision (a) of Section 4251.

17 (8) ~~Convene a workgroup, including representatives of the State Department of Social
18 Services, county district attorneys, child support commissioners, child support advocates,
19 family law facilitators, attorneys engaging in the private practice of family law, custodial
20 and noncustodial parents' organizations, and staff of the Assembly and Senate Judiciary
21 Committees, to advise the Judicial Council in establishing criteria to evaluate the success
22 and identify any failures of the child support commissioner system. The workgroup shall
23 also provide advice on how to establish successful outcomes for the child support
24 commissioner system created pursuant to this article. The Judicial Council shall conduct
25 an evaluation and report the results of the evaluation and its recommendations to the
26 Legislature no later than February 1, 2000. At a minimum, the evaluation shall examine
27 the ability of the child support commissioner system to achieve the goals set forth in
28 Section 4250. The report shall include a fiscal impact statement estimating the costs of
29 implementing the recommendations.~~

30 (9) Undertake other actions as appropriate to ensure the successful implementation and
31 operation of child support commissioners in the counties.

32 (c) As used in this article, "Title IV-D" means Title IV-D of the federal Social Security
33 Act (42 U.S.C. § 651 et seq.).

34 **Comment.** Section 4252 is amended to reflect enactment of the Trial Court Employment
35 Protection and Governance Act. See Gov't Code § 71622 (subordinate judicial officers).

36 The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't
37 Code §§ 77001 (local trial court management), 77003 ("court operations" defined), 77200 (state
38 funding of trial court operations).

39 The section is also amended to delete the reference in subdivision (a) to former Article 13
40 (commencing with Section 70140) of Chapter 5 of Title 8 of the Government Code.

41 The section is also amended to delete former subdivision (b)(8) as obsolete.

42 Subdivision (c) is added for purposes of clarity.

43 **Fam. Code § 6390 (amended). Domestic violence courts**

44 SEC. ____ . Section 6390 of the Family Code is amended to read:

45 6390. (a) The Judicial Council shall conduct a descriptive study of the various domestic
46 violence courts established in California and other states. As used in this section,
47 "domestic violence courts" means the assignment of civil or criminal cases, or both,
48 involving domestic violence to one department of the superior court ~~or municipal court,~~
49 ~~consistent with the jurisdiction of those courts.~~ The study shall describe the policies and

1 procedures used in domestic violence courts and provide an analysis and rationale for the
2 common features of these courts. The study shall identify issues and potential obstacles,
3 if any, to be considered in developing and implementing effective domestic violence
4 courts at the local level.

5 (b) The Judicial Council shall report to the Legislature no later than March 1, 2000,
6 with respect to the study required by subdivision (a).

7 **Comment.** Subdivision (a) of Section 6390 is amended to reflect unification of the municipal
8 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

9 **Note: Comment Requested**

10 The Judicial Council report required by Family Code Section 6390 was due by March 1, 2000.
11 The Commission solicits comment on whether the provision continues to serve a useful purpose.

12 **Fam. Code § 7122 (amended). Declaration of emancipation**

13 SEC. ____ . Section 7122 of the Family Code is amended to read:

14 7122. (a) The court shall sustain the petition if it finds that the minor is a person
15 described by Section 7120 and that emancipation would not be contrary to the minor's
16 best interest.

17 (b) If the petition is sustained, the court shall forthwith issue a declaration of
18 emancipation, which shall be filed by the county clerk of the court.

19 (c) A declaration is conclusive evidence that the minor is emancipated.

20 **Comment.** Section 7122 is amended to reflect elimination of the county clerk's role as ex
21 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
22 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
23 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
24 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
25 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

26 **Fam. Code § 7134 (amended). Revocation of emancipation**

27 SEC. ____ . Section 7134 of the Family Code is amended to read:

28 7134. If the petition is sustained, the court shall forthwith issue an order voiding or
29 rescinding the declaration of emancipation, which shall be filed by the county clerk of the
30 court.

31 **Comment.** Section 7134 is amended to reflect elimination of the county clerk's role as ex
32 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
33 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
34 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
35 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
36 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

37 **Fam. Code § 8613 (amended). Appearance by counsel for adoptive parent in military or**
38 **Red Cross service**

39 SEC. ____ . Section 8613 of the Family Code is amended to read:

40 8613. (a) If the prospective adoptive parent is commissioned or enlisted in the military
41 service, or auxiliary thereof, of the United States, or of any of its allies, or is engaged in
42 service on behalf of any governmental entity of the United States, or in the American Red
43 Cross, or in any other recognized charitable or religious organization, so that it is
44 impossible or impracticable, because of the prospective adoptive parent's absence from
45 this state, or otherwise, to make an appearance in person, and the circumstances are

1 established by satisfactory evidence, the appearance may be made for the prospective
2 adoptive parent by counsel, commissioned and empowered in writing for that purpose.
3 The power of attorney may be incorporated in the adoption petition.

4 (b) Where the prospective adoptive parent is permitted to appear by counsel, the
5 agreement may be executed and acknowledged by the counsel, or may be executed by the
6 absent party before a notary public, or any other person authorized to take
7 acknowledgments including the persons authorized by Sections 1183 and 1183.5 of the
8 Civil Code.

9 (c) Where the prospective adoptive parent is permitted to appear by counsel, or
10 otherwise, the court may, in its discretion, cause an examination of the prospective
11 adoptive parent, other interested person, or witness to be made upon deposition, as it
12 deems necessary.

13 The deposition shall be taken upon commission, as prescribed by the Code of Civil
14 Procedure, and the expense thereof shall be borne by the petitioner.

15 (d) The petition, relinquishment or consent, agreement, order, report to the court from
16 any investigating agency, and any power of attorney and deposition shall be filed in the
17 office of the county clerk of the court.

18 (e) The provisions of this section permitting an appearance through counsel are equally
19 applicable to the spouse of a prospective adoptive parent who resides with the prospective
20 adoptive parent outside this state.

21 (f) Where, pursuant to this section, neither prospective adoptive parent need appear
22 before the court, the child proposed to be adopted need not appear. If the law otherwise
23 requires that the child execute any document during the course of the hearing, the child
24 may do so through counsel.

25 (g) Where none of the parties appears, the court may not make an order of adoption
26 until after a report has been filed with the court pursuant to Section 8715, 8807, 8914, or
27 9001.

28 **Comment.** Section 8613 is amended to reflect elimination of the county clerk's role as ex
29 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
30 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
31 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
32 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
33 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

34 **Fam. Code § 8614 (amended). Certificate of adoption**

35 SEC. ____ . Section 8614 of the Family Code is amended to read:

36 8614. Upon the request of the adoptive parents or the adopted child, a county-clerk of
37 the superior court may issue a certificate of adoption that states the date and place of
38 adoption, the birthday of the child, the names of the adoptive parents, and the name the
39 child has taken. Unless the child has been adopted by a stepparent or by a relative, as
40 defined in subdivision (c) of Section 8714.7, the certificate shall not state the name of the
41 birth parents of the child.

42 **Comment.** Section 8614 is amended to reflect elimination of the county clerk's role as ex
43 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
44 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
45 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
46 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
47 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

1 **Fam. Code § 8702 (amended). Statement to birth parents at time of relinquishment**

2 SEC. ____ . Section 8702 of the Family Code is amended to read:

3 8702. (a) The department shall adopt a statement to be presented to the birth parents at
4 the time a relinquishment is signed and to prospective adoptive parents at the time of the
5 home study. The statement shall, in a clear and concise manner and in words calculated to
6 ensure the confidence of the birth parents in the integrity of the adoption process,
7 communicate to the birth parents of a child who is the subject of an adoption petition all
8 of the following facts:

9 (1) It is in the child’s best interest that the birth parent keep the department or licensed
10 adoption agency to whom the child was relinquished for adoption informed of any health
11 problems that the parent develops that could affect the child.

12 (2) It is extremely important that the birth parent keep an address current with the
13 department or licensed adoption agency to whom the child was relinquished for adoption
14 in order to permit a response to inquiries concerning medical or social history.

15 (3) Section 9203 of the Family Code authorizes a person who has been adopted and
16 who attains the age of 21 years to request the department or the licensed adoption agency
17 to disclose the name and address of the adoptee’s birth parents. Consequently, it is of the
18 utmost importance that the birth parent indicate whether to allow this disclosure by
19 checking the appropriate box provided on the form.

20 (4) The birth parent may change the decision whether to permit disclosure of the birth
21 parent’s name and address, at any time, by sending a notarized letter to that effect, by
22 certified mail, return receipt requested, to the department or to the licensed adoption
23 agency that joined in the adoption petition.

24 (5) The relinquishment will be filed in the office of the ~~county clerk of the county clerk~~
25 of the court in which the adoption takes place. The file is not open to inspection by any
26 persons other than the parties to the adoption proceeding, their attorneys, and the
27 department, except upon order of a judge of the superior court.

28 (b) The department shall adopt a form to be signed by the birth parents at the time the
29 relinquishment is signed, which shall provide as follows:

30 “Section 9203 of the Family Code authorizes a person who has been adopted and who
31 attains the age of 21 years to make a request to the State Department of Social Services,
32 or the licensed adoption agency that joined in the adoption petition, for the name and
33 address of the adoptee’s birth parents. Indicate by checking one of the boxes below
34 whether or not you wish your name and address to be disclosed:

35 YES NO UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT
36 LATER DATE.”

37 **Comment.** Section 8702 is amended to reflect elimination of the county clerk’s role as ex
38 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
39 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
40 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
41 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
42 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

43 **Fam. Code § 8714.5 (amended). Adoption by relatives**

44 SEC. ____ . Section 8714.5 of the Family Code is amended to read:

45 8714.5. (a) The Legislature finds and declares the following:

46 (1) It is the intent of the Legislature to expedite legal permanency for children who
47 cannot return to their parents and to remove barriers to adoption by relatives of children

1 who are already in the dependency system or who are at risk of entering the dependency
2 system.

3 (2) This goal will be achieved by empowering families, including extended families, to
4 care for their own children safely and permanently whenever possible, by preserving
5 existing family relationships, thereby causing the least amount of disruption to the child
6 and the family, and by recognizing the importance of sibling and half-sibling
7 relationships.

8 (b) A relative desiring to adopt a child may for that purpose file a petition in the county
9 in which the petitioner resides. Where a child has been adjudged to be a dependent of the
10 juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and
11 thereafter has been freed for adoption by the juvenile court, the petition may be filed
12 either in the county where the petitioner resides or in the county where the child was
13 freed for adoption.

14 (c) Upon the filing of a petition for adoption by a relative, the county clerk of the court
15 shall immediately notify the State Department of Social Services in Sacramento in
16 writing of the pendency of the proceeding and of any subsequent action taken.

17 (d) If the adopting relative has entered into a postadoption contact agreement with the
18 birth parent as set forth in Section 8714.7, the agreement, signed by the participating
19 parties shall be attached to and filed with the petition for adoption under subdivision (b).

20 (e) The caption of the adoption petition shall contain the name of the relative petitioner.
21 The petition shall state the child's name, sex, and date of birth.

22 (f) If the child is the subject of a guardianship petition, the adoption petition shall so
23 state and shall include the caption and docket number or have attached a copy of the
24 letters of the guardianship or temporary guardianship. The petitioner shall notify the court
25 of any petition for adoption. The guardianship proceeding shall be consolidated with the
26 adoption proceeding.

27 (g) The order of adoption shall contain the child's adopted name and, if requested by
28 the adopting relative, or if requested by the child who is 12 years of age or older, the
29 name the child had before adoption.

30 (h) For purposes of this section, "relative" means an adult who is related to the child or
31 the child's half-sibling by blood or affinity, including all relatives whose status is
32 preceded by the words "step," "great," "great-great," or "grand," or the spouse of any of
33 these persons, even if the marriage was terminated by death or dissolution.

34 **Comment.** Section 8714.5 is amended to reflect elimination of the county clerk's role as ex
35 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
36 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
37 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
38 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
39 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

40 **Fam. Code § 8818 (amended). Statement to birth parents at time of consent**

41 SEC. ____ . Section 8818 of the Family Code is amended to read:

42 8818. (a) The department shall adopt a statement to be presented to the birth parents at
43 the time the consent to adoption is signed and to prospective adoptive parents at the time
44 of the home study. The statement shall, in a clear and concise manner and in words
45 calculated to ensure the confidence of the birth parents in the integrity of the adoption
46 process, communicate to the birth parent of a child who is the subject of an adoption
47 petition all of the following facts:

1 (1) It is in the child's best interest that the birth parents keep the department informed
2 of any health problems that the parent develops that could affect the child.

3 (2) It is extremely important that the birth parent keep an address current with the
4 department in order to permit a response to inquiries concerning medical or social history.

5 (3) Section 9203 of the Family Code authorizes a person who has been adopted and
6 who attains the age of 21 years to request the department to disclose the name and
7 address of the adoptee's birth parents. Consequently, it is of the utmost importance that
8 the birth parent indicate whether to allow this disclosure by checking the appropriate box
9 provided on the form.

10 (4) The birth parent may change the decision whether to permit disclosure of the birth
11 parent's name and address, at any time, by sending a notarized letter to that effect, by
12 certified mail, return receipt requested, to the department.

13 (5) The consent will be filed in the office of the ~~county clerk of the county~~ clerk of the
14 court in which the adoption takes place. The file is not open to inspection by any persons
15 other than the parties to the adoption proceeding, their attorneys, and the department,
16 except upon order of a judge of the superior court.

17 (b) The department shall adopt a form to be signed by the birth parents at the time the
18 consent to adoption is signed, which shall provide as follows:

19 "Section 9203 of the Family Code authorizes a person who has been adopted and who
20 attains the age of 21 years to make a request to the State Department of Social Services,
21 or the licensed adoption agency that joined in the adoption petition, for the name and
22 address of the adoptee's birth parents. Indicate by checking one of the boxes below
23 whether or not you wish your name and address to be disclosed:

24 / / YES / / NO / / UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT
25 LATER DATE."

26 **Comment.** Section 8818 is amended to reflect elimination of the county clerk's role as ex
27 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
28 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
29 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
30 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
31 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

32 **Fam. Code § 9200 (amended). Confidentiality of records; certificate of adoption**

33 SEC. ____ . Section 9200 of the Family Code is amended to read:

34 9200. (a) The petition, relinquishment or consent, agreement, order, report to the court
35 from any investigating agency, and any power of attorney and deposition filed in the
36 office of the ~~county clerk of the court~~ pursuant to this part is not open to inspection by
37 any person other than the parties to the proceeding and their attorneys and the
38 department, except upon the written authority of the judge of the superior court. A judge
39 of the superior court may not authorize anyone to inspect the petition, relinquishment or
40 consent, agreement, order, report to the court from any investigating agency, or power of
41 attorney or deposition or any portion of any of these documents, except in exceptional
42 circumstances and for good cause approaching the necessitous. The petitioner may be
43 required to pay the expenses for preparing the copies of the documents to be inspected.

44 (b) Upon written request of any party to the proceeding and upon the order of any judge
45 of the superior court, the ~~county clerk~~ of the court shall not provide any documents
46 referred to in this section for inspection or copying to any other person, unless the name
47 of the child's birth parents or any information tending to identify the child's birth parents
48 is deleted from the documents or copies thereof.

1 (c) Upon the request of the adoptive parents or the child, a county clerk of the court
2 may issue a certificate of adoption that states the date and place of adoption, the child's
3 birth date, the names of the adoptive parents, and the name the child has taken. Unless the
4 child has been adopted by a stepparent, the certificate shall not state the name of the
5 child's birth parents.

6 **Comment.** Section 9200 is amended to reflect elimination of the county clerk's role as ex
7 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
8 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
9 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
10 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
11 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

12 **Fam. Code § 17521 (amended). Order to show cause or notice of motion for judicial review**
13 **of district attorney's decision**

14 SEC. ____ . Section 17521 of the Family Code is amended to read:

15 17521. The order to show cause or notice of motion described in subdivision (j) of
16 Section 17520 shall be filed and heard in the superior court. ~~If, however, criminal~~
17 ~~proceedings pursuant to paragraph (4) of subdivision (a) of Section 166 of the Penal~~
18 ~~Code, relating to a support order, or pursuant to Section 270 of the Penal Code are~~
19 ~~pending against the applicant in the municipal court, in a county in which there is a~~
20 ~~municipal court, an order to show cause or notice of motion for judicial review of the~~
21 ~~district attorney's decision not to issue a release may be filed and heard in that court.~~

22 **Comment.** Section 17521 is amended to reflect unification of the municipal and superior courts
23 pursuant to Article VI, Section 5(e), of the California Constitution.

24 FISH AND GAME CODE

25 **Fish & Game Code § 210 (amended). Publication and distribution of regulations**

26 SEC. ____ . Section 210 of the Fish and Game Code is amended to read:

27 210. (a) The commission shall provide copies of the regulations added, amended, or
28 repealed pursuant to subdivision (e) of Section 206, subdivision (e) of Section 207, and
29 subdivision (d) of Section 208 to each county clerk, each district attorney, and each judge
30 of a ~~municipal court or of the superior court in a county in which there is no municipal~~
31 ~~court~~, in the state.

32 (b) The commission and the department may do anything that is deemed necessary and
33 proper to publicize and distribute regulations so that persons likely to be affected will be
34 informed of them. The failure of the commission to provide any notice of its regulations,
35 other than by filing them in accordance with Section 215, shall not impair the validity of
36 the regulations.

37 (c) The department or the license agent may give a copy of the current applicable
38 published regulations to each person issued a license at the time the license is issued.

39 (d) Notwithstanding any other provision of law, the commission and the department
40 may contract with private entities to print regulations and other regulatory and public
41 information. Printing contracts authorized by this subdivision and for which no state
42 funds are expended are not subject to Chapter 2 (commencing with Section 10290) of
43 Part 2 of Division 2 of the Public Contract Code, except for Article 2 (commencing with
44 Section 10295) of Chapter 2.

1 **Comment.** Subdivision (a) of Section 210 is amended to reflect unification of the municipal
2 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

3 **Fish & Game Code § 12150 (amended). Shooting another person while hunting**

4 SEC. ____ . Section 12150 of the Fish and Game Code is amended to read:

5 12150. Whenever any person, while taking a bird or mammal, kills or wounds any
6 human being and that fact is ascertained by the department, the department shall notify
7 the district attorney of the county in which the act occurred. The district attorney may
8 thereupon bring an action in the municipal superior court of the judicial district county in
9 which the act occurred, ~~or in the superior court in a county in which there is no municipal~~
10 ~~court~~ for the purpose of determining the cause of the killing or the wounding. Such
11 proceedings shall be conducted in the same manner as an action to try a misdemeanor and
12 the defendant may request that all findings of fact shall be made by a jury. The court shall
13 inform the defendant of the nature of the proceedings and of the defendant's right to have
14 a jury.

15 If it is found that such person did the killing or wounding but that it was not intentional
16 or negligent, the court shall dismiss the proceeding. Otherwise, if it is found that such
17 person did the killing or wounding intentionally, by an act of gross negligence, or while
18 under the influence of alcohol, the court shall issue an order permanently prohibiting the
19 defendant from taking any bird or mammal.

20 If it is found that such person was negligent, but not grossly negligent, the court shall
21 issue an order prohibiting the defendant from taking any bird or mammal for a period
22 specified at the discretion of the court but not less than five years.

23 **Comment.** Section 12150 is amended to reflect unification of the municipal and superior courts
24 pursuant to Article VI, Section 5(e), of the California Constitution.

25  **Note: Comment Requested**

26 Fish and Game Code Section 12150 raises issues relating to local venue. The Commission and
27 the Judicial Council are studying this area and may propose revisions to address local venue
28 issues. The Commission solicits comment on the proper treatment of the section with regard to
29 venue.

30 **Fish & Game Code § 12151 (amended). Shooting domestic animal**

31 SEC. ____ . Section 12151 of the Fish and Game Code is amended to read:

32 12151. Whenever any person, while taking a bird or mammal, kills or wounds any
33 domestic animal belonging to another and that fact is ascertained by the department, the
34 department shall notify the district attorney of the county in which the act occurred. The
35 district attorney may thereupon bring an action in the municipal superior court of the
36 judicial district county in which the act occurred, ~~or in the superior court in a county in~~
37 ~~which there is no municipal court~~ for the purpose of determining the cause of the killing
38 or wounding. Such proceedings shall be conducted in the same manner as an action to try
39 a misdemeanor and the defendant may request that all findings of fact shall be made by a
40 jury. The court shall inform the defendant of the nature of the proceedings and of the
41 defendant's right to have a jury.

42 If it is found that such person did the killing or wounding but that it was not intentional
43 or negligent, the court shall dismiss the proceeding. Otherwise, if it is found that such
44 person did the killing or wounding intentionally or negligently, the court shall issue an
45 order prohibiting the defendant from taking any bird or mammal for a period of five
46 years.

1 **Comment.** Section 12151 is amended to reflect unification of the municipal and superior courts
2 pursuant to Article VI, Section 5(e), of the California Constitution.

3 **Note: Comment Requested**

4 Fish and Game Code Section 12151 raises issues relating to local venue. The Commission and
5 the Judicial Council are studying this area and may propose revisions to address local venue
6 issues. The Commission solicits comment on the proper treatment of the section with regard to
7 venue.

8 **FOOD AND AGRICULTURAL CODE**

9 **Food & Agric. Code § 25564 (unchanged). Destruction of perishable noncomplying lot of**
10 **poultry meat**

11 25564. If the lot of poultry meat which is held is perishable or subject to rapid
12 deterioration, the enforcing officer may file a verified petition in any superior or
13 municipal court of the state to destroy such lot or otherwise abate the nuisance. The
14 petition shall show the condition of the lot, that the lot is situated within the county, that
15 the lot is held, and that notice of noncompliance has been served pursuant to this chapter.
16 The court may thereupon order that such lot be forthwith destroyed or the nuisance
17 otherwise abated as set forth in such order.

18 **Note: Comment Requested**

19 Food and Agricultural Code Section 25564 can be construed to confer concurrent jurisdiction
20 on the municipal and superior courts. Thus, the Comment to the 1998 amendment of Section
21 25564 (replacing “inferior court” with “municipal court”) states: “Whether a proceeding under
22 this section is treated as a limited civil case or otherwise depends on the designation made by the
23 person bringing it.”

24 Further study is required to determine how to amend the section so as to provide appropriate
25 guidance regarding jurisdictional classification, if necessary. The Commission solicits comment
26 on the proper treatment of the section.

27 **Food & Agric. Code § 29733 (unchanged). Failure to recondition or remark honey**

28 29733. If a packer or owner of honey, or the agent of either, after notification to the
29 packer, owner, or agent that the honey and its containers are a public nuisance, refuses, or
30 fails within a reasonable time, to recondition or remark the honey so as to comply with all
31 requirements of this chapter, the honey and its containers:

32 (a) May be seized by the director or any enforcement officer.

33 (b) By order of the municipal or superior court of the county or city within which the
34 honey and its containers may be, shall be condemned and destroyed, or released upon
35 such conditions as the court, in its discretion, may impose to insure that it will not be
36 packed, delivered for shipment, shipped, transported, or sold in violation of this chapter.

37 **Note: Comment Requested**

38 Food and Agricultural Code Section 29733 can be construed to confer concurrent jurisdiction
39 on the municipal and superior courts. Thus, the Comment to the 1998 amendment of Section
40 29733 (replacing “inferior court” with “municipal court”) states: “Whether a proceeding under
41 this section is treated as a limited civil case or otherwise depends on the designation made by the
42 person bringing it.”

1 Further study is required to determine how to amend the section so as to provide appropriate
2 guidance regarding jurisdictional classification, if necessary. The Commission solicits comment
3 on the proper treatment of the section.

4 The section also raises issues relating to local venue. The Commission and the Judicial Council
5 are studying this area and may propose revisions to address local venue issues. The Commission
6 solicits comment on the proper treatment of the section with regard to venue.

7 **Food & Agric. Code § 30801 (amended). Issuance of dog licenses**

8 SEC. ____ . Section 30801 of the Food and Agricultural Code is amended to read:

9 30801. (a) A board of supervisors may provide for the issuance of serially numbered
10 metallic dog licenses pursuant to this section. The dog licenses shall be:

11 (1) Stamped with the name of the county and the year of issue.

12 (2) Unless the board of supervisors designates the animal control department to issue
13 the licenses, issued by the county clerk directly or through judges of ~~municipal courts or~~
14 ~~the superior court in a county in which there is no municipal court~~, to owners of dogs,
15 that make application.

16 (b) The licenses shall be issued for a period of not to exceed two years.

17 (c) In addition to the authority provided in subdivisions (a) and (b), a license may be
18 issued, as provided by this section, by a board of supervisors for a period not to exceed
19 three years for dogs that have attained the age of 12 months, or older, and who have been
20 vaccinated against rabies. The person to whom the license is to be issued pursuant to this
21 subdivision may choose a license period as established by the board of supervisors of up
22 to one, two, or three years. However, when issuing a license pursuant to this subdivision,
23 the license period shall not extend beyond the remaining period of validity for the current
24 rabies vaccination.

25 **Comment.** Subdivision (a) of Section 30801 is amended to reflect unification of the municipal
26 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

27 **Food & Agric. Code § 31503 (amended). Complaint by person damaged**

28 SEC. ____ . Section 31503 of the Food and Agricultural Code is amended to read:

29 31503. If any person sustains any loss or damage to any livestock or poultry which is
30 caused by a dog, or if any livestock of any person is necessarily destroyed because of
31 having been bitten by a dog, the person may file a complaint ~~with any judge of the~~
32 ~~municipal in the superior~~ court of the county within which the damage occurred ~~or of the~~
33 ~~superior court in a county in which there is no municipal court~~. A proceeding under this
34 section is a limited civil case.

35 **Comment.** Section 31503 is amended to reflect unification of the municipal and superior courts
36 pursuant to Article VI, Section 5(e), of the California Constitution.

37 **Food & Agric. Code § 31621 (amended). Hearing on whether dog is potentially dangerous**
38 **or vicious**

39 SEC. ____ . Section 31621 of the Food and Agricultural Code is amended to read:

40 31621. If an animal control officer or a law enforcement officer has investigated and
41 determined that there exists probable cause to believe that a dog is potentially dangerous
42 or vicious, the chief officer of the public pound or animal control department or his or her
43 immediate supervisor or the head of the local law enforcement agency, or his or her
44 designee, shall petition the municipal superior court ~~within the judicial district of the~~
45 county wherein the dog is owned or kept, ~~or the superior court in a county in which there~~

1 is no municipal court for a hearing for the purpose of determining whether or not the dog
2 in question should be declared potentially dangerous or vicious. A proceeding under this
3 section is a limited civil case. A city or county may establish an administrative hearing
4 procedure to hear and dispose of petitions filed pursuant to this chapter. Whenever
5 possible, any complaint received from a member of the public which serves as the
6 evidentiary basis for the animal control officer or law enforcement officer to find
7 probable cause shall be sworn to and verified by the complainant and shall be attached to
8 the petition. The chief officer of the public pound or animal control department or head of
9 the local law enforcement agency shall notify the owner or keeper of the dog that a
10 hearing will be held by the municipal court, the superior court, or the hearing entity, as
11 the case may be, at which time he or she may present evidence as to why the dog should
12 not be declared potentially dangerous or vicious. The owner or keeper of the dog shall be
13 served with notice of the hearing and a copy of the petition, either personally or by first-
14 class mail with return receipt requested. The hearing shall be held promptly within no less
15 than five working days nor more than 10 working days after service of notice upon the
16 owner or keeper of the dog. The hearing shall be open to the public. The court may admit
17 into evidence all relevant evidence, including incident reports and the affidavits of
18 witnesses, limit the scope of discovery, and may shorten the time to produce records or
19 witnesses. A jury shall not be available. The court may find, upon a preponderance of the
20 evidence, that the dog is potentially dangerous or vicious and make other orders
21 authorized by this chapter.

22 **Comment.** Section 31621 is amended to reflect unification of the municipal and superior courts
23 pursuant to Article VI, Section 5(e), of the California Constitution.

24 **Food & Agric. Code § 31622 (amended). Determination and appeal**

25 SEC. ____ . Section 31622 of the Food and Agricultural Code is amended to read:

26 31622. (a) After the hearing conducted pursuant to Section 31621, the owner or keeper
27 of the dog shall be notified in writing of the determination and orders issued, either
28 personally or by first-class mail postage prepaid by the court or hearing entity. If a
29 determination is made that the dog is potentially dangerous or vicious, the owner or
30 keeper shall comply with Article 3 (commencing with Section 31641) in accordance with
31 a time schedule established by the chief officer of the public pound or animal control
32 department or the head of the local law enforcement agency, but in no case more than 30
33 days after the date of the determination or 35 days if notice of the determination is mailed
34 to the owner or keeper of the dog. If the petitioner or the owner or keeper of the dog
35 contests the determination, he or she may, within five days of the receipt of the notice of
36 determination, appeal the decision of the court or hearing entity of original jurisdiction to
37 a court authorized to hear the appeal. The fee for filing an appeal shall be twenty dollars
38 (\$20), payable to the county clerk of the court. If the original hearing held pursuant to
39 Section 31621 was before a hearing entity other than a court of the jurisdiction, appeal
40 shall be to the municipal court or superior court in a county in which there is no
41 municipal court. If the original hearing was held in the municipal court, appeal shall be to
42 the superior court. If the original hearing was held in the superior court, appeal shall be to
43 the superior court before a judge other than the judge who originally heard the petition.
44 The petitioner or the owner or keeper of the dog shall serve personally or by first-class
45 mail, postage prepaid, notice of the appeal upon the other party.

46 (b) The court hearing the appeal shall conduct a hearing de novo, without a jury, and
47 make its own determination as to potential danger and viciousness and make other orders
48 authorized by this chapter, based upon the evidence presented. The hearing shall be

1 conducted in the same manner and within the time periods set forth in Section 31621 and
2 subdivision (a). The court may admit all relevant evidence, including incident reports and
3 the affidavits of witnesses, limit the scope of discovery, and may shorten the time to
4 produce records or witnesses. The issue shall be decided upon the preponderance of the
5 evidence. If the court rules the dog to be potentially dangerous or vicious, the court may
6 establish a time schedule to ensure compliance with this chapter, but in no case more than
7 30 days subsequent to the date of the court's determination or 35 days if the service of the
8 judgment is by first-class mail.

9 **Comment.** Subdivision (a) of Section 31622 is amended to reflect unification of the municipal
10 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

11 Subdivision (a) is also amended to reflect elimination of the county clerk's role as ex officio
12 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
13 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
14 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
15 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
16 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

17 **Note: Comment Requested**

18 The Commission is reviewing whether county treasury provisions remain viable, given the
19 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
20 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
21 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
22 (state funding of trial court operations). These matters are also being examined by a Joint Court-
23 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
24 treatment of Food and Agricultural Code Section 31622. In particular, the Commission solicits
25 comment on whether the filing fee should go to the court, absent general treatment of fee
26 collection and funding charges.

27 **Food & Agric. Code § 43039 (unchanged). Destruction of perishable noncomplying lot of**
28 **fruits, nuts, or vegetables**

29 43039. If the lot which is held is perishable or subject to rapid deterioration, the
30 enforcing officer may file a verified petition in any superior or municipal court of the
31 state to destroy the lot or otherwise abate the nuisance. The petition shall show the
32 condition of the lot, that the lot is situated within the county, that the lot is held, and that
33 notice of noncompliance has been served as provided in this article. The court may
34 thereupon order that the lot be forthwith destroyed or the nuisance otherwise abated as set
35 forth in the order.

36 **Note: Comment Requested**

37 Food and Agricultural Code Section 43039 can be construed to confer concurrent jurisdiction
38 on the municipal and superior courts. Thus, the Comment to the 1998 amendment of Section
39 43039 (replacing "inferior court" with "municipal court") states: "Whether a proceeding under
40 this section is treated as a limited civil case or otherwise depends on the designation made by the
41 person bringing it."

42 Further study is required to determine how to amend the section so as to provide appropriate
43 guidance regarding jurisdictional classification, if necessary. The Commission solicits comment
44 on the proper treatment of the section.

1 **Food & Agric. Code § 59289 (unchanged). Petition to divert or destroy lot for**
2 **noncompliance with marketing order or agreement**

3 59289. The enforcing officer may file a verified petition in any superior or municipal
4 court of this state requesting permission to divert such lot to any other available lawful
5 use or to destroy the lot. The verified petition shall show all of the following:

6 (a) The condition of the lot.

7 (b) That the lot is situated within the territorial jurisdiction of the court in which the
8 petition is being filed.

9 (c) That the lot is held, and that the notice of noncompliance has been served as
10 provided in Section 59285.

11 (d) That the lot has not been reconditioned as required.

12 (e) The name and address of the owner and the person in possession of the lot.

13 (f) That the owner has refused permission to divert or to destroy the lot.

14 **Note: Comment Requested**

15 Food and Agricultural Code Section 59289 can be construed to confer concurrent jurisdiction
16 on the municipal and superior courts. Thus, the Comment to the 1998 amendment of Section
17 59289 (replacing “inferior court” with “municipal court”) states: “Whether a proceeding under
18 this section is treated as a limited civil case or otherwise depends on the designation made by the
19 person bringing it.”

20 Further study is required to determine how to amend the section so as to provide appropriate
21 guidance regarding jurisdictional classification, if necessary. The Commission solicits comment
22 on the proper treatment of the section.

23 The section also raises issues relating to local venue. The Commission and the Judicial Council
24 are studying this area and may propose revisions to address local venue issues. The Commission
25 solicits comment on the proper treatment of the section with regard to venue.

26 **GOVERNMENT CODE**

27 **Gov’t Code § 811.9 (amended). Representation, defense, and indemnification of trial court**
28 **judges, judicial officers, court executive officers, and employees**

29 SEC. ____ . Section 811.9 of the Government Code is amended to read:

30 811.9. (a) Notwithstanding any other provision of law, judges, subordinate judicial
31 officers, and court executive officers of the superior and former municipal courts are state
32 officers for purposes of Part 1 (commencing with Section 810) to Part 7 (commencing
33 with Section 995), inclusive, and trial court employees are employees of the trial court for
34 purposes of Part 1 (commencing with Section 810) to Part 7 (commencing with Section
35 995), inclusive. The Judicial Council shall provide for representation, defense, and
36 indemnification of such individuals and the court pursuant to Part 1 (commencing with
37 Section 810) to Part 7 (commencing with Section 995), inclusive. The Judicial Council
38 shall provide for such representation or defense through the county counsel, the Attorney
39 General, or other counsel. The county counsel and the Attorney General may, but are not
40 required to, provide such representation or defense for the Judicial Council. The fact that
41 a judge, subordinate judicial officer, court executive officer, trial court employee, or the
42 court was represented or defended by the county counsel, the Attorney General, or other
43 counsel shall not be the sole basis for a judicial determination of disqualification of a
44 judge, subordinate judicial officer, the county counsel, the Attorney General, or other
45 counsel in unrelated actions.

1 (b) To promote the cost-effective, prompt, and fair resolution of actions, proceedings,
2 and claims affecting the trial courts, the Judicial Council shall adopt rules of court
3 requiring the Administrative Office of the Courts to manage actions, proceedings, and
4 claims that affect the trial courts and involve superior or former municipal courts,
5 superior or court or former municipal court judges, subordinate judicial officers, court
6 executive officers, or trial court employees in consultation with the affected courts and
7 individuals. The Administrative Office of the Courts' management of these actions,
8 proceedings, and claims shall include, but not be limited to, case management and
9 administrative responsibilities such as selection of counsel and making strategic and
10 settlement decisions.

11 (c) Nothing in this section shall be construed to affect the employment status of
12 subordinate judicial officers, court executive officers, and trial court employees related to
13 any matters not covered by subdivision (a).

14 **Comment.** Section 811.9 is amended to reflect unification of the municipal and superior courts
15 pursuant to Article VI, Section 5(e), of the California Constitution. The references to the
16 municipal courts are revised rather than deleted, because a claim might still be asserted against a
17 person who served a municipal court, even though the court itself no longer exists. For
18 application of the Tort Claims Act to former employees generally, see Sections 825, 825.2, 825.6.

19 **Note: Comment Requested**

20 The Commission solicits comment on the proper treatment of Government Code Section 811.9.

21 **Gov't Code § 945.3 (amended). Civil action against peace officer or public entity**

22 SEC. ____ . Section 945.3 of the Government Code is amended to read:

23 945.3. No person charged by indictment, information, complaint, or other accusatory
24 pleading charging a criminal offense may bring a civil action for money or damages
25 against a peace officer or the public entity employing a peace officer based upon conduct
26 of the peace officer relating to the offense for which the accused is charged, including an
27 act or omission in investigating or reporting the offense or arresting or detaining the
28 accused, while the charges against the accused are pending before a ~~municipal~~ or superior
29 court.

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

32 For the purposes of this section, charges pending before a ~~municipal~~ or superior court
33 do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5
34 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6),
35 Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section
36 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the
37 Penal Code.

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

41 **Comment.** Section 945.3 is amended to reflect unification of the municipal and superior courts
42 pursuant to Article VI, Section 5(e), of the California Constitution.

43 **Gov't Code § 990.2 (amended). Authority to insure court officer or attaché**

44 SEC. ____ . Section 990.2 of the Government Code is amended to read:

45 990.2. A county may insure any officer or attache of its superior and former municipal
46 courts against all or any part of the officer or attache's liability for injury resulting from

1 any act or omission in the scope of the officer or attache’s employment, and also may
2 insure against the expense of defending any claim against such officer or attache, whether
3 or not liability exists on such claim.

4 **Comment.** Section 990.2 is amended to reflect unification of the municipal and superior courts
5 pursuant to Article VI, Section 5(e), of the California Constitution. The reference to the municipal
6 courts is revised rather than deleted, because a claim might still be asserted against a person
7 formerly employed by a municipal court, even though the court itself no longer exists.

8 **Note: Comment Requested**

9 Government Code Section 990.2 permits *a county* to insure against liability of court employees.
10 Due to the Trial Court Funding Act and Government Code Section 811.9, should another entity
11 (e.g., the Judicial Council or the local superior court) be given this authority instead of or in
12 addition to the county? The Commission solicits comments on these issues.

13 **Gov’t Code § 1770 (amended). Vacancy before expiration of term**

14 SEC. ____ . Section 1770 of the Government Code is amended to read:

15 1770. An office becomes vacant on the happening of any of the following events before
16 the expiration of the term:

17 (a) The death of the incumbent.

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

23 (c) His or her resignation.

24 (d) His or her removal from office.

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

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

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

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

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

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

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

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

4 **Comment.** Subdivision (e) of Section 1770 is amended to reflect unification of the municipal
5 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

6 **Gov't Code § 3501.5 (amended). Public agency**

7 SEC. ____ . Section 3501.5 of the Government Code is amended to read:

8 3501.5. As used in this chapter, "public agency" does not mean a superior court or
9 municipal court.

10 **Comment.** Section 3501.5 is amended to reflect unification of the municipal and superior
11 courts pursuant to Article VI, Section 5(e), of the California Constitution.

12 **Gov't Code § 6103.5 (amended). Filing and service of process fees included in judgment**

13 SEC. ____ . Section 6103.5 of the Government Code is amended to read:

14 6103.5. (a) Whenever a judgment is recovered by a public agency named in Section
15 6103, either as plaintiff or petitioner or as defendant or respondent, in any action or
16 proceeding to begin, or to defend, which under the provisions of Section 6103 no fee for
17 any official service rendered by the clerk of the court, including, but not limited to, the
18 services of filing, certifying, and preparing transcripts, nor fee for service of process or
19 notices by a sheriff or marshal has been paid, other than in a condemnation proceeding,
20 quiet title action, action for the forfeiture of a fish net or nets or action for the forfeiture
21 of an automobile or automobiles, the clerk entering the judgment shall include as a part of
22 the judgment the amount of the filing fee, and the amount of the fee for the service of
23 process or notices which would have been paid but for Section 6103, designating it as
24 such. The clerk entering the judgment shall include as part of the judgment the amount of
25 the fees for certifying and preparing transcripts if the court has, in its discretion, ordered
26 those fees to be paid.

27 (b) When an amount equal to the clerk's fees and the fees for service of process and
28 notices is collected upon a judgment pursuant to subdivision (a), those amounts shall be
29 due and payable to the clerk and the serving officer respectively. The clerk shall ascertain
30 from the serving officer's return the amount of fees he or she would have charged had it
31 not been for the provisions of Section 6103. Remittances of the amounts so due shall be
32 made within 45 days by the fiscal officer of the plaintiff or petitioner or respondent or
33 defendant in the action or proceeding unless those fees have been collected by the levying
34 officer and remitted to the court. No interest shall be computed or charged on the amount
35 of the fee. If the judgment pursuant to subdivision (a) consists only of the amount of the
36 filing fee, it shall be at the public agency's discretion whether to seek collection. If the
37 public agency determines not to seek collection of the filing fee, it shall notify the clerk
38 and no further action as provided for in this section may be brought against the public
39 agency.

40 (c) If the remittance is not received within 45 days of the filing of a partial satisfaction
41 of judgment in an amount at least equal to the fees due to the clerk or a satisfaction of
42 judgment has been filed, notwithstanding any other provision of law and except as
43 provided in subdivision (b), the court may issue a writ of execution for recovery from the
44 public agency of those fees plus the fees for issuance and execution of the writ plus a fee
45 for administering this section.

1 (d) ~~The board of supervisors~~ superior court shall set a fee, not to exceed the actual costs
2 of administering this section, up to a maximum of twenty-five dollars (\$25), which shall
3 be added to the writ of execution.

4 **Comment.** Subdivision (d) of Section 6103.5 is amended to reflect enactment of the Trial
5 Court Funding Act. See Section 77001 (local trial court management).

6 **Gov't Code § 6520 (amended). San Diego Courthouse, Jail, and Related Facilities**
7 **Development Agency**

8 SEC. ____ . Section 6520 of the Government Code is amended to read:

9 6520. (a) Notwithstanding any other provision of law, the Board of Supervisors of San
10 Diego County and the City Council of the City of San Diego may create by joint powers
11 agreement, the San Diego Courthouse, Jail, and Related Facilities Development Agency,
12 hereinafter referred to as "the agency," which shall have all the powers and duties of a
13 redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division
14 24 of the Health and Safety Code as well as all the powers of a joint powers agency
15 pursuant to this chapter, with respect to the acquisition, construction, improvement,
16 financing, and operation of a combined courthouse-criminal justice facility, including a
17 parking garage, and other related improvements, hereinafter referred to as "the facility."

18 (b) The agency shall be governed by a board of directors composed of one city council
19 member and one citizen designated by the San Diego City Council; one supervisor and
20 one citizen designated by the San Diego County Board of Supervisors; ~~one citizen~~
21 ~~designated by the presiding judge of the municipal court, effective during his or her term~~
22 ~~of presidence; one citizen~~ two citizens appointed by the presiding judge of the superior
23 court effective during his or her term of presidence; the Sheriff of San Diego County; the
24 president or designee of the San Diego County Bar Association; and one citizen
25 designated by the District Attorney of San Diego County; all of whom shall serve at the
26 pleasure of the appointing power and without further compensation.

27 (c) The City of San Diego and the County of San Diego shall each have the power of
28 nonconcurrency over any action taken by the board of directors, provided that a motion
29 for reconsideration is made by a member of the board of directors immediately following
30 the vote of the board of directors approving such action, and further provided that the city
31 council or the board of supervisors votes to nullify such action, by a majority vote of its
32 membership, within 30 days.

33 (d) The county may transfer to the agency county funds in either a Courthouse
34 Temporary Construction Fund or a County Criminal Justice Facility Temporary
35 Construction Fund, or both, to be expended for purposes of the facility.

36 (e) In addition to those funds, (1) the agency's governing body may allot up to 15
37 percent of the fines and forfeitures received by the City of San Diego pursuant to Section
38 1463 of the Penal Code from the service area of the downtown courts, as defined by the
39 agency, for expenditure by the agency for the purposes specified in subdivision (a); (2)
40 the City of San Diego and the County of San Diego may allot to the agency any state or
41 federal funds received for purposes of the facility; and (3) the agency may expend any
42 rent, parking fees, or taxes received on leasehold interests in the facility, for the purposes
43 specified in subdivision (a).

44 **Comment.** Subdivision (b) of Section 6520 is amended to reflect unification of the municipal
45 and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California
46 Constitution, effective December 1, 1998.

1 **Gov't Code § 6701 (amended). Holiday falling on Saturday or Sunday**

2 SEC. ____ . Section 6701 of the Government Code is amended to read:

3 6701. If January 1st, February 12th, March 31st, July 4th, September 9th, November
4 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If
5 November 11th falls upon a Saturday, the preceding Friday is a holiday.

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

10 **Comment.** Section 6701 is amended to reflect enactment of the Trial Court Employment
11 Protection and Governance Act. See Sections 71601(l) (“trial court employee” defined),
12 71615(c)(5) (trial court as employer of all trial court employees), 71673 (authority of trial courts
13 to establish terms and conditions of employment).

14 **Note: Comment Requested**

15 Are there still any “employees of *the county* working as court attachés or as clerks of the
16 superior court.” (Emphasis added.) Should the entire last clause be deleted, as shown in the
17 proposed revision of Government Code Section 6701? The Commission solicits comments on this
18 issue.

19 **Gov't Code § 6704 (amended). Saturday as holiday**

20 SEC. ____ . Section 6704 of the Government Code is amended to read:

21 6704. The legislative body of any city or district may, by ordinance or resolution,
22 provide that every Saturday is a holiday as respects the transaction of business in the
23 public offices of such cities or districts except that provision shall be made for the
24 continuance of essential public services such as police and fire protection. ~~The office of~~
25 ~~the clerk of a municipal court established under the provisions of the Municipal Court~~
26 ~~Act of 1925 is excluded from the provisions of this section.~~

27 **Comment.** Section 6704 is amended to reflect unification of the municipal and superior courts
28 pursuant to Article VI, Section 5(e), of the California Constitution. It is unnecessary to replace the
29 reference to the municipal court with a reference to the superior court, because the superior court
30 is not a public office of a city or district. For transaction of business by the superior court on
31 Saturdays, see Code Civ. Proc. §§ 116.250 (small claims court sessions), 134 (court closure on
32 judicial holidays); Section 6701 (holiday falling on Saturday or Sunday).

33 **Gov't Code § 12965 (unchanged). Accusation or civil action for unlawful employment**
34 **practice**

35 12965. (a) In the case of failure to eliminate an unlawful practice under this part
36 through conference, conciliation, or persuasion, or in advance thereof if circumstances
37 warrant, the director in his or her discretion may cause to be issued in the name of the
38 department a written accusation. The accusation shall contain the name of the person,
39 employer, labor organization, or employment agency accused, which shall be known as
40 the respondent, shall set forth the nature of the charges, shall be served upon the
41 respondent together with a copy of the verified complaint, as amended, and shall require
42 the respondent to answer the charges at a hearing.

43 For any complaint treated by the director as a group or class complaint for purposes of
44 investigation, conciliation, and accusation pursuant to Section 12961, an accusation shall
45 be issued, if at all, within two years after the filing of the complaint. For any complaint
46 alleging a violation of Section 51.7 of the Civil Code, an accusation shall be issued, if at

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

9 (b) If an accusation is not issued within 150 days after the filing of a complaint, or if
10 the department earlier determines that no accusation will issue, the department shall
11 promptly notify, in writing, the person claiming to be aggrieved that the department shall
12 issue, on his or her request, the right-to-sue notice. This notice shall indicate that the
13 person claiming to be aggrieved may bring a civil action under this part against the
14 person, employer, labor organization, or employment agency named in the verified
15 complaint within one year from the date of that notice. If the person claiming to be
16 aggrieved does not request a right-to-sue notice, the department shall issue the notice
17 upon completion of its investigation, and not later than one year after the filing of the
18 complaint. A city, county, or district attorney in a location having an enforcement unit
19 established on or before March 1, 1991, pursuant to a local ordinance enacted for the
20 purpose of prosecuting HIV/AIDS discrimination claims, acting on behalf of any person
21 claiming to be aggrieved due to HIV/AIDS discrimination, may also bring a civil action
22 under this part against the person, employer, labor organization, or employment agency
23 named in the notice. The superior and municipal courts of the State of California shall
24 have jurisdiction of those actions, and the aggrieved person may file in any of these
25 courts. Such an action may be brought in any county in the state in which the unlawful
26 practice is alleged to have been committed, in the county in which the records relevant to
27 the practice are maintained and administered, or in the county in which the aggrieved
28 person would have worked or would have had access to the public accommodation but
29 for the alleged unlawful practice, but if the defendant is not found within any of these
30 counties, an action may be brought within the county of the defendant's residence or
31 principal office. A copy of any complaint filed pursuant to this part shall be served on the
32 principal offices of the department and of the commission. The remedy for failure to send
33 a copy of a complaint is an order to do so. Those actions may not be filed as class actions
34 or may not be maintained as class actions by the person or persons claiming to be
35 aggrieved where those persons have filed a civil class action in the federal courts alleging
36 a comparable claim of employment discrimination against the same defendant or
37 defendants. In actions brought under this section, the court, in its discretion, may award
38 to the prevailing party reasonable attorney's fees and costs, including expert witness fees,
39 except where the action is filed by a public agency or a public official, acting in an
40 official capacity.

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

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

16 (3) A court may grant as relief in any action filed pursuant to this subdivision any relief
17 a court is empowered to grant in a civil action brought pursuant to subdivision (b), in
18 addition to any other relief that, in the judgment of the court, will effectuate the purpose
19 of this part. This relief may include a requirement that the employer conduct training for
20 all employees, supervisors, and management on the requirements of this part, the rights
21 and remedies of those who allege a violation of this part, and the employer's internal
22 grievance procedures.

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

26  **Note: Comment Requested**

27 Subdivision (b) can be construed to confer concurrent jurisdiction on the municipal and
28 superior courts. Further study is required to determine how to amend this provision so as to
29 provide appropriate guidance regarding jurisdictional classification, if necessary. The
30 Commission solicits comment on the proper treatment of this provision.

31 Government Code Section 12965 reflects legislative changes made in A.B. 276 (Migden). See
32 2001 Cal. Stat. ch. 813, § 1.

33 **Gov't Code § 12980 (unchanged). Complaint, accusation, and civil action for housing**
34 **discrimination**

35 12980. This article governs the procedure for the prevention and elimination of
36 discrimination in housing made unlawful pursuant to Article 2 (commencing with Section
37 12955) of Chapter 6.

38 (a) Any person claiming to be aggrieved by an alleged violation of Section 12955,
39 12955.1, or 12955.7 may file with the department a verified complaint in writing that
40 shall state the name and address of the person alleged to have committed the violation
41 complained of, and that shall set forth the particulars thereof and contain any other
42 information required by the department.

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

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

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

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

11 (d) Upon the filing of a complaint, the department shall serve notice upon the
12 complainant of the time limits, rights of the parties, and choice of forums provided for
13 under the law, and shall also provide a written explanation that informs the complainant
14 that, if an accusation is issued, the complainant may only be able to recover damages for
15 emotional distress or other intangible injuries through a civil action filed under Section
16 12989.

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

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

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

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

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

29 (3) A summary of witness statements.

30 (4) Answers to interrogatories.

31 (5) A summary description of other pertinent records.

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

33 (h) If an accusation is not issued within 100 days after the filing of a complaint, or if
34 the department earlier determines that no accusation will issue, the department shall
35 promptly notify the person claiming to be aggrieved. This notice shall, in any event, be
36 issued no more than 30 days after the date of the determination or 30 days after the date
37 of the expiration of the 100-day period, whichever date first occurs. The notice shall
38 indicate that the person claiming to be aggrieved may bring a civil action under this part
39 against the person named in the verified complaint within the time period specified in
40 Section 12989.1 of the Government Code. The notice shall also indicate, unless the
41 department has determined that no accusation will be issued, that the person claiming to
42 be aggrieved has the option of continuing to seek redress for the alleged discrimination
43 through the procedures of the department if he or she does not desire to file a civil action.
44 The superior and municipal courts of the State of California shall have jurisdiction of
45 these actions, and the aggrieved person may file in any of these courts. The action may be
46 brought in any county in the state in which the violation is alleged to have been
47 committed, or in the county in which the records relevant to the alleged violation are
48 maintained and administered, but if the defendant is not found within that county, the
49 action may be brought within the county of the defendant's residence or principal office.

1 A copy of any complaint filed pursuant to this part shall be served on the principal offices
2 of the department and of the commission. The remedy for failure to send a copy of a
3 complaint is an order to do so. In a civil action brought under this section, the court, in its
4 discretion, may award to the prevailing party reasonable attorneys' fees.

5 (i) All agreements reached in settlement of any housing discrimination complaint filed
6 pursuant to this section shall be made public, unless otherwise agreed by the complainant
7 and respondent, and the department determines that the disclosure is not required to
8 further the purposes of the act.

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

12 **Note: Comment Requested**

13 Government Code Section 12980 can be construed to confer concurrent jurisdiction on the
14 municipal and superior courts. Further study is required to determine how to amend this provision
15 so as to provide appropriate guidance regarding jurisdictional classification, if necessary. The
16 Commission solicits comment on the proper treatment of this provision.

17 **Gov't Code § 12989 (amended). Civil action instead of administrative proceeding**

18 SEC. ____ . Section 12989 of the Government Code is amended to read:

19 12989. (a) If an accusation is issued under Section 12981, a complainant, a respondent,
20 or an aggrieved person on whose behalf a complaint is filed may elect, in lieu of an
21 administrative proceeding under Section 12981, to have the claims asserted in the charge
22 adjudicated in a civil action under this part.

23 (b) An election under this section may be made within 20 days after the service of the
24 accusation, and not later than 20 days after service of the complaint to the respondent. A
25 notice of election shall be filed with the department, and the department shall serve a
26 copy of the notice to the director, the respondent, and the aggrieved person on whose
27 behalf the complaint is filed. The notice shall be filed and served on all parties to the
28 complaint in accordance with the procedures established by Section 12962.

29 (c) If either party serves a notice of election upon the department, as prescribed, the
30 department shall, within 30 days after service of the notice of the election, dismiss the
31 accusation. The department shall itself, or at its election through the Attorney General,
32 within 30 days of receipt of the notice of election, file a civil action with the proper
33 ~~municipal or superior court of competent jurisdiction~~ in its name or on behalf of the
34 aggrieved person as a real party in interest. In bringing a civil or administrative action, or
35 pursuing subsequent appeals of those actions, the department or the Attorney General
36 shall, in its representation of an aggrieved person's interests, comply with the Rules of
37 Professional Conduct of the State Bar of California. The action may be filed in any
38 county in the state in which the unlawful practice is alleged to have been committed, in
39 the county in which the records relevant to that practice are maintained and administered,
40 or in the county in which the aggrieved person would have resided in the housing
41 accommodation. If the respondent is not found within that county, the action may be filed
42 in the county of the respondent's residence or principal office.

43 (d) Any person aggrieved with respect to the issues to be determined in a civil action
44 filed under this part may intervene as of right in that civil action.

45 (e) If an election is not made pursuant to this section, the director shall maintain an
46 administrative proceeding based on the charges in the complaint in accordance with the
47 procedures set forth in Section 12981.

1 (f) The director or his or her designated representative shall be available for
2 consultation concerning any legal issues raised by the Attorney General that relate to
3 evidentiary or tactical matters relevant to any civil action brought under this part.

4 **Comment.** Subdivision (c) of Section 12989 is amended to reflect unification of the municipal
5 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

6 For the jurisdictional classification of an action pursuant to this section, see Code Civ. Proc. §§
7 85 (limited civil cases) & Comment, 86 (miscellaneous limited civil cases).

8 **Gov't Code § 15422 (amended). Substitute for county public defender**

9 SEC. ____ . Section 15422 of the Government Code is amended to read:

10 15422. Where a county public defender has refused, or is otherwise reasonably unable
11 to represent a person because of conflict of interest or other reason, the State Public
12 Defender is authorized to represent such person, pursuant to a contract with the county
13 which provides for reimbursement of costs, where the person is not financially able to
14 employ counsel and is charged with the commission of any contempt or offense triable in
15 the superior or municipal courts at all stages of any proceedings relating to such charge,
16 including restrictions on liberty resulting from such charge. Except in cases of
17 representation under subdivision (d) of Section 15421, the State Public Defender may
18 decline to represent such person by filing a letter with the appropriate court citing Section
19 15420 of this chapter.

20 **Comment.** Section 15422 is amended to reflect unification of the municipal and superior courts
21 pursuant to Article VI, Section 5(e), of the California Constitution.

22 **Note: Comment Requested**

23 Government Code Section 15422 refers to a “county public defender” and a “contract with the
24 county.” (Emphasis added.) These references still appear to be proper, because “court operations”
25 as defined in Government Code Section 77003 does not include indigent criminal defense. Cal. R.
26 Ct. 810(b). The Commission solicits comments on this issue.

27 **Gov't Code § 16265.2 (amended). County costs of eligible programs, county costs of justice
28 programs, and general purpose revenues**

29 SEC. ____ . Section 16265.2 of the Government Code is amended to read:

30 16265.2. As used in this chapter:

31 (a) “County” means a county and a city and county.

32 (b) “County costs of eligible programs” means the amount of money other than federal
33 and state funds, as reported by the State Department of Social Services to the Department
34 of Finance or as derived from the Controller’s “Annual Report of Financial Transactions
35 Concerning Counties of California,” that each county spends for each of the following:

36 (1) The Aid to Families with Dependent Children for Family Group and Unemployed
37 Parents programs plus county administrative costs for each program minus the county’s
38 share of child support collections for each program, as described in Sections 10100,
39 10101, and 11250 of, and subdivisions (a) and (b) of Section 15200 of, the Welfare and
40 Institutions Code.

41 (2) The county share of the cost of service provided for the In-Home Supportive
42 Services Program, as described in Section 10100, 10101, and 12306 of the Welfare and
43 Institutions Code.

44 (3) The community mental health program, as described in Section 5705 of the Welfare
45 and Institutions Code.

1 (4) The county share of the food stamp program, as described in Section 18906.5 of the
2 Welfare and Institutions Code.

3 (c) “County costs of justice programs” means the amount of money other than federal
4 and state funds, as reported in the Controller’s “Annual Report of Financial Transactions
5 Concerning Counties of California,” that each county spends for each of the following:

- 6 (1) ~~Municipal and superior~~ Superior courts.
- 7 (2) District attorney.
- 8 (3) Public defender.
- 9 (4) Probation.
- 10 (5) Correctional facilities.

11 “County costs of justice programs” does not include any costs eligible for
12 reimbursement to the county pursuant to Chapter 3 (commencing with Section 15200) of
13 Part 6 of Division 3.

14 (d) “General purpose revenues” means revenues received by a county whose purpose is
15 not restricted by state law to a particular purpose or program, as reported in the
16 Controller’s “Annual Report of Financial Transactions Concerning Counties of
17 California.” “General purpose revenues” are limited to all of the following:

18 (1) Property tax revenues, exclusive of those revenues dedicated to repay voter
19 approved indebtedness, received pursuant to Part 0.5 (commencing with Section 50) of
20 Division 1 of the Revenue and Taxation Code, or received pursuant to Section 33401 of
21 the Health and Safety Code.

22 (2) Sales tax revenues received pursuant to Part 1 (commencing the Section 6001) of
23 Division 2 of the Revenue and Taxation Code.

- 24 (3) Any other taxes levied by a county.
- 25 (4) Fines and forfeitures.
- 26 (5) Licenses, permits, and franchises.

27 (6) Revenue derived from the use of money and property.

28 (7) Vehicle license fees received pursuant to Section 11005 of the Revenue and
29 Taxation Code.

30 (8) Trailer coach fees received pursuant to Section 11003.3 of the Revenue and
31 Taxation Code.

32 (9) Revenues from cigarette taxes received pursuant to Part 13 (commencing with
33 Section 30001) of Division 2 of the Revenue and Taxation Code.

34 (10) Revenue received as open-space subventions pursuant to Chapter 3 (commencing
35 with Section 16140) of Part 1.

36 (11) Revenue received as homeowners’ property tax exemption subventions pursuant to
37 Chapter 2 (commencing with Section 16120) of Part 1.

38 (12) General revenue sharing funds received from the federal government.

39 “General purpose revenues” does not include revenues received by a county pursuant to
40 Chapter 3 (commencing with Section 15200) of Part 6 of Division 3.

41 **Comment.** Subdivision (c) of Section 16265.2 is amended to reflect unification of the
42 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

43 **Note: Comment Requested**

44 The Commission solicits comment on the proper treatment of Government Code Section
45 16265.2.

1 **Gov't Code § 20437 (amended). "County peace officer" as including constables, marshals,**
2 **and deputies**

3 SEC. ____ . Section 20437 of the Government Code is amended to read:

4 20437. "County peace officer" shall also include the constable and each regularly
5 employed deputy constable, marshal and each regularly employed deputy marshal ~~of any~~
6 judicial district who serves the superior court and he or she shall receive credit for service
7 as a peace officer for any time he or she served as constable or deputy constable of a
8 township or justice court or marshal or deputy marshal of a municipal court in the same
9 county.

10 The provisions of this section shall not apply to the employees of any contracting
11 agency nor to any such agency unless and until the contracting agency elects to be subject
12 to the provisions of this section by amendment to its contract with the board, made as
13 provided in Section 20474 or by express provision in its contract with the board.

14 **Comment.** Section 20437 is amended to reflect unification of the municipal and superior courts
15 pursuant to Article VI, Section 5(e), of the California Constitution.

16 The section is also amended to reflect elimination of the justice court pursuant to Article VI,
17 Sections 1 and 5(b), of the California Constitution.

18 **Note.** Government Section 20437 is retirement-related, so the references to constables,
19 township, justice court, and municipal court would be retained.

20 **Gov't Code § 20440 (amended). County peace officer**

21 SEC. ____ . Section 20440 of the Government Code is amended to read:

22 20440. "County peace officer" shall also include employees of the sheriff employed to
23 attend sessions of the superior or former municipal courts and preserve order in the
24 courtrooms, to guard and maintain the security of prisoners during court appearances, or
25 to summon jurors and take responsibility for them while they are deliberating or absent
26 from the courtroom. It shall not include persons employed as clerks, typists, teachers,
27 instructors or psychologists.

28 This section shall not apply to any contracting agency nor to the employees of a
29 contracting agency until the agency elects to be subject to this section by amendment to
30 its contract with the board, made as provided in Section 20474 or by express provision in
31 its contract with the board.

32 **Comment.** Section 20440 is amended to reflect unification of the municipal and superior courts
33 pursuant to Article VI, Section 5(e), of the California Constitution.

34 **Gov't Code § 22754.35 (amended). Benefits of municipal and justice court judges**

35 SEC. ____ . Section 22754.35 of the Government Code is amended to read:

36 22754.35. (a) As used in this part, "employee" includes any judge of a municipal or
37 justice court.

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

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

43 (d) The state shall provide each ~~sitting~~ and retired municipal court and justice court
44 judge with health, dental, and vision care benefits equal to and in the same manner as the
45 health, dental, and vision care benefits provided to superior court judges. These benefits
46 shall be paid from funds provided pursuant to Section 77006.5.

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

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

6 **Comment.** Section 22754.35 is amended to reflect unification of the municipal and superior
7 courts pursuant to Article VI, Section 5(e), of the California Constitution.

8 **Note: Comment Requested**

9 Government Code Section 22754.35 is retirement-related, so the references to municipal and
10 justice court judges would be retained.

11 The Commission solicits comments on whether subdivisions (d) and (f) should be revised in
12 light of the Trial Court Funding Act.

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

16 **Gov't Code § 23220 (amended). Effect of boundary change on pending cases**

17 SEC. ____ . Section 23220 of the Government Code is amended to read:

18 23220. On and after the effective date of the boundary change, the superior court and
19 the municipal courts in each affected county shall retain jurisdiction in all cases pending
20 in a session of those courts that court.

21 **Comment.** Section 23220 is amended to reflect unification of the municipal and superior courts
22 pursuant to Article VI, Section 5(e), of the California Constitution.

23 **Gov't Code § 23296 (repealed). Effect of boundary change on municipal court districts**

24 SEC. ____ . Section 23296 of the Government Code is repealed.

25 ~~23296. Those municipal court districts in the transferring county which are located~~
26 ~~within the boundaries of the territory which is transferred immediately prior to its transfer~~
27 ~~shall continue in existence for all purposes with the same name, judges, officers, attaches,~~
28 ~~and other employees.~~

29 **Comment.** Section 23296 is repealed to reflect unification of the municipal and superior courts
30 pursuant to Article VI, Section 5(e), of the California Constitution.

31 **Gov't Code § 23396 (amended). Superior court officers, attachés and other employees**

32 SEC. ____ . Section 23396 of the Government Code is repealed.

33 ~~23396. The presiding or sole judge of the superior court in a proposed county may~~
34 ~~appoint officers, attaches, and other employees as are necessary to assist the court in the~~
35 ~~performance of its duties. Preference The Trial Court Employment Protection and~~
36 ~~Governance Act applies to the superior court and superior court employees in a proposed~~
37 ~~county, except that preference in appointment shall be given to those persons serving a~~
38 ~~session of the superior court located within the boundaries of the proposed county~~
39 ~~immediately prior to its creation.~~

40 **Comment.** Section 23396 is amended to reflect enactment of the Trial Court Employment
41 Protection and Governance Act. See, e.g., Sections 71620(a) (job classifications and
42 appointments), 71640-71645 (employment selection and advancement).

43 **Gov't Code § 23398 (repealed). Effect of creating new county on municipal court districts**

44 SEC. ____ . Section 23398 of the Government Code is repealed.

1 ~~23398. Those municipal court districts in the affected county or counties which are~~
2 ~~located within the boundaries of the proposed county immediately prior to its creation~~
3 ~~shall continue in existence for all purposes in the proposed county with the same name,~~
4 ~~judges, officers, attaches, and other employees.~~

5 **Comment.** Section 23398 is repealed to reflect unification of the municipal and superior courts
6 pursuant to Article VI, Section 5(e), of the California Constitution.

7 **Gov't Code § 23579 (repealed). Effect of consolidating counties on municipal court districts**

8 SEC. ____ . Section 23579 of the Government Code is repealed.

9 ~~23579. Those municipal court districts in the affected counties immediately prior to~~
10 ~~consolidation shall continue in existence for all purposes in the consolidated county with~~
11 ~~the same name, judges, officers, attaches, and other employees.~~

12 **Comment.** Section 23579 is repealed to reflect unification of the municipal and superior courts
13 pursuant to Article VI, Section 5(e), of the California Constitution.

14 **Gov't Code § 25100.5 (amended). Clerk of the board of supervisors**

15 SEC. ____ . Section 25100.5 of the Government Code is amended to read:

16 25100.5. The board of supervisors of any county may provide by ordinance that the
17 clerk of the board of supervisors may be appointed by the board in the same manner as
18 other county officers are appointed. In such counties, the county clerk is not ex officio
19 clerk of the board of supervisors.

20 The clerk of the board of supervisors shall perform those duties prescribed by law for
21 the county clerk as ex officio clerk of the board of supervisors or for the clerk of the
22 board of supervisors and such additional duties as the board of supervisors shall prescribe
23 by ordinance. Such a person may perform all the duties vested in the county clerk other
24 than those vested in the county clerk as ~~ex officio clerk of the superior court~~ or registrar
25 of voters and may take acknowledgments and administer and certify oaths in the
26 performance of such person's official duties.

27 **Comment.** Section 25100.5 is amended to reflect elimination of the county clerk's role as ex
28 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
29 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
30 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
31 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
32 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

33 **Gov't Code § 25351.3 (unchanged). Acquisition, rental, and improvement of real property**
34 **and facilities**

35 25351.3. In addition to its other powers and duties, the board of supervisors may do any
36 or all of the following:

37 (a) Acquire land for and construct, lease, sublease, build, furnish, refurbish, or repair
38 buildings for municipal or superior courts and for convention and exhibition halls, trade
39 and industrial centers, auditoriums, opera houses, music halls and centers, motion picture
40 and television museums, and related facilities used for public assembly purposes for the
41 use, benefit and enjoyment of the public, including offstreet parking places for motor
42 vehicles, ways of ingress and egress, and any other facilities and improvements necessary
43 or convenient for their use.

44 (b) Acquire land and construct buildings, structures and facilities thereon, in whole or
45 in part, with county funds or it may, by contract or lease with any nonprofit association or
46 corporation, provide for the acquisition of land or the construction of buildings, structures

1 and facilities, or all or any part thereof, for public assembly purposes, upon the terms the
2 board may determine.

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

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

30 (e) If the county has a population in excess of 4,000,000, without advertising for bids
31 therefor, grant any real property owned by the county, or lease, for a term not to exceed
32 99 years, any real property owned by the county, to any city, district, or other public
33 entity for any of the above public assembly purposes, without consideration, except the
34 agreement of the grantee or lessee to use the real property for the public assembly
35 purposes specified, and upon terms and conditions which may be agreed upon by the
36 board and the grantee or lessee.

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

41 **Note: Comment Requested**

42 Subdivisions (a) and (c) of Government Code Section 25351.3 need to be revised to reflect
43 unification of the municipal and superior courts. Further revisions might be needed to reflect
44 enactment of the Trial Court Funding Act.

45 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
46 work on the section pending (1) any implementation of recommendations made by the Task Force
47 on Court Facilities, and (2) completion of negotiations among the interested parties. The
48 Commission solicits comments on these issues.

1 **Gov't Code § 25560.4 (unchanged). Dedication of unused park lands for court buildings**

2 25560.4. The board of supervisors of any county may, by a four-fifths vote of the
3 members, use or dedicate any portion of any land acquired by the county by means of
4 special assessment proceedings for park purposes, for the erection and maintenance of
5 one or more buildings to house any municipal or superior court, or one or more
6 departments or divisions of any one or more of such courts, if the portion of the land to be
7 so used or dedicated has not been used by the public for park purposes for a period of
8 more than 10 years.

9 **Note: Comment Requested**

10 Government Code Section 25560.4 needs to be revised to reflect unification of the municipal
11 and superior courts. Further revisions might be needed to reflect enactment of the Trial Court
12 Funding Act.

13 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
14 work on the section pending (1) any implementation of recommendations made by the Task Force
15 on Court Facilities, and (2) completion of negotiations among the interested parties. The
16 Commission solicits comments on these issues.

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

18 26299.008. "Court facilities" means the municipal and superior courts of the county, as
19 well as any other facilities used for adult or juvenile court matters, criminal prosecutions,
20 handling inmates, or a combination thereof.

21 **Note: Comment Requested**

22 Government Code Section 26299.008 needs to be revised to reflect unification of the municipal
23 and superior courts. Further revisions might be needed to reflect enactment of the Trial Court
24 Funding Act.

25 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
26 work on the section pending (1) any implementation of recommendations made by the Task Force
27 on Court Facilities, and (2) completion of negotiations among the interested parties. The
28 Commission solicits comments on these issues.

29 **Gov't Code § 26524 (repealed). Representation of court or judge by district attorney**

30 SEC. ____ . Section 26524 of the Government Code is repealed.

31 ~~26524. Upon request of any judge of the superior or municipal court, the district~~
32 ~~attorney shall appear for and represent the court or judge if the court or judge in his or her~~
33 ~~official capacity is a party defendant in any action.~~

34 **Comment.** Section 26524 is repealed to reflect enactment of Section 811.9, which governs
35 representation, defense, and indemnification of trial court judges, judicial officers, court executive
36 officers, and employees.

37 **Note: Comment Requested**

38 Government Code Section 26524 appears to have been superseded by Government Code
39 Section 811.9. The Commission solicits comments on whether it should be preserved in any form.

40 **Gov't Code § 26529 (amended). County counsel to discharge duties of district attorney**


41 SEC. ____ . Section 26529 of the Government Code is amended to read:

42 26529. (a) In counties that have a county counsel, the county counsel shall discharge all
43 the duties vested in the district attorney by Sections 26520, 26522, 26523, 26524, and
44 26526. The county counsel shall defend or prosecute all civil actions and proceedings in

1 which the county or any of its officers is concerned or is a party in his or her official
2 capacity. Except where the county provides other counsel, the county counsel shall
3 defend as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1 of
4 the Government Code any action or proceeding brought against an officer, employee, or
5 servant of the county.

6 (b) Notwithstanding any other provision of law, the County Counsel of the County of
7 Solano may, and when directed by the board of supervisors of that county shall, bring a
8 civil action when the county, or any of its officers, has a cause of action to abate a public
9 nuisance in the county. The County Counsel and the District Attorney of Solano County
10 have the concurrent right to bring an action to abate a public nuisance pursuant to this
11 subdivision.

12 **Comment.** Subdivision (a) of Section 26529 is amended to reflect the repeal of Section 26524,
13 concerning a representation of a trial court or trial court judge by the district attorney.

14  **Note.** Government Section 26529 reflects legislative changes made in SB 195 (Chesbro). See
15 2001 Cal. Stat. ch. 767, § 2.

16 **Gov't Code § 26608.3 (amended). Service of writs, notices and other process by marshal**

17 SEC. ____ . Section 26608.3 of the Government Code is amended to read:

18 26608.3. (a) In Shasta County, the board of supervisors by ordinance or resolution may
19 transfer from the sheriff to the marshal of the Shasta County Municipal Superior Court
20 the duty to serve all writs, notices and other process issued by any state court, or other
21 competent authority.

22 (b) After adoption of the ordinance or resolution pursuant to subdivision (a), and
23 notwithstanding any other provision of law, in Shasta County the marshal shall have the
24 duty to serve all writs, notices and other process issued by any state court or other
25 competent authority, and the sheriff shall be relieved of any obligation imposed by
26 Section 26608 and any liability imposed by Section 26663 or 26664.

27 (c) Nothing in this section shall be construed as limiting the responsibility or authority
28 of a private person or registered process server from serving process and notices in the
29 manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace
30 officer to serve warrants of arrest or other process specifically directed by a court to the
31 sheriff or any other peace officer.

32 **Comment.** Subdivision (a) of Section 26608.3 is amended to reflect unification of the
33 municipal and superior courts in Shasta County pursuant to Article VI, Section 5(e), of the
34 California Constitution, effective June 3, 1998.

35 **Gov't Code § 26608.4 (repealed). Service of writs, notices and other process**

36 SEC. ____ . Section 26608.4 of the Government Code is repealed.

37 ~~26608.4. (a) In Santa Barbara County, the board of supervisors by ordinance or~~
38 ~~resolution may transfer from the sheriff to the marshal of the Santa Barbara County~~
39 ~~Municipal Courts, the duty to serve all writs, notices, and other process issued by any~~
40 ~~state court or other competent authority.~~

41 ~~(b) After adoption of the ordinance or resolution pursuant to subdivision (a), and~~
42 ~~notwithstanding any other provision of law, in Santa Barbara County the marshal, as~~
43 ~~provided in the ordinance or resolution, shall have the duty to serve all writs, notices, or~~
44 ~~other process issued by any state court or other competent authority, and the sheriff shall~~
45 ~~be relieved of any obligation imposed by Section 26608 and any liability imposed by~~
46 ~~Section 26663 or 26664.~~

1 (e) Nothing in this section shall be construed as limiting the responsibility or authority
2 of a private person or registered process server from serving process and notices in the
3 manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace
4 officer to serve warrants of arrest or other process specifically directed by a court to the
5 sheriff or any other peace officer.

6 **Comment.** Section 26608.4 is repealed to reflect elimination of the marshal's office as a result
7 of consolidation with the sheriff's office in Santa Barbara County, effective January 1, 1997.

8 **Gov't Code § 26608.5 (repealed). Service of writs, notices and other process**

9 SEC. ____ . Section 26608.5 of the Government Code is repealed.

10 26608.5. (a) In Glenn County, the board of supervisors by ordinance or resolution may
11 transfer from the sheriff to the marshal of the Glenn County Municipal Court the duty to
12 serve all writs, notices, and other process issued by any state court, or other competent
13 authority.

14 (b) After adoption of the ordinance or resolution pursuant to subdivision (a), and
15 notwithstanding any other provision of law, in Glenn County the marshal shall have the
16 duty to serve all writs, notices, and other process issued by any state court or other
17 competent authority, and the sheriff shall be relieved of any obligation imposed by
18 Section 26608 and any liability imposed by Section 26663 or 26664.

19 (c) Nothing in this section shall be construed as limiting the responsibility or authority
20 of a private person or registered process server from serving process and notices in the
21 manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace
22 officer to serve warrants of arrest or other process specifically directed by a court to the
23 sheriff or any other peace officer.

24 **Comment.** Section 26608.5 is repealed to reflect elimination of the marshal's office and the
25 transfer of its functions to the sheriff's office in Glenn County, effective August 17, 1999.

26 **Gov't Code § 26625 (amended). Short title**

27 SEC. ____ . Section 26625 of the Government Code is amended to read:

28 26625. (a) This article shall be known and may be cited as the Contra Costa County
29 Court Services Consolidation Act of 1988.

30 (b) Notwithstanding any other provision of law, the Board of Supervisors of Contra
31 Costa County may find, after holding a public hearing on the issue, that cost savings can
32 be realized by consolidation of court-related services provided by the marshal and sheriff
33 within that county. If such a finding is made, there shall be conducted among all of the
34 judges of the superior and municipal courts of that county an election to determine the
35 agency, either the marshal or sheriff, under which court-related services shall be
36 consolidated. The outcome shall be determined by a simple majority of votes cast,
37 provided that the total number of votes cast exceeds 50 percent of the number of superior
38 and municipal judges in the county, by at least one vote. The registrar of voters shall
39 administer that election and tabulate the results thereof. The results of the election shall
40 be reported within 15 days following the election period by the registrar of voters to the
41 board of supervisors and to the judges of the superior and municipal courts of that county.

42 The board of supervisors shall immediately commence and, within a reasonable time
43 not to exceed 90 days, implement the determination made by a majority of the judges of
44 the superior and municipal courts of that county in that election. If an election is not
45 conducted within 90 days of notification of the board of supervisors' finding, or if the
46 results of the election are evenly divided, the board of supervisors of that county shall
47 determine under which agency, either the marshal or the sheriff, court-related services

1 shall be consolidated, and shall proceed to implement that consolidation as if on the basis
2 of majority vote of the judges of the superior and municipal courts of that county.

3 **Comment.** Section 26625 is amended to reflect elimination of the marshal's office as a result
4 of consolidation with the sheriff's office in Contra Costa County, effective August 30, 1988.

5 **Gov't Code § 26625.1 (repealed). Operation of Gov't Code §§ 26625.2 to 26625.10**

6 SEC. ____ . Section 26625.1 of the Government Code is repealed.

7 ~~26625.1. Sections 26625.2 to 26625.10, inclusive, shall become operative only if the~~
8 ~~sheriff is selected as the agency under which court-related services shall be consolidated,~~
9 ~~in which case those sections shall become operative upon the vote of the judges of the~~
10 ~~county so selecting the sheriff.~~

11 **Comment.** Section 26625.1 is repealed to reflect consolidation of court-related services in
12 Contra Costa County within the sheriff's office, effective August 30, 1988.

13 **Gov't Code § 26625.2 (amended). Court security bureau**

14 SEC. ____ . Section 26625.2 of the Government Code is amended to read:

15 26625.2. There is a court security bureau within the Contra Costa County Sheriff's
16 Department to serve the superior and municipal courts court. The relationship between
17 the sheriff's department and the court security bureau shall be similar to that which exists
18 between the Sheriff's Department of Contra Costa County and certain cities in the county
19 that contract for police services. ~~The court security bureau shall maintain a branch office~~
20 ~~in each municipal court district with the exception of the Walnut Creek-Danville Judicial~~
21 ~~District.~~

22 **Comment.** Section 26625.2 is amended to reflect unification of the municipal and superior
23 courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution,
24 effective June 8, 1998.

25 **Gov't Code § 26625.3 (amended). Court security oversight committee**

26 SEC. ____ . Section 26625.3 of the Government Code is amended to read:

27 26625.3. There is a Court Security Oversight Committee consisting of ~~three municipal~~
28 ~~court judges and two five superior court judges in even-numbered years and three~~
29 ~~superior court judges and two municipal court judges in odd-numbered years elected~~
30 ~~annually by a majority of their respective benches appointed by the presiding judge.~~ The
31 duties of the committee shall be those prescribed by this article, and include, but are not
32 limited to, the following:

33 (a) To approve all transfers out of and into the court security bureau.

34 (b) To approve staffing levels and the recommended budget prior to submission to the
35 ~~board of supervisors~~ Judicial Council.

36 (c) To approve security measures and plans prepared by the sheriff, through the court
37 security bureau commander.

38 (d) Notwithstanding any other provisions of law, the sheriff shall provide bailiffing,
39 court security, and prisoner holding in the Superior Court ~~and Municipal Courts~~ of Contra
40 Costa County.

41 **Comment.** Section 26625.3 is amended to reflect unification of the municipal and superior
42 courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution,
43 effective June 8, 1998.

44 The section is also amended to reflect enactment of the Trial Court Funding Act. See Section
45 77200 (state funding of trial court operations).

1 **Gov't Code § 26625.4 (amended). Appointing authority**

2 SEC. ____ . Section 26625.4 of the Government Code is amended to read:

3 26625.4. (a) The sheriff shall be the appointing authority for all court security bureau
4 positions and employees.

5 ~~(b) The incumbent marshal of the Contra Costa County Municipal Court shall become~~
6 ~~the assistant sheriff (exempt) of the court security bureau upon the operative date of this~~
7 ~~section and may not be removed except by a four-fifths majority vote of the Court~~
8 ~~Security Oversight Committee. He or she shall hold the permanent rank of captain in the~~
9 ~~merit system. Whenever the salary of assistant sheriff is adjusted by the board of~~
10 ~~supervisors, the salary of assistant sheriff, court security bureau, shall be adjusted in the~~
11 ~~same amount with the same effective date.~~

12 (e) The selection, appointment, and removal of subsequent management heads of the
13 court security bureau shall be made by a majority vote of the superior court judges of
14 Contra Costa County and majority vote of the municipal court judges of Contra Costa
15 County from a list of qualified lieutenants submitted by the sheriff.

16 ~~(d) The two incumbent assistant marshals in the marshal's office shall become~~
17 ~~marshals, court security bureau, in the sheriff's department and assigned to the court~~
18 ~~security bureau upon the operative date of this section and may not be removed except by~~
19 ~~a four-fifths majority vote of the Court Security Oversight Committee. They shall be~~
20 ~~allocated to a salary level which is 67 levels on the C5 salary schedule above that of~~
21 ~~lieutenant in the service of Contra Costa County. Whenever the salary of lieutenant is~~
22 ~~adjusted by the board of supervisors, the salary of these two individuals shall be adjusted~~
23 ~~in the same percentage or levels with the same effective date.~~

24 **Comment.** Section 26625.4 is amended to reflect unification of the municipal and superior
25 courts in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution,
26 effective June 8, 1998.

27 The section is also amended to delete obsolete provisions regarding the former incumbent
28 marshal and assistant marshals.

29  **Note: Comment Requested**

30 The Commission requests input as to whether the appointment and removal authority
31 authorized in Government Code Section 26625.4 continues to reflect current practice.
32 Specifically, do the judges still have selection, appointment, and removal power with regard to
33 management heads of the court security bureau? Is this power an exception to the sheriff's
34 general appointing authority as set forth in subdivision (a)?

35 **Gov't Code § 26625.10 (repealed). Marshal's office abolished**

36 SEC. ____ . Section 26625.10 of the Government Code is repealed.

37 ~~26625.10. The marshal's office is abolished.~~

38 **Comment.** Section 26625.10 is repealed to reflect elimination of the marshal's office as a
39 result of consolidation with the sheriff's office in Contra Costa County, effective August 30,
40 1988.

41 **Gov't Code § 26625.11 (repealed). Operation of Gov't Code §§ 26625.12 to 26625.15**

42 SEC. ____ . Section 26625.11 of the Government Code is repealed.

43 ~~26625.11. Sections 26625.12 to 26625.15, inclusive, shall become operative only if the~~
44 ~~marshal is selected as the agency under which court-related services shall be~~
45 ~~consolidated, in which case those sections shall become operative upon the vote of the~~
46 ~~judges of the county so selecting the marshal.~~

1 **Comment.** Section 26625.11 is repealed to reflect consolidation of court-related services in
2 Contra Costa County within the sheriff's office, effective August 30, 1988.

3 **Gov't Code § 26625.12 (repealed). Deputy sheriffs' status**

4 SEC. ____ . Section 26625.12 of the Government Code is repealed.

5 ~~26625.12. Deputy sheriffs who become members of the consolidated office shall do so~~
6 ~~at their existing or equivalent classifications, salaries, and benefits, and except as may be~~
7 ~~necessary for the operation of the agency under which court-related services are~~
8 ~~consolidated, shall not be involuntarily transferred out of the consolidated court-related~~
9 ~~services office.~~

10 **Comment.** Section 26625.12 is repealed to reflect consolidation of court-related services in
11 Contra Costa County within the sheriff's office, effective August 30, 1988.

12 **Gov't Code § 26625.13 (repealed). Status of sheriff department employees**

13 SEC. ____ . Section 26625.13 of the Government Code is repealed.

14 ~~26625.13. Permanent employees of the sheriff's department on the operative date of the~~
15 ~~consolidation shall be deemed qualified, and no other qualifications shall be required for~~
16 ~~employment or retention. Probationary employees of the sheriff's department on the~~
17 ~~operative date of the consolidation shall retain their probationary status and rights, and~~
18 ~~shall not be deemed to have transferred so as to require serving a new probationary~~
19 ~~period.~~

20 **Comment.** Section 26625.13 is repealed to reflect consolidation of court-related services in
21 Contra Costa County within the sheriff's office, effective August 30, 1988.

22 **Gov't Code § 26625.14 (repealed). Seniority**

23 SEC. ____ . Section 26625.14 of the Government Code is repealed.

24 ~~26625.14. All county service or service in the sheriff's department of employees of the~~
25 ~~sheriff's department on the operative date of the consolidation shall be counted toward~~
26 ~~seniority in the court-related services office, and all time spent in the same, equivalent, or~~
27 ~~higher classification shall be counted toward classification seniority.~~

28 **Comment.** Section 26625.14 is repealed to reflect consolidation of court-related services in
29 Contra Costa County within the sheriff's office, effective August 30, 1988.

30 **Gov't Code § 26625.15 (repealed). Peace officer status**

31 SEC. ____ . Section 26625.15 of the Government Code is repealed.

32 ~~26625.15. No employee of the sheriff's department on the operative date of the~~
33 ~~consolidation shall lose peace officer status, or be demoted or otherwise adversely~~
34 ~~affected by a consolidation of court services under this section.~~

35 **Comment.** Section 26625.15 is repealed to reflect consolidation of court-related services in
36 Contra Costa County within the sheriff's office, effective August 30, 1988.

37 **Gov't Code § 26626 (added). Repeal of article**

38 SEC. ____ . Section 26626 is added to the Government Code, to read:

39 26626. (a) This article shall remain in effect only until January 1, 2018, and as of that
40 date is repealed unless a later enacted statute, which is enacted before January 1, 2018,
41 deletes or extends that date.

42 (b) The repeal of this article does not affect any right or benefit to which a person was
43 entitled on the date of repeal.

1 **Comment.** Section 26626 is added to provide for the automatic repeal of Article 1.2
2 (commencing with Section 26625) in fifteen years.

3  **Note: Comment Requested**

4 The Commission requests input as to whether Article 1.2 (commencing with Section 26625)
5 continues to serve a useful purpose and, if so, whether further revisions are needed to reflect
6 current practice.

7 **Gov't Code §§ 26630-26637 (repealed). Ventura County Court Services Consolidation Act**

8 SEC. ____ . Article 1.5 (commencing with Section 26630) of Chapter 2 of Part 3 of
9 Division 2 of Title 3 of the Government Code is repealed.

10 **Comment.** Sections 26630- 26637 are repealed to reflect:

11 (1) Unification of the municipal and superior courts in Ventura County pursuant to Article VI,
12 Section 5(e), of the California Constitution, effective June 10, 1998.

13 (2) The fact that Article 1.5 is superseded by a negotiated contract between the superior court
14 and the sheriff's department. See Section 77212.5(a) (agreement with sheriff's department
15 regarding court security services).

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

17 **Article 1.5. Court Services Officer**

18 26630. This article shall apply only to a county of the 13th class. It shall be known as the
19 Ventura County Court Services Consolidation Act of 1980.

20 26631. There is hereby created a court services officer within the office of the sheriff to serve
21 the superior and municipal courts.

22 26632. There is hereby created a Court Services Oversight Committee consisting of the
23 presiding judge of the Superior Court of the County of Ventura or his designee, the presiding
24 judge of the Ventura County municipal court or his designee, and the Sheriff of Ventura County
25 or his designee. The duties of the committee shall be those prescribed by this article.

26 26633. The court services officer shall be appointed by, and may be removed only upon a vote
27 by, any two of the three members of the Court Services Oversight Committee.

28 26634. Notwithstanding Sections 26603, 26608, 26665, and 71260 to 71265, inclusive, and any
29 other provision of law, the sheriff through the court services officer shall provide bailiffing and
30 court security, prisoner holding and movement in the hall of justice, processing and service of
31 civil and criminal process, including subpoenas and warrants, and such investigations and other
32 services as directed by any court.

33 26635. (a) To render prompt and efficient service to the public, the municipal court may
34 authorize personnel of the clerk of the municipal court or of the court services officer to be cross-
35 deputized to perform without additional compensation such functions of the other office as may
36 be delegated.

37 (b) The clerk of the superior court may cross-deputize personnel of the clerk of the municipal
38 court or of the court services officer to perform without additional compensation specified
39 functions of the clerk of the superior court. The clerk of the superior court may permit personnel
40 of his office to be cross-deputized to perform without additional compensation specified functions
41 of the clerk of the municipal court or of the court services officer.

42 26636. Notwithstanding Section 26633, the incumbent Marshal of the Ventura County
43 Municipal Court shall automatically become the court services officer upon the effective date of

1 this section, and until December 31, 1985, may not be removed except by unanimous vote of all
2 three members of the Court Services Oversight Committee.

3 26637. (a) All personnel of the sheriff's office assigned to court services on the effective date
4 of this section shall automatically become members of the court services office at their existing
5 classifications, salaries and benefits.

6 (b) All personnel of the marshal's office on the effective date of this section shall automatically
7 become members of the court services office at the equivalent classification of the county service
8 having their existing salary and benefits. If the county service does not have an equivalent
9 classification with the same rate of pay that a member of the marshal's office receives, the
10 member shall continue to be entitled to receive the same percentage above the next lower county
11 service classification as he receives on the effective date of this section.

12 (c) Clerical personnel described in subdivisions (a) and (b) may become members of the court
13 services office, may be transferred to a position in the sheriff's office, or may be transferred to a
14 position in county service other than the sheriff's office, at the same or an equivalent
15 classification, but shall not be involuntarily terminated before December 31, 1985, except by
16 unanimous vote of all three members of the Court Services Oversight Committee. All other
17 personnel of the sheriff's office assigned to court services on the effective date of this section and
18 all other personnel of the marshal's office on the effective date of this section shall not be
19 involuntarily terminated or transferred out of the court services office before December 31, 1985,
20 except by unanimous vote of all three members of the Court Services Oversight Committee.

21 (d) Permanent employees of the sheriff's office assigned to court services on the effective date
22 of this section and permanent employees of the marshal's office on the effective date of this
23 section shall be deemed qualified, and no other qualifications shall be required for employment or
24 retention. Probationary employees of the sheriff's office assigned to court services on the
25 effective date of this section and probationary employees of the marshal's office on the effective
26 date of this section shall retain their probationary status and rights, and shall not be deemed to
27 have transferred so as to require serving a new probationary period.

28 (e) For personnel of the sheriff's office assigned to court services on the effective date of this
29 section and personnel of the marshal's office on the effective date of this section, all county
30 service shall be counted toward county seniority, and all time spent in the same classification, and
31 all time spent in an equivalent or higher classification shall be counted toward classification
32 seniority.

33 (f) No employee of the sheriff's office assigned to court services on the effective date of this
34 section or employee of the marshal's office on the effective date of this section shall lose peace
35 officer status, or be demoted or otherwise adversely affected by the consolidation of court
36 services accomplished by this section.

37 **Gov't Code § 26638.2 (amended). Consolidation of marshal and sheriff departments**

38 SEC. ____ . Section 26638.2 of the Government Code is amended to read:

39 26638.2. Notwithstanding any other provision of law, the Board of Supervisors of the
40 County of Sacramento may, by ordinance, abolish the office of marshal of the municipal
41 court and consolidate the services and personnel of the Sacramento County Marshal's
42 Department into the Sacramento County Sheriff's Department.

43 Upon the effective date of such a consolidation ordinance, Sections 74194 and 74195
44 shall cease to be operative, and Sections 26638.3 to ~~26638.12~~ 26638.11, inclusive, shall
45 become operative and shall continue in full force and effect during the period of
46 consolidation. ~~As used in Sections 26638.3 to 26638.12, inclusive, "municipal court"~~
47 ~~means the Sacramento Municipal Court District.~~

48 ~~This article shall be repealed by operation of law in the event the board of supervisors~~
49 ~~does not, by June 30, 1986, adopt a consolidation ordinance pursuant to this article.~~

1 **Comment.** Section 26638.2 is amended to reflect unification of the municipal and superior
2 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
3 effective June 17, 1998.

4 The section is also amended to delete the reference to former Section 26638.12.

5 The section is also amended to reflect adoption of a consolidation ordinance abolishing the
6 marshal's department and consolidating the services and personnel of the marshal's department
7 into the sheriff's department, effective January 1, 1986.

8 **Gov't Code § 26638.4 (amended). Sheriff to provide court-related services**

9 SEC. ____ . Section 26638.4 of the Government Code is amended to read:

10 26638.4. Notwithstanding the provisions of Sections ~~23608, 23665, 26603, 26608, and~~
11 ~~26665 and 71260 to 71265, inclusive~~, or any other provision of law, the sheriff shall
12 provide to the superior court within the County of Sacramento ~~and to the Sacramento~~
13 ~~Municipal Court District~~ all of the following:

14 (a) Notice and process services, including the service of summons, subpoenas,
15 warrants, and other civil and criminal process.

16 (b) Court security services, including prisoner transportation services, prisoner escort
17 services, bailiff services, courthouse and other court security services, and the execution
18 of court orders and bench warrants requiring the immediate presence in court of a
19 defendant or witness.

20 **Comment.** Section 26638.4 is amended to reflect unification of the municipal and superior
21 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
22 effective June 17, 1998.

23 The section is also amended to correct references to Sections 23608 and 23665.

24 **Gov't Code § 26638.5 (amended). Notice and process and court security services**

25 SEC. ____ . Section 26638.5 of the Government Code is amended to read:

26 26638.5. The sheriff shall provide, within the limits of the resources at his or her
27 disposal, notice and process and court security services to the superior ~~and municipal~~
28 ~~courts~~ court of at least as high a quality as were provided preceding the abolition and
29 consolidation. The sheriff shall designate a position assigned to the administration of
30 notice and process service as a court liaison officer whose duty it shall be to advise and
31 confer with the ~~courts~~ court respecting the quality of notice and process services.

32 ~~All notice and process and court security services provided by the sheriff shall be~~
33 ~~apportioned between the superior and municipal courts in an equitable manner.~~

34 **Comment.** Section 26638.5 is amended to reflect unification of the municipal and superior
35 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
36 effective June 17, 1998.

37 **Gov't Code § 26638.6 (amended). Court security services unit**

38 SEC. ____ . Section 26638.6 of the Government Code is amended to read:

39 26638.6. There is hereby created as a separate unit within the sheriff's department a
40 court security services unit, the functions of which shall be to provide to the superior ~~and~~
41 ~~municipal courts~~ court within Sacramento County prisoner transportation services,
42 prisoner escort services, court control, courthouse and other court building security,
43 bailiff services and the execution of court orders and bench warrants requiring the
44 immediate presence in court of a defendant or witness. All sheriff's personnel responsible
45 for the delivery of these services shall be assigned to the court security services unit. The
46 sheriff shall provide all security services to the ~~courts~~ court through that unit.

1 **Comment.** Section 26638.6 is amended to reflect unification of the municipal and superior
2 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
3 effective June 17, 1998.

4 **Gov't Code § 26638.7 (amended). Chief deputy of court security services unit**

5 SEC. ____ . Section 26638.7 of the Government Code is amended to read:

6 26638.7. The court security services unit shall be headed by a chief deputy who reports
7 directly to the sheriff through the undersheriff, and whose administrative offices are
8 situated at such location as the presiding judges judge of the superior ~~and municipal~~
9 ~~courts~~ court may direct.

10 The chief deputy shall be exempt from civil service, and shall not be a member of the
11 county's classified service. The chief deputy shall be appointed by the sheriff from
12 among Sacramento County employees who are assigned to the sheriff's department, and
13 who are qualified peace officers. The person appointed chief deputy shall serve in that
14 office at the individual pleasures of the sheriff, ~~judges of the superior court~~, and judges of
15 the ~~municipal superior~~ court. The chief deputy shall be subject to release from that office
16 at the will of either the sheriff, or the judges of ~~either the superior or municipal courts~~
17 court, as reflected by a majority vote of the judges ~~in either court~~. A person released from
18 the office of chief deputy shall be returned to the highest salaried county class which that
19 person occupied preceding his or her appointment to the office of chief deputy. The chief
20 deputy, during the period he or she occupies that office, shall be subject to suspension or
21 dismissal from county employment at the sole discretion of the sheriff, subject to those
22 county standards, procedures, and limitations as are applicable to county employees
23 within the classified service.

24 Notwithstanding the provisions of the preceding paragraph, the first occupant of the
25 office of chief deputy shall be the person who occupied the office of Sacramento County
26 Marshal immediately preceding the effective date of the abolition of that office and
27 consolidation. The first occupant shall be subject to release from that office and
28 suspension or dismissal from county employment in accordance with the same terms,
29 conditions, and procedures as are prescribed above. In the event the first occupant of the
30 office of chief deputy is released from that office, he or she shall be assigned, at the
31 discretion of the sheriff, to any existing vacancy in the classes of sheriff's captain,
32 sheriff's lieutenant, sheriff's sergeant or deputy sheriff, at a salary equal to that which he
33 or she was receiving immediately preceding the effective date of release from the chief
34 deputy office. Upon assignment to such a class, the first occupant shall immediately
35 acquire permanent civil service status, and shall thereafter be subject to discipline or other
36 adverse employment action subject to the same regulations and procedures as are
37 applicable to other classified personnel occupying the same class.

38 The office of chief deputy, court security services, is created as one whose principal
39 function is to serve the superior ~~and municipal courts~~ court, ~~is created by the Legislature~~
40 ~~as a court position~~, and is assigned solely for organizational purposes to the sheriff's
41 department in order to promote the efficient utilization of personnel resources and
42 preserve unity of command in the delivery of peace officer services. The chief deputy is
43 an employee of Sacramento County for all purposes.

44 **Comment.** Section 26638.7 is amended to reflect unification of the municipal and superior
45 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
46 effective June 17, 1998.

47 The section is also amended to make clear that the person who occupies the position of chief
48 deputy is a county employee.

1 **Gov't Code § 26638.8 (amended). Written policies**

2 SEC. ____ . Section 26638.8 of the Government Code is amended to read:

3 26638.8. The sheriff, through the chief deputy, court security services, shall prepare
4 and present for approval by the superior and ~~municipal courts~~ court, as expressed by a
5 majority vote by of the judges ~~of each court~~, written policies prescribing procedures and
6 methods for the adequate and prompt delivery of court security services. The policies
7 shall contain such elements as either the court may prescribe, including, but not limited
8 to:

9 (a) The transportation of prisoners in a manner which assures timely production at court
10 hearings, within the limits of personnel resources at the disposal of the chief deputy, court
11 security services.

12 (b) The approval by individual superior and ~~municipal~~ court judges of the identity of
13 bailiffs assigned on a regular or continuing basis to the courtrooms of those judges.

14 (c) The organizational plan for the court security services unit in relation to the
15 allocation of staffing levels to various functions of the court security services unit, within
16 the limits of personnel resources at the disposal of the chief deputy, court security
17 services, including the regular assignment of one bailiff to each permanent sitting judge,
18 commissioner and referee.

19 (d) The filling with reasonable dispatch of positions which become vacant due to
20 employment termination, leave or incapacity; and, in the event of vacancies caused by the
21 long-term incapacity of a sworn officer, that the sheriff make his or her best effort to
22 assign the vacant position elsewhere within the department in a manner which makes
23 available another sworn officer for court duties.

24 (e) With the foregoing exceptions, the reservation of discretion to the chief deputy,
25 court security services, to assign, direct, and control the personnel of his or her unit.

26 Amendments of the policies shall be subject to advance approval by the ~~courts~~ court in
27 the same manner as the ~~courts approve~~ court approves the original policies.

28 **Comment.** Section 26638.8 is amended to reflect unification of the municipal and superior
29 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
30 effective June 17, 1998.

31 **Gov't Code § 26638.9 (amended). Complaints, budget, and staffing**

32 SEC. ____ . Section 26638.9 of the Government Code is amended to read:

33 26638.9. The superior and ~~municipal courts~~ court shall bring any complaints regarding
34 the sheriff's performance under this article and any written policies adopted pursuant
35 hereto to the attention of the sheriff, and shall cooperate with the sheriff to resolve them.
36 The ~~courts~~ court shall also actively participate and cooperate in the preparation and
37 presentation of all budget requests for the court security services unit. The budget for the
38 unit shall be prescribed from year to year by the board of supervisors through adoption of
39 the annual budget. During any budget year, the staffing for the unit may be adjusted
40 within budgeted resources and personnel classifications only with the approval of the
41 ~~courts~~ court under policies adopted pursuant to subdivisions (c) and (d) of Section
42 26638.8.

43 The sheriff shall not transfer or otherwise divert from the court security services unit
44 personnel or other resources allocated to that unit by the annual final budget approved by
45 the board of supervisors, except on a temporary basis in the event of a sudden and
46 unforeseen emergency requiring the immediate commitment of significant resources in
47 relation to other functions performed by the sheriff.

1 That organization plan for the court security services unit and the level of staffing and
2 hours of staffing services prescribed therein set forth in that document entitled
3 “Sacramento County Court Security Services Unit, Organization Plan,” dated June 1,
4 1985, on file with the clerk of the Board of Supervisors of the County of Sacramento,
5 shall, at minimum, be maintained during the 1985- 86 fiscal year from and after the
6 effective date of the abolition and consolidation authorized by this article; and the levels
7 of staffing and hours of staffing services shall be subject to modification, increase or
8 decrease by the board of supervisors in future fiscal years.

9 **Comment.** Section 26638.9 is amended to reflect unification of the municipal and superior
10 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
11 effective June 17, 1998.

12 **Gov’t Code § 26638.10 (amended). Independent review team**

13 SEC. ____ . Section 26638.10 of the Government Code is amended to read:

14 26638.10. In the event that ~~either the superior or municipal~~ court concludes by majority
15 vote of its members that the sheriff has substantially failed to comply with any term of
16 this article or written policies adopted hereunder, ~~that the~~ the court may request that the board
17 of supervisors form and fund an independent review team to review the sheriff’s
18 compliance with this article or policies and report thereon. The board shall form and fund
19 such review. The review team shall be selected by ~~five~~ four persons who are the presiding
20 ~~judges~~ judge of the ~~superior and municipal courts~~ court, county executive, sheriff and a
21 disinterested ~~public~~ member of the public selected by the board.

22 (a) The sheriff shall take all necessary reasonable steps to remedy any violation of this
23 article or policies adopted hereunder found by the review team. The failure of the sheriff
24 to take such steps and violations of this article or policies adopted hereunder shall be
25 reviewable in an action brought by the court requesting formation of the team under
26 Section 1085 of the Code of Civil Procedure.

27 (b) Any findings by the review team relating to understaffing, insufficient or inadequate
28 facilities, insufficient or inadequate equipment or appliances, or any other matter
29 requiring as a remedy the appropriation or expenditure of public funds by the board of
30 supervisors shall be advisory only, and shall not be enforceable by mandate or any other
31 judicial proceeding against the county or board of supervisors.

32 The provisions of this section shall not be deemed to constitute an exclusive remedy, an
33 administrative remedy which must be exhausted or to otherwise bar any other remedy
34 which may be available to the ~~courts~~ court under this article or any other laws for a
35 violation of the provisions of this article or written policies adopted hereunder.

36 **Comment.** Section 26638.10 is amended to reflect unification of the municipal and superior
37 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
38 effective June 17, 1998.

39 **Gov’t Code § 26638.11 (amended). No limitation or impairment of power to secure court-**
40 **related services**

41 SEC. ____ . Section 26638.11 of the Government Code is amended to read:

42 26638.11. Neither this article nor any provision hereof, including Section 26638.10,
43 shall be deemed in any manner to limit or otherwise impair the legal power vested by
44 other laws, ~~including Section 68073,~~ in the ~~superior and municipal courts~~ court within
45 Sacramento County to secure proper provision of court-related services.

1 **Comment.** Section 26638.11 is amended to reflect unification of the municipal and superior
2 courts in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
3 effective June 17, 1998.

4 The section is also amended to delete an obsolete reference to Section 68073, which no longer
5 deals with power of the courts to secure the proper provision of court-related services. See
6 Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state
7 funding of trial court operations).

8 **Gov’t Code § 26638.12 (added). Repeal of article**

9 SEC. ____ . Section 26638.12 is added to the Government Code, to read:

10 26638.12. (a) This article shall remain in effect only until January 1, 2018, and as of
11 that date is repealed unless a later enacted statute, which is enacted before January 1,
12 2018, deletes or extends that date.

13 (b) The repeal of this article does not affect any right or benefit to which a person was
14 entitled on the date of repeal.

15 **Comment.** Section 26638.12 is added to provide for the automatic repeal of Article 1.7
16 (commencing with Section 26638.1) in fifteen years.

17 **Note: Comment Requested**

18 The Commission requests input as to whether Article 1.7 (commencing with Section 26638.1)
19 continues to serve a useful purpose and, if so, whether further revisions are needed to reflect
20 current practice.

21 **Gov’t Code § 26639.2 (amended). Bailiff courtroom assignment**

22 SEC. ____ . Section 26639.2 of the Government Code is amended to read:

23 26639.2. The courtroom assignment of bailiffs after consolidation pursuant to this
24 article shall be determined by a ~~three-member committee comprised of the presiding~~
25 ~~judge of the superior court; the Chairperson of the Municipal Court Judges’ Association~~
26 and the bailiff’s management representative; or their designees. Any new bailiff
27 assignments shall be made only after consultation with the affected judge or
28 commissioner in whose courtroom a new assignment is planned, the bailiff’s
29 management representative, and with the bargaining unit of the bailiff employee, if the
30 employee is represented.

31 It is the intent of the Legislature, in enacting this section, to ensure that courtroom
32 assignments are made in a manner which best assures that the interests of the affected
33 judge or commissioner and bailiff are protected.

34 **Comment.** Section 26639.2 is amended to reflect unification of the municipal and superior
35 courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution,
36 effective January 22, 2000.

37 **Gov’t Code § 26639.4 (added). Repeal of article**

38 SEC. ____ . Section 26639.4 is added to the Government Code, to read:

39 26639.4. (a) This article shall remain in effect only until January 1, 2018, and as of that
40 date is repealed unless a later enacted statute, which is enacted before January 1, 2018,
41 deletes or extends that date.

42 (b) The repeal of this article does not affect any right or benefit to which a person was
43 entitled on the date of repeal.

44 **Comment.** Section 26639.4 is added to provide for the automatic repeal of Article 1.8
45 (commencing with Section 26639) in fifteen years.

Note: Comment Requested

The Commission requests input as to whether Article 1.8 (commencing with Section 26639) continues to serve a useful purpose and, if so, whether further revisions are needed to reflect current practice.

Gov't Code § 26639.7 (added). Repeal of article

SEC. ____ . Section 26639.7 is added to the Government Code, to read:

26639.7. (a) This article shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

(b) The repeal of this article does not affect any right or benefit to which a person was entitled on the date of repeal.

Comment. Section 26639.7 is added to provide for the automatic repeal of Article 1.9 (commencing with Section 26639.5) in fifteen years.

Note: Comment Requested

The Commission requests input as to whether Article 1.9 (commencing with Section 26639.5) continues to serve a useful purpose and, if so, whether further revisions are needed to reflect current practice.

Gov't Code § 26665 (amended). Service of writs or other process

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

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

Comment. Section 26665 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

Gov't Code § 26667 (repealed). Consolidation of duplicate services

SEC. ____ . Section 26667 of the Government Code is repealed.

~~26667. Notwithstanding any other provision of law, the Board of Supervisors of Orange County shall have the authority to consolidate duplicate services provided by the sheriff's department and the marshal's office within that county in the manner set forth in this section.~~

~~(a) In the event the board of supervisors desire to effect such a consolidation it shall create a sheriff/marshal consolidation advisory committee composed of two members of the board of supervisors, appointed by that board; the presiding judge of the Orange County Superior Court or his or her designee, who shall be a judge of the superior court; a person selected by a majority of the judges of the municipal courts in that county, who shall be a municipal court judge; and a fifth person whose selection shall be concurred in by unanimous vote of the other members.~~

~~(b) The advisory committee shall prepare a plan for the consolidation of the above services. The plan shall be approved by affirmative vote of at least three of the members of the committee.~~

~~(c) If so approved, the plan shall be forwarded to the judges of the superior and municipal courts for ratification. The plan may not be implemented unless ratified by a majority of the trial court judges of the county and by the Legislature. The plan shall be deemed ratified by the Legislature if this section is not repealed by legislation taking~~

1 effect within 90 legislative days following ratification by the trial court judges of the
2 county.

3 **Comment.** Section 26667 is repealed to reflect consolidation of court-related services in
4 Orange County within the sheriff's office pursuant to Government Code Section 69915, effective
5 July 1, 2000.

6 **Gov't Code § 26668 (repealed). Consolidation of court-related services**

7 SEC. ____ . Section 26668 of the Government Code is repealed.

8 ~~26668. Notwithstanding any other provision of law, the Board of Supervisors of
9 Riverside County may find, after holding a public hearing on the issue, that cost savings
10 can be realized by consolidation of court-related services provided by the sheriff and both
11 offices of the marshal within that county. If that finding is made, there shall be conducted
12 among all of the judges of the superior and municipal courts of that county an election to
13 determine the agency, either the sheriff or both offices of the marshal, under which court-
14 related services shall be consolidated. The outcome shall be determined by a simple
15 majority of votes cast. The registrar of voters shall administer that election and tabulate
16 the results thereof. The results of that election shall be reported within 15 days following
17 the election period, by the registrar of voters to the board of supervisors and to the judges
18 of the superior and municipal courts of that county. The board of supervisors shall
19 immediately commence and, within a reasonable time not to exceed 90 days, implement
20 the determination made by a majority of the votes cast in that election. If an election is
21 not conducted within 90 days of notification of the board of supervisors' finding, or if the
22 results of the election are evenly divided, the board of supervisors of that county shall
23 determine under which agency, either the sheriff or both offices of the marshal, court-
24 related services shall be consolidated; and shall proceed to implement the consolidation
25 as if on the basis of a majority of the votes cast by the judges of the superior and
26 municipal courts of that county.~~

27 **Comment.** Section 26668 is repealed to reflect consolidation of court-related services in
28 Riverside County within the sheriff's office pursuant to Section 72110, effective April 19, 1990.

29 **Gov't Code § 26671.1 (amended). Consolidation of sheriff and marshal offices**

30 SEC. ____ . Section 26671.1 of the Government Code is amended to read:

31 26671.1. Notwithstanding any other provision of law, the Board of Supervisors of
32 Santa Barbara County may, by ordinance, abolish the office of Marshal of Santa Barbara
33 County and the Santa Barbara County Marshal's Office and consolidate the services and
34 personnel of the Santa Barbara County Marshal into the Santa Barbara County Sheriff's
35 Department.

36 ~~Upon the effective date of that consolidation ordinance, Sections 74644.1, 74644.2, and
37 74644.5 shall cease to be operative and this article shall become operative and shall
38 continue in full force and effect during the period of consolidation.~~

39 Upon the effective date of that consolidation ordinance, there shall be established
40 within the Santa Barbara County Sheriff's Department a unit designated as the court
41 services division. The Sheriff of Santa Barbara County shall be responsible for the
42 management and operation of that unit, in accordance with this article. Personnel
43 assigned to the court services division shall have all powers and shall perform all duties
44 relating to marshals and constables as set forth in Sections 71264 to 71269, inclusive.

45 **Comment.** Section 26671.1 is amended to delete references to former Sections 74644.1,
46 74644.2, and 74644.5.

1 The section is also amended to delete unnecessary references to Sections 71264-71269. For
2 provisions relating to the sheriff, see Sections 26603 (superior court attendance), 26608, 26609,
3 26660-26665 (process and notices), 26611 (court crier), 26720-26751 (fees). See also Code Civ.
4 Proc. § 262.4 (conveyances on sale of real estate).

5 **Gov't Code § 26671.4 (amended). Court-related services**

6 SEC. ____ . Section 26671.4 of the Government Code is amended to read:

7 26671.4. Notwithstanding any other provision of law, upon consolidation the sheriff
8 shall provide to the superior and ~~municipal courts~~ court within Santa Barbara County the
9 following services:

10 (a) Court security services, including prisoner transportation services, prisoner escort
11 services, bailiff services, courthouse and other security services, and the execution of
12 court orders and bench warrants requiring the immediate presence in court of a defendant
13 or witness.

14 (b) Notice and process services, including service of summons, subpoenas, warrants,
15 and other civil and criminal process.

16 **Comment.** Section 26671.4 is amended to reflect unification of the municipal and superior
17 courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California
18 Constitution, effective August 3, 1998.

19 **Gov't Code § 26671.5 (amended). Quality of service and bailiff assignments**

20 SEC. ____ . Section 26671.5 of the Government Code is amended to read:

21 26671.5. (a) The sheriff shall provide, within the limits of the resources at his or her
22 disposal, those services enumerated in Section 26671.4, to the superior and ~~municipal~~
23 ~~courts~~ court of at least as high a quality as were provided preceding the abolition and
24 consolidation. In no event shall the resources committed to those services be less than
25 necessary for the proper functioning of the Santa Barbara County ~~Municipal and Superior~~
26 ~~Courts~~ Court.

27 (b) Upon the effective date of consolidation, the regular assignment of bailiffs to
28 individual courtrooms shall be made by the commander of the court services division
29 with the concurrence of the individual judicial officer in whose courtroom the assignment
30 is to be made.

31 **Comment.** Subdivision (a) of Section 26671.5 is amended to reflect unification of the
32 municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the
33 California Constitution, effective August 3, 1998.

34 **Gov't Code § 26671.6 (amended). Court services oversight committee**

35 SEC. ____ . Section 26671.6 of the Government Code is amended to read:

36 26671.6. (a) Effective upon consolidation, there shall be created a Court Services
37 Oversight Committee consisting of ~~one judge from the North County to be selected by~~
38 ~~the North Santa Barbara County Municipal Court judges, one judge from the South~~
39 ~~County to be selected by Santa Barbara Municipal Court judges, the presiding judge of~~
40 the superior court, and one judge to be selected by the sheriff.

41 (b) Members of the Court Services Oversight Committee shall serve for a term of two
42 years, or as otherwise designated by the appointing authorities.

43 (c) The duties of the Court Services Oversight Committee shall be those prescribed by
44 this article.

1 **Comment.** Subdivision (a) of Section 26671.6 is amended to reflect unification of the
2 municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the
3 California Constitution, effective August 3, 1998.

4 **Gov't Code § 26671.8 (amended). No limitation or impairment of power to secure court-**
5 **related services**

6 SEC. ____ . Section 26671.8 of the Government Code is amended to read:
7 26671.8. Nothing in this article shall be deemed in any manner to limit or otherwise
8 impair the legal power vested by other laws, ~~including Section 68073~~, in the superior and
9 ~~municipal courts~~ court within Santa Barbara County to secure proper provision of court-
10 related services.

11 **Comment.** Section 26671.8 is amended to reflect unification of the municipal and superior
12 courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the California
13 Constitution, effective August 3, 1998.

14 The section is also amended to delete an obsolete reference to Section 68073, which no longer
15 deals with power of the courts to secure the proper provision of court-related services. See
16 Sections 77001 (local trial court management), 77003 (“court operations” defined), 77200 (state
17 funding of trial court operations).

18 **Gov't Code § 26672 (added). Repeal of article**

19 SEC. ____ . Section 26672 is added to the Government Code, to read:
20 26672. (a) This article shall remain in effect only until January 1, 2018, and as of that
21 date is repealed unless a later enacted statute, which is enacted before January 1, 2018,
22 deletes or extends that date.

23 (b) The repeal of this article does not affect any right or benefit to which a person was
24 entitled on the date of repeal.

25 **Comment.** Section 26672 is added to provide for the automatic repeal of Article 3.5
26 (commencing with Section 26671) in fifteen years.

27  **Note: Comment Requested**

28 The Commission requests input as to whether Article 3.5 (commencing with Section 26671)
29 continues to serve a useful purpose and, if so, whether further revisions are needed to reflect
30 current practice.

31 **Gov't Code § 26800 (repealed). County clerk acting as clerk of superior court**

32 SEC. ____ . Section 26800 of the Government Code is repealed.
33 ~~26800. The county clerk shall act as clerk of the superior court in and for his or her~~
34 ~~county. However, in any county in which a superior court executive officer has been~~
35 ~~appointed pursuant to Section 69898, the term “county clerk” shall mean the superior~~
36 ~~court executive officer to the extent that the superior court, by local rule, has delegated~~
37 ~~any duties of the county clerk to the superior court executive officer.~~

38 **Comment.** Section 26800 is repealed to reflect elimination of the county clerk’s role as ex
39 officio clerk of the superior court. The powers, duties, and responsibilities formerly exercised by
40 the county clerk as ex officio clerk of the court are delegated to the court administrative or
41 executive officer, and the county clerk is relieved of those powers, duties, and responsibilities.
42 See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court
43 personnel).

1 **Gov't Code § 26806 (amended). Foreign language interpreters**

2 SEC. ____ . Section 26806 of the Government Code is amended to read:

3 26806. (a) In counties having a population of 900,000 or over, the county clerk may
4 employ as many foreign language interpreters as may be necessary to ~~interpret in criminal~~
5 ~~cases in the superior and municipal courts, and in the juvenile court within the county and~~
6 to translate documents intended for filing in any civil or criminal action or proceeding or
7 for recordation in the county recorder's office.

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

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

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

23 **Comment.** The provisions of Section 26806 relating to foreign language interpretation in court
24 proceedings are superseded by [Not Yet Drafted].

25 **Note: Comment Requested**

26 We anticipate relocating court interpreter provisions to Title 8 of the Government Code and
27 integrating them with trial court employment and trial court funding provisions. This material is
28 not yet drafted, and will be circulated for comment separately.

29 The Commission is reviewing whether county treasury provisions remain viable, given the
30 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
31 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
32 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
33 (state funding of trial court operations). These matters are also being examined by a Joint Court-
34 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
35 treatment of Government Code Section 26806.

36 **Gov't Code § 26827.1 (amended). Fee for clerk's preparation of order or decree in probate**
37 **proceeding in Los Angeles County**

38 SEC. ____ . Section 26827.1 of the Government Code is amended to read:

39 26827.1. In any county in which the population is 4,000,000 or more, as determined by
40 the 1970 Federal Decennial Census Los Angeles County, whenever the court directs that
41 an order or decree in a probate proceeding be prepared by the clerk, the fee for preparing
42 such order or decree shall be the amount necessary to defray the costs of preparation, as
43 determined by the county clerk of the court on an annual basis, but shall not exceed fifty
44 dollars (\$50). The fee so paid shall be an expense of administration.

45 **Comment.** Section 26827.1 is amended to reflect elimination of the county clerk's role as ex
46 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
47 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
48 ex officio clerk of the court are delegated to the court administrative or executive officer, and the

1 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
2 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

3 The reference to a county in which the population is 4,000,000 or more is revised to refer to
4 Los Angeles County by name.

5 **Gov't Code § 26832 (amended). Marriage dissolution record**

6 SEC. ____ . Section 26832 of the Government Code is amended to read:

7 26832. (a) Notwithstanding the fee authorized by Section 26833, a fee of three dollars
8 (\$3) shall be paid by a public agency applicant for a certified copy of a marriage
9 dissolution record that the agency is required to obtain in the ordinary course of business.
10 A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a
11 marriage dissolution record. Three dollars (\$3) of any six-dollar (\$6) fee shall be
12 transmitted monthly by each ~~county~~ clerk of the court to the state for deposit into the
13 General Fund as provided by Section 1852 of the Family Code.

14 (b) As used in this section, "marriage dissolution record" means the judgment.

15 **Comment.** Section 26832 is amended to reflect elimination of the county clerk's role as ex
16 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
17 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
18 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
19 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
20 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

21 **Gov't Code § 26835 (repealed). Authentication of documents**

22 SEC. ____ . Section 26835 of the Government Code is repealed.

23 ~~26835. (a) The county clerk shall collect a fee of two dollars (\$2) per signature for any
24 document that he or she is required to authenticate pursuant to court order.~~

25 ~~(b) Each document authenticated by the county clerk shall contain the following
26 statement:~~

27 ~~"____, County Clerk and ex officio Clerk of the Superior Court, in and for the County
28 of ____, State of California. Signed pursuant to court order dated ____ in the matter of
29 ____ petitioner v. ____, respondent, Case No. ____."~~

30 **Comment.** Section 26835 is repealed to reflect elimination of the county clerk's role as ex
31 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
32 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
33 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
34 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
35 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

36 **Gov't Code § 26835.1 (amended). Authentication of documents**

37 SEC. ____ . Section 26835.1 of the Government Code is amended to read:

38 26835.1. (a) The clerk of the court shall collect a fee of six dollars (\$6) per signature
39 for any document that is required to be authenticated pursuant to court order.

40 (b) Each document authenticated by the ~~county~~ clerk of the court shall contain the
41 following statement:

42 ~~"____, County Clerk and ex officio Clerk of the Superior Court, in and for the County
43 of ____, State of California. Signed pursuant to court order dated ____ in the matter of
44 ____ petitioner v. ____, respondent, Case No. ____."~~

1 (c) Notwithstanding Section 68085, two dollars (\$2) of the fee authorized by
2 subdivision (a) shall be deposited in the county general fund for use as county general
3 fund revenue.

4 **Comment.** Section 26835.1 is amended to reflect elimination of the county clerk's role as ex
5 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
6 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
7 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
8 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
9 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

10 **Gov't Code § 26856 (amended). Fees for services of court clerk**

11 SEC. ____ . Section 26856 of the Government Code is amended to read:

12 26856. The fees fixed by this article are in full for all services rendered by the county
13 clerk of the court in any civil action or special proceeding.

14 **Comment.** Section 26856 is amended to reflect elimination of the county clerk's role as ex
15 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
16 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
17 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
18 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
19 duties, and responsibilities of clerk of court), 71620 (trial court personnel).


20 **Gov't Code § 26859 (amended). Fees for dissolution and other petition**

21 SEC. ____ . Section 26859 of the Government Code is amended to read:

22 26859. At the time of filing of each initial petition for dissolution of marriage, legal
23 separation, or nullity, the petitioner shall pay a fee of two dollars (\$2) to the county clerk
24 of the court for the costs of complying with Chapter 10 (commencing with Section
25 103200) of Part 1 of Division 102 of the Health and Safety Code.

26 The county clerk shall pay one-half of all those fees to the State Registrar of Vital
27 Statistics each month. The State Registrar shall transmit those sums to the State Treasurer
28 for deposit in the General Fund.

29 **Comment.** Section 26859 is amended to reflect elimination of the county clerk's role as ex
30 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
31 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
32 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
33 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
34 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

35  **Note.** The proposed revision of Government Code Section 26859 would argue for a
36 conforming revision in Health & Safety Code § 103200:

37 103200. The county clerk of the superior court of each county shall send a copy of every
38 judgment of dissolution of marriage, of legal separation, and of declaration of nullity to the State
39 Registrar monthly. If a judgment of dissolution of marriage is vacated, the county clerk shall send
40 a copy of the order or dismissal to the State Registrar.

41 **Gov't Code § 27081 (amended). Deposit of jury fees and naturalization fees**

42 SEC. ____ . Section 27081 of the Government Code is amended to read:

43 27081. The county clerk of the court may deposit in the county treasury any money
44 deposited with him as jury fees or as a portion of the naturalization fees required by law
45 to be paid by him to the United States. The treasurer shall accept and keep separate
46 accounts of such deposits. The money may be withdrawn at any time by the county clerk

1 of the court upon his the clerk's written order. For the safekeeping of the money the
2 treasurer is liable on his the treasurer's official bond.

3 **Comment.** Section 27081 is amended to reflect elimination of the county clerk's role as ex
4 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
5 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
6 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
7 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
8 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

9 **Gov't Code § 27464 (amended). Suicide note**

10 SEC. ____ . Section 27464 of the Government Code is amended to read:

11 27464. Whenever the death of any person shall have been referred to the coroner for
12 investigation, there shall be delivered to the coroner any note, letter or other document
13 apparently written by the deceased which may tend to indicate an intention by the writer
14 to take his the writer's life, including directions for disposition of his property or disposal
15 of his remains. A facsimile copy thereof shall be placed in the coroner's records, and, if
16 an inquest be held, a true copy shall be read into the record and transcribed into the notes
17 of the official stenographer. Upon completion of legal proceedings arising from such
18 death, the original instrument shall be delivered by the coroner to the addressee or to the
19 legal representative of the estate of the decedent; provided, however, that if the
20 instrument purports to be testamentary in nature, it shall be filed with the county clerk of
21 the court as provided by law.

22 **Comment.** Section 27464 is amended to reflect elimination of the county clerk's role as ex
23 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
24 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
25 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
26 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
27 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

28 **Gov't Code § 27647 (repealed). Representation of court or judge by county counsel**

29 SEC. ____ . Section 27647 of the Government Code is repealed.

30 ~~27647. (a) If requested so to do by the superior court of the county of the county~~
31 ~~counsel, or by any municipal court in such county, or by any judge thereof, and insofar as~~
32 ~~such duties are not in conflict with, and do not interfere with, other duties, the county~~
33 ~~counsel may represent any such court or judge thereof in all matters and questions of law~~
34 ~~pertaining to any of such judge's duties, including any representation authorized by~~
35 ~~Section 68111 and representation in all civil actions and proceedings in any court in~~
36 ~~which with respect to the court's or judge's official capacity, such court or judge is~~
37 ~~concerned or is a party.~~

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

39 ~~(1) Any criminal proceedings in which a judge is a defendant.~~

40 ~~(2) Any grand jury proceedings.~~

41 ~~(3) Any proceeding before the Commission on Judicial Qualifications.~~

42 ~~(4) Any civil action or proceeding arising out of facts under which the judge was~~
43 ~~convicted of a criminal offense in a criminal proceeding.~~

44 **Comment.** Section 27647 is repealed to reflect enactment of Section 811.9, which governs
45 representation, defense, and indemnification of trial court judges, judicial officers, court executive
46 officers, and employees.

Note: Comment Requested

Government Code Section 27647 appears to have been superseded by Government Code Section 811.9. The Commission solicits comments on whether it should be preserved in any form.

Gov't Code § 27648 (unchanged). Reimbursement where judge is required to retain own counsel due to conflict of interest

27648. If, because of a declared conflict of interest, any judge, who is otherwise entitled to representation pursuant to Section 825, 995, or 27647, is required to retain his own counsel, such judge is entitled to recover from the appropriate public entity such reasonable attorney's fees, costs, and expenses as were necessarily incurred thereby.

Note: Comment Requested

Government Code Section 27648 will require revision if Government Code Section 27647 is repealed as proposed in this tentative recommendation. The Commission solicits comment on whether the provision should be amended to delete the reference to Section 27647, repealed in its entirety due to the enactment of Government Code Section 811.9, continued with revisions in Section 811.9, or otherwise revised.

Gov't Code § 27706 (amended). Duties of public defender

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

27706. The public defender shall perform the following duties:

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

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

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

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

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

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

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

6 **Comment.** Subdivision (a) of Section 27706 is amended to reflect unification of the municipal
7 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

8 **Gov't Code § 29603 (amended). Payments to jurors and witnesses**

9 SEC. ____ . Section 29603 of the Government Code is amended to read:

10 29603. The sums required by law to be paid to the grand ~~and trial~~ jurors and witnesses
11 in criminal cases tried in a superior ~~or municipal~~ court are county charges.

12 **Comment.** Section 29603 is amended to reflect enactment of the Trial Court Funding Act. See
13 Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations); Cal.
14 R. Court 810(d), Function 2 (jury services). The reference to grand jurors is retained, because
15 grand jury expenses and operations are not court operations. Cal. R. Court 810(b)(6); *cf.* Cal. R.
16 Court 810(d), Function 2 (grand jury selection).

17 The section is also amended to reflect unification of the municipal and superior courts pursuant
18 to Article VI, Section 5(e), of the California Constitution.

19 **Note: Comment Requested**

20 The Commission is reviewing whether county treasury provisions remain viable, given the
21 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
22 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
23 and Cal. R. Ct. 810 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
24 (state funding of trial court operations). These matters are also being examined by a Joint Court-
25 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
26 treatment of Government Code Section 29603.

27 **Gov't Code § 29610 (amended). Convention expenses**

28 SEC. ____ . Section 29610 of the Government Code is amended to read:

29 29610. The expenses of any elected county officer ~~and one marshal of a municipal~~
30 ~~court chosen by the marshals of the municipal courts~~ incurred while traveling to and from
31 and while attending the annual convention of his or her respective association, are county
32 charges which do not require prior approval of the board of supervisors. The board of
33 supervisors may require prior approval by the board of supervisors for any other officer
34 or employee to incur those expenses as county charges.

35 **Comment.** Section 29610 is amended to reflect unification of the municipal and superior courts
36 pursuant to Article VI, Section 5(e), of the California Constitution.

37 The section is also amended to reflect enactment of the Trial Court Employment Protection and
38 Governance Act. See Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court
39 as employer of all trial court employees), 71673 (authority of trial courts to establish terms and
40 conditions of employment). For marshals who are county employees, this section is superseded
41 by county ordinances or memoranda of understanding.

42 **Gov't Code § 31469 (amended). “Employee” defined**

43 SEC. ____ . Section 31469 of the Government Code is amended to read:

44 31469. (a) “Employee” means any officer or other person employed by a county whose
45 compensation is fixed by the board of supervisors or by statute and whose compensation

1 is paid by the county, and any officer or other person employed by any district within the
2 county.

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

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

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

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

12 **Comment.** Section 31469 is amended to reflect unification of the municipal and superior courts
13 pursuant to Article VI, Section 5(e), of the California Constitution.

14 **Note: Comment Requested**

15 The proposed amendment of Government Code Section 31469 would parallel the treatment of
16 that section in 1998, when the reference to justice court judges was deleted. Section 31469 is part
17 of the County Employees Retirement Law, so perhaps both the justice court and the municipal
18 court references are still necessary. The Commission solicits comments on this issue.

19 Alternatively, perhaps subdivision (b) should be deleted altogether. See Government Code
20 Section 71624, the retirement provision in the Trial Court Employment Protection and
21 Governance Act. Does that provision supersede Section 31469(b)? The answer is not obvious,
22 because the provision appears to permit court employees to participate in the County Employees
23 Retirement system in some circumstances. See Gov’t Code § 71624(b), (f). The Commission
24 solicits comments on these issues.

25 **Gov’t Code § 31520 (amended). Board of retirement**

26 SEC. ____ . Section 31520 of the Government Code is amended to read:

27 31520. Except as otherwise delegated to the board of investment and except for the
28 statutory duties of the county treasurer, the management of the retirement system is
29 vested in the board of retirement, consisting of five members, one of whom shall be the
30 county treasurer. The second and third members of the board shall be active members of
31 the association elected by it within 30 days after the retirement system becomes operative
32 in a manner determined by the board of supervisors. The fourth and fifth members shall
33 be qualified electors of the county who are not connected with county government in any
34 capacity, except one may be a supervisor and one may be a retired member, and shall be
35 chosen by the board of supervisors. The first persons chosen as the second and fourth
36 members shall service for two years from the date the system becomes operative and the
37 third and fifth members shall serve for a term of three years from that date. Thereafter the
38 terms of office of the four elected members are three years.

39 As used in this section “active member” means a member in the active service of a
40 county, district, ~~municipal court~~ or superior court and a “retired member” means a
41 member retired for service or disability.

42 **Comment.** Section 31520 is amended to reflect unification of the municipal and superior courts
43 pursuant to Article VI, Section 5(e), of the California Constitution.

44 **Gov’t Code § 31554 (unchanged). Participation in county retirement plan by superior court**
45 **employees**

46 31554. All officers and attaches of the superior court established within the county,
47 except judges and participants in any other pension system, become members of the

1 association on the first day of the calendar month after the board of supervisors adopts by
2 four-fifths vote a resolution providing for their inclusion. Thereafter each person entering
3 such employ becomes a member on the first day of the calendar month following his
4 entrance into the service of the court.

5 In this section “officer or attaché of the superior court” includes all commissioners,
6 phonographic reporters who are paid salaries or per diems by the county and whose
7 contributions are based upon such salaries or per diems, secretaries, stenographers,
8 investigators, messengers, or other employees of the court.

9 **Note: Comment Requested**

10 The Commission is not proposing to amend or repeal Government Section 31554 at this time.
11 The Commission solicits comments on the continuing usefulness of this section since enactment
12 of the Trial Court Employment Protection and Governance Act, including whether it is
13 appropriate to retain this section for transitional purposes.

14 **Gov’t Code § 31555 (repealed). Participation in county retirement plan by municipal court**
15 **employees**

16 SEC. ____ . Section 31555 of the Government Code is repealed.

17 ~~31555. All officers and attaches of any municipal court established within the county~~
18 ~~under the Municipal Court Act of 1925 or Municipal and Justice Court Act of 1949,~~
19 ~~except judges, become members of the association on the first day of the calendar month~~
20 ~~after the board of supervisors adopts by four-fifths vote a resolution providing for their~~
21 ~~inclusion. Thereafter each person entering such employ becomes a member on the first~~
22 ~~day of the calendar month following his entrance into the service of the court.~~

23 **Comment.** Section 31555 is repealed to reflect unification of the municipal and superior courts
24 pursuant to Article VI, Section 5(e), of the California Constitution. See also Section 71624
25 (retirement plans).

26 **Gov’t Code § 31662.6 (amended). Retirement age of safety members**

27 SEC. ____ . Section 31662.6 of the Government Code is amended to read:

28 31662.6. Two years after a retirement system established by this chapter becomes
29 operative, a safety member except an elective officer, the sheriff and undersheriff, and the
30 marshal ~~of all of the municipal courts~~ appointed to serve the superior court within the
31 county, shall be retired as of the first day of the calendar month next succeeding that in
32 which he or she attains age 60.

33 This section shall not be operative in any county until such time as the board of
34 supervisors shall, by resolution adopted by a majority vote, make this section applicable
35 in the county.

36 **Comment.** Section 31662.6 is amended to reflect unification of the municipal and superior
37 courts pursuant to Article VI, Section 5(e), of the California Constitution.

38 **Gov’t Code § 31663 (amended). Retirement age of sheriff, undersheriff, marshal and other**
39 **officers**

40 SEC. ____ . Section 31663 of the Government Code is amended to read:

41 31663. After January 1, 1954, or two years after a retirement system established by this
42 chapter becomes operative, whichever is later, a sheriff who is a safety member and not
43 elective, and an undersheriff, who is a safety member shall be retired as of the first day of
44 the calendar month next succeeding that in which he or she attains age 70.

1 The marshal of all the municipal courts appointed to serve the superior court within the
2 county who is a safety member shall be retired as of the first day of the calendar month
3 next succeeding that in which he or she attains age 65.

4 In any county having a population in excess of 503,000 but less than 600,000 as
5 determined by Section 28020 as amended in 1961 San Bernardino County, a sheriff's
6 inspector, a chief inspector in a sheriff's office, or a chief deputy in a sheriff's office, who
7 is a safety member and whose primary duties are administrative, shall be retired as of the
8 first day of the calendar month next succeeding that in which he the person attains age 70.

9 This section shall not be operative in any county until such time as the board of
10 supervisors shall, by resolution adopted by a majority vote, make this section applicable
11 in the county.

12 **Comment.** Section 31663 is amended to reflect unification of the municipal and superior courts
13 pursuant to Article VI, Section 5(e), of the California Constitution.

14 The reference to a county having a population over 503,000 but less than 600,000 as
15 determined by Section 28020 as amended in 1961 is also revised to refer to San Bernardino
16 County by name.

17 **Gov't Code § 41803.5 (amended). Prosecution of misdemeanor by city attorney**

18 SEC. ____ . Section 41803.5 of the Government Code is amended to read:

19 41803.5. (a) With the consent of the district attorney of the county, the city attorney of
20 any general law city or chartered city within the county may prosecute any misdemeanor
21 committed within the city arising out of violation of state law. This section shall not be
22 deemed to affect any of the provisions of ~~Sections 71099 or~~ Section 72193.

23 (b) In any case in which the district attorney is granted any powers or access to
24 information with regard to the prosecution of misdemeanors, this grant of powers or
25 access to information shall be deemed to apply to any other officer charged with the duty
26 of prosecuting misdemeanor charges in the state, as authorized by law.

27 **Comment.** Section 41803.5 is amended to reflect the repeal of Section 71099, concerning
28 prosecution of misdemeanor cases where a court is superseded by a municipal court.

29 **Gov't Code § 50920 (amended). "Peace officer" defined**

30 SEC. ____ . Section 50920 of the Government Code is amended to read:

31 50920. As used in this article, the term "peace officer" means a sheriff, undersheriff,
32 deputy sheriff, marshal, or deputy marshal of a county, or city and county, ~~or judicial~~
33 ~~district~~, or a marshal or police officer of a city or town, employed and compensated as
34 such, whether the members are volunteer, partly paid, or fully paid, except those whose
35 principal duties are clerical, such as stenographers, telephone operators, and other
36 workers not engaged in law enforcement operations, or the protection or preservation of
37 life or property, and not under suspension or otherwise lacking in good standing.

38 **Comment.** Section 50920 is amended to reflect unification of the municipal and superior courts
39 pursuant to Article VI, Section 5(e), of the California Constitution.

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

41 SEC. ____ . Section 53069.4 of the Government Code is amended to read:

42 53069.4. (a)(1) The legislative body of a local agency, as the term "local agency" is
43 defined in Section 54951, may by ordinance make any violation of any ordinance enacted
44 by the local agency subject to an administrative fine or penalty. The local agency shall set
45 forth by ordinance the administrative procedures that shall govern the imposition,

1 enforcement, collection, and administrative review by the local agency of those
2 administrative fines or penalties. Where the violation would otherwise be an infraction,
3 the administrative fine or penalty shall not exceed the maximum fine or penalty amounts
4 for infractions set forth in subdivision (b) of Section 25132 and subdivision (b) of Section
5 36900.

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

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

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

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

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

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

41 **Comment.** Subdivision (b) of Section 53069.4 is amended to reflect unification of the
42 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

43 **Gov't Code § 53075.6 (amended). Impoundment for operating as taxicab near airport or**
44 **international border without taxicab certificate, license, or permit**

45 SEC. ____ . Section 53075.6 of the Government Code is amended to read:

46 53075.6. Whenever a peace officer or public officer or employee, when authorized by
47 ordinance and as defined in Section 836.5 of the Penal Code, arrests any person for
48 operating as a taxicab without a valid taxicab certificate, license, or permit required by

1 any ordinance, and the offense occurred at a public airport, within 100 feet of a public
2 airport, or within two miles of the international border between the United States and
3 Mexico, the officer or employee may impound and retain possession of any vehicle used
4 in a violation of the ordinance.

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

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

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

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

23 **Comment.** Section 53075.6 is amended to reflect unification of the municipal and superior
24 courts pursuant to Article VI, Section 5(e), of the California Constitution.

25 **Gov't Code § 53075.61 (amended). Impoundment by transportation inspector for operating**
26 **as taxicab without taxicab certificate, license, or permit**

27 SEC. ____ . Section 53075.61 of the Government Code is amended to read:

28 53075.61. A transportation inspector, authorized by a local government to cite any
29 person for operating as a taxicab without a valid taxicab certificate, license, or permit
30 required by any ordinance, may impound and retain possession of any vehicle used in a
31 violation of the ordinance.

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

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

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

46 No officer or employee, however, shall impound any vehicle owned or operated by a
47 nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal

1 Revenue Code which serves youth or senior citizens and provides transportation
2 incidental to its programs or services.

3 **Comment.** Section 53075.61 is amended to reflect unification of the municipal and superior
4 courts pursuant to Article VI, Section 5(e), of the California Constitution.

5 **Gov't Code § 53200.3 (repealed). County group insurance**

6 SEC. ____ . Section 53200.3 of the Government Code is repealed.

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

13 **Comment.** Section 53200.3 is repealed to reflect enactment of the Trial Court Employment
14 Protection and Governance Act. See Section 71629 (trial court employment benefits not affected).

15 **Note: Comment Requested**

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

22 **Gov't Code § 53214.5 (repealed). County deferred compensation plans**

23 SEC. ____ . Section 53214.5 of the Government Code is repealed.

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

32 **Comment.** Section 53214.5 is repealed to reflect enactment of the Trial Court Employment
33 Protection and Governance Act. See Section 71628 (deferred compensation benefit plans).

34 **Note: Comment Requested**

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

41 **Gov't Code § 53679 (unchanged). Deposits**

42 53679. So far as possible, all money belonging to a local agency under the control of
43 any of its officers or employees other than the treasurer or a judge or officer of a
44 municipal court shall, and all money coming into the possession of a judge or officer of a

1 municipal court may, be deposited as active deposits in the state or national bank,
2 inactive deposits in the state or national bank or state or federal association, federal or
3 state credit union, or federally insured industrial loan company in this state selected by
4 the officer, employee, or judge of the court. For purposes of this section, an officer or
5 employee of a local agency and a judge or officer of a municipal court are prohibited
6 from depositing local agency funds or money coming into their possession into a state or
7 federal credit union if an officer or employee of the local agency, or a judge or officer of
8 a municipal court, also serves on the board of directors, or any committee appointed by
9 the board of directors, or the credit committee or supervisory committee, of the particular
10 state or federal credit union. Such money is subject to this article except:


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

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

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

17 (c) Interest is not required on money deposited in an active deposit by an officer having
18 control of a revolving fund created pursuant to Chapter 2 (commencing with Section
19 29300) of Division 3 of Title 3.

20 (d) Interest is not required on money deposited in an active deposit by an officer having
21 control of a special fund established pursuant to Articles 5 (commencing with Section
22 29400) or 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

23  **Note.** Government Section 53679 requires revision to reflect the elimination of the municipal
24 courts. The matter of bank deposits is still unsettled and involves policy and fiscal issues that are
25 substantive in nature. The Commission is deferring work on this provision until the interested
26 parties have resolved these issues. See Memorandum 2001-78, pp. 13-14.

27 **Gov't Code § 61601.1 (amended). Abatement of graffiti**

28 SEC. ____ . Section 61601.1 of the Government Code is amended to read:

29 61601.1. (a) "Abatement," for the purposes of this section, includes the removal and
30 prevention of graffiti, antigraffiti education, and restitution to any property owner for any
31 injury or damage caused by the removal of graffiti from the property.

32 (b) A district that is authorized to abate graffiti may:

33 (1) Remove or contract for the removal of graffiti from any public or private property
34 within its boundaries.

35 (2) Indemnify or compensate any property owner for any injury or damage caused by
36 the removal of graffiti from property.

37 (3) Undertake a civil action to abate graffiti as a nuisance pursuant to Section 731 of the
38 Code of Civil Procedure.

39 (4) Use the services of persons ordered to perform those services by a ~~municipal,~~
40 ~~superior,~~ superior or juvenile court.

41 (5) Use the phrase "Graffiti Abatement District" in the name of the district.

42 (6) Operate specifically designated telephone "hot lines" for the purpose of receiving
43 reports of unlawful application of graffiti on public or private property.

44 (7) Operate a program of financial reward, not to exceed one thousand dollars (\$1,000),
45 for information leading to the arrest and conviction of any person who unlawfully applies
46 graffiti to any public or private property.

1 **Comment.** Section 61601.1 is amended to reflect unification of the municipal and superior
2 courts pursuant to Article VI, Section 5(e), of the California Constitution.

3 **Gov't Code § 68071 (amended). Effective date of trial court rules**

4 SEC. ____ . Section 68071 of the Government Code is amended to read:
5 68071. No rule adopted by a superior or ~~municipal~~ court shall take effect until the
6 January 1 or July 1, whichever comes first, following the 30th day after it has been filed
7 with the Judicial Council and the clerk of the court, and made immediately available for
8 public examination. The Judicial Council may establish, by rule, a procedure for
9 exceptions to these effective dates.

10 **Comment.** Section 68071 is amended to reflect unification of the municipal and superior courts
11 pursuant to Article VI, Section 5(e), of the California Constitution.

12 **Gov't Code § 68072 (amended). Effective date of rules of Judicial Council, Supreme Court,
13 or court of appeal**

14 SEC. ____ . Section 68072 of the Government Code is amended to read:
15 68072. Rules adopted by the Judicial Council, the Supreme Court, or a court of appeal
16 shall take effect on a date to be fixed in the order of adoption. If no effective date is fixed,
17 those rules shall take effect 60 days after their adoption. Rules adopted by a superior or
18 ~~municipal~~ court shall take effect as provided in Section 68071.

19 **Comment.** Section 68072 is amended to reflect unification of the municipal and superior courts
20 pursuant to Article VI, Section 5(e), of the California Constitution.

21 **Gov't Code § 68073 (amended). Responsibility for court operations and facilities**

22 SEC. ____ . Section 68073 of the Government Code is amended to read:
23 68073. (a) Commencing July 1, 1997, and each year thereafter, no county or city and
24 county shall be responsible to provide funding for “court operations” as defined in
25 Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

26 (b) Commencing as of July 1, 1996, and each year thereafter, each county or city and
27 county shall be responsible for providing necessary and suitable facilities for judicial and
28 court support positions created prior to July 1, 1996. In determining whether facilities are
29 necessary and suitable, the reasonable needs of the court and the fiscal condition of the
30 county or city and county shall be taken into consideration.

31 (c) If a county or city and county fails to provide necessary and suitable facilities as
32 described in subdivision (b), the court shall give notice of a specific deficiency. If the
33 county or city and county then fails to provide necessary and suitable facilities pursuant
34 to this section, the court may direct the appropriate officers of the county or city and
35 county to provide the necessary and suitable facilities. The expenses incurred, certified by
36 the ~~judge~~ or judges to be correct, are a charge against the county or city and county
37 treasury and shall be paid out of the general fund.

38 (d) Prior to the construction of new court facilities or the alteration, remodeling, or
39 relocation of existing court facilities, a county or city and county shall solicit the review
40 and comment of the ~~judge~~ or judges of the court affected regarding the adequacy and
41 standard of design, and that review and comment shall not be disregarded without
42 reasonable grounds.

43 (e) For purposes of this section, “facilities” means: (1) rooms for holding superior and
44 ~~municipal~~ court, (2) the chambers of the judges of the court, (3) rooms for the attendants

1 of the court, and (4) sufficient heat, ventilation, air-conditioning, light, and fixtures for
2 those rooms and chambers.

3 ~~(f) This section shall not be construed as authorizing a county, a city and county, a~~
4 ~~court, or the state to supply to the official reporters of the courts stenography, stenotype,~~
5 ~~or other shorthand machines; nor as authorizing the supply to the official reporters of the~~
6 ~~courts, for use in the preparation of transcripts, of typewriters, transcribing equipment,~~
7 ~~supplies, or other personal property.~~

8 **Comment.** Subdivisions (c) and (d) of Section 68073 are amended to delete language referring
9 to “the judge” of the court. Every superior court has at least two judgeships as a result of trial
10 court unification. See Section 69580 *et seq.* (number of judges). Where a court has only one judge
11 due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the
12 court. See Section 13 (plural includes singular).

13 Subdivision (e) is amended to reflect unification of the municipal and superior courts pursuant
14 to Article VI, Section 5(e), of the California Constitution.

15 Subdivision (f) of Section 68073 is deleted as obsolete. Provision of stenographic equipment
16 and supplies to official reporters of the courts is a matter of negotiation between official reporters
17 and the courts. *Cf.* Section 69947 (compensation of official reporter).

18 **Note: Comment Requested**

19 The Commission solicits comment on the proposed deletion of subdivision (f) of Government
20 Code Section 68073.

21 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
22 further work on the section pending (1) any implementation of recommendations made by the
23 Task Force on Court Facilities, and (2) completion of negotiations among the interested parties.
24 The Commission solicits comments on these issues.

25 **Gov’t Code § 68073.5 (unchanged). Use of county facilities in or adjacent to court buildings**
26 **in Los Angeles County**

27 68073.5. In any county having a population of 3,000,000 or more, the board of
28 supervisors may, with respect to any dining facility, or garage or other vehicular parking
29 facility, in or adjacent to the county courthouse and other court buildings in said county,
30 provide the courts occupying such buildings and the judges, officers of the court, attaches
31 and jurors quartered therein, with the same accommodations as to use, access, occupancy
32 and, excepting jurors, with the same participation in the operational administration
33 thereof, as are furnished, made available to, or enjoyed by the departments, officers and
34 employees of the county with respect to similar facilities in or adjacent to other county
35 buildings.

36 **Note: Comment Requested**

37 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
38 work on Government Code Section 68073.5 pending (1) any implementation of recommendations
39 made by the Task Force on Court Facilities, and (2) completion of negotiations among the
40 interested parties. The Commission solicits comments on these issues.

41 **Gov’t Code § 68074.1 (amended). Manner of affixing seal**

42 SEC. ____ . Section 68074.1 of the Government Code is amended to read:

43 68074.1. The seal of any superior or municipal court may be affixed by a seal press or
44 stamp which will print or emboss a seal which will reproduce legibly under photographic
45 methods.

1 **Comment.** Section 68074.1 is amended to reflect unification of the municipal and superior
2 courts pursuant to Article VI, Section 5(e), of the California Constitution.

3 **Gov't Code § 68077 (repealed). Seal of municipal court**

4 SEC. ____ . Section 68077 of the Government Code is repealed.

5 ~~68077. The municipal court of every judicial district or consolidated city and county~~
6 ~~may use any seal having upon it "Municipal Court _____," with the name of the judicial~~
7 ~~district or consolidated city and county inserted.~~

8 **Comment.** Section 68077 is repealed to reflect unification of the municipal and superior courts
9 pursuant to Article VI, Section 5(e), of the California Constitution.

10 **Gov't Code § 68082 (amended). Practice of law by court officers**

11 SEC. ____ . Section 68082 of the Government Code is amended to read:

12 ~~68082. During his~~ Except as otherwise provided by law, during the officer's
13 continuance in office, a court commissioner, judge of a court of record, or county clerk
14 court executive or administrative officer shall not practice law in any court of this state or
15 act as attorney, agent, or solicitor in the prosecution of any claim or application for lands,
16 pensions, patent rights, or other proceedings before any department of the state or general
17 government or courts of the United States. As used in this section, the practice of law
18 includes being in partnership or sharing fees, commissions, or expenses in the practice of
19 law with any person acting as an attorney in this state.

20 **Comment.** Section 68082 is amended to reflect the Judicial Council's authority to qualify the
21 general statutory prohibition against the private practice of law by a subordinate judicial officer.
22 See Section 71622 (subordinate judicial officers).

23 The section is also amended to reflect the fact that all courts are "courts of record" pursuant to
24 Article VI, Section 1, of the California Constitution.

25 The section is also amended to reflect elimination of the county clerk's role as ex officio clerk
26 of the superior court. See former Section 26800 (county clerk acting as clerk of superior court).
27 The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk
28 of the court are delegated to the court administrative or executive officer, and the county clerk is
29 relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and
30 responsibilities of clerk of court), 71620 (trial court personnel).

31 **Gov't Code § 68083 (repealed). Conversion of municipal court judgeship**

32 SEC. ____ . Section 68083 of the Government Code is repealed.

33 ~~68083. (a) Upon the occurrence of a vacancy in a municipal court judgeship, other than~~
34 ~~the sole remaining municipal court judgeship for the county, if the Governor finds there~~
35 ~~are sufficient funds for the conversion of a municipal court judgeship into a superior court~~
36 ~~judgeship and finds that the administration of justice would be advanced by such a~~
37 ~~conversion, the number of municipal court judges for the county shall then be reduced by~~
38 ~~one and the number of superior court judges for the county shall be increased by one.~~
39 ~~Prior to making a determination, the Governor shall consider the following factors:~~

40 ~~(1) The geographic separation of the two courts.~~

41 ~~(2) The fiscal impact of the conversion.~~

42 ~~(3) The existence of a coordination plan approved pursuant to Section 68112 that~~
43 ~~permits blanket cross-assignment of superior court judges and municipal court judges to~~
44 ~~assist in the timely processing of cases before all of the courts in the county.~~

45 ~~(b) For purposes of this section, a vacancy in a municipal court judgeship shall be~~
46 ~~deemed to occur only upon the appointment or election of a municipal court judge to~~

1 another office, or to a court other than a superior court judgeship that was created within
2 three years pursuant to this section, upon the removal or death of the municipal court
3 judge holding that judgeship, or upon the resignation or retirement of a municipal court
4 judge who has reached the age of retirement.

5 (e) The Governor's finding shall become effective when signed by the Governor.

6 (d) When a finding by the Governor that a position should be reallocated takes effect,
7 the Judicial Council shall reallocate to the superior court the funding in support of the
8 municipal court salary and the chamber staff positions as well as any other required
9 funding.


10 **Comment.** Section 68083 is repealed to reflect unification of the municipal and superior courts
11 pursuant to Article VI, Section 5(e), of the California Constitution.

12 **Gov't Code § 68084 (unchanged). Deposits in court**

13 68084. When any money is deposited with the clerk or judge of any court pursuant to
14 any action or proceeding in the court, or pursuant to any order, decree, or judgment of the
15 court, or when any money is to be paid to the treasurer pursuant to any provision of this
16 title or the Code of Civil Procedure, that money shall be deposited as soon as practicable
17 after the receipt thereof with the treasurer and a duplicate receipt of the treasurer for it
18 shall be filed with the auditor. The certificate of the auditor that a duplicate receipt has
19 been filed is necessary before the clerk, judge, or party required to deposit the money is
20 entitled to a discharge of the obligation imposed upon the clerk, judge, or party to make
21 the deposit.

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

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

33  **Note.** Government Section 68084 requires revision to reflect the elimination of the municipal
34 courts. The matter of bank deposits is still unsettled and involves policy and fiscal issues that are
35 substantive in nature. The Commission is deferring work on this provision until the interested
36 parties have resolved these issues. See Memorandum 2001-78, pp. 13-14.

37 **Gov't Code § 68086 (amended). Fees for reporting services**

38 SEC. ____ . Section 68086 of the Government Code is amended to read:

39 68086. (a) The following provisions apply in superior court:

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

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

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

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

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

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

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

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

13 (b) ~~The following provisions apply in municipal court:~~

14 (1) ~~In addition to any other trial court fee required in civil cases, a fee equal to the~~
15 ~~actual cost of providing that service shall be charged per one-half day of services to the~~
16 ~~parties, on a pro rata basis, for~~ For purposes of this section, “services of an official
17 reporter” includes official reporting services ~~on the first and each succeeding judicial day~~
18 ~~those services are required.~~

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

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

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

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

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

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

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

34 **Comment.** Section 68086 is amended to reflect unification of the municipal and superior courts
35 pursuant to Article VI, Section 5(e), of the California Constitution.

36 The section is also amended for consistency of terminology. See Section 69941 (appointment
37 of official reporters).

38 **Gov’t Code § 68090.7 (amended). Fee for automating recordkeeping system and converting**
39 **document system to micrographics**

40 SEC. ____ . Section 68090.7 of the Government Code is amended to read:

41 68090.7. In any county that has established a fee pursuant to Sections 26863 and
42 72054, the fee shall only apply to the following filings in each civil action or proceeding:

43 (a) The first paper and papers transmitted from another court, as specified in Sections
44 26820.4 and 72055.

45 (b) The first paper on behalf of an adverse party, as specified in Sections 26826 and
46 72056.

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

1 The fee shall not apply to adoptions, appeals ~~from a municipal~~ to the appellate division
2 of the superior court, or motions.

3 Except as otherwise specified by law, all fees collected under this section shall be
4 deposited into the trial court operations fund of the county established pursuant to Section
5 77009, and an amount equal thereto shall be used exclusively to pay the costs of
6 automating the court clerk and trial court recordkeeping system or converting the trial
7 court document system to micrographics, or both.

8 **Comment.** Section 68090.7 is amended to reflect unification of the municipal and superior
9 courts pursuant to Article VI, Section 5(e), of the California Constitution.

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

11 SEC. ____ . Section 68093 of the Government Code is amended to read:

12 68093. Except as otherwise provided by law, witness' fees for each day's actual
13 attendance, when legally required to attend a civil action or proceeding in the superior
14 and ~~municipal~~ courts, are thirty-five dollars (\$35) a day and mileage actually traveled,
15 both ways, twenty cents (\$0.20) a mile.

16 **Comment.** Section 68093 is amended to reflect unification of the municipal and superior courts
17 pursuant to Article VI, Section 5(e), of the California Constitution.

18 **Gov't Code § 68096 (repealed). Witness fees and mileage in Tuolumne County**

19 SEC. ____ . Section 68096 of the Government Code is repealed.

20 ~~68096. In Tuolumne County, witnesses when legally required to attend upon the~~
21 ~~superior court in criminal cases and upon the juvenile court in juvenile court matters,~~
22 ~~shall be paid six dollars (\$6) a day for each day's actual attendance, and twelve cents~~
23 ~~(\$0.12) for each mile actually traveled. The county clerk shall certify to the auditor the~~
24 ~~number of days' attendance and the number of miles traveled by each witness. The~~
25 ~~auditor shall draw his warrant for the fees and mileage due the witness, and the treasurer~~
26 ~~shall pay the warrant.~~

27 **Comment.** Section 68096 is repealed to reflect:

28 (1) Elimination of the county clerk's role as ex officio clerk of the superior court. See former
29 Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and
30 responsibilities formerly exercised by the county clerk as ex officio clerk of the court are
31 delegated to the court administrative or executive officer, and the county clerk is relieved of those
32 powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of
33 clerk of court), 71620 (trial court personnel).

34 (2) The fact that the witness fee provisions are obsolete. *Cf.* Sections 29603 (witness fees in
35 criminal cases as county charges), 68098 (fund charges for witness fees in criminal cases); Penal
36 Code § 1329 (witness fees and expenses in criminal cases); Welf. & Inst. Code § 664(b) (witness
37 fees in juvenile court cases).

38 **Gov't Code § 68098 (amended). Witness fees in criminal cases**

39 SEC. ____ . Section 68098 of the Government Code is amended to read:

40 68098. Witness' fees in criminal cases in superior and ~~municipal~~ courts are charges
41 against the same funds as jurors' fees in such cases.

42 **Comment.** Section 68098 is amended to reflect unification of the municipal and superior courts
43 pursuant to Article VI, Section 5(e), of the California Constitution.

Note: Comment Requested

The Commission is reviewing whether county treasury provisions remain viable, given the enactment of the Trial Court Funding Act, the Trial Court Employment Protection and Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). These matters are also being examined by a Joint Court-County Working Group on Trial Court Funding. The Commission solicits comment on the proper treatment of Government Code Section 68098.

Gov't Code § 68105 (amended). Certified shorthand reporter who intends to become citizen

SEC. ____ . Section 68105 of the Government Code is amended to read:

68105. Notwithstanding any other provision of law to the contrary, the Supreme Court, any court of appeal, or any superior court, ~~or any municipal court~~ may appoint as an official ~~phonographic~~ reporter or as an official ~~phonographic~~ reporter pro tempore a person who has declared his the intention to become a citizen and who is a certified shorthand reporter.

"A person who has declared his the intention to become a citizen," as used in this section, means a person who has either (1) filed the declaration of intention to become a citizen of the United States, or petition for naturalization, or comparable document prescribed by federal law or (2) filed an affidavit with the court, in the form prescribed by the court, that he the person will, at the first opportunity at which the applicable federal law permits, file such a declaration of intention to become a citizen of the United States, petition for naturalization, or comparable document. If the court determines that an individual who has filed under alternative (2) of the preceding sentence, has, without good cause, failed at the first opportunity provided under federal law to file one of the specified documents prescribed by federal law, it shall forthwith revoke the appointment.

Comment. Section 68105 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

The section is also amended for consistency of terminology. See Section 69941 (appointment of official reporters).

Gov't Code § 68108 (amended). Unpaid furlough days

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

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

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

1 **Comment.** Subdivision (a) of Section 68108 is amended to reflect unification of the municipal
2 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

3 Subdivision (a) is also amended to reflect enactment of the Trial Court Employment Protection
4 and Governance Act. See Sections 71601(l) (“trial court employee” defined), 71615(c)(5) (trial
5 court as employer of all trial court employees).

6 **Note: Comment Requested**

7 The Commission solicits input regarding the continuing usefulness of Government Code
8 Section 68108 since enactment of the Trial Court Employment Protection and Governance Act.

9 **Gov’t Code § 68114.8 (repealed). Official reporters in San Bernardino County**

10 SEC. ____ . Section 68114.8 of the Government Code is repealed.

11 ~~68114.8. Notwithstanding Section 69906, in the Superior Court of San Bernardino~~
12 ~~County, the official court reporters shall be compensated at Step E of the range set forth~~
13 ~~in the San Bernardino County code for court reporters, unless determined otherwise by a~~
14 ~~majority of the judges of the superior court. Effective pay period one of each year,~~
15 ~~official court reporters will be credited with 160 hours of vacation leave time for the~~
16 ~~reporters’ immediate use. Official court reporters who are hired after the beginning of pay~~
17 ~~period one shall be credited with vacation leave hours on a pro rata basis. Official court~~
18 ~~reporters who terminate after the beginning of pay period one shall reimburse the county~~
19 ~~for vacation time used in excess of the pro rata amount earned while employed during the~~
20 ~~year. Amounts reimbursable may be deducted from court reporter compensation which is~~
21 ~~payable after notice is given by the court reporter of termination. Official court reporters~~
22 ~~in regular positions budgeted less than 80 hours per pay period or in job-share positions~~
23 ~~shall receive vacation accumulation on a pro rata basis.~~

24 **Comment.** Section 68114.8 is repealed to reflect enactment of the Trial Court Employment
25 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees’ job
26 classifications), 71620 (trial court personnel), 71623 (salaries), 71625 (accrued leave benefits).
27 See also Section 69947 (compensation of official reporter).

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

29 SEC. ____ . Section 68115 of the Government Code is amended to read:

30 68115. When war, insurrection, pestilence, or other public calamity, or the danger
31 thereof, or the destruction of or danger to the building appointed for holding the court,
32 renders it necessary, or when a large influx of criminal cases resulting from a large
33 number of arrests within a short period of time threatens the orderly operation of a
34 superior court within a specified county or judicial district, the presiding judge, or if there
35 is none, the sole judge of the superior or municipal court, judge may request and the
36 Chair of the Judicial Council may, notwithstanding any other provision of law, by order
37 authorize the court to do one or more of the following:

38 (a) Hold sessions anywhere within the county.

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

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

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

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

8 ~~(f) (c) Within the affected county during a state of emergency resulting from a natural~~
9 ~~or human-made disaster proclaimed by the President of the United States or by the~~
10 ~~Governor pursuant to Section 8625 of the Government Code, extend the time period~~
11 ~~provided in Section 825 of the Penal Code within which a defendant charged with a~~
12 ~~felony offense shall be taken before a magistrate from two days 48 hours to not more than~~
13 ~~seven days, with the number of days to be designated by the Chair of the Judicial~~
14 ~~Council. This authorization shall be effective for 30 days unless it is extended by a new~~
15 ~~request and a new order.~~

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

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

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

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

40 **Comment.** Section 68115 is amended to reflect unification of the municipal and superior courts
41 pursuant to Article VI, Section 5(e), of the California Constitution.

42 The introductory paragraph is also amended to delete language referring to the sole judge.
43 Every superior court has at least two judgeships as a result of trial court unification. See Section
44 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
45 otherwise, the reference to the “presiding judge” means the sole judge of the court. See Section
46 69508.5 (presiding judge).

47 Former subdivision (d) is deleted to reflect repeal of former Code of Civil Procedure Section
48 199. See 1975 Cal. Stat. ch. 593, § 1 and 1988 Cal. Stat. ch. 1245, § 1.

49 Subdivision (c) (former subdivision (f)) is amended to replace the reference to “two days” with
50 “48 hours” for consistency with Penal Code Section 825.

1 Subdivision (d) (former subdivision (g)) is amended to add the word “court” for consistency
2 with Penal Code Section 859b.

3 **Note: Comment Requested**

4 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
5 further work on Government Code Section 68115 pending (1) any implementation of
6 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
7 among the interested parties. The Commission solicits comments on these issues.

8 **Gov’t Code § 68152 (amended). Retention of court records**

9 SEC. ____ . Section 68152 of the Government Code is amended to read:

10 68152. The trial court clerk may destroy court records under Section 68153 after notice
11 of destruction and if there is no request and order for transfer of the records, except the
12 comprehensive historical and sample superior court records preserved for research under
13 the California Rules of Court, when the following times have expired after final
14 disposition of the case in the categories listed:

15 (a) Adoption: retain permanently.

16 (b) Change of name: retain permanently.

17 (c) Other civil actions and proceedings, as follows:

18 (1) Except as otherwise specified: 10 years.

19 (2) Where a party appears by a guardian ad litem: 10 years after termination of the
20 court’s jurisdiction.

21 (3) Domestic violence: same period as duration of the restraining or other orders and
22 any renewals, then retain the restraining or other orders as a judgment; 60 days after
23 expiration of the temporary protective or temporary restraining order.

24 (4) Eminent domain: retain permanently.

25 (5) Family law, except as otherwise specified: 30 years.

26 (6) Harassment: same period as duration of the injunction and any renewals, then retain
27 the injunction as a judgment; 60 days after expiration of the temporary restraining order.

28 (7) Mental health (Lanterman Developmental Disabilities Services Act and Lanterman-
29 Petris-Short Act): 30 years.

30 (8) Paternity: retain permanently.

31 (9) Petition, except as otherwise specified: 10 years.

32 (10) Real property other than unlawful detainer: retain permanently if the action affects
33 title or an interest in real property.

34 (11) Small claims: 10 years.

35 (12) Unlawful detainer: one year if judgment is for possession of the premises; 10 years
36 if judgment is for money.

37 (d) Notwithstanding subdivision (c), any civil or small claims case in the trial court:

38 (1) Involuntarily dismissed by the court for delay in prosecution or failure to comply
39 with state or local rules: one year.

40 (2) Voluntarily dismissed by a party without entry of judgment: one year.

41 Notation of the dismissal shall be made on the civil index of cases or on a separate
42 dismissal index.

43 (e) Criminal.

44 (1) Capital felony (murder with special circumstances where the prosecution seeks the
45 death penalty): retain permanently. If the charge is disposed of by acquittal or a sentence
46 less than death, the case shall be reclassified.

47 (2) Felony, except as otherwise specified: 75 years.

1 (3) Felony, except capital felony, with court records from the initial complaint through
2 the preliminary hearing or plea and for which the case file does not include final
3 sentencing or other final disposition of the case because the case was bound over to the
4 superior court: five years.

5 (4) Misdemeanor, except as otherwise specified: five years.

6 (5) Misdemeanor alleging a violation of the Vehicle Code, except as otherwise
7 specified: three years.

8 (6) Misdemeanor alleging a violation of Section 23103, 23152, or 23153 of the Vehicle
9 Code: seven years.

10 (7) Misdemeanor alleging a violation of Section 14601, 14601.1, 20002, 23104, or
11 23109 of the Vehicle Code: five years.

12 (8) Misdemeanor alleging a marijuana violation under subdivision (b), (c), (d), or (e) of
13 Section 11357 of the Health and Safety Code, or subdivision (b) of Section 11360 of the
14 Health and Safety Code in accordance with the procedure set forth in Section 11361.5 of
15 the Health and Safety Code: records shall be destroyed two years from the date of
16 conviction or from the date of arrest if no conviction.

17 (9) Misdemeanor, infraction, or civil action alleging a violation of the regulation and
18 licensing of dogs under Sections 30951 to 30956, inclusive, of the Food and Agricultural
19 Code or violation of any other local ordinance: three years.

20 (10) Infraction, except as otherwise specified: three years.

21 (11) Parking infractions, including alleged violations under the stopping, standing, and
22 parking provisions set forth in Chapter 9 (commencing with Section 22500) of Division
23 11 of the Vehicle Code: two years.

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

26 (g) Juvenile.

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

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

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

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

47 (5) Marijuana misdemeanor under subdivision (e) of Section 11357 of the Health and
48 Safety Code in accordance with procedures specified in subdivision (a) of Section

1 11361.5 of the Health and Safety Code: upon reaching age 18 the records shall be
2 destroyed.

3 (h) Probate.

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

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

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

7 (i) Court records of the appellate division of the superior court: five years.

8 (j) Other records.

9 (1) Applications in forma pauperis: any time after the disposition of the underlying
10 case.

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

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

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

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

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

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

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

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

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

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

37 (12) Judgments within the jurisdiction of the superior court other than in a limited civil
38 case, misdemeanor case, or infraction case: retain permanently.

39 (13) Judgments ~~within the jurisdiction of the municipal court or of the superior court in~~
40 ~~a limited civil case~~ in misdemeanor cases, infraction cases, and limited civil cases: same
41 period as period for retention of the records in the underlying case category.

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

44 (15) Naturalization index: retain permanently.

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

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

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

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

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

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

13 **Comment.** Subdivision (j) of Section 68152 is amended to reflect unification of the municipal
14 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

15 Subdivision (j)(12) is also amended to replace the reference to “other than a limited civil case”
16 with a reference to an “unlimited civil case.” See Code Civ. Proc. § 88 (civil action or proceeding
17 other than limited civil case may be referred to as unlimited civil case).

18 **Gov’t Code § 68202 (amended). Annual salary of judges**

19 SEC. ____ . Section 68202 of the Government Code is amended to read:

20 68202. Effective January 1, 1985, the annual salary of each of the following judges is
21 the amount indicated opposite the name of the office:

22 (a) Judge of the superior court, seventy-two thousand seven hundred sixty-three dollars
23 (\$72,763).

24 ~~(b) Judge of a municipal court, sixty-six thousand four hundred forty-nine dollars~~
25 ~~(\$66,449).~~

26 **Comment.** Section 68202 is amended to reflect unification of the municipal and superior courts
27 pursuant to Article VI, Section 5(e), of the California Constitution.

28 **Note: Comment Requested**

29 The Commission solicits comment on whether to update Government Code Section 68202 to
30 reflect the current salary of a superior court judge. If the provision is updated, what salary figure
31 and effective date should be used?

32 The Commission also seeks input on whether and how to update Government Code Sections
33 68200 (salary of Chief Justice), 68201 (salaries of associate justice and court of appeal justice),
34 and 68203 (salary increases). If Sections 68200 and 68201 were revised to reflect current salaries,
35 would Section 68203(c) and (d) still be necessary? Should Section 68203(a) be revised to replace
36 “July 1, 1980” with a more current date?

37 **Gov’t Code § 68206.2 (amended). Reimbursement for salary and per diem of substitute**
38 **judge**

39 SEC. ____ . Section 68206.2 of the Government Code is amended to read:

40 68206.2. (a) On and after January 1, 1990, the state shall reimburse each small county
41 which is not an option county under the Brown-Presley Trial Court Funding Act (Chapter
42 12 (commencing with Section 77000) of this title), for the cost of salary and per diem for
43 any substitute judge assigned to replace a judge disqualified from acting as a judge while
44 there is pending a recommendation to the Supreme Court by the Commission on Judicial
45 Performance for removal or retirement of the judge pursuant to subdivision (a) of Section
46 18 of Article VI of the California Constitution, beginning with the salary and per diem for
47 the seventh month following the disqualification.

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

3 **Comment.** Subdivision (b) of Section 68206.2 is amended to reflect unification of the
4 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

5 **Gov’t Code § 68520 (repealed). Reporting requirements**

6 SEC. ____ . Section 68520 of the Government Code is repealed.

7 ~~68520. (a) On or before January 31, 1992, each superior, municipal, and justice court
8 shall provide the Judicial Council with complete information regarding the number,
9 classification, salary, and benefits of every officer and employee of the court who is
10 involved in performing court operations, as defined in Section 77003.~~

11 ~~(b) On or before July 1, 1992, the Judicial Council shall report to the Legislature its
12 findings and recommendations on the disposition of trial court employees, including the
13 possibility of continuing them as county employees for purposes of compensation and
14 benefits, under the eventual state assumption of trial court funding. The Judicial Council
15 shall also recommend methods of limiting increases in court employee compensation
16 beyond that of comparable state employees. The goals of the recommendations shall be
17 (1) uniformity, (2) equity, and (3) cost control. The study shall include the participation
18 of three representatives selected by labor organizations representing court employees.~~

19 ~~(c) It is the intent of the Legislature that existing provisions pertaining to court
20 employees, including, but not limited to, collective bargaining, merit systems, pensions,
21 and other benefits shall remain in effect until July 1, 1993.~~

22 **Comment.** Section 68520 is repealed as obsolete, because the reports required by this section
23 were due in 1992.

24  **Note: Comment Requested**

25 Government Code Section 68520 appears to be obsolete. The Commission solicits comment on
26 whether the provision continues to serve a useful purpose.

27 **Gov’t Code § 68525 (amended). Records and reports of official reporter**

28 SEC. ____ . Section 68525 of the Government Code is amended to read:

29 ~~68525. (a) The board of supervisors~~ superior court of each county may require each
30 official reporter and official temporary reporter pro tempore to:

31 (1) Maintain records of transcript production and related income and expenses for
32 inspection and auditing.

33 (2) Submit annual reports derived from the records, with a verification of their
34 accuracy.

35 (b) The reports shall be submitted in sealed envelopes to a designated official and shall
36 be reviewed only by those persons having authority to inspect and audit the records and
37 reports. The records and reports of each reporter shall be confidential and shall be
38 reviewed only to derive composite data for setting a base salary for the official reporters
39 and official temporary reporters pro tempore of each court. The composite data shall be a
40 matter of public record.

41 (c) Each such annual report shall include the following information:

42 (1) The quantity and types of transcripts prepared by the official reporters and official
43 reporters pro tempore during the reporting period.

44 (2) The fees charged and the fees collected for such transcripts.

45 (3) Expenses incurred by the reporters in connection with the preparation of such
46 transcripts.

1 (4) The amount of time the reporters have spent in attendance upon the courts for the
2 purpose of reporting proceedings, and the compensation received for this purpose.

3 **Comment.** Section 68525 is amended to reflect enactment of the Trial Court Employment
4 Protection and Governance Act. See Section 71673 (authority of court).

5 The section is also amended for consistency of terminology. See Section 69941 (appointment
6 of official reporters); see also subdivision (c)(1).

7 **Gov't Code § 68540 (repealed). Additional compensation for municipal court judge assigned
8 to superior court**

9 SEC. ____ . Section 68540 of the Government Code is repealed.

10 ~~68540. The state shall pay the additional compensation of a judge of a municipal court
11 assigned to a superior court.~~

12 **Comment.** Section 68540 is repealed to reflect unification of the municipal and superior courts
13 pursuant to Article VI, Section 5(e), of the California Constitution.

14 **Gov't Code § 68542 (repealed). Expenses for travel to another county**

15 SEC. ____ . Section 68542 of the Government Code is repealed.

16 ~~68542. The expenses for travel, board, and lodging of each judge assigned to a superior
17 or municipal court in a county other than that in which he or she regularly sits shall be
18 paid by the state under the rules adopted by the Board of Control which are applicable to
19 officers of the state provided for in Article VI of the California Constitution while
20 traveling on official state business.~~

21 **Comment.** Section 68542 is repealed to reflect enactment of Section 69505 (business-related
22 travel expenses of trial court judges and employees).

23 **Gov't Code § 68542.5 (repealed). Expenses for travel within county**

24 SEC. ____ . Section 68542.5 of the Government Code is repealed.

25 ~~68542.5. Any judge of a superior or municipal court sitting in another court in the same
26 county under assignment by the Chair of the Judicial Council shall receive from such
27 county the amount of actual and necessary traveling expenses incurred while traveling
28 between home and the courtroom unless the courtrooms are within five miles of each
29 other.~~

30 **Comment.** Section 68542.5 is repealed to reflect enactment of Section 69505 (business-related
31 travel expenses of trial court judges and employees).

32 **Gov't Code § 68546 (repealed). Assignment of municipal court attachés to superior court**

33 SEC. ____ . Section 68546 of the Government Code is repealed.

34 ~~68546. If the Chair of the Judicial Council assigns a judge of a municipal court in a
35 county to sit on the superior court of the same county, the presiding judge of the
36 municipal court may, with the consent of the presiding judge of the superior court, also
37 assign the court reporter, deputy clerk and deputy marshal, or any of them, of the
38 municipal court from which that judge is assigned to act as court reporter, deputy clerk
39 and deputy sheriff, respectively, for the superior court during the period for which the
40 judge is assigned. During the period for which the court reporter, deputy clerk, or deputy
41 marshal is assigned, they shall receive the same salary as a court reporter, deputy clerk, or
42 deputy sheriff, respectively, for the superior court. If there be no presiding judge, the
43 senior or sole judge may make or consent to the assignment of the attaches. This section
44 shall not apply to the assignment of the deputy clerk or deputy marshal in any county~~

1 ~~until the board of supervisors by ordinance has adopted its provisions. An ordinance is~~
2 ~~not required where the deputy clerk and deputy marshal consent to serve as part of their~~
3 ~~regular duties without additional compensation.~~

4 **Comment.** Section 68546 is repealed to reflect unification of the municipal and superior courts
5 pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* former Section 71264
6 (municipal court served by marshal).

7 **Gov't Code § 68551 (amended). Institutes and seminars**

8 SEC. ____ . Section 68551 of the Government Code is amended to read:

9 68551. The Judicial Council is authorized to conduct institutes and seminars from time
10 to time, either regionally or on a statewide basis, for the purpose of orienting judges to
11 new judicial assignments, keeping them informed concerning new developments in the
12 law and promoting uniformity in judicial procedure. Such institutes and seminars shall
13 include, without being limited thereto, consideration of juvenile court proceedings,
14 sentencing practices in criminal cases and the handling of traffic cases. ~~Actual and~~
15 ~~necessary expenses incurred by superior and municipal court judges at any such institute~~
16 ~~or seminar shall be a charge against the county to the extent that funds are available~~
17 ~~therefor.~~

18 **Comment.** Section 68551 is amended to reflect enactment of Section 69505 (business-related
19 travel expenses of trial court judges and employees).

20 The section is also amended to reflect enactment of the Trial Court Funding Act. See Sections
21 77003 (“court operations” defined), 77200 (state funding of trial court operations); Cal. R. Court
22 810(d), Function 10 (training fees for court personnel).

23 The section is further amended to reflect unification of the municipal and superior courts
24 pursuant to Article VI, Section 5(e), of the California Constitution.

25 **Gov't Code § 68562 (amended). Certification of court interpreters**

26 SEC. ____ . Section 68562 of the Government Code is amended to read:

27 68562. (a) The Judicial Council shall designate the languages for which certification
28 programs shall be established under subdivision (b). The language designations shall be
29 based on (1) the courts’ needs as determined by the language and interpreter use and need
30 studies under Section 68563, (2) the language needs of non-English-speaking persons in
31 the courts, and (3) other information the Judicial Council deems relevant.

32 (b) By July 1, 1996, the Judicial Council shall approve one or more entities to certify
33 Spanish language interpreters and interpreters for as many other languages designated
34 under subdivision (a) as practicable by that date. The Judicial Council may give
35 provisional approval to an entity to examine interpreters and establish a list of
36 recommended court interpreters pending final approval of one or more certification
37 entities. Certification entities may include educational institutions, testing organizations,
38 joint powers agencies, or public agencies.

39 The Judicial Council shall adopt and publish guidelines, standards, and procedures to
40 determine which certification entities will be approved to test and certify interpreters.

41 (c) The Judicial Council shall develop and implement procedures to administer the list
42 of recommended court interpreters previously established by the State Personnel Board
43 and the list established by an entity provisionally approved under subdivision (b).

44 The Judicial Council shall develop procedures and standards for certifying without
45 reexamination interpreters on the list of recommended court interpreters (1) previously
46 established by the State Personnel Board, or (2) established by an entity provisionally
47 approved under subdivision (b). Certification of these interpreters shall be based on

1 criteria determined by the Judicial Council, such as recent interpreting experience,
2 performance in court or at administrative hearings, training, and continuing education.

3 (d) The Judicial Council shall adopt standards and requirements for interpreter
4 proficiency, continuing education, certification renewal, and discipline. The Judicial
5 Council shall adopt standards of professional conduct for court interpreters.

6 (e) The Judicial Council shall adopt programs for interpreter recruiting, training, and
7 continuing education and evaluation to ensure that an adequate number of interpreters is
8 available and that they interpret competently.

9 (f) The Judicial Council shall establish guidelines for fees or shall set and charge fees
10 for applications to take the court interpreter examinations, for renewal of certifications,
11 for certification of interpreters on the list of recommended court interpreters, for
12 maintaining interpreters on the recommended list until January 1, 1996, and for other
13 functions and services provided under this article. All fees and other revenues received by
14 the Judicial Council under this article shall be transferred promptly to the Controller, and
15 shall be placed in the Court Interpreters' Fund, which is hereby created, the moneys in
16 which shall be available to carry out the purposes of this article upon appropriation by the
17 Legislature.

18 (g) Each superior and municipal court may adopt local rules to impose additional
19 requirements, standards, examinations, and programs as necessary for equity or to
20 recognize local conditions.

21 **Comment.** Subdivision (g) of Section 68562 is amended to reflect unification of the municipal
22 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

23 **Note: Comment Requested**

24 Subdivisions (b) and (f) refer to events that were to occur in 1996. The Commission solicits
25 comment on whether these provisions are obsolete (in whole or in part), and how they should be
26 revised if at all.

27 **Gov't Code § 68611 (repealed). Report on exemplary delay reduction program**

28 SEC. ____ . Section 68611 of the Government Code is repealed.

29 ~~68611. The Judicial Council shall collect and maintain statistics, and shall publish them~~
30 ~~at least on an annual basis, regarding the compliance of each court in the exemplary delay~~
31 ~~reduction program with the standards for timely disposition adopted pursuant to Section~~
32 ~~68603, with the policies and requirements of this article, and regarding the cases assigned~~
33 ~~to the judges of each program. On or before July 1, 1991, the Judicial Council shall report~~
34 ~~to the Legislature on the results of the exemplary delay reduction program and~~
35 ~~recommend whether the requirements of Section 68607 should be applied to the superior~~
36 ~~or municipal courts of the state.~~

37 ~~This section shall cease to be operative on July 1, 1992.~~

38 **Comment.** Section 1141.29 is repealed as obsolete, because the report required by this section
39 was due in 1991 and the section became inoperative in 1992.

40 **Note: Comment Requested**

41 Government Code Section 68611 appears to be obsolete. The Commission solicits comment on
42 whether the provision continues to serve a useful purpose.

43 **Gov't Code § 68618.5 (repealed). Exemplary trial court delay reduction programs in**
44 **Sonoma, Humboldt, Napa, Yolo, Fresno, San Joaquin, and Santa Barbara Counties**

45 SEC. ____ . Section 68618.5 of the Government Code is repealed.

1 ~~68618.5. Notwithstanding any other provision of law, the Superior Courts of Sonoma,~~
2 ~~Humboldt, Napa, Yolo, Fresno, San Joaquin, and Santa Barbara Counties may establish~~
3 ~~exemplary delay reduction programs and adopt local delay reduction rules pursuant to~~
4 ~~this article. These rules are not subject to subdivision (b) of Section 68619.~~

5 ~~This section shall cease to be operative on July 1, 1992.~~

6 **Comment.** Section 68618.5 is repealed as obsolete. This section became inoperative on July 1,
7 1992, by its own terms.

8 **Gov't Code § 68620 (amended). Delay reduction program for limited civil cases**

9 SEC. ____ . Section 68620 of the Government Code is amended to read:

10 ~~68620. (a) Operative July 1, 1992, each municipal~~ Each superior court shall establish a
11 delay reduction program for limited civil cases in consultation with the local bar that is
12 consistent with the provisions of this article. In its discretion, the Judicial Council may
13 assist in the development of, or may develop and adopt, any or all procedures, standards,
14 or policies for a delay reduction program ~~in municipal and justice~~ for limited civil cases
15 in superior courts on a statewide basis which are consistent with the provisions of the
16 Trial Court Delay Reduction Act.

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

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

28 **Comment.** Subdivision (a) of Section 68620 is amended to reflect unification of the municipal
29 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. See Code
30 Civ. Proc. § 85 (limited civil cases) & Comment.

31 **Note: Comment Requested**

32 The Commission solicits comment on this amendment of Government Code Section 68620. Is
33 the proposed approach satisfactory, or should revisions be made?

34 **Gov't Code § 69508.5 (amended). Presiding judge**

35 SEC. ____ . Section 69508.5 of the Government Code is amended to read:

36 69508.5. (a) In courts with two judges a presiding judge shall be selected by the judges
37 each calendar year and the selection should be on the basis of administrative
38 qualifications and interest.

39 (b) If a selection cannot be agreed upon, then the office of presiding judge shall be
40 rotated each calendar year between the two judges, commencing with the senior judge. If
41 the judges are of equal seniority, the first presiding judge shall be selected by lot.

42 (c) Notwithstanding subdivisions (a) and (b), the Judicial Council may provide by rule
43 of court for the qualifications of the presiding judge.

44 (d) In a court with one judge, whether as the result of a vacancy in a judgeship or
45 otherwise, a reference in a statute to the presiding judge means the sole judge of the court.

1 **Comment.** Subdivision (d) of Section 69508.5 generalizes provisions that formerly referred to
2 the presiding judge “or sole judge.” See Code Civ. Proc. § 404.9; Sections 23396, 68115, 68546,
3 69753, 71341, 72190, 72190.1, 72190.2, 72196; Penal Code §§ 924.4, 6031.1; Welf. & Inst. Code
4 § 1737. Every superior court has at least two judgeships as a result of trial court unification. See
5 Section 69580 *et seq.* (number of judges).

6 **Gov’t Code § 69510 (amended). Superior court sessions at location of facility**

7 SEC. ____ . Section 69510 of the Government Code is amended to read:
8 69510. A majority of the judges of a superior court may order sessions of the court to
9 be held at any place ~~where a municipal court holds sessions within the county or, in a~~
10 ~~county in which there is no municipal court,~~ where there is a court facility. The order
11 shall be filed with the ~~county~~ clerk of the court and published as the judges may
12 prescribe.

13 **Comment.** Section 69510 is amended to reflect unification of the municipal and superior courts
14 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70212(b)
15 (preexisting court locations retained as superior court locations).

16 The section is also amended to reflect elimination of the county clerk’s role as ex officio clerk
17 of the superior court. See former Section 26800 (county clerk acting as clerk of superior court).
18 The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk
19 of the court are delegated to the court administrative or executive officer, and the county clerk is
20 relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and
21 responsibilities of clerk of court), 71620 (trial court personnel).

22 **Note: Comment Requested**

23 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
24 further work on Government Code Section 69510 pending (1) any implementation of
25 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
26 among the interested parties. The Commission solicits comments on these issues.

27 **Gov’t Code § 69510.5 (amended). Sessions at any location within Orange County**

28 SEC. ____ . Section 69510.5 of the Government Code is amended to read:
29 69510.5. Notwithstanding any other provision of law, a majority of the judges of the
30 Orange County Superior Court may, upon a finding that no suitable additional facilities
31 exist in the county seat or ~~where municipal courts hold~~ other locations where the court
32 regularly holds sessions, order sessions of the court to be held at any location within the
33 county.

34 **Comment.** Section 69510.5 is amended to reflect unification of the municipal and superior
35 courts in Orange County pursuant to Article VI, Section 5(e), of the California Constitution,
36 effective August 10, 1998.

37 **Note: Comment Requested**

38 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
39 further work on Government Code Section 69510.5 pending (1) any implementation of
40 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
41 among the interested parties. The Commission solicits comments on these issues.

42 **Gov’t Code § 69510.6 (amended). Sessions at Crestmoor High School in San Mateo County**

43 SEC. ____ . Section 69510.6 of the Government Code is amended to read:
44 69510.6. Notwithstanding any other provision of law, a majority of the judges of the
45 San Mateo County Superior Court may, upon a finding that no suitable additional

1 facilities exist in the county seat or ~~where municipal courts hold~~ other locations where the
2 court holds sessions, order sessions of the court to be held at Crestmoor High School in
3 San Bruno, California.

4 **Comment.** Section 69510.6 is amended to reflect unification of the municipal and superior
5 courts in San Mateo County pursuant to Article VI, Section 5(e), of the California Constitution,
6 effective June 12, 1998.

7 **Note: Comment Requested**

8 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
9 further work on Government Code Section 69510.6 pending (1) any implementation of
10 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
11 among the interested parties. The Commission solicits comments on these issues.

12 **Gov't Code § 69580 (amended). Number of judges in Alameda County**

13 SEC. ____ . Section 69580 of the Government Code is amended to read:

14 69580. In the County of Alameda there ~~shall be 35~~ are 69 judges of the superior court.

15 **Comment.** Section 69580 is amended to reflect unification of the municipal and superior courts
16 in Alameda County pursuant to Article VI, Section 5(e), of the California Constitution, effective
17 July 31, 1998. See former Section 73075 (number of judges in Alameda County municipal
18 courts).

19 **Gov't Code § 69580.3 (added). Number of judges in Alpine County**

20 SEC. ____ . Section 69580.3 is added to the Government Code, to read:

21 69580.3. In the County of Alpine there are two judges of the superior court.

22 **Comment.** Section 69580.3 is added to reflect unification of the municipal and superior courts
23 in Alpine County pursuant to Article VI, Section 5(e), of the California Constitution, effective
24 July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal
25 court judges in a county).

26 **Gov't Code § 69580.7 (added). Number of judges in Amador County**

27 SEC. ____ . Section 69580.7 is added to the Government Code, to read:

28 69580.7. In the County of Amador there are two judges of the superior court.

29 **Comment.** Section 69580.7 is added to reflect unification of the municipal and superior courts
30 in Amador County pursuant to Article VI, Section 5(e), of the California Constitution, effective
31 July, 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal
32 court judges in a county).

33 **Gov't Code § 69581 (amended). Number of judges in Butte County**

34 SEC. ____ . Section 69581 of the Government Code is amended to read:

35 69581. In the County of Butte there ~~shall be six~~ are 10 judges of the superior court.

36 **Comment.** Section 69581 is amended to reflect unification of the municipal and superior courts
37 in Butte County pursuant to Article VI, Section 5(e), of the California Constitution, effective June
38 3, 1998. See former Section 74935 (number of judges in Butte County municipal courts).

39 **Gov't Code § 69581.3 (added). Number of judges in Calaveras County**

40 SEC. ____ . Section 69581.3 is added to the Government Code, to read:

41 69581.3. In the County of Calaveras there are two judges of the superior court.

1 **Comment.** Section 69581.3 is added to reflect unification of the municipal and superior courts
2 in Calaveras County pursuant to Article VI, Section 5(e), of the California Constitution, effective
3 June 3, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal
4 court judges in a county).

5 **Gov't Code § 69581.7 (added). Number of judges in Colusa County**

6 SEC. ____ . Section 69581.7 is added to the Government Code, to read:
7 69581.7. In the County of Colusa there are two judges of the superior court.

8 **Comment.** Section 69581.7 is added to reflect unification of the municipal and superior courts
9 in Colusa County pursuant to Article VI, Section 5(e), of the California Constitution, effective
10 September 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and
11 municipal court judges in a county).

12 **Gov't Code § 69582 (amended). Number of judges in Contra Costa County**

13 SEC. ____ . Section 69582 of the Government Code is amended to read:
14 69582. In the County of Contra Costa there are 49 33 judges of the superior court.

15 **Comment.** Section 69582 is amended to reflect unification of the municipal and superior courts
16 in Contra Costa County pursuant to Article VI, Section 5(e), of the California Constitution,
17 effective June 8, 1998. See former Section 73341 (number of judges in Contra Costa County
18 municipal courts).

19 **Gov't Code § 69582.3 (added). Number of judges in Del Norte County**

20 SEC. ____ . Section 69582.3 is added to the Government Code, to read:
21 69582.3. In the County of Del Norte there are two judges of the superior court.

22 **Comment.** Section 69582.3 is added to reflect unification of the municipal and superior courts
23 in Del Norte County pursuant to Article VI, Section 5(e), of the California Constitution, effective
24 June 17, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal
25 court judges in a county).

26 **Gov't Code § 69582.5 (amended). Number of judges in El Dorado County**

27 SEC. ____ . Section 69582.5 of the Government Code is amended to read:
28 69582.5. In the County of El Dorado there ~~shall be three~~ are six judges of the superior
29 court.

30 **Comment.** Section 69582.5 is amended to reflect unification of the municipal and superior
31 courts in El Dorado County pursuant to Article VI, Section 5(e), of the California Constitution,
32 effective August 1, 1998. See former Section 71040.7 (number of judges in El Dorado County
33 municipal courts).

34 **Gov't Code § 69583 (amended). Number of judges in Fresno County**

35 SEC. ____ . Section 69583 of the Government Code is amended to read:
36 69583. In the County of Fresno there ~~shall be 18~~ are 36 judges of the superior court.

37 **Comment.** Section 69583 is amended to reflect unification of the municipal and superior courts
38 in Fresno County pursuant to Article VI, Section 5(e), of the California Constitution, effective
39 July 1, 1998. See former Sections 73681, 73698.2 (number of judges in Fresno County municipal
40 courts).

41 **Gov't Code § 69583.5 (added). Number of judges in Glenn County**

42 SEC. ____ . Section 69583.5 is added to the Government Code, to read:

1 69583.5. In the County of Glenn there are two judges of the superior court.

2 **Comment.** Section 69583.5 is added to reflect unification of the municipal and superior courts
3 in Glenn County pursuant to Article VI, Section 5(e), of the California Constitution, effective July
4 31, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court judges in a county);
5 see also former Section 74761 (number of judges in Glenn County municipal court).

6 **Gov't Code § 69584 (amended). Number of judges in Humboldt County**

7 SEC. ____ . Section 69584 of the Government Code is amended to read:

8 69584. In the County of Humboldt there ~~shall be three~~ are seven judges of the superior
9 court.

10 **Comment.** Section 69584 is amended to reflect unification of the municipal and superior courts
11 in Humboldt County pursuant to Article VI, Section 5(e), of the California Constitution, effective
12 June 10, 1998. See former Section 73661.5 (number of judges in Humboldt County municipal
13 courts).

14 **Gov't Code § 69584.5 (amended). Number of judges in Imperial County**

15 SEC. ____ . Section 69584.5 of the Government Code is amended to read:

16 69584.5. In the County of Imperial there ~~shall be four~~ are nine judges of the superior
17 court.

18 **Comment.** Section 69584.5 is amended to reflect unification of the municipal and superior
19 courts in Imperial County pursuant to Article VI, Section 5(e), of the California Constitution,
20 effective June 22, 1998. See former Section 73731 (number of judges in Imperial County
21 municipal courts).

22 **Gov't Code § 69584.7 (added). Number of judges in Inyo County**

23 SEC. ____ . Section 69584.7 is added to the Government Code, to read:

24 69584.7. In the County of Inyo there are two judges of the superior court.

25 **Comment.** Section 69584.7 is added to reflect unification of the municipal and superior courts
26 in Inyo County pursuant to Article VI, Section 5(e), of the California Constitution, effective July
27 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court
28 judges in a county).

29 **Gov't Code § 69585 (amended). Number of judges in Kern County**

30 SEC. ____ . Section 69585 of the Government Code is amended to read:

31 69585. In the County of Kern there ~~shall be 16~~ are 33 judges of the superior court.

32 **Comment.** Section 69585 is amended to reflect unification of the municipal and superior courts
33 in Kern County pursuant to Article VI, Section 5(e), of the California Constitution, effective July
34 1, 2000. See former Section 73431 (number of judges in Kern County municipal courts).

35 **Gov't Code § 69585.5 (amended). Number of judges in Kings County**

36 SEC. ____ . Section 69585.5 of the Government Code is amended to read:

37 69585.5. In the County of Kings there are ~~three~~ seven judges of the superior court.

38 **Comment.** Section 69585.5 is amended to reflect unification of the municipal and superior
39 courts in Kings County pursuant to Article VI, Section 5(e), of the California Constitution,
40 effective February 8, 2001. See former Sections 73392, 73401 (number of judges in Kings
41 County municipal courts).

1 **Gov't Code § 69585.7 (amended). Number of judges in Lake County**

2 SEC. ____ . Section 69585.7 of the Government Code is amended to read:

3 69585.7. In the County of Lake there shall be ~~one judge of the superior court; provided,~~
4 ~~that at such time as the board of supervisors finds there are sufficient funds for two judges~~
5 ~~and adopts a resolution to that effect, there shall be two~~ are four judges of the superior
6 court.

7 **Comment.** Section 69585.7 is amended to reflect unification of the municipal and superior
8 courts in Lake County pursuant to Article VI, Section 5(e), of the California Constitution,
9 effective June 30, 1998. See former Section 73581 (number of judges in Lake County municipal
10 courts).

11 **Gov't Code § 69585.9 (added). Number of judges in Lassen County**

12 SEC. ____ . Section 69585.9 is added to the Government Code, to read:

13 69585.9. In the County of Lassen there are two judges of the superior court.

14 **Comment.** Section 69585.9 is added to reflect unification of the municipal and superior courts
15 in Lassen County pursuant to Article VI, Section 5(e), of the California Constitution, effective
16 December 31, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and
17 municipal court judges in a county).

18 **Gov't Code § 69586 (amended). Number of judges in Los Angeles County**

19 SEC. ____ . Section 69586 of the Government Code is amended to read:

20 69586. In the County of Los Angeles there are ~~239~~ 429 judges of the superior court,
21 ~~any one or more of whom may hold court.~~

22 **Comment.** Section 69586 is amended to reflect unification of the municipal and superior courts
23 in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution,
24 effective January 22, 2000. See former Sections 72602, 72602.1, 72602.2, 72602.3, 72602.4,
25 72602.5, 72602.6, 72602.7, 72602.9, 72602.11, 72602.12, 72602.13, 72602.14, 72602.15,
26 72602.20 (number of judges in Los Angeles County municipal courts). The last clause is deleted
27 as unnecessary. *Cf.* Section 69741.5 (proceedings by “any one or more of the judges” sitting in
28 superior court session effectual as though all judges of court presided at session).

29 **Gov't Code § 69587 (amended). Number of judges in Madera County**

30 SEC. ____ . Section 69587 of the Government Code is amended to read:

31 69587. In the County of Madera there are ~~three~~ seven judges.

32 **Comment.** Section 69587 is amended to reflect unification of the municipal and superior courts
33 in Madera County pursuant to Article VI, Section 5(e), of the California Constitution, effective
34 July 1, 1998. See former Section 73752 (number of judges in Madera County municipal courts).

35 **Gov't Code § 69588 (amended). Number of judges in Marin County**

36 SEC. ____ . Section 69588 of the Government Code is amended to read:

37 69588. In the County of Marin there shall be ~~six~~ are 10 judges.

38 **Comment.** Section 69588 is amended to reflect unification of the municipal and superior courts
39 in Marin County pursuant to Article VI, Section 5(e), of the California Constitution, effective
40 June 11, 1998. See former Section 73771 (number of judges in Marin County municipal courts).

41 **Gov't Code § 69588.3 (added). Number of judges in Mariposa County**

42 SEC. ____ . Section 69588.3 is added to the Government Code, to read:

43 69588.3. In the County of Mariposa there are two judges of the superior court.

1 **Comment.** Section 69588.3 is added to reflect unification of the municipal and superior courts
2 in Mariposa County pursuant to Article VI, Section 5(e), of the California Constitution, effective
3 June 3, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court judges in a
4 county); see also former Section 73783.2 (number of judges in Mariposa County municipal
5 court).

6 **Gov't Code § 69588.7 (added). Number of judges in Mendocino County**

7 SEC. ____ . Section 69588.7 is added to the Government Code, to read:
8 69588.7. In the County of Mendocino there are eight judges of the superior court.

9 **Comment.** Section 69588.7 supersedes former Section 69608 for the purpose of
10 alphabetization. It reflects unification of the municipal and superior courts in Mendocino County
11 pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See
12 former Section 73784.1 (number of judges in Mendocino County municipal courts).

13 **Gov't Code § 69589 (amended). Number of judges in Merced County**

14 SEC. ____ . Section 69589 of the Government Code is amended to read:
15 69589. In the County of Merced there ~~shall be three~~ are six judges of the superior court.

16 **Comment.** Section 69589 is amended to reflect unification of the municipal and superior courts
17 in Merced County pursuant to Article VI, Section 5(e), of the California Constitution, effective
18 August 3, 1998. See former Section 73791 (number of judges in Merced County municipal
19 courts).

20 **Gov't Code § 69589.3 (added). Number of judges in Modoc County**

21 SEC. ____ . Section 69589.3 is added to the Government Code, to read:
22 69589.3. In the County of Modoc there are two judges of the superior court.

23 **Comment.** Section 69589.3 is added to reflect unification of the municipal and superior courts
24 in Modoc County pursuant to Article VI, Section 5(e), of the California Constitution, effective
25 September 20, 1999. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and
26 municipal court judges in a county).

27 **Gov't Code § 69589.7 (added). Number of judges in Mono County**

28 SEC. ____ . Section 69589.7 is added to the Government Code, to read:
29 69589.7. In the County of Mono there are two judges of the superior court.

30 **Comment.** Section 69589.7 is added to reflect unification of the municipal and superior courts
31 in Mono County pursuant to Article VI, Section 5(e), of the California Constitution, effective
32 February 1, 1999. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and
33 municipal court judges in a county).

34 **Gov't Code § 69590 (amended). Number of judges in Monterey County**

35 SEC. ____ . Section 69590 of the Government Code is amended to read:
36 69590. In the County of Monterey there ~~shall be eight~~ are 18 judges of the superior
37 court.

38 **Comment.** Section 69590 is amended to reflect unification of the municipal and superior courts
39 in Monterey County pursuant to Article VI, Section 5(e), of the California Constitution, effective
40 December 18, 2000. See former Section 73562 (number of judges in Monterey County municipal
41 courts).

1 **Gov't Code § 69590.5 (amended). Number of judges in Napa County**

2 SEC. ____ . Section 69590.5 of the Government Code is amended to read:

3 69590.5. In the County of Napa there shall be two are six judges of the superior court;
4 provided, that at such time as the board of supervisors finds, on or after January 1, 1984,
5 that there are funds for an additional superior court judge and adopts a resolution to that
6 effect, there shall be three judges.

7 **Comment.** Section 69590.5 is amended to reflect unification of the municipal and superior
8 court in Napa County pursuant to Article VI, Section 5(e), of the California Constitution,
9 effective June 3, 1998. See former Section 74949 (number of judges in Napa County municipal
10 courts).

11 **Gov't Code § 69590.7 (amended). Number of judges in Nevada County**

12 SEC. ____ . Section 69590.7 of the Government Code is amended to read:

13 69590.7. In the County of Nevada there are three six judges of the superior court.

14 **Comment.** Section 69590.7 is amended to reflect unification of the municipal and superior
15 courts in Nevada County pursuant to Article VI, Section 5(e), of the California Constitution,
16 effective July 1, 1998. See former Section 73821 (number of judges in Nevada County municipal
17 courts).

18 **Gov't Code § 69591 (amended). Number of judges in Orange County**

19 SEC. ____ . Section 69591 of the Government Code is amended to read:

20 69591. In the County of Orange there are 62 109 judges of the superior court.

21 **Comment.** Section 69591 is amended to reflect unification of the municipal and superior courts
22 in Orange County pursuant to Article VI, Section 5(e), of the California Constitution, effective
23 August 10, 1998. See former Section 74001 (number of judges in Orange County municipal
24 courts).

25 **Gov't Code § 69591.3 (added). Number of judges in Placer County**

26 SEC. ____ . Section 69591.3 is added to the Government Code, to read:

27 69591.3. In the County of Placer there are nine judges of the superior court.

28 **Comment.** Section 69591.3 supersedes former Section 69609 for the purpose of
29 alphabetization. It reflects unification of the municipal and superior courts in Placer County
30 pursuant to Article VI, Section 5(e), of the California Constitution, effective June 30, 1998. See
31 former Section 74021 (number of judges in Placer County municipal courts).

32 **Gov't Code § 69591.7 (added). Number of judges in Plumas County**

33 SEC. ____ . Section 69591.7 is added to the Government Code, to read:

34 69591.7. In the County of Plumas there are two judges of the superior court.

35 **Comment.** Section 69591.7 is added to reflect unification of the municipal and superior courts
36 in Plumas County pursuant to Article VI, Section 5(e), of the California Constitution, effective
37 July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal
38 court judges in a county).

39 **Gov't Code § 69592 (amended). Number of judges in Riverside County**

40 SEC. ____ . Section 69592 of the Government Code is amended to read:

41 69592. In the County of Riverside there are 27 49 judges of the superior court.

42 **Comment.** Section 69592 is amended to reflect unification of the municipal and superior courts
43 in Riverside County pursuant to Article VI, Section 5(e), of the California Constitution, effective

1 July 29, 1998. See former Section 74131 (number of judges in Riverside County municipal
2 courts).

3 **Gov't Code § 69593 (amended). Number of judges in Sacramento County**

4 SEC. ____ . Section 69593 of the Government Code is amended to read:
5 69593. In the County of Sacramento there are ~~35~~ 52 judges of the superior court.

6 **Comment.** Section 69593 is amended to reflect unification of the municipal and superior courts
7 in Sacramento County pursuant to Article VI, Section 5(e), of the California Constitution,
8 effective June 17, 1998. See former Sections 73871, 74191, 74206 (number of judges in
9 Sacramento County municipal courts).

10 **Gov't Code § 69593.5 (added). Number of judges in San Benito County**

11 SEC. ____ . Section 69593.5 is added to the Government Code, to read:
12 69593.5. In the County of San Benito there are two judges of the superior court.

13 **Comment.** Section 69593.5 is added to reflect unification of the municipal and superior courts
14 in San Benito County pursuant to Article VI, Section 5(e), of the California Constitution,
15 effective September 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court
16 and municipal court judges in a county).

17 **Gov't Code § 69594 (amended). Number of judges in San Bernardino County**

18 SEC. ____ . Section 69594 of the Government Code is amended to read:
19 69594. In the County of San Bernardino there are ~~33~~ 60 judges of the superior court.

20 **Comment.** Section 69594 is amended to reflect unification of the municipal and superior courts
21 in San Bernardino County pursuant to Article VI, Section 5(e), of the California Constitution,
22 effective August 10, 1998. See former Section 73101.5 (number of judges in San Bernardino
23 County municipal courts).

24 **Gov't Code § 69595 (amended). Number of judges in San Diego County**

25 SEC. ____ . Section 69595 of the Government Code is amended to read:
26 69595. In the County of San Diego there are ~~72~~ 128 judges of the superior court.

27 **Comment.** Section 69595 is amended to reflect unification of the municipal and superior courts
28 in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective
29 December 1, 1998. See former Sections 73641, 73951, 74341, 74741 (number of judges in San
30 Diego County municipal courts).

31 **Gov't Code § 69595.5 (amended). Concurrent daily sessions**

32 SEC. ____ . Section 69595.5 of the Government Code is amended to read:
33 69595.5. (a) Notwithstanding the provisions of Article 5 (commencing with Section
34 69740) of Chapter 5 of Title 8, in the County of San Diego, one or more judges of the
35 superior court shall hold concurrent daily sessions in the City of Vista, two or more
36 judges of the superior court shall hold concurrent daily sessions in the City of El Cajon,
37 and one judge of the superior court shall hold concurrent daily sessions within the former
38 South Bay Municipal Court District.

39 (b) For purposes of this section, the portion of the City of San Diego lying south of the
40 City of Chula Vista and the portion of the City of San Diego lying within San Diego Bay
41 south of a westerly continuation of the northern boundary of National City to the point of
42 intersection with the eastern boundary of the City of Coronado are part of the former
43 South Bay Municipal Court District.

1 **Comment.** Subdivision (a) of Section 69595.5 is amended to reflect unification of the
2 municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the
3 California Constitution, effective December 1, 1998. *Cf.* Section 71042.5 (preservation of judicial
4 districts for purposes of publication).

5 Subdivision (b) continues former Section 71040.6, omitting the reference to the San Diego
6 Municipal Court District. For provisions relating to restatements and continuations of existing
7 law, see Section 2. For disposition of the provisions of former Section 71040.6 that are not
8 continued, see the Comment to former Article 2 (commencing with former Section 71040).

9 **Note: Comment Requested**

10 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
11 further work on Government Code Section 69595.5 pending (1) any implementation of
12 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
13 among the interested parties. The Commission solicits comments on these issues.

14 **Gov't Code § 69596 (amended). Number of judges in City and County of San Francisco**

15 SEC. ____ . Section 69596 of the Government Code is amended to read:

16 69596. In the City and County of San Francisco there are 30 50 judges of the superior
17 court, ~~any one or more of whom may hold court.~~

18 **Comment.** Section 69596 is amended to reflect unification of the municipal and superior courts
19 in the City and County of San Francisco pursuant to Article VI, Section 5(e), of the California
20 Constitution, effective December 31, 1998. See former Section 74501 (number of judges in City
21 and County of San Francisco municipal courts). The last clause is deleted as unnecessary. *Cf.*
22 Section 69741.5 (proceedings by “any one or more of the judges” sitting in superior court session
23 effectual as though all judges of court presided at session).

24 **Gov't Code § 69598 (amended). Number of judges in San Joaquin County**

25 SEC. ____ . Section 69598 of the Government Code is amended to read:

26 69598. In the County of San Joaquin there are 14 26 judges of the superior court.

27 **Comment.** Section 69598 is amended to reflect unification of the municipal and superior courts
28 in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution,
29 effective June 8, 1998. See former Sections 73481, 73702, 74801 (number of judges in San
30 Joaquin County municipal courts).

31 **Gov't Code § 69598.5 (added). Number of judges in San Luis Obispo County**

32 SEC. ____ . Section 69598.5 is added to the Government Code, to read:

33 69598.5. In the County of San Luis Obispo there are 11 judges of the superior court.

34 **Comment.** Section 69598.5 supersedes former Section 69613 for the purpose of
35 alphabetization. It reflects unification of the municipal and superior courts in San Luis Obispo
36 County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998.
37 See former Section 74601 (number of judges in San Luis Obispo County municipal courts).

38 **Gov't Code § 69599 (amended). Number of judges in San Mateo County**

39 SEC. ____ . Section 69599 of the Government Code is amended to read:

40 69599. In San Mateo County there are ~~16 judges of the superior court. However, at~~
41 ~~such time as the board of supervisors finds there are sufficient funds for an additional~~
42 ~~judge and adopts a resolution to that effect, there shall be 17~~ 26 judges of the superior
43 court.

44 **Comment.** Section 69599 is amended to reflect unification of the municipal and superior courts
45 in San Mateo County pursuant to Article VI, Section 5(e), of the California Constitution, effective

1 June 12, 1998. See former Section 73521 (number of judges in San Mateo County Judicial
2 District).

3 **Gov't Code § 69599.5 (amended). Number of judges in Santa Barbara County**

4 SEC. ____ . Section 69599.5 of the Government Code is amended to read:

5 69599.5. (a) In the County of Santa Barbara there ~~shall be 10~~ are 19 judges of the
6 superior court.

7 (b) ~~Notwithstanding Section 247 of the Welfare and Institutions Code, no juvenile court~~
8 ~~referee or referees may be appointed in the County of Santa Barbara.~~

9 **Comment.** Subdivision (a) of Section 69599.5 is amended to reflect unification of the
10 municipal and superior courts in Santa Barbara County pursuant to Article VI, Section 5(e), of the
11 California Constitution, effective August 3, 1998. See former Section 74641 (number of judges in
12 Santa Barbara County municipal courts).

13 Subdivision (b) is deleted to reflect enactment of the Trial Court Employment Protection and
14 Governance Act. See Section 71622 (subordinate judicial officers).

15 **Gov't Code § 69600 (amended). Number of judges in Santa Clara County**

16 SEC. ____ . Section 69600 of the Government Code is amended to read:

17 69600. In the County of Santa Clara there ~~shall be 34 judges of the superior court.~~
18 ~~However, at such time as the Santa Clara County Board of Supervisors finds that there~~
19 ~~are sufficient funds for up to 10 additional judges, and adopts a resolution or resolutions~~
20 ~~to that effect, there shall be up to 44~~ are 79 judges of the superior court.

21 **Comment.** Section 69600 is amended to reflect unification of the municipal and superior courts
22 in Santa Clara County pursuant to Article VI, Section 5(e), of the California Constitution,
23 effective July 30, 1998. See former Section 74661 (number of judges in Santa Clara County
24 municipal courts).

25 **Gov't Code § 69600.5 (added). Number of judges in Santa Cruz County**

26 SEC. ____ . Section 69600.5 is added to the Government Code, to read:

27 69600.5. In the County of Santa Cruz there are 10 judges of the superior court.

28 **Comment.** Section 69600.5 supersedes former Section 69614 for the purpose of
29 alphabetization. It reflects unification of the municipal and superior courts in Santa Cruz County
30 pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See
31 former Section 74691 (number of judges in Santa Cruz County municipal courts).

32 **Gov't Code § 69601 (amended). Number of judges in Shasta County**

33 SEC. ____ . Section 69601 of the Government Code is amended to read:

34 69601. In the County of Shasta there ~~shall be five~~ are nine judges of the superior court.

35 **Comment.** Section 69601 is amended to reflect unification of the municipal and superior courts
36 in Shasta County pursuant to Article VI, Section 5(e), of the California Constitution, effective
37 June 3, 1998. See former Section 74981 (number of judges in Shasta County municipal courts).

38 **Gov't Code § 69601.3 (added). Number of judges in Sierra County**

39 SEC. ____ . Section 69601.3 is added to the Government Code, to read:

40 69601.3. In the County of Sierra there are two judges of the superior court.

41 **Comment.** Section 69601.3 is added to reflect unification of the municipal and superior courts
42 in Sierra County pursuant to Article VI, Section 5(e), of the California Constitution, effective July

1 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal court
2 judges in a county).

3 **Gov't Code § 69601.7 (added). Number of judges in Siskiyou County**

4 SEC. ____ . Section 69601.7 is added to the Government Code, to read:
5 69601.7. In the County of Siskiyou there are four judges of the superior court.

6 **Comment.** Section 69601.7 is added to reflect unification of the municipal and superior courts
7 in Siskiyou County pursuant to Article VI, Section 5(e), of the California Constitution, effective
8 June 4, 1998. See Cal. Const. art. VI, § 4 (minimum number of superior court judges in a county);
9 see also former Section 74721 (number of judges in Siskiyou County municipal court).

10 **Gov't Code § 69602 (amended). Number of judges in Solano County**

11 SEC. ____ . Section 69602 of the Government Code is amended to read:
12 69602. In the County of Solano there ~~shall be nine~~ are 16 judges of the superior court.

13 **Comment.** Section 69602 is amended to reflect unification of the municipal and superior courts
14 in Solano County pursuant to Article VI, Section 5(e), of the California Constitution, effective
15 August 3, 1998. See former Sections 73672, 74841 (number of judges in Solano County
16 municipal courts).

17 **Gov't Code § 69603 (amended). Number of judges in Sonoma County**

18 SEC. ____ . Section 69603 of the Government Code is amended to read:
19 69603. In the County of Sonoma there ~~shall be 10~~ are 16 judges of the superior court.

20 **Comment.** Section 69603 is amended to reflect unification of the municipal and superior courts
21 in Sonoma County pursuant to Article VI, Section 5(e), of the California Constitution, effective
22 June 12, 1998. See former Section 74708 (number of judges in Sonoma County municipal
23 courts).

24 **Gov't Code § 69604 (amended). Number of judges in Stanislaus County**

25 SEC. ____ . Section 69604 of the Government Code is amended to read:
26 69604. In the County of Stanislaus there ~~shall be nine~~ are 17 judges of the superior
27 court.

28 **Comment.** Section 69604 is amended to reflect unification of the municipal and superior courts
29 in Stanislaus County pursuant to Article VI, Section 5(e), of the California Constitution, effective
30 July 31, 1998. See former Section 74781 (number of judges in Stanislaus County municipal
31 courts).

32 **Gov't Code § 69604.3 (added). Number of judges in Sutter County**

33 SEC. ____ . Section 69604.3 is added to the Government Code, to read:
34 69604.3. In the County of Sutter there are five judges of the superior court.

35 **Comment.** Section 69604.3 supersedes former Section 69615 for the purpose of
36 alphabetization. It reflects unification of the municipal and superior courts in Sutter County
37 pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See
38 former Section 74831 (number of judges in Sutter County municipal courts).

39 **Gov't Code § 69604.5 (added). Number of judges in Tehama County**

40 SEC. ____ . Section 69604.5 is added to the Government Code, to read:
41 69604.5. In the County of Tehama there are four judges of the superior court.

1 **Comment.** Section 69604.5 supersedes former Section 69607 for the purpose of
2 alphabetization. It reflects unification of the municipal and superior courts in Tehama County
3 pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See
4 former Section 74861 (number of judges in Tehama County municipal courts).

5 **Gov't Code § 69604.7 (added). Number of judges in Trinity County**

6 SEC. ____ . Section 69604.7 is added to the Government Code, to read:
7 69604.7. In the County of Trinity there are two judges of the superior court.

8 **Comment.** Section 69604.7 is added to reflect unification of the municipal and superior courts
9 in Trinity County pursuant to Article VI, Section 5(e), of the California Constitution, effective
10 July 1, 1998. See Cal. Const. art. VI, §§ 4, 5 (minimum number of superior court and municipal
11 court judges in a county).

12 **Gov't Code § 69605 (amended). Number of judges in Tulare County**

13 SEC. ____ . Section 69605 of the Government Code is amended to read:
14 69605. In the County of Tulare there shall be seven are 16 judges of the superior court.

15 **Comment.** Section 69605 is amended to reflect unification of the municipal and superior courts
16 in Tulare County pursuant to Article VI, Section 5(e), of the California Constitution, effective
17 July 27, 1998. See former Section 74921 (number of judges in Tulare County municipal courts).

18 **Gov't Code § 69605.5 (amended). Number of judges in Tuolumne County**

19 SEC. ____ . Section 69605.5 of the Government Code is amended to read:
20 69605.5. In the County of Tuolumne there shall be one judge of the superior court.
21 However, at such time, on or after January 1, 1988, as the Board of Supervisors of the
22 County of Tuolumne finds sufficient funds for two judges and adopts a resolution to that
23 effect, there shall be two are four judges of the superior court.

24 **Comment.** Section 69605 is amended to reflect unification of the municipal and superior courts
25 in Tuolumne County pursuant to Article VI, Section 5(e), of the California Constitution, effective
26 April 23, 1999. See former Section 74994 (number of judges in Tuolumne County municipal
27 courts).

28 **Gov't Code § 69606 (amended). Number of judges in Ventura County**

29 SEC. ____ . Section 69606 of the Government Code is amended to read:
30 69606. In the County of Ventura there shall be 16 are 28 judges of the superior court.

31 **Comment.** Section 69606 is amended to reflect unification of the municipal and superior courts
32 in Ventura County pursuant to Article VI, Section 5(e), of the California Constitution, effective
33 June 10, 1998. See former Section 74901 (number of judges in Ventura County municipal courts).

34 **Gov't Code § 69607 (repealed). Number of judges in Tehama County**

35 SEC. ____ . Section 69607 of the Government Code is repealed.
36 69607. In the County of Tehama there shall be two judges of the superior court.

37 **Comment.** Section 69607 is superseded by Section 69604.5 for the purpose of alphabetization.

38 **Gov't Code § 69608 (repealed). Number of judges in Mendocino County**

39 SEC. ____ . Section 69608 of the Government Code is repealed.
40 69608. In the County of Mendocino there are three judges of the superior court.

41 **Comment.** Section 69608 is superseded by Section 69588.7 for the purpose of alphabetization.

1 **Gov't Code § 69609 (repealed). Number of judges in Placer County**

2 SEC. ____ . Section 69609 of the Government Code is repealed.

3 ~~69609. In the County of Placer there shall be five judges of the superior court.~~

4 **Comment.** Section 69609 is superseded by Section 69591.3 for the purpose of alphabetization.

5 **Gov't Code § 69610 (amended). Number of judges in Yolo County**

6 SEC. ____ . Section 69610 of the Government Code is amended to read:

7 69610. In the County of Yolo there are ~~five~~ nine judges of the superior court.

8 **Comment.** Section 69610 is amended to reflect unification of the municipal and superior courts
9 in Yolo County pursuant to Article VI, Section 5(e), of the California Constitution, effective June
10 3, 1998. See former Section 74961 (number of judges in Yolo County municipal courts).

11 **Gov't Code § 69611 (amended). Number of judges in Yuba County**

12 SEC. ____ . Section 69611 of the Government Code is amended to read:

13 69611. In the County of Yuba there ~~shall be three~~ are five judges of the superior court.

14 **Comment.** Section 69611 is amended to reflect unification of the municipal and superior courts
15 in Yuba County pursuant to Article VI, Section 5(e), of the California Constitution, effective
16 April 16, 1999. See former Section 74915.5 (number of judges in Yuba County municipal courts).

17 **Gov't Code § 69613 (repealed). Number of judges in San Luis Obispo County**

18 SEC. ____ . Section 69613 of the Government Code is repealed.

19 ~~69613. In the County of San Luis Obispo there are six judges of the superior court.~~

20 **Comment.** Section 69613 is superseded by Section 69598.5 for the purpose of alphabetization.

21 **Gov't Code § 69614 (repealed). Number of judges in Santa Cruz County**

22 SEC. ____ . Section 69614 of the Government Code is repealed.

23 ~~69614. In the County of Santa Cruz there are four judges of the superior court.~~
24 However, if the board of supervisors finds that there are sufficient funds for an additional
25 judge and adopts a resolution to that effect, there shall be five judge.

26 **Comment.** Section 69614 is superseded by Section 69600.5 for the purpose of alphabetization.

27 **Gov't Code § 69615 (repealed). Number of judges in Sutter County**

28 SEC. ____ . Section 69615 of the Government Code is repealed.

29 ~~69615. In the County of Sutter there are three judges of the superior court.~~

30 **Comment.** Section 69615 is superseded by Section 69604.3 for the purpose of alphabetization.

31 Article 4. Superior Court Districts

32  **Note: Comment Requested**

33 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
34 further work on Article 4 (Sections 69640-69650) pending (1) any implementation of
35 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
36 among the interested parties. The Commission solicits comments on these issues.

37 **Gov't Code § 69640 (unchanged). "District" defined**

38 69640. As used in this article the word "district" means a superior court district, created
39 as provided in this article.

1 **Gov't Code § 69641 (unchanged). Division of county**

2 69641. The board of supervisors of any county which has a population of not less than
3 4,000,000, as determined upon the basis of the last preceding census taken under the
4 authority of the Congress or the Legislature, by ordinance may divide the county into not
5 more than 12 superior court districts within which one or more sessions of the superior
6 court shall be held.

7 **Gov't Code § 69642 (unchanged). Locations of superior court sessions**

8 69642. In the ordinance creating districts, or in a subsequent ordinance, the board of
9 supervisors may designate one or more locations within each district at which sessions of
10 the superior court shall be held.

11 **Gov't Code § 69643 (unchanged). Change of boundaries**

12 69643. Whenever the board of supervisors finds that changes in population make
13 necessary or expedient the change of boundaries of any district, the change of, addition
14 of, or elimination of any location at which sessions of the superior court are to be held, or
15 the creation of new districts, it may make such changes by ordinance.

16 **Gov't Code § 69644 (unchanged). Minimum population**

17 69644. An ordinance creating or changing the boundaries of any district shall not result
18 in any district having an estimated population of less than 250,000.

19 **Gov't Code § 69646 (unchanged). Changes in locations of superior court sessions**

20 69646. The designation, addition, elimination or change of the location of sessions of
21 the superior court shall first be approved by a majority of the judges of the superior court
22 of the county and shall be effected by ordinance of the board of supervisors.

23 **Gov't Code § 69647 (unchanged). Court's quarters**

24 69647. Whenever the board of supervisors designates, adds, or changes the location for
25 the holding of sessions of the superior court in any district it shall provide housing,
26 personnel, and facilities for the superior court at such location as provided by Section
27 68073. The adequacy of the court's quarters, including the plans for the number and
28 design of the courtrooms, chambers and related facilities first shall be approved by a
29 majority of the judges of the superior court of the county.

30 **Gov't Code § 69648 (repealed). Traveling expenses in county with population exceeding**
31 **4,000,000**

32 SEC. ____ . Section 69648 of the Government Code is repealed.

33 ~~69648. Whenever, pursuant to this article or Section 68099, in the assignment of the~~
34 ~~business of the superior court it becomes necessary for a judge, clerk, deputy clerk, or~~
35 ~~court reporter who is regularly assigned to duty at a location in one district to travel to~~
36 ~~another location in the same or another district, for temporary attendance at a session of~~
37 ~~the superior court, he shall be allowed his necessary expenses in going to, returning from,~~
38 ~~and attending upon the business of such court. Such expense is a charge against the~~
39 ~~treasury of the county and shall be paid out of the general fund.~~

40 ~~Whenever a judge of a municipal court within a county is assigned to sit as a judge of~~
41 ~~the superior court of the said county, he shall be regularly assigned to duty at a location~~

1 ~~within one of the districts by the presiding judge, and shall thereupon be entitled to the~~
2 ~~benefits of this section.~~

3 **Comment.** Section 69648 is repealed to reflect enactment of Section 69505 (business-related
4 travel expenses of trial court judges and employees).

5 The section is also repealed to reflect unification of the municipal and superior courts pursuant
6 to Article VI, Section 5(e), of the California Constitution.

7 **Gov't Code § 69649 (amended). Superior court sessions in Los Angeles County**

8 SEC. ____ . Section 69649 of the Government Code is amended to read:

9 69649. When a majority of the judges of the superior court deem it necessary or
10 advisable, by order filed with the county clerk of the court and published as they may
11 prescribe, they may direct that a session of the court be held at least once a week at any
12 designated place in a district, not less than 30 miles distant from the nearest regular
13 location of the sessions of the superior court in that district, measured by airline. The
14 majority of the judges may limit the type of judicial proceedings which may be heard by
15 the court at such place to probate, guardianship, conservatorship, and domestic relations
16 matters, including but not limited to orders to show cause proceedings in domestic
17 relations matters.

18 **Comment.** Section 69649 is amended to reflect elimination of the county clerk's role as ex
19 officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of
20 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
21 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
22 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
23 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

24 **Gov't Code § 69650 (unchanged). Change of boundaries by legislature**

25 69650. At the next succeeding general session of the Legislature following division of a
26 county into districts, or following any change in the boundaries of a district, the
27 Legislature may change the boundaries of the district if it deems such action advisable.

28 **Gov't Code § 69741 (amended). Regular and special sessions**

29 SEC. ____ . Section 69741 of the Government Code is amended to read:

30 69741. Except as otherwise provided by Section 68099 68115, each superior court shall
31 hold its sessions:

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

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

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

40 **Comment.** Section 69741 is amended to correct the reference to former Section 68099.

41 The section is also amended to delete language referring to "the judge" of the court. Every
42 superior court has at least two judgeships as a result of trial court unification. See Section 69580
43 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, a
44 reference to the judges of the court means the sole judge of the court. See Section 13 (plural
45 includes singular).

Note: Comment Requested

Issues involving sessions and facilities are still unsettled. The Commission proposes to defer further work on Government Code Section 69741 pending (1) any implementation of recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations among the interested parties. The Commission solicits comments on these issues.
Subdivision (a) applies to Los Angeles County.

Gov't Code § 69743 (amended). Superior court additional sessions

SEC. ____ . Section 69743 of the Government Code is amended to read:
69743. By an order filed with the county 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 amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

Note: Comment Requested

Issues involving sessions and facilities are still unsettled. The Commission proposes to defer further work on Government Code Section 69743 pending (1) any implementation of recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations among the interested parties. The Commission solicits comments on these issues.

Gov't Code § 69744 (amended). Superior court sessions at various locations

SEC. ____ . Section 69744 of the Government Code is amended to read:
69744. When the judge or judges of the superior court of a county deem it necessary or advisable, by order filed with the county clerk of the court and published as he or they prescribe, he or 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 amended to reflect elimination of the county clerk's role as ex officio clerk of the superior court. See former Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

The section is also amended to delete language referring to "the judge" of the court. Every superior court has at least two judgeships as a result of trial court unification. See Section 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the judges of the court means the sole judge of the court. See Section 13 (plural includes singular).

Note: Comment Requested

Issues involving sessions and facilities are still unsettled. The Commission proposes to defer further work on Government Code Section 69744 pending (1) any implementation of

1 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
2 among the interested parties. The Commission solicits comments on these issues.

3 **Gov't Code § 69744.5 (amended). Superior court sessions in particular locations**

4 SEC. ____ . Section 69744.5 of the Government Code is amended to read:

5 69744.5. When ~~the judge, or a majority of the judges,~~ of the superior court deem it
6 necessary or advisable, by order filed with the county clerk of the court and published as
7 the judge or judges prescribe, the judge or judges may direct that the court be held at least
8 once a week at any designated place in the county, not less than 45 miles distant from the
9 county seat, measured by air line. The place designated shall be within a former judicial
10 district, ~~or former district in a county in which there is no municipal court,~~ composed
11 wholly of unincorporated territory, with a population of more than 40,000 as determined
12 pursuant to Section 71043. ~~The judge or a~~ majority of the judges may limit the type of
13 judicial proceedings which may be heard by the court at such place to probate matters and
14 matters relating to domestic relations.

15 **Comment.** Section 69744.5 is amended to reflect unification of the municipal and superior
16 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70212(b)
17 (preexisting court locations retained as superior court locations).

18 The section is also amended to reflect elimination of the county clerk's role as ex officio clerk
19 of the superior court. See former Section 26800 (county clerk acting as clerk of superior court).
20 The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk
21 of the court are delegated to the court administrative or executive officer, and the county clerk is
22 relieved of those powers, duties, and responsibilities. See Sections 69840 (powers, duties, and
23 responsibilities of clerk of court), 71620 (trial court personnel).

24 The section is also amended to delete language referring to "the judge" of the court. Every
25 superior court has at least two judgeships as a result of trial court unification. See Section 69580
26 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, a
27 reference to the judges of the court means the sole judge of the court. See Section 13 (plural
28 includes singular).

29 **Note: Comment Requested**

30 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
31 further work on Government Code Section 69744.5 pending (1) any implementation of
32 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
33 among the interested parties. The Commission solicits comments on these issues.

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

35 69746.5. In a county of the 14th class, at least one session of the superior court may be
36 held at a location designated by the board of supervisors which is not less than 40 miles,
37 nor more than 50 miles, from the site of the county courthouse. However, at such time on
38 or after July 1, 1990, as the board of supervisors finds that there are sufficient funds for
39 this purpose, the board of supervisors shall designate a location therefor which is within a
40 judicial district, or former district in a county in which there is no municipal court, with a
41 population of more than 40,000 as determined pursuant to Section 71043.

42 **Note: Comment Requested**

43 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
44 work on Government Code Section 69746.5 pending (1) any implementation of recommendations
45 made by the Task Force on Court Facilities, and (2) completion of negotiations among the
46 interested parties. The Commission solicits comments on these issues.

1 **Gov't Code § 69749.3 (unchanged). Sessions in Palm Springs**

2 69749.3. Notwithstanding the provisions of this article, sessions of the superior court in
3 Riverside County may be held in Palm Springs at such times as may be prescribed by the
4 judges sitting pursuant to Section 69748.1.

5 **Note: Comment Requested**

6 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
7 work on Government Code Section 69749.3 pending (1) any implementation of recommendations
8 made by the Task Force on Court Facilities, and (2) completion of negotiations among the
9 interested parties. The Commission solicits comments on these issues.

10 **Gov't Code § 69749.4 (unchanged). Sessions in Indian Wells Valley area of northeast Kern**
11 **County**

12 69749.4. Notwithstanding any other provision of this article, sessions of the superior
13 court shall be held in the Indian Wells Valley area of northeast Kern County at such times
14 as may be prescribed by the judges.

15 **Note: Comment Requested**

16 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
17 work on Government Code Section 69749.4 pending (1) any implementation of recommendations
18 made by the Task Force on Court Facilities, and (2) completion of negotiations among the
19 interested parties. The Commission solicits comments on these issues.

20 **Gov't Code § 69750 (repealed). Travel within county to city where not regularly assigned**

21 SEC. ____ . Section 69750 of the Government Code is repealed.

22 ~~69750. Whenever, pursuant to this article or subdivision (a) of Section 68115, in the~~
23 ~~assignment of the business of the superior court it becomes necessary for a judge, clerk,~~
24 ~~deputy clerk, court reporter, or secretary, who is regularly assigned to duty at the county~~
25 ~~seat or at a city outside of the county seat where a session of the superior court is held to~~
26 ~~travel to a city other than that to which such person is regularly assigned for temporary~~
27 ~~attendance at a session of the superior court, such persons shall be allowed their~~
28 ~~necessary expenses in going to, returning from, and attending upon the business of such~~
29 ~~court. Such expense is a charge against the treasury of the county and shall be paid out of~~
30 ~~the general fund.~~

31 ~~Whenever a judge of a municipal court within a county is assigned to sit as a judge of~~
32 ~~the superior court of said county, such judge shall be regularly assigned to duty at the~~
33 ~~county seat or at a city outside the county seat by the presiding judge, and shall thereupon~~
34 ~~be entitled to the benefits of this section.~~

35 **Comment.** Section 69750 is repealed to reflect enactment of Section 69505 (business-related
36 travel expenses of trial court judges and employees).

37 The section is also repealed to reflect unification of the municipal and superior courts pursuant
38 to Article VI, Section 5(e), of the California Constitution.

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

40 69752. (a) Notwithstanding any other provision of this code, no superior court will hold
41 sessions in any city other than the county seat except with the approval of the board of
42 supervisors.

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

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

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

10 **Note: Comment Requested**

11 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
12 work on Government Code Section 69752 pending (1) any implementation of recommendations
13 made by the Task Force on Court Facilities, and (2) completion of negotiations among the
14 interested parties. The Commission solicits comments on these issues.

15 The last paragraph of Section 69752 applies to Orange County.

16 **Gov't Code § 69753 (repealed). Superior court session at municipal court location**

17 SEC. ____ . Section 69753 of the Government Code is repealed.

18 ~~69753. (a) Notwithstanding any other provision of this code, the presiding or sole judge~~
19 ~~of a superior court may, if the session is held in furtherance of a coordination plan~~
20 ~~approved under Section 68112 or in the absence of a timely objection in a civil case or~~
21 ~~proceeding or with the express consent of the parties in a criminal action, direct that a~~
22 ~~session of the court be held at any place in the county where a municipal court regularly~~
23 ~~conducts sessions, if:~~

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

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

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

33 **Comment.** Section 69753 is repealed to reflect unification of the municipal and superior courts
34 pursuant to Article VI, Section 5(e), of the California Constitution. See Cal. Const. art. VI, § 23
35 and Section 70212(b) (preexisting court locations retained as superior court locations).

36 **Gov't Code § 69801 (repealed). Extra sessions in San Bernardino County**

37 SEC. ____ . Section 69801 of the Government Code is repealed.

38 ~~69801. (a) The Board of Supervisors of San Bernardino County may, with the~~
39 ~~concurrence of the majority of the judges of the superior court in the county and the~~
40 ~~Director of the Department of Corrections, lease a portion of any institution of the~~
41 ~~department located within the county to establish a pilot project for the purpose of~~
42 ~~holding extra sessions of the superior court in a facility located upon the grounds of the~~
43 ~~institution. The lease agreement shall be entered into pursuant to Section 14670 of this~~
44 ~~code for a period up to 50 years. The facility for housing the superior court shall be~~
45 ~~constructed so that it is separate and apart from any existing facilities of the department.~~
46 ~~The extra sessions shall not be held until the facility housing the superior court is~~

1 ~~completed and available for occupancy by the court and sufficient funds are made~~
2 ~~available for the operation of the court. The costs of the construction of any facility~~
3 ~~constructed for such purpose shall be borne by the county.~~

4 ~~(b) The court sessions held pursuant to subdivision (a) shall not contravene any~~
5 ~~limitations imposed on the place such court sessions may be held.~~

6 ~~(c) The Judicial Council shall report to the Legislature on the operation of any court~~
7 ~~which is holding extra sessions pursuant to subdivision (a). The report shall be filed not~~
8 ~~later than the end of the second calendar year during which the extra sessions have been~~
9 ~~held.~~

10 **Comment.** Section 69801 is repealed as obsolete. The pilot project was never established and
11 is no longer necessary. See Penal Code § 977 (video arraignments).

12 **Gov't Code § 69840 (added). Powers, duties, and responsibilities of clerk of court and**
13 **deputy clerk of court**

14 SEC. ____ . Section 69840 is added to the Government Code, to read:

15 69840. (a) The clerk of the court shall exercise or perform, in addition to the powers,
16 duties, and responsibilities provided by statute, any powers, duties, and responsibilities
17 required or permitted to be exercised by the county clerk in connection with judicial
18 actions, proceedings, and records. The county clerk is relieved of any obligation imposed
19 by law on the county clerk with respect to these powers, duties, and responsibilities.

20 (b) A deputy court clerk is subject to the provisions of Article 7 (commencing with
21 Section 1190) of Chapter 1 of Division 4 of Title 1.

22 **Comment.** Section 69840 is added to reflect:

23 (1) Elimination of the county clerk's role as ex officio clerk of the superior court. See former
24 Section 26800 (county clerk acting as clerk of superior court). The powers, duties, and
25 responsibilities formerly exercised by the county clerk as ex officio clerk of the court are
26 delegated to the court administrative or executive officer, and the county clerk is relieved of those
27 powers, duties, and responsibilities. See also Section 71620 (trial court personnel).

28 (2) The corresponding elimination of the deputy county clerk's role as ex officio deputy clerk
29 of the superior court. See Section 24100 (deputy included in principal's name). Subdivision (b)
30 makes clear that Article 7 (commencing with Section 1190) of Chapter 1 of Division 4 of Title 1
31 applies to deputy court clerks. See also Section 71620 Comment (Article 7 applicable to all
32 deputy court officers).

33  **Note: Comment Requested**

34 Government Code Section 69840 is based on the assumption that the functions of the court
35 clerk are performed by a court officer rather than by the county clerk. The Commission solicits
36 comment on the question whether the county clerk continues to act as court clerk in any county,
37 and if so whether it is necessary to preserve statutes authorizing that, as well as to provide for
38 reimbursement to the county for court clerk services performed by the county clerk.

39 **Gov't Code § 69890 (repealed). Secretary to the judges**

40 SEC. ____ . Section 69890 of the Government Code is repealed.

41 ~~69890. In each county with a population of 300,000 and over, the judges of the superior~~
42 ~~court may appoint a secretary, who shall hold office at their pleasure and perform such~~
43 ~~duties as may be required of him by the court or the judges. The salary of the secretary~~
44 ~~shall be two hundred fifty dollars (\$250) a month. The salary shall be audited, allowed,~~
45 ~~and paid out of the general fund of the county.~~

46 **Comment.** Section 69890 is repealed to reflect:

1 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
2 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
3 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment
4 protection system).

5 (2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
6 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

7 **Note.** Government Section 69890 could potentially apply to any of the following counties:
8 Alameda, Contra Costa, Fresno, Kern, Los Angeles, Monterey, Orange, Riverside, Sacramento,
9 San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara,
10 Solano, Sonoma, Stanislaus, Tulare, and Ventura.

11 **Gov't Code § 69891.1 (repealed). Secretary to the judges in Solano County**

12 SEC. ____ . Section 69891.1 of the Government Code is repealed.

13 ~~69891.1. In each county with a population of less than 145,000 and more than 130,000,~~
14 ~~as determined by the 1960 census, to assist the court in the transaction of its judicial~~
15 ~~business, the judges of the court may appoint one competent judicial secretary skilled in~~
16 ~~such work for each judge of the superior court of the county who is to render such service~~
17 ~~as the judge may require each day.~~

18 ~~The judicial secretary shall be eligible for such retirement, insurance, or other benefits~~
19 ~~as may be available to county employees.~~

20 ~~The monthly salary, classification, and within-range advancement of each judicial~~
21 ~~secretary shall be established and adjusted by approval of the board of supervisors and a~~
22 ~~majority of the judges of the court. The salary shall be allowed, paid, and audited from~~
23 ~~the same source and in the same manner as may be required for other salary demands~~
24 ~~against the county.~~

25 **Comment.** Section 69891.1 is repealed to reflect:

26 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
27 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
28 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
29 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
30 (employment selection and advancement), 71650-71658 (employment protection system), 71673
31 (authority of court).

32 (2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
33 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

34 **Gov't Code § 69891.5 (repealed). Salary of judicial secretary or stenographer in Sonoma**
35 **County**

36 SEC. ____ . Section 69891.5 of the Government Code is repealed.

37 ~~69891.5. In each county with a population of less than 104,000 and more than 103,000,~~
38 ~~as determined by the 1950 Census, the monthly salaries of the stenographer or secretary~~
39 ~~to the judge of the superior court shall be fixed in the manner prescribed in Section~~
40 ~~69892, except that the minimum salary for any stenographer or secretary to the judge~~
41 ~~shall be three hundred fifty dollars (\$350) per month.~~


42 **Comment.** Section 69891.5 is repealed to reflect enactment of the Trial Court Employment
43 Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries).

44 **Gov't Code § 69892 (repealed). Judicial secretaries**

45 SEC. ____ . Section 69892 of the Government Code is repealed.

1 69892. In a county having a population of over 82,000 and not over 1,500,000 as
2 determined by the 1960 federal census, the judge of the superior court may appoint a
3 secretary and two assistant secretaries and not to exceed one additional assistant secretary
4 for each department of the superior court in the county over three. Such appointees shall
5 be exempt from civil service. The board of supervisors shall fix the salary of the secretary
6 and assistant secretaries at rates equivalent to the salary rate of county employees holding
7 comparable positions under the county civil service or merit system, or if there is none, at
8 rates equivalent to salary rate of county employees holding comparable positions. The
9 salary of the secretary shall not be less than three hundred dollars (\$300) a month and the
10 salary of an assistant secretary shall not be less than two hundred seventy-five dollars
11 (\$275) a month.

12 **Comment.** Section 69892 is repealed to reflect enactment of the Trial Court Employment
13 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
14 classifications), 71620 (trial court personnel), 71623 (salaries), 71640-71645 (employment
15 selection and advancement), 71650-71658 (employment protection system), 71673 (authority of
16 court).

17  **Note.** Government Section 69892 could potentially apply to any of the following counties:
18 Alameda, Butte, Contra Costa, Fresno, Humboldt, Kern, Marin, Merced, Monterey, Orange,
19 Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, San Mateo,
20 Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare, and Ventura.

21 **Gov't Code § 69892.1 (repealed). Court executive officer/clerk in Los Angeles County**

22 SEC. ____ . Section 69892.1 of the Government Code is repealed.

23 69892.1. Notwithstanding any applicable county charter provision to the contrary, a
24 majority of the judges of the superior court in any county with a population of over
25 7,000,000 as determined by the 1980 federal census shall appoint an executive
26 officer/clerk of the superior court who shall hold office at the pleasure of the court and
27 shall exercise administrative powers and perform other duties as may be required of him
28 or her. The court shall fix the qualifications of the officer and may delegate to that officer
29 any administrative powers and duties as are now or may hereafter by law be vested in or
30 required to be exercised by the court. The executive officer/clerk of the superior court
31 shall prepare an annual report and other reports as may be directed by the court. The
32 annual salary of the executive officer/clerk of the superior court shall be as provided in
33 Section 69894.1. He or she shall be allowed actual traveling and other necessary expenses
34 while engaged in the discharge of the duties of his or her office.

35 **Comment.** Section 69892.1 is repealed to reflect:

36 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
37 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
38 (salaries), 71673 (authority of court).

39 (2) Enactment of Section 69505 (business-related travel expenses of trial court judges and
40 employees).

41 **Gov't Code § 69893.5 (repealed). Court personnel in Sacramento County**

42 SEC. ____ . Section 69893.5 of the Government Code is repealed.

43 69893.5. (a) In each county with a population of 480,000 and not more than 503,000, as
44 determined by the 1960 Federal Census, the superior court may establish such titles as are
45 required and, with the approval of the board of supervisors, may appoint and employ a
46 court administrator, probate file examiner, master calendar clerk, legal secretaries,
47 assistants, and other employees as it deems necessary for the performance of the duties

1 and exercise of the powers conferred by law upon it and its members. Rates of
2 compensation of all officers, assistants, and other employees may be established and
3 adjusted by the board of supervisors.

4 (b) Notwithstanding any other provision of law, juvenile court referees appointed
5 pursuant to Section 247 of the Welfare and Institutions Code and superior court
6 commissioners in this county shall receive a salary equal to 85 percent of the annual
7 salary for a superior court judge and shall earn vacation credit at the rate of 6.5 hours for
8 each biweekly pay period of full-time service, except that a juvenile court referee
9 appointed by the court prior to August 28, 1990, and who has been employed by the
10 county since August 5, 1974, at the time of the appointment shall be entitled to earn
11 vacation credit at the rate of 7.7 hours for each biweekly pay period of full-time service.

12 (c) The presiding judge of the superior and municipal courts may authorize a court
13 commissioner and juvenile court referees to exercise all the powers and perform all the
14 duties authorized by law to be performed by a commissioner of the superior court, a
15 commissioner of the municipal court appointed pursuant to Section 72190, and a referee
16 of the juvenile court appointed pursuant to Section 247 of the Welfare and Institutions
17 Code.

18 **Comment.** Section 69893.5 is repealed to reflect:

19 (1) Unification of the municipal and superior courts in Sacramento County pursuant to Article
20 VI, Section 5(e), of the California Constitution, effective June 17, 1998.

21 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
22 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71625
23 (accrued leave benefits), 71640-71645 (employment selection and advancement), 71673
24 (authority of court).

25 **Gov't Code § 69893.7 (repealed). Court personnel in Yolo County**

26 SEC. ____ . Section 69893.7 of the Government Code is repealed.

27 69893.7. Notwithstanding any other provision of law, the following provisions shall
28 apply to the Yolo County superior and municipal courts.

29 (a) To assist the court in the performance of its duties and the exercise of the powers
30 conferred by law upon the court, a majority of the judges of the superior and municipal
31 courts, with the approval of the board of supervisors, may establish such job
32 classifications and may appoint a clerk and such officers, assistants, and employees,
33 including official court reporters, as necessary. A majority of the judges of the superior
34 and municipal courts may delegate the creation of job classifications and the appointment
35 of employees to the court executive officer. Official court reporters shall hold office at
36 the pleasure of the appointing officer.

37 (b) The compensation, including salary, retirement, vacations, and other benefits, of all
38 Yolo County superior and municipal court officers and employees may be adjusted by the
39 board of supervisors. The board of supervisors may extend the management benefits
40 package to officers, assistants, and employees of the superior and municipal courts,
41 including judges, on the same basis as it is extended to other officers and employees of
42 the county. Unless otherwise provided by law, employees of the superior and municipal
43 courts are subject to the personnel regulations, memoranda of understanding and
44 affirmative action plan of the county.

45 (c) In addition to the official court reporters, the presiding judge of the superior and
46 municipal courts may appoint as many court reporters pro tempore as the business of the
47 court requires, who shall hold office at his or her pleasure. The court reporters pro
48 tempore shall be unsalaried, but shall be compensated at a rate to be established by joint

1 ~~action of the board of supervisors and a majority of the judges of the superior and~~
2 ~~municipal courts. In criminal cases, the compensation of the court reporters pro tempore~~
3 ~~shall, upon order of the court, be a charge against the general fund of the county. The~~
4 ~~presiding judge of the superior and municipal courts may delegate the appointment of~~
5 ~~court reporters pro tempore and the determination of their salary to the court executive~~
6 ~~officer.~~

7 **Comment.** Section 69893.7 is repealed to reflect:

8 (1) Unification of the municipal and superior courts in Yolo County pursuant to Article VI,
9 Section 5(e), of the California Constitution, effective June 3, 1998.


10 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
11 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
12 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
13 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
14 (employment selection and advancement), 71650-71658 (employment protection system), 71673
15 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
16 (compensation of official reporter).

17 (3) Enactment of the Trial Court Funding Act. See Section 77003, Cal. R. Ct. 810 ("court
18 operations" defined). See also Section 69952 (payment from Trial Court Operations Fund); Code
19 Civ. Proc. § 274a (transcript of proceedings).

20 **Gov't Code § 69894 (repealed). Court personnel in Los Angeles County**

21 SEC. ____ . Section 69894 of the Government Code is repealed.

22 ~~69894. In the County of Los Angeles, a majority of the judges of the superior court~~
23 ~~may appoint the following officers and employees:~~

24  **Note.** To conserve resources, the table of positions has not been reproduced.


25 ~~All personnel appointed pursuant to this article shall serve at the pleasure of the court~~
26 ~~and may at any time be removed by the court in its discretion.~~

27 **Comment.** Section 69894 is repealed to reflect enactment of the Trial Court Employment
28 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
29 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71640-71645
30 (employment selection and advancement), 71650-71658 (employment protection system), 71673
31 (authority of court). See also Section 69941 (appointment of official reporters).

32 **Gov't Code § 69894.1 (repealed). Salaries of court personnel in Los Angeles County**

33 SEC. ____ . Section 69894.1 of the Government Code is repealed.

34 ~~69894.1. (a) Officers and employees of the superior court shall receive a monthly salary~~
35 ~~at a rate specified in the Los Angeles County Code as follows:~~

36  **Note.** To conserve resources, the salary schedule has not been reproduced.

37 ~~Whenever a reference to numbered salary schedules and notes is made in this section,~~
38 ~~those found in the Los Angeles County Code, Title 6, shall apply. Whenever the~~
39 ~~compensation of superior court judges is adjusted, the flat rate salaries for court~~
40 ~~commissioners and referees shall be adjusted to maintain the salary relationship of 85~~
41 ~~percent of the annual compensation of superior court judges.~~

42 ~~As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes~~
43 ~~are used instead of schedule numbers:~~

44 ~~F--Flat rate per month.~~

45 ~~FD--Flat rate per day.~~

1 FH—Flat rate per hour.

2 As defined in the Los Angeles County Code, Section 6.28.040, the following
3 abbreviation is used in conjunction with or instead of schedule or range numbers:

4 N—Note (refers to Notes at end of Section 6.28.050).

5 “R” or “A” indicates a position’s inclusion in the County’s Management Appraisal and
6 Performance Plan. The grade number following the “R” or “A” designation indicates the
7 salary range. Compensation of these positions is in accordance with Sections 6.08.300 to
8 6.08.380, inclusive, of the county code.

9 (b) This section shall become operative on January 1, 2001.

10 **Comment.** Section 69894.1 is repealed to reflect enactment of the Trial Court Employment
11 Protection and Governance Act. See Sections 71620 (trial court personnel), 71622 (subordinate
12 judicial officers), 71623 (salaries), 71673 (authority of court). See also Section 69947
13 (compensation of official reporter).

14 **Gov’t Code § 69894.3 (repealed). Court personnel in counties over 2,000,000**

15 SEC. ____ . Section 69894.3 of the Government Code is repealed.

16 69894.3. Employees of the superior court in each county having a population of over
17 2,000,000 shall be entitled to step advancement, vacation, sick leave, holiday benefits and
18 other leaves of absence and other benefits as may be directed by rules of the court. Where
19 statutes require implementation by local ordinances for the extension of benefits to local
20 officers and employees, these may be made applicable by rule to court personnel,
21 including but not limited to jurors, and judges.

22 These benefits shall also include the same lump sum payments for sick leave and
23 vacation for the superior court employees when they are separated from the service as are
24 made to county employees of the county; except that lump sum payments to court
25 commissioners when separated from the service of the superior court shall be limited to
26 accrued vacation if any, as is provided by local rule of court, exclusive of accrued sick
27 leave.

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

36 Employment by the court shall be deemed to be employment by the county, if approved
37 by rule of court, for the purpose of determining a court employee’s rights with respect to
38 a county’s ordinances providing for salary step advancements and other employee
39 benefits and rights, including, but not limited to, amount of compensation, vacations, sick
40 leave, and accumulated sick leave.

41 In any such county attaches may be voluntarily transferred from a position in one
42 judicial district to a position in another within the county and promoted or voluntarily
43 demoted from a position in one judicial district to a position in another within the county
44 in substantially the same manner as transfers, demotions and promotions are authorized
45 generally in county departments or between departments of the county.

46 Rules of the court may include other matters pertaining to the general administration of
47 the court, including conditions of employment of court personnel, including but not
48 limited to jurors and judges. When rules are adopted by a majority of the judges and filed

1 with the Judicial Council they shall have the same status as other rules of court adopted
2 pursuant to Section 68070.

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

6 **Comment.** Section 69894.3 is repealed to reflect:

7 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
8 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
9 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
10 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
11 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
12 protection system), 71673 (authority of court).

13 (2) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
14 management), 77003 and Cal. R. Ct. 810 ("court operations" defined).

15 **Note: Comment Requested**

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

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

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

26 **Gov't Code § 69894.4 (repealed). Expense allowances**

27 SEC. ____ . Section 69894.4 of the Government Code is repealed.

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

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

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

42 **Comment.** Section 69894.4 is repealed to reflect:

43 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
44 71620 (trial court personnel), 71623 (salaries), 71673 (authority of court).

45 (2) Enactment of Section 69505 (business-related travel expenses of trial court judges and
46 employees).

47 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
48 management), 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court
49 Operations Fund), 77200 (state funding of trial court operations).

1 **Note.** Government Section 69894.4 could potentially apply to Los Angeles, Orange, and San
2 Diego Counties.

3 **Gov't Code § 69894.6 (repealed). Official reporters in Los Angeles County**

4 SEC. ____ . Section 69894.6 of the Government Code is repealed.

5 ~~69894.6. Notwithstanding Section 69894.1, in the County of Los Angeles, a majority of~~
6 ~~the judges of the superior court may appoint 362 court reporters at salary schedule 82F,~~
7 ~~NZ, N3. The salary schedule and notes are those found in the Los Angeles County Code,~~
8 ~~Title 6. Court reporters shall serve at the pleasure of the court and may at any time be~~
9 ~~removed by the court in its discretion.~~

10 **Comment.** Section 69894.6 is repealed to reflect enactment of the Trial Court Employment
11 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
12 classifications), 71620 (trial court personnel), 71623 (salaries), 71640-71645 (employment
13 selection and advancement), 71650-71658 (employment protection system), 71673 (authority of
14 court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of
15 official reporter).

16 **Gov't Code § 69895 (repealed). Court executive officer in City and County of San Francisco**

17 SEC. ____ . Section 69895 of the Government Code is repealed.

18 ~~69895. In the City and County of San Francisco, the superior court shall appoint an~~
19 ~~executive officer who shall act as a secretary to the judges of the superior court and~~
20 ~~perform the duties of jury commissioner pursuant to Section 69893 and all duties of a~~
21 ~~court administrator as described in Section 69898.~~

22 ~~On the authorization of the judges, the executive officer shall have an assistant~~
23 ~~executive officer who shall assist in the performance of the duties of Sections 69893 and~~
24 ~~69898.~~

25 ~~The court may delegate to the executive officer any administrative powers and duties as~~
26 ~~are now or hereafter by law may be vested in or required to be exercised by such court.~~

27 ~~The salaries of the executive officer and assistant executive officer shall be paid by the~~
28 ~~city and county.~~

29 **Comment.** Section 69895 is repealed to reflect:

30 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
31 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
32 (salaries). See also Code Civ. Proc. § 195 (jury commissioner).

33 (2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
34 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

35 **Note: Comment Requested**

36 The Commission is researching several issues pertaining to jury commissioners, including
37 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
38 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
39 by that Act. The Commission solicits comments on these points.

40 **Gov't Code § 69896 (repealed). Secretary serving as jury commissioner**

41 SEC. ____ . Section 69896 of the Government Code is repealed.

42 ~~69896. In a county with a population of less than 1,500,000 as ascertained pursuant to~~
43 ~~the 1960 federal census where the secretary for the judges of the superior court is~~
44 ~~required to perform the duties of jury commissioner pursuant to Section 69893, the salary~~
45 ~~of the secretary shall be fixed by the board of supervisors.~~

1 **Comment.** Section 69896 is repealed to reflect enactment of the Trial Court Employment
2 Protection and Governance Act. See Section 71623 (salaries). See also Code Civ. Proc. § 195
3 (jury commissioners).

4 **Note: Comment Requested**

5 The Commission is researching several issues pertaining to jury commissioners, including
6 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
7 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
8 by that Act. The Commission solicits comments on these points.

9 Government Code Section 69896 could potentially apply to all counties except Los Angeles
10 County.

11 **Gov't Code § 69897 (amended). Probate commissioners**

12 SEC. ____ . Section 69897 of the Government Code is amended to read:

13 69897. ~~The superior court of any county with a population of over 600,000 and under~~
14 ~~900,000 may appoint a probate commissioner to assist the probate court in disposing of~~
15 ~~its business connected with the administration of justice. The person appointed shall be~~
16 ~~designated as probate commissioner of such county. He shall be a citizen of the United~~
17 ~~States, a resident of this State and have been admitted to practice before the Supreme~~
18 ~~Court of this State. He shall hold office during the pleasure of the courts appointing him.~~

19 ~~The appointment of the probate commissioner shall be made by order entered in the~~
20 ~~minutes of the court.~~

21 ~~Every subordinate judicial officer appointed as a probate commissioner so appointed~~
22 ~~shall be in attendance at all sessions of the court. He~~ The probate commissioner ~~shall~~
23 ~~examine all the files and proceedings and advise the court on them. He~~ The probate
24 commissioner ~~shall have the powers and duties delegated to him by the appointing court,~~
25 ~~including the powers conferred on court commissioners by this title or the Code of Civil~~
26 ~~Procedure.~~

27 **Comment.** Section 69897 is amended to repeal obsolete provisions. The obsolete provisions
28 are superseded by Section 71622 (subordinate judicial officers).

29 **Gov't Code § 69898 (repealed). Appointment of court executive officer**

30 SEC. ____ . Section 69898 of the Government Code is repealed.

31 ~~69898. (a) Any superior court may appoint an executive officer who shall hold office at~~
32 ~~the pleasure of the court and shall exercise such administrative powers and perform such~~
33 ~~other duties as may be required of him by the court. The court shall fix the qualifications~~
34 ~~of the executive officer and may delegate to him any administrative powers and duties~~
35 ~~required to be exercised by the court. He shall supervise the secretaries of the judges of~~
36 ~~the court and perform, or supervise the performance of, the duties of jury commissioner.~~
37 ~~The salary of the executive officer shall be fixed by the court and shall be paid by the~~
38 ~~county in which he serves. Each such position shall be exempt from civil service laws.~~

39 ~~Any superior court may appoint the county clerk as executive officer, who shall hold~~
40 ~~office as such executive officer at the pleasure of the court and shall exercise such~~
41 ~~administrative powers and perform such other duties as may be required of such person~~
42 ~~by the court.~~

43 ~~(b) Any superior court for which a specific authorization to have an executive or~~
44 ~~administrative officer has been enacted by the Legislature may elect to proceed under its~~
45 ~~specific authorization or under this section, but not under both.~~

1 (c) In every superior court having an executive or administrative officer appointed
2 under the provisions of this section or under a specific statutory authorization, that officer
3 has the authority of a clerk of the superior court.

4 (d) Notwithstanding any other provision of law, a superior court having an executive or
5 administrative officer may, by local rule, specify which of the powers, duties and
6 responsibilities required or permitted to be exercised or performed by the county clerk in
7 connection with judicial actions, proceedings and records shall be exercised or performed
8 by the executive or administrative officer. The county clerk shall be relieved of any
9 obligation imposed on him by law with respect to these specified powers, duties and
10 responsibilities, to the extent the local rule imposes on the executive or administrative
11 officer the same powers, duties and responsibilities.

12 **Comment.** Section 69898 is superseded by Sections 69840 (powers, duties, and responsibilities
13 of clerk of court) and 71620 (trial court personnel).

14 **Note: Comment Requested**

15 The Commission is researching several issues pertaining to jury commissioners, including
16 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
17 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
18 by that Act. The Commission solicits comments on these points.

19 **Gov't Code § 69899.5 (repealed). Court personnel in Orange County**

20 SEC. ____ . Section 69899.5 of the Government Code is repealed.

21 69899.5. In the County of Orange, a majority of the judges of the superior court may
22 appoint or delegate authority to the Superior Court Chief Executive Officer to appoint
23 officers and employees whose salaries shall be pursuant to the Table of Classifications
24 and Salary Schedules adopted by the Executive Committee of the Superior Court.

25 Pursuant to the Lockyer-Isenberg Trial Court Funding Act of 1997 and Article 3
26 (commencing with Section 77200) of Chapter 13, the County of Orange has no obligation
27 for the salary and benefits of commissioners referees, officers, assistants, and other
28 employees of the superior court appointed pursuant to this section. Funding for trial court
29 operations shall be solely the responsibility of the state.

30 All personnel appointed pursuant to this section shall serve at the pleasure of the
31 majority of the judges and may at any time be removed by the majority of the judges in
32 their discretion, or in the discretion of the Superior Court Chief Executive Officer when
33 so delegated.

34 The superior court may establish any additional positions, titles, and pay rates as are
35 required, and may appoint and employ any additional commissioners, referees, officers,
36 assistants, and other employees it deems necessary for the performance of the duties and
37 exercise of the powers conferred by law upon the court and its members. Rates of
38 compensation of all officers, assistants, and other employees authorized by this section,
39 except those of court commissioners and juvenile court referees, may be adjusted by a
40 majority of the judges of the court, the Superior Court Executive Committee, or the
41 Superior Court Chief Executive Officer when so delegated.

42 All court personnel shall be entitled to any step advancement, vacation, sick leave,
43 holiday benefits, other leaves of absence, lump-sum payments for sick leave and vacation
44 when separated from the service, inclusion in the retirement system of the County of
45 Orange and other benefits as may be adopted in a memorandum of understanding with a
46 recognized employee organization or as may be directed by rules adopted by a majority
47 of the judges.

1 Superior court commissioners and juvenile court referees shall be entitled to any
2 benefits as may be directed by rules adopted by the majority of the judges.

3 Where statutes require implementation by local ordinances for the extension of benefits
4 to local officers and employees, these benefits may be made applicable, by rule, to those
5 employees.

6 Rules of the court may include other matters pertaining to the general administration of
7 the court, including conditions of employment of personnel. When the rules are adopted
8 by a majority of the judges and filed with the Judicial Council they shall have the same
9 status as other rules of court adopted pursuant to Section 68070.

10 When requested to do so by the court, the county shall furnish to the superior court any
11 services as may be required in connection with the recruitment and employment of
12 personnel.

13 All those personnel and judges shall be allowed actual traveling and necessary expenses
14 incurred while engaged in the duties of their employment or office.

15 This section is not intended to alter the existing employment status of, or meet and
16 confer obligations related to, superior court staff or to require changes in local
17 employment practices.

18 **Comment.** Section 69899.5 is repealed to reflect:

19 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
20 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
21 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
22 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
23 not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and
24 advancement), 71650-71658 (employment protection system), 71673 (authority of court).

25 (2) Enactment of Section 69505 (business-related travel expenses of trial court judges and
26 employees).

27 (3) Enactment of the Trial Court Funding Act. See Sections 77003 and Cal. R. Ct. 810 ("court
28 operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court
29 operations).

30 **Gov't Code § 69900 (repealed). Court personnel in City and County of San Francisco**

31 SEC. ____ . Section 69900 of the Government Code is repealed.

32 69900. In the City and County of San Francisco, a majority of the judges of the
33 superior court may appoint the following employees, whose annual salaries shall be as set
34 forth hereafter. The class numbers set forth refer to the superior court position
35 classifications contained in the salary ordinance of the City and County of San Francisco.

	Title	Class Number
37	1 Executive Officer	0555
38	1 Assistant County Clerk	0583
39	1 Assistant Executive Officer	0584
40	1 Manager of Budget and Admin.	0585
41	20 Court Coordinators	0588
42	4 Court Assistants	0589
43	4 Court Assistants, Senior	0590
44	65 Superior Court Clerks	0591
45	1 Payroll/Personnel Director	0592
46	1 Deputy Jury Commissioner	0622
47	3 Managers of Court Operations	0634
48	6 Division Chiefs	0636
49	1 Director-Family Court Services	0640

1	— 1	Assistant Director-Family Court Services	0641
2	— 1	Assistant Director-Probate	0646
3	— 1	Director, Probate	0647
4	— 4	Court Investigators	0648
5	— 3	Probate Examiners	0649
6	— 1	Traffic Hearing Officer	0650
7	— 5	Counselors-Family Court Services	0655
8	— 1	Mental Health Coordinator	0657
9	— 10	Legal Research Assistants	0676
10	— 1	Judicial Secretary Coordinator	0677
11	— 2	Executive Secretaries	0678
12	— 6	Judicial Secretaries	0680
13	— 23	Judicial Clerks, Senior	0681
14	— 40	Judicial Clerks	0697
15	— 1	Judicial Clerk II	0705
16	— 29	Court Reporters	0710
17	— 1	Legal Research Assistant-Presiding Judge	0735
18	— 1	MIS Specialist II	0818
19	— 4	MIS Specialists III	0819
20	— 1	Superior Court Computer Coordinator	0821
21	— 5	Attorneys, Civil and Criminal	0174
22	— 1	Juvenile Justice Director	0637

23 Those positions shall be paid biweekly the equivalent amount as specified in the salary
24 ordinance. All salaries for original appointments shall be at step 1, provided that on the
25 first anniversary of appointment the employee shall advance to the second step, and
26 thereafter on the second anniversary of appointment the employee shall advance to step 3,
27 and thereafter on the third anniversary of appointment the employee shall advance to step
28 4, and thereafter shall be paid at the rate established by step 4.

29 Service in any position enumerated herein prior to the effective date of the amendments
30 to this section enacted at the 1991-92 Regular Session of the Legislature shall constitute
31 service for the purpose of determining the step at which the attache is paid. Service in any
32 position wherein substantially the same duties have been performed shall also be deemed
33 service for the purpose of determining at which step the attache is to be paid.

34 Employment by the court shall be deemed to be employment by the city and county, if
35 approved by resolution of the court, for purposes of determining court employees' rights
36 to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by
37 charter or ordinances of the city and county for miscellaneous employees.

38 With the approval of the board of supervisors, the court may establish such additional
39 titles and pay rates as are required and, with the approval of the board of supervisors, may
40 appoint and employ such additional commissioners, officers, and assistants and other
41 employees as it deems necessary for the performance of the duties and exercise of the
42 powers conferred by law upon it and its members.

43 Rates of compensation of all officers and assistants and other employees may be altered
44 by joint action and approval of the board of supervisors and a majority of the judges of
45 the court. The salaries of the employees of the superior court shall be paid by the city and
46 county.

47 **Comment.** Section 69900 is repealed to reflect:

48 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
49 71601(l) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job
50 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623

(salaries), 71625 (accrued leave benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of official reporter).

(2) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Note: Comment Requested

The Commission is researching several issues pertaining to jury commissioners, including whether jury commissioner provisions in the Government and Penal Codes should be relocated to the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded by that Act. The Commission solicits comments on these points.

Gov’t Code § 69901 (repealed). Expense allowances

SEC. ____ . Section 69901 of the Government Code is repealed.

~~69901. All of the employees provided for in Section 69900 shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their office.~~

~~The salaries provided for in the said section shall be paid in monthly installments out of the salary fund of the county, or, if there is none, out of such fund as other salary demands against the county are paid. The expenses provided for in this section shall be paid in monthly installments out of the general fund. Salaries and expenses shall be allowed and audited in the same manner as the law requires for other demands against the county.~~

Comment. Section 69901 is repealed to reflect:

(1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(*l*) (“trial court employee” defined), 71623 (salaries), 71673 (authority of court).

(2) Enactment of Section 69505 (business-related travel expenses of trial court judges and employees).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

Gov’t Code § 69903 (repealed). Court officers and employees in Alameda County

SEC. ____ . Section 69903 of the Government Code is repealed.

~~69903. In any county with a population of less than 1,073,200, but more than 1,069,700 as determined by the 1970 federal census, a majority of the judges of the superior court may appoint the listed officers and employees whose salaries shall be paid by the county as follows:~~

Note. The list has been omitted to conserve resources.

~~The item number set forth in the previous paragraph refers to the classifications contained in the Alameda County salary ordinance and superior court positions shall be paid the equivalent amount as specified in the salary ordinance.~~

~~All personnel appointed pursuant to this section shall be exempt from civil service laws serving at the pleasure of the judges of the court and may at any time be removed by a majority thereof at their discretion. Notwithstanding any other provision of this section, each judge may appoint a competent phonographic reporter who shall perform, in addition to his other duties, such secretarial services for the appointing judge as he requires in the performance of his official duties.~~

~~With the approval of the board of supervisors, a majority of the judges may establish such additional titles and pay rates as are required and may appoint such additional commissioners, officers, assistants, and other employees as they deem necessary for the~~

1 performance of the duties and exercise of the powers conferred by law upon the court and
2 its members. Rates of compensation of all such officers, assistants, and other employees
3 may be adjusted by joint action and approval of the board of supervisors and a majority
4 of the judges of the court. Such additional appointments or changes in compensation
5 made pursuant to this section shall be on an interim basis and shall expire on the effective
6 date of appropriate ratifying or modifying state legislation.

7 All personnel except pro tem court reporters shall be entitled to salary advancement,
8 vacation, sick leave, holiday benefits, other leaves of absence, and other benefits, not
9 more than that provided in the Alameda County Administrative Code for county
10 employees. However, vacation benefits for commissioner and referee classifications shall
11 be determined by written court policy.

12 All personnel except pro tem court reporters shall be included in the Alameda County
13 retirement system.

14 If the board of supervisors provides by ordinance or resolution for a rate of
15 compensation for positions in any of the superior court classes specified in this section
16 which is higher than that herein otherwise provided for, such higher rate of compensation
17 shall be effective at the same time and in the same manner as rates of pay for Alameda
18 County employees generally. Comparative classes shall be determined by a majority of
19 the judges and the board of supervisors.

20 **Comment.** Section 69903 is repealed to reflect:

21 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
22 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
23 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
24 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
25 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
26 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
27 reporters), 69947 (compensation of official reporter).

28 (2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
29 77200 (state funding of trial court operations).

30 **Gov't Code § 69903.3 (repealed). Extra compensation for administrative assistant and chief**
31 **calendar deputy in Alameda County**

32 SEC. ____ . Section 69903.3 of the Government Code is repealed.

33 69903.3. Notwithstanding any other provisions of this article, in any county with a
34 population of less than 1,000,000 but more than 800,000 as determined by the 1960
35 federal census, and if the superior court does not have a position of assistant jury
36 commissioner, the positions of administrative assistant and chief calendar deputy in
37 Section 69903 shall be compensated at a rate of 10 percent more than the salary to which
38 they would be entitled otherwise.

39 **Comment.** Section 69903.3 is repealed to reflect enactment of the Trial Court Employment
40 Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries).

41 **Note: Comment Requested**

42 The Commission is researching several issues pertaining to jury commissioners, including
43 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
44 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
45 by that Act. The Commission solicits comments on these points.

46 **Gov't Code § 69904 (repealed). Court personnel in San Diego County**

47 SEC. ____ . Section 69904 of the Government Code is repealed.

1 69904. (a) In a county of the third class, as determined by the 1970 federal census, a
2 majority of the judges of the superior court may establish additional titles and pay rates as
3 are required and may appoint and employ those commissioners, officers, assistants, and
4 other employees as are deemed necessary for the performance of the duties and exercise
5 of the power conferred by law upon the court and its members. Titles and rates of
6 compensation of all the commissioners, officers, assistants, and other employees may be
7 adjusted from time to time by a majority of the judges of the court.

8 (b) All personnel appointed by the judges pursuant to this or any other section shall be
9 exempt from civil service and shall be attaches of the court. They shall serve at the
10 pleasure of a majority of the judges of the court and may at any time be removed by the
11 majority of the judges in their discretion. In addition to the benefits authorized under
12 Article 1 (commencing with Section 53200) of Chapter 2 of Title 5 and Sections 69902
13 and 69902.5 and in accordance with personnel regulations adopted by a majority of the
14 judges, those personnel shall be entitled to step advancement, vacation, sick leave,
15 holiday benefits, other leaves of absence, and other benefits, including participation in the
16 county's tuition refund and suggestion award programs, at levels no less than those
17 authorized for employees in the classified service of the county. In the event the
18 regulations allow credit for sick leave benefits or other benefits accumulated by the
19 appointee while employed in county civil service, no credit shall be allowed if the
20 appointee elected to receive any payment, including any partial payment, for any of those
21 benefits upon separation from county civil service. Any person terminating employment
22 with county civil service and immediately accepting appointment with the court may, if
23 provided by the rules of the Civil Service Commission, return to civil service within two
24 years of that appointment, provided the return shall not entitle that employee to any
25 additional rights by reason of his or her employment with the court, other than those to
26 which he or she would have been entitled if he or she had remained in county civil
27 service during the period of employment with the court.

28 (c) Juvenile court referees in their first year of service shall receive a salary equal to 75
29 percent of the salary of a judge of the superior court, and in their second year of service
30 they shall receive a salary equal to 80 percent of the salary of a judge of the superior
31 court; thereafter they shall receive a salary equal to 85 percent of the salary of a judge of
32 the superior court. Each juvenile court referee who has served as a referee prior to the
33 effective date of this act shall be entitled to credit for the time of service in the
34 computation of his or her salary as prescribed in this section. Nothing in this section shall
35 operate to reduce the compensation which the referee was entitled on the day prior to the
36 effective date of this section.

37 (d) With the approval of the judges of the court, each juvenile court referee and each
38 legal research assistant appointed pursuant to law, may be reimbursed for any payment he
39 or she makes for his or her annual State Bar of California membership fee.

40 **Comment.** Section 69904 is repealed to reflect enactment of the Trial Court Employment
41 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
42 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623
43 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
44 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
45 (employment selection and advancement), 71650-71658 (employment protection system).

46 **Gov't Code § 69906 (repealed). Court personnel in San Bernardino County**

47 SEC. ____ . Section 69906 of the Government Code is repealed.

48 69906. In any county with a population of less than 715,674 but more than 631,498, as
49 determined by the 1970 federal census, a majority of the judges of the superior court may

1 appoint officers or employees as expressly authorized by law and, with the approval of
2 the board of supervisors, may establish additional titles and may appoint additional
3 commissioners, officers, assistants, and other employees as they deem necessary for the
4 performance of the duties and exercise of the powers conferred by law upon the court and
5 its members. At the request of the judges or the superior court executive officer, county
6 personnel services shall assist in the recruitment and examination of court personnel, but
7 the personnel shall be court rather than county personnel and shall serve at and may be
8 terminated at the pleasure of a majority of the judges. Other provisions of county civil
9 service or personnel rules or procedures shall not be applicable to court employees unless
10 made applicable by local court rule. Except as otherwise expressly provided by statute,
11 salaries of all court personnel shall be fixed and adjusted by mutual agreement of a
12 majority of the judges and the board of supervisors; provided, that the salary of any court
13 investigator appointed by the court pursuant to Section 1454 of the Probate Code shall be
14 fixed by a majority of the judges of the court. Benefits other than salary shall, for all court
15 personnel, be the same as are now or may hereafter be provided to comparable county
16 classifications, as comparability is determined by agreement of the majority of judges and
17 the board of supervisors, but shall not exceed those provided for the comparable county
18 classifications, except that vacation benefits for commissioner and referee classifications
19 shall be the same as are provided for judges pursuant to subdivision (7) of Section 205 of
20 the California Rules of Court. However, the increased cost of vacation benefits for
21 commissioners and referees shall not be considered in determining the cost of court
22 operations pursuant to Sections 77003 and 77204.

23 To the extent necessary, and for the sole purpose of implementing the intent of this
24 section, court employees shall be deemed county employees for inclusion in those benefit
25 programs provided county employees as a group or groups. All court employees except
26 pro tempore court reporters shall, if otherwise eligible under statutory and retirement
27 association membership requirements, be included in the county's retirement system.

28 **Comment.** Section 69906 is repealed to reflect:

29 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
30 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
31 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
32 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
33 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
34 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
35 reporters), 69947 (compensation of official reporter).

36 (2) Enactment of the Trial Court Funding Act. See Section 77003, Cal. R. Ct. 810 ("court
37 operations" defined).

38 **Gov't Code § 69907 (unchanged). Benefits for superior court judges in San Diego County**

39 69907. (a) In the County of San Diego, in addition to any other compensation and
40 benefits, each judge of the superior court shall receive the same life insurance, accidental
41 death and dismemberment insurance, comprehensive annual physical examinations,
42 executive flexible benefits plan (except that if deferred compensation is selected, no
43 adjustment based on retirement tier shall apply), and dental and vision insurance as
44 provided by the County of San Diego for the classification of chief administrative officer.
45 Changes in these benefits shall be effective on the same date as for those for the
46 classification of chief administrative officer.

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

Note: Comment Requested

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

Gov't Code § 69908 (repealed). Court personnel in Madera County

SEC. ____ . Section 69908 of the Government Code is repealed.

~~69908. Notwithstanding any other provision of law, in Madera County, a majority of the judges of the superior court may appoint such officers or employees as are expressly authorized by law and, with the approval of the board of supervisors, may establish such additional titles and may appoint such additional commissioners, officers, assistants, and other employees as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. At the request of the judges or the superior court executive officer, the county personnel department shall assist in the recruitment and examination of court personnel. Personnel hired or appointed as official reporters, official interpreters, research attorneys, or in other nonclerical positions shall serve at and may be terminated at the pleasure of a majority of the judges. Other provisions of county civil service or personnel rules or procedures shall not be applicable to those court employees unless made applicable by local court rule. Except as otherwise expressly provided by statute, salaries of all court personnel shall be fixed and adjusted by mutual agreement of a majority of the judges and the board of supervisors. Benefits other than salary shall, for all court personnel, be the same as are now or may hereafter be provided to equivalent county classifications, as that equivalency is determined by agreement of the majority of judges and the board of supervisors, but shall not exceed those provided for the equivalent county classifications. To the extent necessary, and for the sole purpose of implementing the intent of this section, court employees shall be deemed county employees for inclusion in those benefit programs provided county employees as a group or groups. All court employees except pro tempore court reporters shall, if otherwise eligible under statutory and retirement system membership requirements, be included in the county's retirement system.~~

Comment. Section 69908 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of official reporter).

Gov't Code § 69909 (unchanged) Benefits for superior court judges in Riverside County

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.

Note: Comment Requested

Issues involving judicial benefits are still unsettled. The Commission proposes to defer work on Government Code Section 69909 pending further study and review by interested parties,

1 including the Judicial Council's Task Force on Judicial Service. The Commission solicits
 2 comments on these issues.

3 **Gov't Code § 69911 (repealed). Court personnel in Kern County**

4 SEC. ____ . Section 69911 of the Government Code is repealed.

5 69911. In the County of Kern, a majority of the judges of the superior court may
 6 appoint the following officers and employees whose salaries shall be:

7	Number	Title	Range
8	1	Superior Court Executive Officer/Jury Commissioner	64.7
9	3	Principal Attorney	62.4 or,
10		Senior Attorney OR	59.6 or,
11		Associate Attorney OR	56.7 or,
12		Deputy Attorney OR	53.9
13	1	Court Commissioner	75-85% of a Superior Court
14			judge's annual salary
15	1	Senior Juvenile Court Referee	75-85% of a Superior Court
16			judge's annual salary
17	1	Court Services Manager	53.1
18	1	Superior Court Calendar Coordinator	48.3
19	1	Departmental Systems Coordinator II	55.2
20	1	Departmental Systems Coordinator I	53.2
21	1	Probate Examiner	48.5
22	13	Assistant Secretary, Superior Court	44.4
23	22	Court Reporter	55.8
24	4	Court Reporter Part-time	55.8
25	1	Asst. Clerk of the Court	61.1
26	1	Dept. Systems Coord. I	52.8
27	1	Data Entry OP II OR	39.8
28		Data Entry OP I	37.8
29	1	Court Financial Technician	47.9
30	1	Account Clerk IV	44.4
31	2	Account Clerk II OR	39.3
32		Account Clerk I	36.5
33	1	Records Clerk	41.6
34	2	Microphotographer	40.7
35	2	Asst. Chief Deputy Clerk	53.0
36	1	CJIS Coord.	49.6
37	4	Supv. Superior Court Clerk	51.0
38	24	Superior Court Clerk II OR	47.8
39		Superior Court Clerk I	44.2
40	10	Deputy Clerk III	46.2
41	32	Deputy Clerk II OR	44.1
42		Deputy Clerk I	41.8
43	4	Typist Clerk II OR	38.1
44		Typist Clerk I	35.3
45	1	Clerk III	40.7
46	2	Clerk II OR	38.0
47		Clerk I	35.2
48	1	Senior Secretary	44.9

~~1 1 Secretary 43.0~~

~~2 The salary range set forth above is provided for in the salary schedule of the Kern~~
~~3 County salary ordinance.~~

~~4 All personnel appointed pursuant to this section shall be noncivil service and shall~~
~~5 serve at the pleasure of the majority of the judges. With the approval of the board of~~
~~6 supervisors, the majority of the judges may establish any additional positions as are~~
~~7 required, and, with the approval of the board of supervisors, may appoint and employ~~
~~8 additional commissioners, officers, assistants, and other employees as it deems necessary~~
~~9 for the performance of the duties and exercise of the powers conferred by law upon the~~
~~10 court and its members. Rates of compensation of all positions assigned to the superior~~
~~11 court may be adjusted by joint action and approval of the board of supervisors and a~~
~~12 majority of the judges of the court. Any additional appointments or changes in~~
~~13 compensation made pursuant to this section shall be on an interim basis and shall expire~~
~~14 on the effective date of appropriate ratifying or modifying state legislation.~~

~~15 All personnel appointed pursuant to this section shall be entitled to the same employee~~
~~16 benefits, with the exception of court holidays, that are provided to all other county~~
~~17 employees by the board of supervisors.~~

~~18 **Comment.** Section 69911 is repealed to reflect enactment of the Trial Court Employment~~
~~19 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job~~
~~20 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623~~
~~21 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred~~
~~22 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645~~
~~23 (employment selection and advancement), 71650-71658 (employment protection system), 71673~~
~~24 (authority of court). See also Code Civ. Proc. § 195 (jury commissioners); Sections 69941~~
~~25 (appointment of official reporters), 69947 (compensation of official reporter).~~

Note: Comment Requested

The Commission is researching several issues pertaining to jury commissioners, including whether jury commissioner provisions in the Government and Penal Codes should be relocated to the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded by that Act. The Commission solicits comments on these points.

Gov't Code § 69912 (repealed). Deputy court clerk in San Luis Obispo County

SEC. ____ . Section 69912 of the Government Code is repealed.

~~69912. In the County of San Luis Obispo, upon authorization of a majority of the~~
~~judges, the executive officer shall appoint a deputy clerk of the court or an assistant~~
~~executive officer who shall assist in the performance of the duties of Sections 69893 and~~
~~69898.~~

~~The deputy clerk of court or assistant executive officer classification shall hold office at~~
~~the pleasure of the court. The court shall fix the qualifications of the position. The~~
~~position shall be exempt from civil service laws.~~

~~The salary of the position shall be established and adjusted by mutual agreement of a~~
~~majority of judges and the board of supervisors.~~

~~Benefits other than salary shall be the same as are now provided or may hereafter be~~
~~provided to equivalent county classifications. The position shall be included in the county~~
~~retirement system.~~

~~**Comment.** Section 69912 is repealed to reflect enactment of the Trial Court Employment~~
~~Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job~~
~~classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625~~
~~(accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court~~

1 employment benefits not affected), 71640-71645 (employment selection and advancement),
2 71650-71658 (employment protection system), 71673 (authority of court).

3 **Gov't Code § 69915 (repealed). Consolidation of court-related services**

4 SEC. ____ . Section 69915 of the Government Code is repealed.

5 ~~69915. (a) Notwithstanding any other provision of law, and except as provided in~~
6 ~~subdivision (j), the Board of Supervisors of each of the Counties of Merced, Orange, and~~
7 ~~Shasta may commence public hearings regarding the abolition of the marshal's office and~~
8 ~~the transferring of court-related services provided by the marshal within the county to the~~
9 ~~sheriff's department. Within 30 days of the commencement of public hearings as~~
10 ~~authorized by this section, the board shall make a final determination as to the most cost-~~
11 ~~effective and most efficient manner of providing court-related services.~~

12 ~~(b) Concurrently, an election may be conducted among all of the judges of the~~
13 ~~consolidated courts of the county to provide an advisory recommendation to the board of~~
14 ~~supervisors on the abolition of the marshal's office and the transferring of court-related~~
15 ~~services provided by the marshal within the county to the sheriff's department. The~~
16 ~~outcome shall be determined by a simple majority of votes cast. The vote of the judges~~
17 ~~shall then be forwarded to the board of supervisors prior to the close of the public~~
18 ~~hearing, and the board of supervisors shall take into advisement the recommendation of~~
19 ~~the judges provided by the election report.~~

20 ~~(c) The determination of the abolishment of the marshal's office or the transferring of~~
21 ~~the duties of the marshal shall occur pursuant to the board's determination, and shall be~~
22 ~~concluded no later than July 1, 2000.~~

23 ~~(d) The courtroom assignment of bailiffs after abolition of the marshal's office and the~~
24 ~~consolidation pursuant to this section shall be determined by a two-member committee~~
25 ~~comprised of the presiding judge of the consolidated court and the sheriff, or their~~
26 ~~designees. Any new bailiff assignments shall be made only after consultation with the~~
27 ~~affected judge or commissioner in whose courtroom a new assignment is planned.~~

28 ~~It is the intent of the Legislature, in enacting this subdivision, to ensure that courtroom~~
29 ~~assignments are made in a manner that best ensures that the interests of the affected judge~~
30 ~~or commissioner and bailiff are protected.~~

31 ~~(e) Notwithstanding any other provision of law, the marshal and all personnel of the~~
32 ~~marshal's office affected by the abolition of the marshal's office in the county shall~~
33 ~~become employees of the sheriff's department at their existing or equivalent~~
34 ~~classification, salaries, and benefits, and, except as may be necessary for the operation of~~
35 ~~the agency under which court-related services and the service of civil and criminal~~
36 ~~process are consolidated, they shall not be involuntarily transferred out of the~~
37 ~~consolidated office for a period of five years following the consolidation.~~

38 ~~(f) Personnel of the abolished marshal's office shall be entitled to request an~~
39 ~~assignment to another division within the sheriff's department, and that request shall be~~
40 ~~reviewed the same as any other request from within the department. Persons who accept a~~
41 ~~voluntary transfer from the court services/civil division shall waive their rights pursuant~~
42 ~~to subdivision (e).~~

43 ~~(g) Permanent employees of the marshal's office on the effective date of the abolition~~
44 ~~of the marshal's office pursuant to this section shall be deemed to be qualified, and no~~
45 ~~other qualifications shall be required for employment or retention. Probationary~~
46 ~~employees of the marshal's office on the effective date of a consolidation pursuant to this~~
47 ~~section shall retain their probationary status and rights and shall not be deemed to have~~
48 ~~transferred so as to require serving a new probationary period.~~

1 ~~(h) All county service or service by employees of the marshal's office on the effective~~
2 ~~date of a consolidation pursuant to this section shall be counted toward seniority in the~~
3 ~~consolidated office, and all time spent in the same, equivalent, or higher classification~~
4 ~~shall be counted toward classification seniority.~~

5 ~~(i) No employee of the marshal's office on the effective date of a consolidation~~
6 ~~pursuant to this section shall lose peace officer status, or otherwise be adversely affected~~
7 ~~as a result of the abolition and merger of personnel into the sheriff's department.~~

8 ~~(j) Subdivisions (d) to (i), inclusive, shall not apply to the County of Orange. Prior to a~~
9 ~~determination by the Orange County Board of Supervisors to abolish the marshal's office~~
10 ~~and to transfer duties of the marshal to the sheriff, the board of supervisors shall do both~~
11 ~~of the following:~~

12 ~~(1) Meet and confer with affected employee bargaining representatives with respect to~~
13 ~~matters within the scope of representation that would be affected by a determination to~~
14 ~~abolish the marshal's office and to transfer duties of the marshal to the sheriff. These~~
15 ~~matters shall include, but not be limited to, seniority within the merged departments, job~~
16 ~~qualifications, classification of positions, and intradepartmental transfers. For purposes of~~
17 ~~carrying out this paragraph, employees of the superior court whose job classification~~
18 ~~confers safety status shall have the right to representation in accordance with the local~~
19 ~~employer-employee resolution and to bargain in accordance with Sections 3504, 3505,~~
20 ~~and 3505.1. The board of supervisors is not authorized to abolish the office of the marshal~~
21 ~~and to transfer duties of the marshal to the sheriff unless a mutual agreement, or mutually~~
22 ~~agreed to amendment to an existing memorandum of understanding as authorized by this~~
23 ~~section, is reached with each affected recognized employee organization pursuant to~~
24 ~~Section 3505.1 and adopted by the board of supervisors.~~

25 ~~(2) Confer with the presiding judge of the superior court or his or her designated~~
26 ~~representative and the sheriff to discuss courthouse security and to establish a mechanism~~
27 ~~for the assignment of courtroom security personnel. Any agreement made in accordance~~
28 ~~with this paragraph that commits the superior court to fund services shall be approved by~~
29 ~~the presiding judge of the superior court or his or her designee. Any agreement entered~~
30 ~~into pursuant to this paragraph shall become effective only upon a majority vote of the~~
31 ~~board of supervisors to abolish the office of the marshal or to transfer duties of the~~
32 ~~marshal to the sheriff.~~

33 ~~(k) Upon a determination by the Orange County Board of Supervisors to abolish the~~
34 ~~office of marshal and to transfer duties of the marshal to the sheriff, Article 17.1~~
35 ~~(commencing with Section 74010) of Chapter 10 shall become inoperative.~~

36 **Comment.** Section 69915 is repealed to reflect:

37 ~~(1) Abolition of the marshal's office and the transfer of court-related services provided by the~~
38 ~~marshal within Orange County to the sheriff's department, effective July 1, 2000.~~

39 ~~(2) Consolidation of court-related services in Merced and Shasta Counties within their~~
40 ~~respective marshal offices. See former Section 26603.1 (Merced County) and Section 72116~~
41 ~~(Shasta County).~~

42 **Gov't Code § 69941 (amended). Appointment of official reporters**

43 SEC. ____ . Section 69941 of the Government Code is amended to read:

44 69941. The judge or judges of any A superior court may appoint a as many competent
45 ~~phonographic reporter, or as many such reporters as there are judges, to be known as~~
46 ~~official reporter or reporters of such court, and such pro tempore official reporters as the~~
47 ~~convenience of the court may require. The reporters shall hold office during the pleasure~~
48 ~~of the appointing judge or judges. pro tempore, as are deemed necessary for the~~

1 performance of the duties and the exercise of the powers conferred by law upon the court
2 and its members.

3 **Comment.** Section 69941 is amended to reflect unification of the municipal and superior courts
4 pursuant to Article VI, Section 5(e), of the California Constitution. See former Section 72194
5 (municipal court reporters).

6 The first sentence is amended to incorporate the general appointment standard of the Trial
7 Court Employment Protection and Governance Act. See, e.g., Section 71620 (trial court
8 personnel).

9 The last sentence of Section 69941 is deleted as obsolete. Official reporters and official
10 reporters pro tempore who are court employees are subject to the provisions of the Trial Court
11 Employment Protection and Governance Act. See, e.g., Sections 71620 (trial court personnel),
12 71640-71645 (employment selection and advancement), 71650-71658 (employment protection
13 system), 71673 (authority of court). The employment status of official reporters and official
14 reporters pro tempore who are not court employees (including temporary employees hired
15 through agencies and individuals hired by the trial court pursuant to an independent contractor
16 agreement) is subject to the terms of their appointment.

17 The section is also amended to delete language referring to “the judge” of the court. Every
18 superior court has at least two judgeships as a result of trial court unification. See Section 69580
19 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, a
20 reference to the judges of the court means the sole judge of the court. See Section 13 (plural
21 includes singular).

22 **Gov’t Code § 69942 (amended). Qualifications of official reporter**

23 SEC. ____ . Section 69942 of the Government Code is amended to read:

24 69942. No person shall be appointed to the position of official reporter of any court
25 unless there is satisfactory evidence of his or her good moral character, and unless he or
26 she has been first examined as to his or her competency by at least three members of the
27 bar practicing in the court and designated by the judge or judges of the court, or the
28 person has first obtained a license to practice as a certified shorthand reporter from the
29 Court Reporters Board of California.

30 **Comment.** Section 69942 is amended to delete provisions superseded by Business and
31 Professions Code Sections 8016 (certificate required) and 8020 (qualifications for certification).

32 **Gov’t Code § 69944 (amended). Completion and filing of transcriptions of notes**

33 SEC. ____ . Section 69944 of the Government Code is amended to read:

34 69944. Until an official reporter of any court or official reporter pro tempore has fully
35 completed and filed all transcriptions of his the reporter’s notes in any case on appeal
36 which he the reporter is required by law to transcribe, he the reporter is not competent to
37 act as official reporter in any court. Violation of subdivision ~~(d)~~ (e) of Section 8025 of the
38 Business and Professions Code shall also render an official reporter or official reporter
39 pro tempore incompetent to act as official reporter in any court.

40 **Comment.** Section 69944 is amended to correct the reference to former subdivision (d) of
41 Business and Professions Code Section 8025.

42 **Gov’t Code § 69945 (repealed). Excuse of official reporter**

43 SEC. ____ . Section 69945 of the Government Code is repealed.

44 69945. ~~Except when excused for good and sufficient reason by order of the court, the~~
45 ~~official reporter of any superior court shall attend to the duties of his office in person. An~~
46 ~~order for excuse shall be entered upon the minutes of the court. Employment in his~~
47 ~~professional capacity elsewhere is not a good and sufficient reason for such excuse. When~~

1 ~~the official reporter of any court has been excused pursuant to this section, the court may~~
2 ~~appoint an official reporter pro tempore, who shall perform the same duties and receive~~
3 ~~the same compensation during the term of his employment as the official reporter.~~

4 **Comment.** Section 69945 is superseded by Sections 69941 (appointment of official reporters)
5 and 69947 (compensation of official reporter).

6 **Gov't Code § 69947 (repealed). Compensation of official reporter**

7 SEC. ____ . Section 69947 of the Government Code is repealed.

8 69947. Except in counties where a statute provides otherwise, the official reporter shall
9 receive for his services the fees prescribed in this article.

10 **Comment.** Section 69947, relating to compensation of the official reporter, is superseded by
11 new Section 69947 (compensation of official reporter).

12 **Gov't Code § 69947 (added). Compensation of official reporter**

13 SEC. ____ . Section 69947 is added to the Government Code, to read:

14 69947. The official reporter shall receive the following compensation:

15 **[The content of Section 69947 has not yet been determined.]**

16 **Comment.** Section 69947 supersedes former Section 69947 (compensation of official reporter).

17 **Note: Comment Requested**

18 Issues involving official reporter compensation have not yet been resolved. Principal questions
19 include whether existing statutes specifying the amount of compensation or the manner of
20 determining compensation are or should be superseded by the Trial Court Employment Protection
21 and Governance Act, including statutes providing that in certain counties salaries are determined
22 by salaries in Los Angeles County and that in certain counties transcript fees are included in the
23 determination of retirement benefits. The Commission solicits comments on these issues.

24 **Gov't Code § 69948 (repealed). Compensation in contested cases**

25 SEC. ____ . Section 69948 of the Government Code is repealed.

26 69948. (a) The fee for reporting testimony and proceedings in contested cases is fifty-
27 five dollars (\$55) a day, or any fractional part thereof.

28 (b) In San Joaquin County, the compensation for superior court reporters shall be that
29 prescribed by Section 69993.

30 (c) In Madera County, the board of supervisors may, by ordinance or resolution,
31 prescribe a higher rate of compensation for superior court reporters.

32 (d) In Kings County, the fee for reporting testimony and proceedings in contested cases
33 is one hundred forty dollars (\$140) a day, or any fractional part thereof.

34 (e) In Mariposa County, the board of supervisors may, by ordinance or resolution,
35 prescribe the rate of compensation for superior court reporters.

36 (f) In Siskiyou County, the board of supervisors may, by ordinance, prescribe a higher
37 rate of compensation for superior court reporters.

38 (g) In Yuba County, the board of supervisors may, by ordinance or resolution, prescribe
39 a higher rate of compensation for superior court reporters.

40 (h) In Butte County, pro tempore reporters shall receive a fee of seventy-five dollars
41 (\$75) a day, or any fractional part thereof, for reporting testimony and proceedings in
42 contested cases.

43 (i) In Sutter County, except as may otherwise be provided in Sections 70045.11 and
44 74839, the fee for reporting testimony and proceedings in contested cases is one hundred
45 ten dollars (\$110) per day, or any fractional part thereof. However, the board of

1 supervisors may, by ordinance, prescribe a higher rate of compensation for superior court
2 reporters.

3 (j) In Napa County, the board of supervisors may, by ordinance, prescribe a higher rate
4 of compensation for superior court reporters.

5 (k) In Tehama County, the board of supervisors may, by ordinance, prescribe a higher
6 rate of compensation for superior court reporters.

7 (l) In Monterey County, the fee for reporting testimony and proceedings in contested
8 cases in any court is seventy-five dollars (\$75) a day or any fractional part thereof.

9 (m) In Nevada County, the board of supervisors may, by ordinance, prescribe a higher
10 rate of compensation for superior court reporters.

11 (n) In Calaveras County, the fee for reporting testimony and proceedings in contested
12 cases is seventy-five dollars (\$75) per day, or any fractional part thereof. However, the
13 board of supervisors may, by ordinance, prescribe a higher rate of compensation for
14 superior court reporters.

15 (o) In Placer County, the board of supervisors may, by ordinance, prescribe a higher
16 rate of compensation for superior court reporters.

17 (p) In Sierra County, the board of supervisors may, by ordinance, prescribe a higher
18 rate of compensation for superior court reporters.

19 (q) In Trinity County, the board of supervisors may, by ordinance, prescribe a higher
20 rate of compensation for superior court reporters.

21 (r) In Humboldt County, the fee for reporting testimony and proceedings in contested
22 cases is seventy-five dollars (\$75) per day, or any fractional part thereof.

23 (s) In Del Norte County, the fee for reporting testimony and proceedings in contested
24 cases is seventy-five dollars (\$75) per day, or any fractional part thereof.

25 (t) In Alpine County, the board of supervisors may, by ordinance, prescribe a higher
26 rate of compensation for superior court reporters.

27 (u) In Glenn County, the board of supervisors may, by ordinance, prescribe a higher
28 rate of compensation for superior court reporters.

29 (v) In Colusa County, the fee for reporting testimony and proceedings in contested
30 cases is one hundred twenty-five dollars (\$125) per day, or any fractional part thereof.

31 (w) In Shasta County, the board of supervisors may prescribe a higher rate of
32 compensation for superior court reporters.

33 (x) In Solano County, the fee for reporting testimony and proceedings in contested
34 cases is ninety dollars (\$90) per day, or fifty-five dollars (\$55) per half day or fractional
35 part thereof. However, the board of supervisors may, by ordinance, prescribe a higher rate
36 of compensation for superior court reporters.

37 (y) In Inyo County, the board of supervisors may, by ordinance, prescribe a higher rate
38 of compensation for superior court reporters.

39 (z) In Mono County, the board of supervisors may, by ordinance, prescribe a higher
40 rate of compensation for superior court reporters.

41 **Comment.** Section 69948 is superseded by Section 69947 (compensation of official reporter).

42 **Gov't Code § 69948.5 (repealed). Compensation in Modoc County**

43 SEC. ____ . Section 69948.5 of the Government Code is repealed.

44 69948.5. Notwithstanding Section 69948, in Modoc County, the board of supervisors
45 may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

46 **Comment.** Section 69948.5 is superseded by Section 69947 (compensation of official
47 reporter).

1 **Gov't Code § 69949 (repealed). Fee for reporting default**

2 SEC. ____ . Section 69949 of the Government Code is repealed.

3 ~~69949. The fee for reporting each default or uncontested action or proceeding is ten~~
4 ~~dollars (\$10). If more than four defaults or uncontested matters are reported in any one~~
5 ~~day, or two or more defaults are reported in conjunction with any contested case, the fee~~
6 ~~is forty-five dollars (\$45) a day, or any fractional part thereof.~~

7 **Comment.** Section 69949 is superseded by Section 69947 (compensation of official reporter).

8 **Gov't Code § 69950 (amended). Transcription fee**

9 SEC. ____ . Section 69950 of the Government Code is amended to read:

10 69950. (a) The fee for transcription for original ribbon or printed copy is eighty-five
11 cents (\$0.85) for each 100 words, and for each copy ~~for the party buying the original~~
12 ~~made purchased~~ at the same time by the court, party, or other person purchasing the
13 original, fifteen cents (\$0.15) for each 100 words.

14 (b) The fee for a first copy to any court, party, or other person who does not
15 simultaneously purchase the original shall be twenty cents (\$0.20) for each 100 words,
16 and for each additional copy, made purchased at the same time, fifteen cents (\$0.15) for
17 each 100 words.

18 **Comment.** Section 69950 is amended to conform to the rule that a nonparty is generally
19 entitled to obtain a transcript. See Code Civ. Proc. § 269 & Comment.

20 The section is also amended to reflect changes in technology. When the provision was first
21 enacted, carbon paper was still in use and it was routine to create a copy at the same time as the
22 original. Now the original typically is made first, then copied.

23 The section is further amended to specify the fee where the person who purchases the original
24 subsequently (as opposed to simultaneously) purchases a copy.

25 **Gov't Code § 69952 (amended). Payment from Trial Court Operations Fund**

26 SEC. ____ . Section 69952 of the Government Code is amended to read:

27 69952. (a) The court may specifically direct the making of a verbatim record and
28 payment therefor shall be from the ~~county treasury~~ Trial Court Operations Fund on order
29 of the court in the following cases:

30 (1) Criminal matters.

31 (2) Juvenile proceedings.

32 (3) Proceedings to declare a minor free from custody.

33 (4) Proceedings under the Lanterman-Petris-Short Act, (Part 1 (commencing with
34 Section 5000) of Division 5 of the Welfare and Institutions Code).

35 (5) As otherwise provided by law.

36 (b) Except as otherwise authorized by law, the court shall not order to be transcribed
37 and paid for out of the ~~county treasury~~ Trial Court Operations Fund any matter or
38 material except that reported by the reporter pursuant to Section 269 of the Code of Civil
39 Procedure. When there is no official reporter in attendance and a an official reporter pro
40 tempore is appointed, his or her reasonable expenses for traveling and detention shall be
41 fixed and allowed by the court and paid in like manner. When the court orders a daily
42 transcript, necessitating the services of two phonographic reporters, the reporting fee for
43 each of the reporters and the transcript fee shall be proper charges against the ~~county~~
44 ~~treasury~~ Trial Court Operations Fund, and the daily transcript shall be pursuant to Section
45 269 of the Code of Civil Procedure. When the daily transcript is prepared by a single
46 reporter, an additional fee for technological services, as set by the court with the
47 agreement of the reporter, may be imposed. However, the total of the fee for a single

1 reporter and the fee for technological services shall be less than the total fee for two
2 reporters.

3 **Comment.** Section 69952 is amended to reflect enactment of the Trial Court Funding Act. See
4 Sections 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state
5 funding of trial court operations). See also Section 68073 (responsibility for court operations and
6 facilities).

7 The section is also amended for consistency of terminology. See Section 69941 (appointment
8 of official reporters).

9 **Gov’t Code § 69953.5 (amended). Daily transcript requiring more than one reporter**

10 SEC. ____ . Section 69953.5 of the Government Code is amended to read:

11 69953.5. Notwithstanding any other provision of law, whenever a daily transcript is
12 ordered in a civil case requiring the services of more than one phonographic reporter, the
13 party requesting the daily transcript, in addition to any other required fee, shall pay a fee
14 per day, or portion thereof, equal to the per diem rate for ~~pro tempore reporters~~
15 ~~established by statute, local rule, or ordinance~~ an official reporter pro tempore established
16 pursuant to Section 69947 for the services of each additional reporter for the first day and
17 each subsequent day the additional reporters are required.

18 **Comment.** Section 69953.5 is amended to reflect enactment of the Trial Court Funding Act.
19 See Sections 77001 (local trial court management), 77200 (state funding of trial court operations).
20 See also Section 69947 (compensation of official reporter).

21 The section is also amended for consistency of terminology. See Section 69941 (appointment
22 of official reporters).

23 **Gov’t Code § 69955 (amended). Reporting notes**

24 SEC. ____ . Section 69955 of the Government Code is amended to read:

25 69955. (a) As used in this section, “reporting notes” are the reporting notes of all court
26 reporters employed to report in the courts of California, who may be known as official
27 ~~and pro tempore court reporters~~ and official reporters pro tempore. Reporting notes are
28 official records of the court. Reporting notes shall be kept by the reporter taking the notes
29 in a place designated by the court, or, upon order of the court, delivered to the clerk of the
30 court.

31 (b) The reporting notes may be kept in any form of communication or representation
32 including paper, electronic, or magnetic media or other technology capable of
33 reproducing for transcription the testimony of the proceedings according to standards or
34 guidelines for the preservation and reproduction of the medium adopted by the American
35 National Standards Institute or the Association for Information and Image Management.
36 Reporting notes shall be stored in an environment free from excessive moisture,
37 temperature variation, and electromagnetic fields if stored on a medium other than paper.

38 (c) The reporting notes shall be labeled with the date recorded, the department number
39 of the court, and the name of the court reporter. The reporting notes shall be indexed for
40 convenient retrieval and access. Instructions for access to data stored on a medium other
41 than paper shall be documented.

42 (d) If the reporting notes are kept in any form other than paper, one duplicate backup
43 copy of the notes shall be stored in a manner and place that reasonably assures its
44 preservation.

45 (e) Reporting notes produced under subdivision (b) may be destroyed upon the order of
46 the court after 10 years from the taking of the notes in criminal proceedings and after five
47 years from the taking of the notes in all other proceedings, unless the notes report

1 proceedings in capital felony cases including the preliminary hearing. No reporting notes
2 in a capital felony case proceeding shall be destroyed until such time as the Supreme
3 Court on request by the court clerk authorizes the destruction.

4 (f) A periodic review of the media on which the reporting notes are stored shall be
5 conducted to assure that a storage medium is not obsolete and that current technology is
6 capable of accessing and reproducing the records for the required retention period.

7 (g) If the reporting notes of an official ~~or pro tempore court reporter~~ or official reporter
8 pro tempore have not been delivered to the clerk of the court, the notes shall be delivered
9 by the reporter to the clerk of the court upon the reporter's retirement, resignation,
10 dismissal, termination of appointment, or in the case of any other absence for a period of
11 more than 30 days or longer as designated by the court. Upon the order of the court, the
12 notes shall be returned to the reporter upon the reporter's return from such absence. In the
13 event of the reporter's death, the notes shall be delivered to the clerk of the court by the
14 reporter's personal representative.

15 (h) If reporting notes delivered to the clerk of the court are to be transcribed, the court
16 reporter who took the notes shall be given the first opportunity to make the transcription,
17 unless the reporter cannot be located, refuses to transcribe the notes, or is found to be
18 incompetent to transcribe the notes.

19 (i) A court reporter shall be reimbursed for the actual cost of the medium on which the
20 reporting notes are kept, whether on paper, diskette, or other media in compliance with
21 this section.

22 **Comment.** Subdivisions (a) and (g) of Section 69955 are amended for consistency of
23 terminology. See Section 69941 (appointment of official reporters).

24 **Gov't Code § 69956 (repealed). Stenographic or clerical assistance by reporter**

25 SEC. ____ . Section 69956 of the Government Code is repealed.

26 ~~69956. The official reporter shall perform the duties required of him by law. When not
27 actually engaged in the performance of any other duty imposed on him by this code, he
28 shall render stenographic or clerical assistance, or both, to the judge or judges of the
29 superior court as such judge or judges may direct. In addition to the compensation
30 otherwise provided by law, any reporter required to render such stenographic or clerical
31 assistance shall receive such compensation therefor as the superior court may prescribe,
32 not to exceed the sum of twenty dollars (\$20) a day, which shall be payable by the county
33 in the same manner and from the same funds as other salary demands against the county.~~

34 **Comment.** Section 69956 is superseded by Sections 69941 (appointment of official reporters)
35 and 69947 (compensation of official reporter).

36 **Gov't Code § 69957 (repealed). Assignment to municipal court**

37 SEC. ____ . Section 69957 of the Government Code is repealed.

38 ~~69957. Whenever the services of an official reporter of the superior court are not
39 required in the actual prosecution of the business of the court within the purview of the
40 duties of such reporter as an official reporter of the superior court, the presiding judge of
41 the superior court may, if so requested by the presiding judge of any municipal court
42 judge within the county, assign any such official reporter of the superior court to act pro
43 tempore as an official reporter of the municipal court within the same county. Any such
44 assignment shall be subject to the provisions of Article 5 (commencing with Section
45 72190) of Chapter 8 of Title 8 of this code.~~

46 **Comment.** Section 69957 is repealed to reflect unification of the municipal and superior courts
47 pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Gov't Code § 69958 (repealed). Assignment to municipal court**

2 SEC. ____ . Section 69958 of the Government Code is repealed.

3 ~~69958. The assignment of any official reporter of the superior court to act pro tempore~~
4 ~~as an official reporter of the municipal court shall rest within the sound discretion of the~~
5 ~~presiding judge of the superior court.~~

6 **Comment.** Section 69958 is repealed to reflect unification of the municipal and superior courts
7 pursuant to Article VI, Section 5(e), of the California Constitution.

8 **Gov't Code § 69959 (repealed). Assignment to municipal court**

9 SEC. ____ . Section 69959 of the Government Code is repealed.

10 ~~69959. Whenever an official reporter of the superior court has been assigned to the~~
11 ~~municipal court and is serving therein as a pro tempore reporter, the presiding judge of~~
12 ~~the superior court shall terminate such assignment and recall to the superior court any~~
13 ~~reporter of the superior court whose services are then required in the prosecution of the~~
14 ~~business of the superior court; provided, however, that no such termination shall be~~
15 ~~effected until after the conclusion of the services of the reporter in the municipal court in~~
16 ~~any particular trial or hearing theretofore commenced therein and to which the reporter~~
17 ~~has been assigned, except upon the mutual consent of the district attorney and the~~
18 ~~attorney for the defendant.~~

19 **Comment.** Section 69959 is repealed to reflect unification of the municipal and superior courts
20 pursuant to Article VI, Section 5(e), of the California Constitution.

21 **Gov't Code §§ 69990-69991 (repealed). Official reporters in Monterey, Santa Barbara, and**
22 **Stanislaus Counties**

23 SEC. ____ . Article 10 (commencing with Section 69990) of Chapter 5 of Title 8 of the
24 Government Code is repealed.

25 **Comment.** Sections 69990-69991 are repealed to reflect enactment of the Trial Court
26 Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of
27 employees' job classifications), 71620 (trial court personnel), 71623 (salaries), 71640-71645
28 (employment selection and advancement), 71650-71658 (employment protection system). See
29 also Sections 68086 (fees for reporting services in civil cases generally), 69941 (appointment of
30 official reporters), 69947 (compensation of official reporter).

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

32 **Article 10. Official Reporters in Counties**
33 **with a Population of 70,000 to 100,000**

34 69990. In each county with a population of more than 70,000 and less than 100,000, as
35 determined by the 1940 federal census, to assist the court in the transaction of its judicial
36 business, a majority of the judges of the superior court for such county may appoint as many
37 regular official phonographic reporters as necessary to report the proceedings in the court. The
38 number of reporters so appointed shall not exceed at any one time the number of offices of judge
39 provided by law for the court. The reporters shall hold office during the pleasure of a majority of
40 the judges of said court.

41 69991. The duties of official reporters appointed pursuant to Section 69990 shall be performed
42 as elsewhere provided by law. As full compensation for taking notes in criminal cases in the
43 superior court each reporter shall receive a monthly salary of one thousand eighty-one dollars
44 (\$1,081), and the fee for reporting testimony and proceedings in civil contested cases is seventy-

1 five dollars (\$75) a day, or any fractional part thereof, and for the purposes of retirement, the
2 compensation of each reporter shall be deemed to be the total of all per diem and transcription
3 fees paid by the county to all of the reporters of the superior court for all phonographic reporting
4 services, divided by the number of superior court official reporters, plus his salary. All other fees
5 of such reporters shall be as elsewhere provided by law. In cases where it is necessary to appoint
6 a pro tempore reporter, he shall be allowed the fees elsewhere provided by law.

7 **Gov't Code §§ 69992-69992.2 (repealed). Official reporters in Santa Clara County**

8 SEC. ____ . Article 10.1 (commencing with Section 69992) of Chapter 5 of Title 8 of
9 the Government Code is repealed.

10 **Comment.** Sections 69992-69992.2 are repealed to reflect the repeal of former Section
11 69992.1, to which they related.

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

13 Article 10.1. Official Reporters in Counties
14 with a Population of 750,000 to 1,070,000

15 69992. This article applies to counties containing a population of 750,000 and under 1,070,000
16 according to the 1970 federal census.

17 69992.2. The fee required by Section 69992.1 shall be taxed as costs in favor of any party
18 paying the same and to whom costs are awarded by the judgment of the court. Such fee shall not
19 be subject to the provisions of Section 6103 of the Government Code.

20 **Gov't Code § 69993 (repealed). Official reporters in San Joaquin County**

21 SEC. ____ . Article 10.2 (commencing with Section 69993) of Chapter 5 of Title 8 of
22 the Government Code is repealed.

23 **Comment.** Section 69993 is repealed to reflect enactment of the Trial Court Employment
24 Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries),
25 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
26 (compensation of official reporter).

27  **Note.** The text of the repealed section is set out below.

28 Article 10.2. Official Reporters in Counties
29 with a Population of 240,000 to 260,000

30 69993. In San Joaquin County, each superior court reporter shall be paid a salary to be
31 established by the San Joaquin County Board of Supervisors.

32 The number of superior court reporters shall not be less than the number of San Joaquin County
33 Superior Court judicial positions.

34 **Gov't Code §§ 69994-69994.9 (repealed). Official reporters in Sacramento County**

35 SEC. ____ . Article 10.3 (commencing with Section 69994) of Chapter 5 of Title 8 of
36 the Government Code is repealed.

37 **Comment.** Sections 69994-69994.9 are repealed to reflect:

38 (1) Unification of the municipal and superior courts in Sacramento County pursuant to Article
39 VI, Section 5(e), of the California Constitution, effective June 17, 1998.

1 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
2 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
3 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
4 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
5 (employment selection and advancement), 71650-71658 (employment protection system), 71673
6 (authority of court). See also Sections 68086 (fees for reporting services), 69941-69955 (official
7 reporters generally).

8 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
9 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

11 **Article 10.3. Official Reporters in Counties**
12 **with a Population of 490,000 to 503,000**

13 69994. This article shall apply in a county having a population of more than 490,000 and less
14 than 503,000, as determined by the 1960 federal census. The judges of the superior and municipal
15 courts of such county, a majority concurring, may appoint as many regular official phonographic
16 reporters as may be necessary to report the proceedings in the courts of the county and to perform
17 such other duties as are prescribed by law. The number of reporters so appointed shall not exceed
18 the number of offices of judges provided by law for superior and municipal courts of such county.
19 Such reporters shall hold office during the pleasure of the judges of such court, a majority
20 concurring.

21 69994.1. When needed in order that the judicial business of the courts in such county may be
22 carried on without delay, the judges of such courts may appoint as many additional phonographic
23 reporters as the business of the courts may require, who shall be known as official reporters pro
24 tempore, and who shall be compensated at the same rate of compensation as official
25 phonographic reporters in such county would be compensated for the first year of service
26 computed on a daily basis.

27 69994.2. The regular official phonographic reporters shall be compensated at an annual salary
28 of forty-seven thousand seven hundred eleven dollars (\$47,711), except that these reporters may
29 be employed at an annual salary of thirty-nine thousand two hundred thirty-four dollars (\$39,234)
30 for the first year of service, at an annual salary of forty-one thousand one hundred ninety-six
31 dollars (\$41,196) for the second year of service, at an annual salary of forty-three thousand two
32 hundred sixty-three dollars (\$43,263) for the third year of service, and at an annual salary of
33 forty-five thousand four hundred thirty-five dollars (\$45,435) for the fourth year of service. The
34 judges of the superior and municipal courts of such county, a majority concurring, may appoint a
35 supervising phonographic reporter at an annual salary of forty-nine thousand six hundred fifty-
36 three dollars (\$49,653) except that such reporter may be employed at an annual salary of forty-
37 five thousand thirty-eight dollars (\$45,038) for the first year of service and at an annual salary of
38 forty-seven thousand two hundred ninety-three dollars (\$47,293) for the second year of service.

39 69994.3. In addition to the compensation provided in this article, each salaried official reporter
40 shall be entitled to, and shall receive, vacation and sick leave allowances, retirement, and other
41 privileges and benefits as are now, or may hereafter be provided for the employees of the County
42 of Sacramento, including the right to participate in any group accident, health, or life insurance
43 plan adopted by the board of supervisors of the county.

44 For the purpose of such retirement system, the salary or compensation provided for reporters in
45 this article shall be deemed their entire compensation.

46 69994.4. No further fee than that herein provided shall be collected from, or assessed against,
47 any party to any proceeding for the services of a phonographic reporter in taking down in
48 shorthand the testimony and other proceedings in the trial or hearing of any matter as required by

1 law or by order of the court, except that in a civil case when a daily transcript is ordered by a
2 party, such party shall pay for the services of a pro tempore reporter if required; but a
3 phonographic reporter shall be allowed, and shall receive, unless waived by him, the fees allowed
4 by law for transcribing his shorthand notes of the testimony and proceedings reported by him, and
5 such fees for transcription shall be paid as provided by law.

6 69994.5. The salaries provided for in this article shall be paid in biweekly installments from the
7 general fund of the county, and shall be allowed and audited in the same manner as other salary
8 demands against the county.

9 69994.8. All reporters appointed pursuant to this article shall be known as official court
10 reporters of the County of Sacramento. As attaches of the court, official reporters shall not be
11 subject to the authority of any county administrative office or civil service commission.

12 69994.9. With the approval of the board of supervisors the court may establish such additional
13 classifications and rates of compensation as are required. Rates of compensation of regular
14 official phonographic reporters may be adjusted by approval of the board of supervisors and a
15 majority of the judges of the courts. Such appointments or changes in compensation made
16 pursuant to this paragraph shall be on an interim basis and shall expire 60 days after the final
17 adjournment of the next regular session of the Legislature unless ratified at such session.

18 **Gov't Code §§ 69995-69999 (repealed). Official reporters and fees in Ventura County**

19 SEC. ____ . Article 10.4 (commencing with Section 69995) of Chapter 5 of Title 8 of
20 the Government Code is repealed.

21 **Comment.** Sections 69995-69999 are repealed to reflect:

22 (1) Unification of the municipal and superior courts in Ventura County pursuant to Article VI,
23 Section 5(e), of the California Constitution, effective June 10, 1998.

24 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
25 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
26 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
27 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
28 (employment selection and advancement), 71650-71658 (employment protection system), 71673
29 (authority of court). See also Sections 68086 (fees for reporting services in civil cases generally),
30 69941 (appointment of official reporters), 69947 (compensation of official reporter).

31 (3) Enactment of the Trial Court Funding Act. See Section 77009 (Trial Court Operations
32 Fund). See also Sections 68086 (fees for reporting services in civil cases generally).

33 **Note: Comment Requested**

34 Existing law requires that certain court reporter fees received by the county clerk, be deposited
35 into the county general or salary fund (see, e.g., Gov't Code § 69999). The Commission is
36 reviewing whether the county clerk and county treasury provisions remain viable, given the
37 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
38 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
39 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
40 (state funding of trial court operations). These matters are also being examined by a Joint Court-
41 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
42 treatment of these provisions.

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

Article 10.4. Official Reporters and Fees in Counties
with a Population of 375,000 to 400,000

69995. (a) In Ventura County, a majority of the judges of the superior court may appoint as many competent official phonographic reporters as the business of the superior court requires, and as required to provide court reporting service to the municipal court of the county as provided in subdivision (c). The court may additionally employ as many pro tempore phonographic reporters as may from time to time be required to supplement the services of the official court reporters. The court may further appoint one of the official court reporters to serve as senior superior court reporter to coordinate and supervise the activities of official and pro tempore court reporters.

Official reporters of the superior court shall be exempt from the provisions of any civil service system as employees of the court. They shall serve at the pleasure of a majority of the judges thereof, subject to such court rules and policy as may be adopted by the judges for regulation of superior court personnel. Official and pro tempore superior court reporters shall provide court reporting services for such departments of the superior court and divisions of the municipal court, for such criminal, juvenile and civil proceedings, and proceedings before the grand jury, as directed by the presiding judges of the respective courts, subject to the provisions of this section.

(b) The salary paid to official full-time superior court reporters for services in reporting any and all testimony and proceedings in the superior and municipal courts and before the grand jury, shall be a five-step salary range with biweekly amounts equivalent to ninety percent (90%) of the corresponding steps in the established salary range for official superior court reporters in Los Angeles County. The initial hiring rate for official superior court reporters shall be the first step of the salary range, and subsequent increases within the range shall be at intervals of six months from the first to second step, and one year between each succeeding step, as determined by the court, based on satisfactory performance. Nothing herein shall prohibit the initial appointment or subsequent elevation of a reporter's salary from the steps herein specified, as may be determined by the court on the basis of experience, qualifications and meritorious performance. The salary of the official court reporter who is appointed to serve as senior superior court reporter, shall be fixed at ten percent (10%) above the biweekly salary steps specified for official superior court reporters.

The salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Such changes in compensation made pursuant to this provision shall be on an interim basis and shall expire January 1 following adjournment of the next regular session of the Legislature unless ratified at such session.

The per diem compensation for pro tempore reporters serving the superior or municipal court or the grand jury shall be established at one-tenth (1/10) of the top step in the biweekly salary range established for official superior court reporters, for each day of service or any portion thereof.

Official reporters of the superior court shall be entitled to all benefits provided for the employees of the county, including, but not limited to, participation in county retirement plans, vacation, holiday and sick leave benefits, and insurance plans. These benefits shall also include the same lump-sum payments for benefit accrual balances upon separation from service, as are made to employees of the county. All other compensation, fees, and benefits for official and pro tempore superior court reporters shall be as elsewhere provided by law.

(c) Upon request of the Presiding Judge of the Municipal Court of Ventura County, official and pro tempore reporters of the superior court shall act as pro tempore reporters in the municipal court in all proceedings of the municipal court where their services may be required. Official superior court reporters who are assigned to serve as pro tempore municipal court reporters under this provision, shall receive no additional compensation for such services, and pro tempore superior court reporters who are assigned to serve as pro tempore municipal court reporters shall not receive compensation in excess of one per diem fee for service in either or both of such courts on any single court day. Requests to provide the municipal court with the services of superior

1 court reporters shall be directed to either the presiding judge or the executive officer of the
2 superior court by either the presiding judge or the executive officer of the municipal court, and
3 shall be effective only during the pleasure of the judges of both courts, a majority of the judges of
4 each court concurring.

5 69998. No further fee than that prescribed in this article shall be collected from, or assessed
6 against, any party to any proceeding for the services of a phonographic reporter in taking down in
7 shorthand the testimony and other proceedings in the trial or hearing of any matter as required by
8 law or by order of the court, but a phonographic reporter shall be allowed and unless waived by
9 him shall receive the fees allowed for transcribing his shorthand notes of the testimony and
10 proceedings reported by him, as elsewhere provided by law.

11 69999. Any fee required by this article shall be taxed as costs in favor of any party paying it
12 and to whom costs are awarded by the judgment of the court. Such fee shall not be subject to the
13 provisions of Section 6103 of this code. Such fee shall not be required of any party who is
14 exempted from the payment of costs by any statute other than Section 6103 of this code.

15 On or before the first day of each calendar month, the county clerk shall transmit to the county
16 treasurer all money paid to him pursuant to this article during the preceding calendar month, or up
17 to the day immediately preceding that on which he transmits the money. The money shall be
18 deposited in the general fund of the county.

19 **Gov't Code § 70000 (repealed). Official reporters in Calaveras County**

20 SEC. ____ . Article 10.5 (commencing with Section 70000) of Chapter 5 of Title 8 of
21 the Government Code is repealed.

22 **Comment.** Section 70000 is repealed to reflect enactment of the Trial Court Employment
23 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
24 classifications), 71620 (trial court personnel), 71640-71645 (employment selection and
25 advancement), 71650-71658 (employment protection system), 71673 (authority of court). See
26 also Section 69941 (appointment of official reporters).

27  **Note.** The text of the repealed section is set out below.

28 **Article 10.5. Official Reporters in Counties with a Population of 10,000 to 10,500**

29 70000. In each county with a population of more than 10,000 and less than 10,500, as
30 determined by the 1960 federal census, to assist the court in the transaction of its judicial
31 business, a majority of the judges of the superior court for such county may appoint one official
32 phonographic reporter to report the proceedings in the court. The reporter shall hold office during
33 the pleasure of a majority of the judges of the court. The reporter shall perform the duties and be
34 allowed the fees as elsewhere provided by law.

35 **Gov't Code §§ 70010-70017 (repealed). Official reporters in Orange County**

36 SEC. ____ . Article 10.6 (commencing with Section 70010) of Chapter 5 of Title 8 of
37 the Government Code is repealed.

38 **Comment.** Sections 70010-70017 are repealed to reflect:

39 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
40 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
41 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment
42 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
43 reporters), 69947 (compensation of official reporter).

44 (2) Enactment of the Trial Court Funding Act. See Section 77009 (Trial Court Operations
45 Fund). See also Sections 68086 (fees for reporting services in civil cases generally).

1 **Note: Comment Requested**

2 Existing law requires that certain court reporter fees received by the county clerk, be deposited
3 into the county general or salary fund (see, e.g., Gov't Code § 70017). The Commission is
4 reviewing whether the county clerk and county treasury provisions remain viable, given the
5 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
6 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
7 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
8 (state funding of trial court operations). These matters are also being examined by a Joint Court-
9 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
10 treatment of these provisions.

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

12 **Article 10.6. Official Reporters in Counties**
13 **with a Population of 210,000 to 220,000**

14 70010. In each county having a population of 210,000 inhabitants and less than 220,000
15 inhabitants, as determined by the 1950 federal census, the judges of the superior court of such
16 county, a majority concurring, to assist the court in the transaction of the judicial business of such
17 court, by having performed the duties of phonographic reporters as elsewhere in this code
18 defined, may appoint as many regular official phonographic reporters as may be necessary to
19 report the proceedings in such court and to perform such duties, except that the number of
20 reporters so appointed shall equal the number of offices of judge provided by law for such court.
21 Such reporters shall hold office during the pleasure of the judges of such court, a majority
22 concurring.

23 70011. When needed in order that the judicial business of the superior court in such county may
24 be diligently carried on and a particular matter or matters may proceed to trial or hearing without
25 delay, a pro tempore official reporter may be appointed to perform the duties of a phonographic
26 reporter in such matter or matters, or until a regular official reporter becomes available for such
27 service.

28 70012. The regular official phonographic reporters and phonographic reporters pro tempore
29 shall be compensated at the same rate as reporters in counties having a population over 2,000,000.

30 70013. No further fee than that hereinabove provided shall be collected from, or assessed
31 against, any party to any proceeding for the services of a phonographic reporter in taking down in
32 shorthand the testimony and other proceedings in the trial or hearing of any matter as required by
33 law or by order of the court; but a phonographic reporter shall be allowed, and shall receive,
34 unless waived by him, the fees allowed by law for transcribing his shorthand notes of the
35 testimony and proceedings reported by him, and such fees for transcription shall be paid as
36 provided by Sections 69947 to 69953, inclusive, and by any other law of this State pertinent to the
37 case.

38 70014. The salaries provided for in this article shall be paid in monthly installments out of the
39 salary fund of the county, and shall be allowed and audited in the same manner as for salary
40 demands against the county are required by law to be allowed and audited.

41 70016. The fees required by Sections 70015 and 70015.5 shall be taxed as costs in favor of any
42 party paying the same and to whom costs are awarded by the judgment of the court. Such fee
43 shall not be subject to the provisions of Section 6103 of the Government Code.

44 70017. The county clerk shall, on or before the first day of each calendar month, transmit to the
45 county treasurer all money paid to him pursuant to this article during the preceding calendar
46 month, or up to the day immediately preceding the day on which he transmits such money, and
47 such money shall be deposited in the salary fund of such county.

1 **Gov't Code § 70025 (repealed). Official reporters in Riverside County**

2 SEC. ____ . Article 10.7 (commencing with Section 70025) of Chapter 5 of Title 8 of
3 the Government Code is repealed.

4 **Comment.** Section 70025 is repealed to reflect enactment of the Trial Court Employment
5 Protection and Governance Act. See Sections 71620 (trial court personnel), 71623 (salaries),
6 71673 (authority of court). See also Section 69947 (compensation of official reporter).

7  **Note.** The text of the repealed section is set out below.

8 Article 10.7. Official Reporters in Counties With a Population of 300,000 to
9 310,000

10 70025. In Riverside County, the board of supervisors shall fix the salary of regular official
11 reporters, which shall not be less than an annual salary of twenty thousand two hundred ten
12 dollars (\$20,210) and the compensation of official reporters pro tempore, which shall be at a rate
13 not less than seventy-five dollars and twenty-five cents (\$75.25) a day, for reporting in shorthand
14 all proceedings in the superior court as required by law or the order of the superior court.

15 **Gov't Code §§ 70040-70064 (repealed). Official reporters and fees in particular counties**

16 SEC. ____ . Article 11 (commencing with Section 70040) of Chapter 5 of Title 8 of the
17 Government Code is repealed.

18 **Comment.** Sections 70040-70064 are repealed to reflect:

19 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
20 California Constitution.

21 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
22 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
23 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
24 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
25 (employment selection and advancement), 71650-71658 (employment protection system), 71673
26 (authority of court). See also Sections 68086 (fees for reporting services in civil cases generally),
27 69941 (appointment of official reporters), 69947 (compensation of official reporter).

28 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
29 employees).

30 (4) Enactment of the Trial Court Funding Act. See Section 77009 (Trial Court Operations
31 Fund). See also Sections 68086 (fees for reporting services in civil cases generally).

32  **Note: Comment Requested**

33 Existing law requires that certain court reporter fees received by the county clerk, be deposited
34 into the county general or salary fund (see, e.g., Gov't Code §§ 70045.2, 70062). The
35 Commission is reviewing whether the county clerk and county treasury provisions remain viable,
36 given the enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
37 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
38 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
39 (state funding of trial court operations). These matters are also being examined by a Joint Court-
40 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
41 treatment of these provisions.

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

1 Article 11. Official Reporters and Fees in Particular Counties

2 70040. Unless otherwise specifically provided, the determination of whether a county has the
3 population prescribed in this article shall be made on the basis of the 1950 federal census.

4 70041. Unless otherwise specifically provided, the provisions of this article apply in each
5 county described as follows:

6 (a) A county with a population of 70,000 or less, as determined by the 1940 federal census, and
7 having two or more superior court judges.

8 (b) A county with a population of 280,000 and under 285,000.

9 (c) A county with a population of over 295,000 and under 500,000.

10 (d) A county with a population of 500,000 and under 700,000.

11 (e) A county with a population of 700,000 or over.

12 **Note.** Government Section 70041 applies to the following counties: Alameda, Butte, Contra
13 Costa, Humboldt, Los Angeles, Marin, Merced, San Bernardino, San Diego, San Francisco,
14 Shasta, Solano, Sonoma, and Ventura.

15 70041.1. Unless otherwise specifically provided the provisions of this article apply in a county
16 with a population of 290,000 or more and under 295,000.

17 **Note.** Government Section 70041.1 applies to Santa Clara County.

18 70041.5. Unless otherwise specifically provided, the provisions of this article apply to a county
19 with a population of over 45,000 and under 46,750, as determined on the basis of the 1950 federal
20 census.

21 **Note.** Government Section 70041.5 applies to Napa County.

22 70042. The provisions of this article are applicable in a county described in subdivisions (a)
23 and (c) of Section 70041 only if the board of supervisors of such county by resolution adopts the
24 procedure for the appointment and compensation of official phonographic reporters provided for
25 in this article.

26 **Note.** Government Section 70042 applies to the following counties: Butte, Contra Costa,
27 Humboldt, Marin, Merced, Shasta, Solano, Sonoma, and Ventura.

28 70043. To assist the court in the transaction of its judicial business by having the duties of
29 phonographic reporters performed, a majority of the judges of the superior court of the county
30 may appoint as many regular official phonographic reporters as necessary to report the
31 proceedings in the court and to perform such duties. The number of reporters so appointed shall
32 not exceed at any one time the number of offices of judge provided by law for the court. The
33 reporters shall hold office during the pleasure of a majority of the judges of the court. The number
34 of reporters and compensation of reporters in counties over 2,000,000 population shall be as
35 provided in Section 69894.1. The number of official reporters in a county of the 2nd class as
36 provided in Section 28023 shall be but shall not exceed at any one time the total number of judges
37 provided by law for the court and the number of referees appointed pursuant to Section 553 of the
38 Welfare and Institutions Code.

39 **Note.** The provision of Government Section 70043 referencing counties with a population
40 over 2,000,000 applies to Los Angeles County. The provision referencing a county of the 2nd
41 class (as of the 1968 amendment) applies to San Diego County.

42 70044. When needed in order that the judicial business of the superior court in the county may
43 be diligently carried on and a particular matter may proceed to trial or hearing without delay, a
44 pro tempore official reporter may be appointed to perform the duties of a phonographic reporter
45 in such matter, or until a regular official reporter becomes available for such service. A pro
46 tempore official reporter for such service may be appointed by the presiding judge of the court

1 and the judge presiding in the department where such reporter will serve. If such appointment is
2 made for service in a contested matter, it shall be made only pursuant to a written stipulation of
3 the parties appearing at the trial or hearing or other proceeding to be reported by such pro tempore
4 reporter.

5 A pro tempore official reporter who has passed the test on qualifications and has a certificate
6 thereof on file among the records of the court as prescribed by Section 69943, and who has been
7 appointed a pro tempore official reporter by a majority of the judges of such court pursuant to
8 Section 69941, may serve in any matter without further order of the court or stipulation of the
9 parties.

10 70044.1. In any county having a population of over 250,000 and under 277,000, as determined
11 by the 1950 federal census, the fee for reporting testimony and proceedings in contested cases is
12 thirty-five dollars (\$35) a day, and the fee for reporting each default or uncontested action or
13 proceeding is seven dollars (\$7).

14 The official reporter shall report to the court when ordered to do so by any judge of the court,
15 and when not ordered to so report, the reporter may be employed in his professional capacity
16 elsewhere.

17  **Note.** Government Section 70044.1 applies to Fresno County.

18 70044.5. In San Mateo County, official reporters shall be appointed by the judges of the
19 consolidated superior and municipal courts pursuant to the provisions of Section 70043 or 72194
20 and shall serve at the pleasure of the judges.

21 (a) The biweekly salary of each regular official reporter for the performance of duties required
22 of each such reporter by law shall be at the rates specified in salary range number 3007 of the
23 salary schedule set forth in Section 73525.

24 At the time each reporter is hired, the salary of that reporter shall be fixed in the same manner
25 as provided for classified or unclassified employees of the county under the authority of the
26 county charter. A step advancement from step A to step B may be granted on the first day of the
27 pay period following the completion of 26 full weeks of service in the position. A person may
28 advance to steps C, D, and E upon completion of successive 52-week periods of service. All merit
29 increases as provided herein shall be made at the determination of the judges of the court.

30 In addition to new employees, the salaries herein provided for shall be applicable to regular
31 official reporters employed by the county on the effective date of this section and for the purpose
32 of determining the salaries to be paid after this section becomes effective, all years of service
33 rendered by reporters to the county prior to the effective date of this section shall be counted in
34 determining the salary to which they are entitled under the salary schedule above mentioned.

35 The per diem compensation for pro tempore reporters shall be one-tenth of step E in the
36 appropriate biweekly salary range established for official reporters, provided, however, that that
37 rate of per diem compensation shall be prorated on the basis of one-half day of compensation if
38 the pro tempore reporter renders only one-half day of service.


39 Vacation allowances and sick leave allowances for official reporters shall be the same as
40 provided for classified or unclassified employees of the county under the authority of the county
41 charter.

42 (b) If the Board of Supervisors of San Mateo County provides by ordinance or by agreement
43 pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, for a rate of
44 compensation which is higher than that provided by subdivision (a), the higher rate of
45 compensation shall be effective at the same time and in the same manner as other rates of pay for
46 San Mateo County employees generally. Those higher rates shall be payable by the county in the
47 same manner and from the same funds as other salary demands against the county. Any change in
48 compensation made pursuant to this subdivision shall be on an interim basis and shall expire on
49 January 1 after the adjournment of the next regular session of the Legislature unless ratified or
50 superseded by a statute enacted at the session.

1 (c) During the hours which the court is open for the transaction of judicial business, official
2 reporters shall devote full time to the performance of the duties required of them by law and shall
3 not engage in or solicit to engage in any other employment in their professional capacity.

4 Each official reporter shall perform the duties required of him or her by law. In addition, he or
5 she shall render stenographic or clerical assistance, or both, to the judge or judges of the
6 consolidated superior and municipal courts as the judge or judges may direct.

7 70045. In a county having a population of 70,000 or less, as determined by the 1940 federal
8 census, and having two or more superior court judges, each regular official reporter shall be paid
9 an annual salary of four thousand two hundred dollars (\$4,200), and each pro tempore official
10 reporter shall be paid fifteen dollars (\$15) a day for the days he actually is on duty under order of
11 the court.

12  **Note.** Government Section 70045 applies to the following counties: Butte, Humboldt, Marin,
13 Merced, Shasta, Solano, Sonoma, and Ventura.

14 70045.1. Notwithstanding the provisions of Section 70045 of this code, in Trinity County, each
15 regular official court reporter shall receive an annual salary of ten thousand dollars (\$10,000)
16 unless the board of supervisors shall by ordinance provide for compensation in excess of that
17 amount, payable in monthly installments out of the salary fund of the county, for the reporting
18 and taking notes in criminal cases and juvenile court cases in the superior court, and in
19 preliminary examinations of those accused of crime before magistrates, and of proceedings before
20 the grand jury and at coroner's inquests when requested by the coroner, and for other services
21 such reporters shall receive the fees provided for in Article 9 (commencing with Section 69941)
22 of Chapter 5 of Title 8, such fees in civil cases to be paid by the litigants as provided by law.

23 Reporters pro tempore may be paid a per diem of seventy-five dollars (\$75) as provided in
24 Section 69948 and other fees set forth in Article 9 (commencing with Section 69941) of Chapter
25 5 of Title 8, and shall receive from the county their necessary traveling and other expenses when
26 necessarily called from other counties, but a reporter pro tempore shall be paid a per diem or
27 expenses by the county only when the regular official court reporters are occupied in the superior
28 court, or at preliminary examinations, grand jury hearings or coroner's inquests.

29 The board of supervisors of such a county may provide the court reporters with equipment for
30 the performance of their duties.

31 70045.2. Notwithstanding Section 70045, in Modoc County each regular official court reporter
32 shall receive an annual salary to be determined by ordinance by the board of supervisors, payable
33 in monthly installments out of the salary fund of the county, for the reporting and taking notes in
34 criminal cases and juvenile court cases in the superior court, and in preliminary examination of
35 those accused of crime before magistrates, and of proceedings before the grand jury and at
36 coroner's inquests when requested by the coroner.

37 In Modoc County, reporters pro tempore shall be paid a per diem, as set by law, and shall
38 receive from the county their necessary traveling and other expenses when called from other
39 counties. However, a reporter pro tempore shall be paid a per diem or expenses by the county
40 only when the regular official court reporters are occupied in the superior court, or at preliminary
41 examinations, grand jury hearings, or coroner's inquests.

42 For all reporter's services in Modoc County in civil cases as set forth in Article 9 (commencing
43 with Section 69941) of Chapter 5 of Title 8, litigants shall pay such fees as are provided by law to
44 the county clerk for deposit in the county general fund.

45 The Board of Supervisors of Modoc County may provide court reporters with equipment for
46 the performance of their duties.

47 70045.4. Notwithstanding the provisions of Section 70045 or any other provision of this article,
48 in Merced County:

49 (a) The regular full-time official court reporters shall perform the following duties:

50 (1) Report all criminal proceedings in the superior court.

1 (2) Report all civil commitment proceedings and all contempt proceedings in the superior court.
2 (3) Report all juvenile proceedings in the superior court other than those heard by a juvenile
3 court referee or traffic hearing officer.

4 (4) Report all family law proceedings in the superior court.

5 (5) Report all civil jury trials in the superior court.

6 (6) Report all hearings on petitions for extraordinary relief, including but not limited to
7 proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram
8 nobis in the superior court.

9 (7) Report any other court proceedings in the superior court when a party requests a court
10 reporter in accordance with the rules of court.

11 (8) Report all criminal proceedings of the grand jury.

12 (9) Report proceedings for the board of equalization, when requested by the board.

13 (b) Each regular full-time court reporter shall be paid an annual salary of sixteen thousand
14 seven hundred thirty-five dollars and ninety-four cents (\$16,735.94), unless the board of
15 supervisors of the county provides for compensation in excess of that amount.

16 The foregoing salary is for compensation for reporting services under subdivision (a). For all
17 transcriptions incident to reporting services, each reporter shall receive the fees provided for in
18 Article 9 (commencing with Section 69941).

19 The regular full-time official court reporters shall be entitled to the same privileges with respect
20 to group insurance and retirement as other employees of that county. Retirement contributions
21 shall be based upon the annual salary provided for in subdivision (b).

22 The salary range of official court reporters may be adjusted by joint action and approval of the
23 board of supervisors and a majority of the judges of the superior court. Those changes in
24 compensation made pursuant to this provision shall be on an interim basis and shall expire
25 January 1 following adjournment of the next regular session of the Legislature unless ratified at
26 that session.

27 (c) When the regular full-time official court reporters are occupied in the performance of their
28 duties and services pursuant to the provisions of subdivision (a), the judge or judges of the
29 superior court may appoint as many additional official court reporters, who shall be known as
30 official reporters pro tempore, as the business of the courts and county may require, in order that
31 the business of the courts and county may be carried on without delay. They shall be paid in
32 accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing
33 with Section 69941). That per diem, traveling and other expenses, and the fees chargeable to the
34 county under the terms of these provisions shall be a proper county charge.

35 70045.5. In a county with a population of 74,492 and not over 76,000 as determined by the
36 1970 federal census, each regular official reporter shall be paid an annual salary of twenty-one
37 thousand seven hundred dollars (\$21,700) and each pro tempore official court reporter shall be
38 paid seventy dollars (\$70) a day for the days he is actually on duty under order of the court.

39 Notwithstanding any other provision to the contrary, one year after the operative date of this
40 section and thereafter, the salary range of official court reporters may be adjusted by joint action
41 and approval of the board of supervisors and a majority of the judges of the superior court. Such
42 changes in compensation made pursuant to these provisions shall be on an interim basis and shall
43 expire on January 1 of the second year after the calendar year in which the change occurs, unless
44 ratified by the Legislature.

45 The presiding judge of the superior court may, upon request of the presiding judge of the
46 municipal court, assign an official superior court reporter to the municipal court during such times
47 as the business of the municipal court requires. Official superior court reporters who are so
48 assigned shall receive no additional compensation for such service.

49 Regular official reporters shall be entitled to the same privileges with respect to retirement,
50 vacation, sick leave and other benefits allowed to employees of the county.

51 Each official reporter shall perform the duties required of him by law. In addition, reporters
52 shall render stenographic or clerical assistance, or both, to the judges of the superior court, as any
53 such judge may direct.

Note. Government Section 70045.5 applies to Imperial County.

70045.6. (a) In Kern County each regular reporter shall be paid the biweekly salary specified in range 52.4 of the salary schedule. The court reporter shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

(b) Beginning January 1, 1980, the board of supervisors may adjust the salary of each regular official reporter as part of its county employee compensation plan. Any adjustment to reporter salaries shall be effective on the same date as the effective date of the board’s action to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

(c) In addition to the compensation provided for in this section, each regular official reporter shall be entitled to and shall receive, on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacations. Court reporters shall observe the same holidays as other court employees. For the purposes of determining participation in the county retirement system, the salary provided for such reporters in this section shall be deemed their entire compensation.

(d) Each pro tempore official reporter shall be paid one hundred fifty dollars (\$150) a day for the days he or she is actually on duty under order of the court.

70045.7. In Napa County, each regular official reporter shall be paid an annual salary of twenty-five thousand dollars (\$25,000), and each pro tempore official reporter shall be paid one hundred ten dollars (\$110) a day for the days he actually is on duty under order of the court. However, the board of supervisors, by ordinance, may establish a higher annual salary for each regular official reporter or a higher per diem for each pro tempore official reporter, or both.

70045.75. Notwithstanding any other provision of law including, but not limited to, Sections 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the full-time official court reporters, if any, in Nevada County:

- (a) The regular full-time official court reporters shall perform the following duties:
 - (1) Report all criminal proceedings.
 - (2) Report all civil commitment proceedings and all contempt proceedings.
 - (3) Report all juvenile proceedings, other than those heard by a juvenile court referee or traffic hearing officer.
 - (4) Report all family law proceedings.
 - (5) Report all civil jury trials.
 - (6) Report all hearings on petitions for extraordinary relief, including but not limited to, proceedings for injunctions, mandate, prohibition, certiorari review, habeas corpus, and coram nobis.
 - (7) Report all proceedings of the grand jury when requested by the foreman, or by the district attorney or by the county counsel.
 - (8) Report any other court proceedings when a party requests a court reporter in accordance with rules of the court.
 - (9) Report the preliminary examination of those accused of crimes before magistrates within Nevada County. Report coroner’s inquests when requested by coroner.

(b) Each regular full-time court reporter shall be paid at a monthly salary rate established according to the following salary schedule:

(Range)	(Month)	(Annual)
Step A	\$1,271	\$15,246
Step B	1,334	16,012
Step C	1,400	16,804
Step D	1,471	17,648
Step E	1,546	18,546

1 Each such reporter shall receive a monthly salary under the schedule corresponding to the
2 length of time that as an official court reporter he has been included within either directly or
3 indirectly by contract the Public Employees' Retirement System of the State of California. Except
4 as provided herein, the initial hiring rate for each position shall be step A; provided further,
5 however, the judges of the superior court may appoint any such court reporter at a higher initial
6 step if in the opinion of the judges of the superior court an individual to be appointed has such
7 experience and qualifications as to entitle that individual to such higher initial step. A step
8 advancement from step A to step B may be granted on the first day of the month following the
9 completion of six full months of service in the position. A person may advance to steps C, D, and
10 E upon completion of successive 12-month periods of service. All merit increases as provided
11 herein shall be made at the determination of the judges of the superior court.

12 The foregoing salary is for compensation for reporting services in the superior court under
13 subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter
14 shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.

15 In the event a cost-of-living increase is given to the employees of Nevada County on or after
16 July 1, 1979, the aforementioned salary schedule shall be deemed amended so as to give the court
17 reporters the same cost-of-living increase as is given Nevada County employees.

18 The regular full-time official court reporters shall be entitled to the same privileges with respect
19 to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be
20 provided by ordinance to other employees of the county.

21 (c) When the regular full-time official court reporters are occupied in the performance of their
22 duties and services pursuant to the provisions of subdivision (a), the judge or judges of the
23 superior court may appoint as many additional official court reporters, who shall be known as
24 official reporters pro tempore, as the business of the courts may require in order that the judicial
25 business of the court in such county may be carried on without delay. They shall be paid in
26 accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing
27 with Section 69941) of this chapter. Such per diem, traveling and other expenses, and the fees
28 chargeable to the county under the terms of these provisions shall be a proper county charge.

29 70045.77. Notwithstanding any other provision of law, including, but not limited to, Sections
30 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the full-time
31 official court reporters, if any, in El Dorado County:

32 (a) The regular full-time official court reporters shall perform the following duties:

33 (1) Report all criminal proceedings.

34 (2) Report all civil commitment proceedings and all contempt proceedings.

35 (3) Report all juvenile proceedings, other than those heard by a juvenile court referee or traffic
36 hearing officer.

37 (4) Report all family law proceedings.

38 (5) Report all civil jury trials.

39 (6) Report all hearings on petitions for extraordinary relief, including, but not limited to,
40 proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram
41 nobis.

42 (7) Report all proceedings of the grand jury when requested by the foreman, or by the district
43 attorney or by the county counsel.

44 (8) Report any other court proceedings when a party requests a court reporter in accordance
45 with rules of the court.

46 (9) Report the preliminary examination of those accused of crimes before magistrates within El
47 Dorado County.

48 (10) Report coroner's inquests when requested by the coroner.

49 (11) Report proceedings for the El Dorado County Board of Equalization when requested by
50 the board.

51 (b) The regular full-time official court reporter shall be compensated at a range recommended
52 by the judges of the superior court and approved by the board of supervisors by ordinance or
53 resolution.

1 The foregoing salary is for compensation for reporting services in the superior court under
2 subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter
3 shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.

4 The regular full-time official court reporters shall be entitled to the same privileges with respect
5 to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be
6 provided by ordinance to other employees of the county.

7 (c) When the regular full-time official court reporters are occupied in the performance of their
8 duties and services pursuant to the provisions of subdivision (a), the judge or judges of the
9 superior court may appoint as many additional official court reporters, who shall be known as
10 official reporters pro tempore, as the business of the courts may require in order that the judicial
11 business of the court in such county may be carried on without delay. They shall be paid in
12 accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing
13 with Section 69941) of this chapter. Such per diem, traveling and other expenses, and the fees
14 chargeable to the county under the terms of these provisions shall be a proper county charge.

15 70045.8. (a) Notwithstanding any other provision of law, including, but not limited to, Sections
16 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the official court
17 reporters in Butte County Superior Court:

18 (1) The regular full-time official court reporters under the direction of the presiding judge of the
19 superior court shall perform the following duties:

20 (A) Report all criminal proceedings.

21 (B) Report all civil commitment proceedings and all contempt proceedings.

22 (C) Report all juvenile proceedings other than those heard by juvenile court referee or traffic
23 hearing officer.

24 (D) Report all civil jury trials.

25 (E) Report all hearings on petitions for extraordinary relief, including, but not limited to,
26 proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram
27 nobis.

28 (F) Report all proceedings of the grand jury when requested by the foreman, or by the district
29 attorney or by the county counsel.

30 (G) Report any other court proceedings when a party requests a court reporter in accordance
31 with rules of court.

32 (H) Report coroner's inquests when requested by the coroner.

33 (I) Report proceedings for the Butte County Board of Equalization when requested by the
34 board.

35 (J) When not occupied with the above duties, and upon request of a presiding judge of the
36 municipal court and approval of the presiding judge of the superior court, he or she shall report
37 matters listed under paragraph (1) of subdivision (b).

38 (b) Notwithstanding any other provision of law, including, but not limited to, Sections 70040,
39 70041, 70042, and 70045, the following provisions shall be applicable to the official court
40 reporters in the Butte County Municipal Courts:

41 (1) The regular full-time official municipal court reporters under the direction of the presiding
42 judges of the municipal courts shall perform the following duties:

43 (A) Report the preliminary examination of those accused of crimes before magistrates within
44 Butte County.

45 (B) Report all felony pleas.

46 (C) Report any other court proceeding as required by law.

47 (D) When not occupied with the above duties, and upon request of the presiding judge of the
48 superior court and approval of a presiding judge of the municipal court, he or she shall report
49 matters listed under paragraph (1) of subdivision (a) above.

50 (c) The board of supervisors shall, by ordinance, specify the salary rates for official court
51 reporters in Butte County.

52 In addition to the aforementioned compensation, each official court reporter shall receive
53 twenty-five dollars (\$25) per month as reimbursement for the cost of necessary supplies.

1 The foregoing salary established pursuant to county ordinance is for compensation for reporting
2 services in the superior and municipal courts under subdivisions (a) and (b) of this section. For all
3 transcriptions incident to reporting services, each reporter shall receive the fees provided for in
4 Article 9 (commencing with Section 69941) of this chapter.

5 The regular full-time official court reporters shall be entitled to the same privileges with respect
6 to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be
7 provided by ordinance to other employees of the county.

8 (d) When the regular full-time official court reporters are occupied in the performance of their
9 duties and services pursuant to subdivisions (a) and (b), the judge or judges of the superior and
10 municipal courts may appoint as many additional official court reporters, who shall be known as
11 official reporters pro tempore, as the business of the courts may require in order that the judicial
12 business of the courts in the county may be carried on without delay. They shall be paid in
13 accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing
14 with Section 69941) of this chapter. The per diem, traveling and other expenses, and the fees
15 chargeable to the county under the terms of these provisions shall be a proper county charge.

16 70045.9. Notwithstanding any other provision of law, the provisions of this section shall apply
17 to the official court reporters in Shasta County:

18 (a) The regular full-time official court reporters shall perform the following duties:

19 (1) Report all criminal proceedings in superior court.

20 (2) Report all juvenile proceedings other than those heard by juvenile court referee or traffic
21 hearing officer.

22 (3) Report all civil jury trials in superior court, unless the court determines it is not required.

23 (4) Report any other proceeding in the superior court at the request of the judge of the superior
24 court.

25 (5) Report any superior court proceeding when a party requests a court reporter in accordance
26 with the rules of court.

27 (6) Report all criminal investigations of the grand jury, when requested by the foreman, or by
28 the district attorney.

29 (7) Report the preliminary examination of those accused of crime before magistrates or
30 municipal court judges within Shasta County, or before both.

31 (8) Report coroner's inquests, when requested by the coroner.

32 (9) Report hearings of the Board of Equalization of the County of Shasta, as requested by that
33 board.

34 (10) Other reporting or related services, as directed by the judges of the superior court.

35 (11) When not occupied with the above duties, and upon request of the board of supervisors
36 and approval of the presiding judge of the superior court, he or she shall report matters before the
37 board of supervisors.

38 (b) Each regular full-time court reporter shall be paid a monthly salary of one thousand four
39 hundred seventy dollars (\$1,470), unless the Board of Supervisors of Shasta County provides for
40 compensation in excess of that amount, in which event the amount set shall apply. The salary is
41 for compensation for reporting services set forth under subdivision (a). For all transcriptions
42 incident to reporting services, each reporter shall receive the fees provided for in Article 9
43 (commencing with Section 69941).

44 The regular full-time official court reporters shall be entitled to the same privileges with respect
45 to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group
46 insurance, which either now or hereafter may be provided by ordinance or resolution to other
47 comparable employees of the County of Shasta.

48 (c) When the regular full-time official court reporters are occupied in the performance of their
49 duties and services pursuant to the provisions of subdivision (a), the judge or judges of the
50 superior court may appoint as many additional official court reporters, who shall be known as
51 official reporters pro tempore, as the business of the courts may require in order that the judicial
52 business of the court may be carried on without delay. In the event the board of supervisors has
53 entered into a contract for supplemental reporter services with a qualified person or persons first

1 approved by the presiding judge of the superior court, the person or persons shall be appointed as
2 reporter pro tempore. However, if the person or persons are not reasonably available, the judge
3 may appoint any qualified person. Notwithstanding other provisions of this section, when an
4 assignment of a pro tempore reporter is made to proceedings in the superior court, the assignment
5 shall be deemed to run to the completion of the proceeding.

6 Reporters pro tempore shall be paid in accordance with the contract with the board of
7 supervisors or, in absence thereof, with the per diem, transcription, and other fee provisions of
8 Article 9 (commencing with Section 69941). Such per diem, traveling and other expenses, and the
9 fees chargeable to the county under the terms of these provisions shall be a proper county charge.

10 (d) During the hours during which the court is open as prescribed by the Shasta County
11 Superior Court for the transaction of judicial business, official court reporters shall devote full
12 time to the performance of the duties required of them by law and shall not engage or solicit to
13 engage in any other employment in their professional capacity.

14 (e) Court reporters pro tempore serving in the superior and municipal courts shall receive a per
15 diem equal to the base wage of the official court reporter for an eight-hour day, excluding
16 benefits. This fee shall be adjusted by the same, general across-the-board salary adjustment
17 enacted by the county in any salary ordinance applicable to official court reporters. For services
18 of less than four hours in any day, the pro tempore reporter will receive a per diem equal to 65
19 percent of the base wage.

20 70045.10. Notwithstanding any other provision of law, the provisions of this section shall apply
21 to the official court reporters in Tehama County.

22 (a) The regular full-time official court reporters shall perform the following duties:

23 (1) Report all criminal proceedings in superior court.

24 (2) Report all juvenile proceedings other than those heard by the juvenile court referee or traffic
25 hearing officer.

26 (3) Report all civil jury trials in superior court, unless the court determines it is not required.

27 (4) Report any other proceeding in the superior court at the request of the judge of the superior
28 court.

29 (5) Report any superior court proceeding when a party requests a court reporter in accordance
30 with the rules of court.

31 (6) Report all criminal investigations of the grand jury, when requested by the foreman or the
32 district attorney.

33 (7) Report the preliminary examination of those accused of crime before magistrates or
34 municipal court judges within Tehama County, or both.

35 (8) Report coroner's inquests, when requested by the coroner.

36 (9) Report hearings of the Board of Equalization of the County of Tehama, as requested by that
37 board.

38 (10) Other reporting or related services, as directed by the judges of the superior court.

39 (11) When not occupied with the above duties, and upon request of the board of supervisors
40 and approval of the presiding judge of the superior court, they shall report matters before the
41 board of supervisors.

42 (12) Such other duties as are required to insure the provision of court reporter services.

43 (b) Each regular full-time court reporter shall be paid a monthly salary of two thousand two
44 hundred sixty-seven dollars (\$2,267), unless the Board of Supervisors of Tehama County, by
45 ordinance, provides for compensation in excess of that amount, in which event the compensation
46 set by ordinance shall apply. The salary is for compensation for reporting services set forth under
47 subdivision (a). For all transcriptions incident to reporting services, each reporter shall receive the
48 fees provided for in Article 9 (commencing with Section 69941).

49 The regular, full-time official court reporters shall be entitled the same privileges with respect
50 to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group
51 insurance, which either is now, or hereafter may be, provided by ordinance to other comparable
52 employees of the County of Tehama.

1 For retirement credit purposes, compensation earnable shall be deemed to be the annual total of
2 all salary and transcription fees paid by the County of Tehama to each regular official reporter up
3 to a maximum of thirty-five thousand dollars (\$35,000).

4 (c) When the regular full-time official court reporters are occupied in the performance of their
5 duties and services pursuant to the provisions of subdivision (a), the judge or judges of the
6 superior court may appoint as many additional official court reporters, who shall be known as
7 official reporters pro tempore, as the business of the court may be carried on without delay.
8 Notwithstanding other provisions of this section, when an assignment of a pro tempore reporter is
9 made to proceedings in the superior court, the assignment shall be deemed to run to the
10 completion of the proceeding.

11 Reporters pro tempore shall be paid in accordance with the rate of compensation as set by the
12 board of supervisors. For all transcriptions incident to reporting services, each reporter shall
13 receive the fees provided for in Article 9 (commencing with Section 69941). The per diem,
14 traveling and other expenses, and the fees chargeable to the county under the terms of these
15 provisions shall be a proper county charge.

16 (d) During the hours during which the court is open, as prescribed by the Tehama County
17 Superior Court for the transaction of judicial business, official court reporters shall devote full
18 time to the performance of the duties required of them by law and shall not engage, or solicit to
19 engage, in any other employment in their professional capacity unless otherwise excused by a
20 judge of the superior court.

21 If the official court reporter or a pro tempore reporter serves past 5:30 p.m., he or she shall
22 receive an additional fee equal to one-half the per diem rate established by the board of
23 supervisors. If the official court reporter or a pro tempore reporter serves past 8:30 p.m., he or she
24 shall receive a second additional fee equal to one-half the per diem rate. Accumulation of hours in
25 a given day shall be without regard as to the number of courts in which the reporter provides
26 reporting service.

27 In order that the salary provided for regular full-time official court reporters shall remain
28 equitable and competitive, the salary herein provided for shall be adjusted and increased by the
29 same salary adjustment percentage for the classification entitled the superior court clerk enacted
30 on or before July 1, 1985, by the County of Tehama.

31 70045.11. In lieu of the compensation provided for in Section 69948, the Board of Supervisors
32 of Sutter County may, with the approval of the presiding judge of the superior court, contract with
33 official court reporters, and reporters pro tempore, for the superior court with respect to the fee for
34 reporting testimony and proceedings in contested cases, per diem, and traveling and other
35 expenses, which shall be a proper county charge.

36 70045.12. Notwithstanding any other provision of law, the following provisions shall be
37 applicable to the official court reporters in the superior court and municipal courts of Madera
38 County:

39 (a) In Madera County, official court reporters shall be appointed by the judges of the superior
40 court pursuant to Section 70043 and shall serve at the pleasure of the judges. Official reporters
41 shall perform the duties required of them by law. In addition, they shall render assistance to the
42 judge or judges of the superior court as the judge or judges may direct.

43 (b) In Madera County, official court reporters shall be appointed by the judges of the municipal
44 court pursuant to Section 72194 and shall serve at the pleasure of the judges. Official reporters
45 shall perform the duties required of them by law. In addition, they shall render assistance to the
46 judge or judges of the municipal court as the judge or judges may direct.

47 (c) Notwithstanding any other provision of law, the salary and benefits for official court
48 reporters in Madera County shall be determined pursuant to Section 69908.

49 (d) When the regular full-time official court reporters are occupied in the performance of their
50 duties and services pursuant to this statute, the judge or judges of the superior court and the
51 municipal court may appoint as many additional official court reporters, who shall be known as
52 official reporters pro tempore, as the business of the courts may require in order that the judicial

1 business of the courts in the county may be carried on without delay. They shall be paid in
2 accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing
3 with Section 69941) of this chapter. The per diem, traveling, and other expenses, and the fees
4 chargeable to the county under the terms of these provisions are a proper county charge.

5 (e) Official court reporters shall devote full time to the performance of the duties required of
6 them by law and may not engage or solicit to engage in any other employment in their
7 professional capacity during the normal workday.

8 70046. In San Bernardino County, the board of supervisors shall fix the salary of regular
9 official reporters, which shall not be less than an annual salary of twenty thousand two hundred
10 ten dollars (\$20,210) and the compensation of official reporters pro tempore, which shall be at a
11 rate not less than seventy-five dollars and twenty-five cents (\$75.25) a day.

12 During the hours which the court is open for the transaction of judicial business, official
13 reporters shall devote full time to the performance of the duties required of them by law and shall
14 not engage in or solicit to engage in any other employment in their professional capacity.

15 70046.1. In Santa Clara County, the board of supervisors shall fix the salary of regular official
16 reporters, which shall not be less than a biweekly salary of one thousand seven hundred eighty-
17 four dollars and forty cents (\$1,784.40), and the compensation of official reporters pro tempore,
18 which shall be at a rate not less than ninety-eight dollars and fourteen cents (\$98.14) per half day
19 and one hundred ninety-six dollars and twenty-eight cents (\$196.28) per day.

20 During the hours that the court is open for the transaction of judicial business, official reporters
21 shall devote full time to the performance of the duties required of them by law and shall not
22 engage in or solicit to engage in any other employment in their professional capacity.

23 70046.2. (a) In Fresno County, each reporter shall be paid an annual salary established
24 according to the following salary schedule:

- 25 Step 1. \$44,045
- 26 Step 2. \$46,252
- 27 Step 3. \$48,541
- 28 Step 4. \$50,969

29 Reporters shall initially be placed at step 1 of the salary schedule except reporters may be
30 placed at a higher step with the approval of the county administrative officer, and shall advance
31 one step annually upon the anniversary date of the employment. If, because of recruitment
32 difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is
33 above the step at which any court reporters are currently employed, all court reporters below that
34 step will move to the higher step at the discretion of the judges of the court.

35 (b) Each pro tempore reporter shall be paid one hundred and sixty-nine dollars and forty cents
36 (\$169.40) for a full day on duty under order of the court. For purposes of receiving the above
37 compensation, one or more of the following shall apply:

- 38 (1) The court has indicated in advance that the pro tempore assignment is for a full day.
- 39 (2) The pro tempore reporter, having accepted a full-day assignment, has not voluntarily
40 relinquished his or her services at or before the end of four hours of service.
- 41 (3) The pro tempore reporter was on duty for more than four hours.

42 Each pro tempore reporter shall be paid one hundred twelve dollars and ninety-three cents
43 (\$112.93) for one-half day of duty under order of the court when (a) the court has indicated in
44 advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty
45 for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in
46 advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty
47 for four hours or less and consents to being released for the balance of the day.

48 Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make
49 every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than
50 four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In
51 the latter case, the full-day pro tempore rate of one hundred sixty-nine dollars and forty cents
52 (\$169.40) shall apply.

1 Nothing herein shall be construed to limit the court's authority to in all instances pay a pro
2 tempore reporter at the rate of one hundred sixty-nine dollars and forty cents (\$169.40) when, in
3 the court's judgment, said rate is necessary to obtain pro tempore reporter services for the court.

4 (c) In addition to the salary herein provided, each regularly employed reporter shall accrue and
5 be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each
6 pay period or major fraction thereof, served up to an accumulative total of 156 working days.
7 Each such reporter shall accrue and receive vacation at the same rate as judges of such court not
8 to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such
9 time as the judge to which he or she has been assigned consents.

10 70046.4. (a) In Lake County, the official phonographic reporters shall perform the following
11 duties:

12 (1) Report all proceedings before the superior court.

13 (2) Report all the proceedings of the grand jury.

14 (3) Act as the secretary of, and render stenographic and clerical assistance to, the judge of the
15 department to which they are assigned by the presiding judge.

16 (4) Any other duties assigned by the board of supervisors upon the request of a judge of the
17 superior court.

18 The official phonographic reporters of such county shall receive a salary recommended by the
19 superior court and approved by the board of supervisors. Such salary is for compensation for
20 reporting services in the superior court under subdivision (a) of this section. For all transcriptions
21 incident to reporting services, each reporter shall receive the fees provided for in Article 9
22 (commencing with Section 69941) of this chapter. Such fees shall be paid to the County of Lake
23 when the conditions of the official phonographic reporter's employment so provide.

24 Any appointee to an official reporter position shall be compensated at the first step and advance
25 to each higher step upon completion of each year of service. Upon the recommendation of the
26 superior court and approval of the board of supervisors, official reporters may be employed at or
27 may be granted a special step increase to any step within the salary range on the basis of
28 experience or qualifications.

29 (b) The compensation for each official reporter pro tempore shall be the equivalent of the daily
30 wage of the first step in the salary range for full-time official reporters for each day he actually is
31 on duty under order of the court.

32 (c) In addition to the compensation provided in this article, each full-time reporter of the
33 superior court shall be entitled to, and shall receive, the same vacation, sick leave, and similar
34 privileges and benefits as are now, or may hereafter be provided for the employees of the County
35 of Lake including the right to participate in any group, accident, health or life insurance plan
36 adopted by the board of supervisors of the county.

37 (d) Until such time as the salaries of full-time official reporters and official reporters pro
38 tempore are approved by the board of supervisors pursuant to subdivision (a), such reporters shall
39 receive the salaries in effect immediately prior to the effective date of this section enacted by the
40 Legislature at its 1977-78 Regular Session.

41 70047. (a) In Contra Costa County, the annual salary of each regular official reporter shall be
42 based on a four-step salary plan as established by joint action and approval of the board of
43 supervisors and a majority of the judges of the court. The step of entry shall be step one.
44 However, the judges of the court may appoint any such reporter to a duly allocated exempt
45 position at a higher step if, in the opinion of the appointing judge, an individual to be appointed
46 has the experience and qualifications to entitle that individual to a higher initial step, but in no
47 case may the initial salary be above the third step of the salary range. Official reporters shall
48 advance to the next higher step on the salary plan annually, upon affirmative approval of the
49 appointing authority. The compensation of each official reporter pro tempore shall be an amount
50 which is equivalent to 1.05 times the daily wage of the fourth step in the salary range for full-time
51 official reporters in Contra Costa County for each day the reporter is on duty under order of the
52 court. Additional official reporters pro tempore may also be appointed on a half-day basis as the

1 business of the court requires. Those reporters shall be compensated at a rate which is 55 percent
2 of the daily wage of an official reporter pro tempore for each period up to four hours that the
3 reporter is on duty under the order of the court.

4 (b) During the hours which the court is open for the transaction of judicial business, the regular
5 official reporter shall perform the duties required by law. When not engaged in the performance
6 of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical
7 assistance to the judge of the court to which he or she is assigned as that judge may direct.

8 (c) The board of supervisors shall adjust the salary of regular official reporters as part of its
9 regular review of county employee compensation. The adjustment shall be to that salary level
10 closest to the average percentage adjustment in basic salaries of the county classes of superior
11 court clerk, legal clerk, secretary, and clerk (experienced level), and shall be effective on the same
12 date.

13 70047.1. Notwithstanding any other provision of law, the following provisions shall be
14 applicable to the Stanislaus County Superior Court:

15 (a) In Stanislaus County, to assist the superior court in the transaction of its judicial business, a
16 majority of the judges of the superior court, with the approval of the board of supervisors, may
17 appoint as many regular official reporters as necessary to report the proceedings in the court.

18 (b) The regular official superior court reporters, unless the right to their services are waived,
19 shall report all of the proceedings as otherwise provided by law or ordered by a superior court
20 judge.

21 (c) The regular official court reporters shall be compensated at a range approved by the board
22 of supervisors by ordinance or resolution.

23 In order that the salaries provided for in this section remain equitable and competitive, in the
24 event an ordinance or resolution is adopted which provides a cost-of-living increase for
25 employees of Stanislaus County, this salary range shall be deemed adjusted, increased, and
26 amended by that ordinance or resolution.

27 (d) A regular official court reporter shall receive the same vacation, sick leave, retirement, and
28 other benefits as are provided for county employees.

29 (e) For the purposes of retirement, the compensation of each reporter shall be deemed to be the
30 total of all per diem and transcription fees paid by the county to all of the regular reporters of the
31 superior court for all reporting services, divided by the number of superior court official reporters,
32 plus his or her salary.

33 (f) The superior court executive officer shall appoint a supervising reporter to be compensated
34 at an hourly rate that is 10 percent higher than Step 5 of the hourly rate specified in subdivision
35 (c).

36 (g) For all transcriptions incident to reporting services, each reporter shall receive the fees
37 provided for in Article 9 (commencing with Section 69941) of this chapter. A court reporter shall
38 also be allowed his or her traveling expenses as determined by the travel policy of Stanislaus
39 County when reporting outside of the county seat.

40 (h) The judges of the superior court may appoint as many official superior court reporters pro
41 tempore as the business of the court requires. They shall be unsalaried, but shall receive a per
42 diem of 1/260 of Step 4 of the hourly rate set pursuant to subdivision (c).

43 (i) The county shall provide the official reporters with supplies for the performance of their
44 courtroom duties, excluding hardware.

45 (j) The presiding judge of the superior court may, upon request of the presiding judge of the
46 municipal court, assign an official superior court reporter to the municipal court during such times
47 as the business of the municipal court requires. Official superior court reporters who are so
48 assigned shall receive no additional compensation for that service.

49 70047.5. (a) In Sonoma County, for the 1987-88 fiscal year each regular official reporter shall
50 be paid an annual salary of thirty-seven thousand seven hundred forty dollars (\$37,740), which
51 salary shall include payment for services in reporting all proceedings in the superior court, before
52 the grand jury and the coroner. In order that the salary provided for in this section shall remain

1 equitable and competitive, the salary provided for in this section shall be adjusted and increased
2 by the same, general across-the-board salary adjustment enacted by the county in the salary
3 ordinance for other unrepresented employees.

4 (b) Reporters pro tempore serving in the superior and municipal courts shall receive a per diem
5 equal to 90 percent of the gross hourly wage of a regular official superior court reporter, exclusive
6 of benefits, for each full day, and one-half the per diem rate for each half day, when actually on
7 duty under order of the court, and shall receive from the county their necessary traveling and
8 other expenses when necessarily called from other counties.

9 (c) Regular official reporters shall be entitled to the same privileges with respect to retirement,
10 vacation, sick leave and other benefits allowed to employees in the clerical nonsupervisory
11 representation unit of the county.

12 70048. (a) In a county with a population of 1,300,000 and under 1,400,000, as determined by
13 the 1970 federal census, regular official reporters shall be paid at a salary rate established by joint
14 action and approval of the board of supervisors and a majority of the judges of the court.

15 Except as provided herein, the initial hiring rate for each position shall be step A, provided
16 further, however, the judges of the superior court may appoint any such court reporter at a higher
17 initial step if in the opinion of the judges of the superior court an individual to be appointed has
18 such experience and qualification as to entitle that individual to such higher initial step. A step
19 advancement from step A to step B may be granted on the first day of the month following the
20 completion of 12 full months of service in the position. A person may advance to steps C, D, and
21 E upon completion of successive 12-month periods of service. All merit increases as provided
22 herein shall be made at the determination of the judges of the superior court. A court reporter
23 employed prior to November 15, 1977, and currently employed shall receive a monthly and
24 annual salary at step E.

25 (b) Official phonographic reporters pro tempore shall be compensated at a rate established by
26 joint action and approval of the board of supervisors and a majority of the judges of the court.

27 (c) Each reporter shall cooperate with county personnel in any random job reviews for the
28 purpose of confirming hours spent in attendance upon the courts for the purpose of reporting
29 proceedings.

30 (d) During the hours which the court is open for the transaction of judicial business, official
31 reporters shall devote full time to the performance of the duties required of them by law and shall
32 not engage in or solicit to engage in any other employment in their professional capacity.

33 **Note.** Government Section 70048 applies to San Diego County.

34 70049. In a county with a population of over 11,650 and under 12,000, as determined by the
35 1960 federal census, each regular official reporter shall receive as full compensation for taking
36 notes in criminal cases an annual salary set by resolution of the board of supervisors. All other
37 fees of such reporters shall be as elsewhere provided by law.

38 **Note.** Government Section 70049 applies to Inyo County.

39 70049.5. In a county with a population of over 32,000 and under 33,000, as determined by the
40 1960 federal census, each regular official reporter shall receive as full compensation an annual
41 salary of ten thousand dollars (\$10,000) unless the board of supervisors of the county shall by
42 ordinance provide for compensation in excess of that amount, in which event the amount set by
43 ordinance shall apply.

44 **Note.** Government Section 70049.5 applies to Siskiyou County.

45 70050. In San Benito County, the board of supervisors shall fix the salary of regular official
46 reporters and the compensation of official reporters pro tempore, which shall be at a rate of not
47 more than seventy-five dollars (\$75) a day.

1 During the hours which the court is open for the transaction of judicial business, official
2 reporters shall devote full time to the performance of the duties required of them by law and shall
3 not engage in or solicit to engage in any other employment in their professional capacity.

4 70050.5. In each county with a population of 730,000 and under 850,000, as determined by the
5 1960 federal census, the monthly salary of the regular official phonographic reporters shall be not
6 less than that paid to regular official phonographic reporters of the superior court in counties
7 having a population of over 6,000,000. Pro tempore reporters in each county with a population of
8 730,000 and under 850,000, as determined by the 1960 federal census, shall receive a daily per
9 diem in an amount not less than that paid to pro tempore superior court reporters in counties
10 having a population of over 6,000,000.

11 Length of employment for compensation purposes under this section shall mean length of
12 employment in either the municipal court or superior court of such county.

13 All regular official phonographic reporters appointed prior to the effective date of this section
14 shall receive not less than the monthly salary set forth in the maximum step of the pertinent salary
15 schedule used in counties having a population of over 6,000,000.

16 Official phonographic reporters appointed subsequent to the effective date of this section shall
17 be compensated in an amount that is not less than whatever step of the pertinent salary schedule
18 used in counties with a population of over 6,000,000 the majority of the judges of such court may
19 deem appropriate.

20 **Note.** Government Section 70050.5 applies to San Francisco County.

21 70050.6. (a) In Tuolumne County, the official reporters of the superior court shall perform the
22 following duties:

- 23 (1) Report all criminal proceedings.
- 24 (2) Report all civil proceedings.
- 25 (3) Report all domestic relations proceedings.
- 26 (4) Report all proceedings of the grand jury.
- 27 (5) Report all coroner's inquests.

28 (b) The official reporters of Tuolumne County shall receive a salary as established by the Board
29 of Supervisors of Tuolumne County. Such salary is for compensation for reporting services in the
30 superior court under subdivision (a) of this section.

31 For all transcriptions incident to reporting services, each reporter shall receive the fees provided
32 for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The court reporter
33 shall also be allowed his or her actual traveling expenses when reporting outside of the county
34 seat.

35 70050.8. Notwithstanding the provisions of Sections 69948 and 69949, in counties with
36 population of at least 62,000 and under 65,800, as determined by the 1960 federal census, the fee
37 for official court reporters and court reporters pro tempore is seventy dollars (\$70) per day unless
38 the board of supervisors of the county shall, by resolution, provide for fees in excess of that
39 amount, in which event the fee set by resolution shall apply.

40 **Note.** Government Section 70050.8 applies to Yolo County.

41 70051. No further fee than that prescribed in Sections 70053 to 70059.5, inclusive, shall be
42 collected from, or assessed against, any party to any proceeding for the services of a
43 phonographic reporter in taking down in shorthand the testimony and other proceedings in the
44 trial or hearing of any matter as required by law or by order of the court, but a phonographic
45 reporter shall be allowed and unless waived by him shall receive the fees allowed by law for
46 transcribing his shorthand notes of the testimony and proceedings reported by him, and such fees
47 for transcriptions shall be paid pursuant to Article 9 of this chapter and any other law pertinent to
48 the case.

1 70052. The salaries provided for in this article shall be paid in monthly installments out of the
2 salary fund of the county and shall be allowed and audited in the same manner as the law requires
3 for other salary demands against the county.

4 70056.7. Notwithstanding any other provision of law to the contrary, the following provisions
5 shall be applicable to the official superior court reporters in Monterey County:

6 (a) Regular official court reporters shall report all criminal and civil proceedings in their
7 respective courts and report all grand jury proceedings. When not engaged in the performance of
8 other duties imposed on him or her by law and when approved by the presiding judge, each
9 reporter shall render such assistance as may be required in any other court of the county to which
10 he or she may be assigned. During hours in which the court is open for the transaction of judicial
11 business, official reporters shall devote full time to the performance of regular duties and shall not
12 engage in or solicit any other employment in their professional capacity.

13 (b) Each regular official court reporter shall be paid a salary to be established by the Monterey
14 County Board of Supervisors upon the joint recommendation of the county administrative officer
15 and the judges of the superior court.

16 (c) A regular official court reporter shall serve at the pleasure of the judge of the court for
17 which appointed but shall receive the same vacation, sick leave, retirement, and other financial or
18 monetary benefits as are now, or may be hereafter provided for the classification of superior court
19 clerk. The benefits include the right to participate in any group accident, group health, or group
20 life insurance plan adopted for and made available to the classification of superior court clerk.

21 For the purposes of retirement under the Public Employees' Retirement System, the salary
22 provided for in subdivision (b) shall be deemed the entire salary for each court reporter.

23 (d) Judges of the superior court may appoint as many official superior court reporters pro
24 tempore as the business of the court requires. They shall be unsalaried but shall receive a per
25 diem at a rate to be established by joint action of the board of supervisors and a majority of the
26 judges of the superior court.

27 70059.7. In Santa Barbara County each regular official reporter shall be paid a biweekly salary
28 which shall be one thousand six hundred eighty-five dollars and eighty-five cents (\$1,685.85)
29 which salary shall include payment for services in reporting all proceedings in the superior or
30 municipal court, before the grand jury, and before coroners' inquests.

31 Reporters pro tempore shall be paid at a per diem rate of up to a maximum of one hundred
32 sixty-eight dollars (\$168) or eighty-four dollars (\$84) for each half day or four (4) hour period or
33 portion thereof for the days they are actually on duty under order of the court, and shall receive
34 from the county their necessary traveling and other expenses when necessarily called from other
35 counties. Rates of compensation of regular official reporters and official reporters pro tempore
36 may be adjusted by joint action and approval of the board of supervisors and a majority of the
37 judges of the court. However, any changes in compensation which are made pursuant to this
38 section shall be on an interim basis and shall remain in effect only until January 1, 1993, unless
39 ratified by statute by the Legislature prior to that date.

40 70059.8. (a) Notwithstanding any other provision of law, including but not limited to Sections
41 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the official court
42 reporters in Solano County.

43 (b) Regular official court reporters shall report all criminal and civil proceedings in their
44 respective courts; all juvenile proceedings, other than those heard by referees or traffic officers
45 when official reporters are unavailable; grand jury proceedings, coroner's inquests, and
46 proceedings before the county board of equalization. When not engaged in the performance of
47 other duties imposed upon him or her by law, each reporter shall render such assistance as may be
48 required in any other court of the county to which he or she may be assigned, and perform such
49 other verbatim reporting services as may be required such as, but not limited to, public hearings
50 and depositions. During hours in which the court is open for the transaction of judicial business,
51 official reporters shall devote full time to the performance of regular duties and shall not engage
52 in any other employment in their professional capacity.

1 (c) In Solano County the annual salary of each official court reporter shall be based on a regular
2 five-step plan as established by joint action and approval of the board of supervisors and a
3 majority of the judges of the court.

4 (d) For all transcripts incident to reporting services, each reporter shall receive the fees
5 provided for in Article 9 (commencing with Section 69941) of this chapter. The initial hiring rate
6 for each position shall be step 1, provided that the judges may appoint any such reporter at a
7 higher initial step if, in the opinion of the majority of judges, an individual to be appointed has
8 such experience and qualifications as to entitle him or her to such higher initial step.

9 (e) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall
10 be entitled to the same benefits and privileges respecting longevity, service credits, cost-of-living
11 or other general pay increases, retirement, vacation, sick leave and group insurance which are
12 provided other employees of the county. Court reporters shall be entitled to any increases
13 provided other employees of the county respecting longevity, service credits, cost-of-living or
14 general pay increases, retirement, vacation, sick leave and group insurance, but such increases
15 shall be on an interim basis and remain in effect only until January 1, 1990, unless ratified by
16 statute by the Legislature prior to that date.

17 (f) Judges of the court may appoint as many official reporters pro tempore as the business of the
18 court requires. They shall be unsalaried but shall receive the fees provided by Article 9 of this
19 chapter, which fees, upon order of the court, shall be a proper charge against the general fund of
20 the county.


21 70059.9. In San Luis Obispo County, each regular official reporter shall be paid a monthly
22 salary which shall be recommended by the superior court and approved by the board of
23 supervisors. This salary shall include payment for services in reporting all proceedings in the
24 superior court, before the grand jury, and before coroner's inquests. The initial hiring rate for
25 each position shall be step 1, provided, however, that the judges of the court may appoint a
26 reporter at a higher step if such person has the experience and qualifications to entitle that
27 individual to appointment at a higher initial step. Step advancement from step 1 to step 2 may be
28 granted following completion of six full months of service in the position. Thereafter, a person
29 may advance to each succeeding step upon completion of a 12-month period of full-time service
30 at the previous step. All step advancements pursuant to this section shall be determined by the
31 judges of the court. In addition to the duties required by the provisions of this section, and
32 notwithstanding the provisions of Section 69956, regular official reporters, when not actually
33 engaged in the performance of other lawfully imposed duties, shall, at no additional
34 compensation, render stenographic or clerical assistance or both, to the superior court as may be
35 directed by the presiding judge.

36 Reporters pro tem shall be paid at a per diem rate of seventy-six dollars (\$76) for the days they
37 are actually on duty under order of the court, and shall receive from the county their necessary
38 travel and other expenses when necessarily called from other counties. Rates of compensation of
39 official reporters pro tem may be adjusted by approval of the board of supervisors upon the
40 recommendation of a majority of the judges of the court.

41 Each official court reporter shall be an attache of the superior court and shall serve at the
42 pleasure of the appointing judges, but shall be entitled to the same benefits and privileges
43 respecting retirement, group insurance, social security, vacation, sick leave and other fringe
44 benefits which are provided to county employees.

45 70060. The fee so required shall be taxed as costs in favor of any party paying it and to whom
46 costs are awarded by the judgment of the court. Such fee shall not be subject to the provisions of
47 Section 6103.

48 70061. In a county with a population of 280,000 and under 285,000, of 500,000 and under
49 700,000, or of 700,000 or more, the fee so required shall not be required of any party who is
50 exempted from the payment of costs by any statute other than Section 6103.

51  **Note.** Government Section 70061 applies to the following counties: Alameda, Los Angeles,
52 San Bernardino, San Diego, and San Francisco.

1 70062. On or before the first day of each calendar month, the county clerk shall transmit to the
2 county treasurer all money paid to him pursuant to this article during the preceding calendar
3 month, or up to the day immediately preceding that on which he transmits the money, and the
4 money shall be deposited in the salary fund of the county.

5 70063. (a) In Mendocino County, the official phonographic reporters shall perform the
6 following duties:

7 (1) Report all proceedings before the superior court;

8 (2) Report the proceedings of the grand jury;

9 (3) Act as the secretary of, and render stenographic and clerical assistance to, the judge of the
10 department to which they are assigned by the presiding judge.

11 The official phonographic reporters of such county shall receive a salary recommended by the
12 superior court and approved by the board of supervisors.

13 Any appointee to an official reporter position shall be compensated at the first step and advance
14 to each higher step upon completion of each year of service. Upon the recommendation of the
15 superior court and approval of the board of supervisors, official reporters may be employed at or
16 may be granted a special step increase to any step within the salary range on the basis of
17 experience or qualifications.

18 (b) The compensation for each official reporter pro tempore shall be the equivalent of the daily
19 wage of the first step in the salary range for full-time official reporters for each day he actually is
20 on duty under order of the court.

21 (c) In addition to the compensation provided in this article, each full-time reporter of the
22 superior court shall be entitled to, and shall receive, the same vacation, sick leave, and similar
23 privileges and benefits as are now, or may hereafter be provided for the employees of the County
24 of Mendocino, including the right to participate in any group, accident, health or life insurance
25 plan adopted by the board of supervisors of the county.

26 (d) Until such time as the salaries of full-time official reporters and official reporters pro
27 tempore are approved by the board of supervisors pursuant to subdivision (a), such reporters shall
28 receive the salaries in effect immediately prior to the effective date of the amendments to this
29 section enacted by the Legislature at its 1977-78 Regular Session.

30 70064. In Mono County, each regular official reporter shall receive as full compensation for
31 taking notes in criminal cases an annual salary set by resolution of the board of supervisors. All
32 other fees of such reporters shall be as elsewhere provided by law.

33 **Gov't Code §§ 70100-70104 (repealed). Alternative provisions for official reporters in**
34 **Alameda County**

35 SEC. ____ . Article 12 (commencing with Section 70100) of Chapter 5 of Title 8 of the
36 Government Code is repealed.

37 **Comment.** Sections 70100-70104 are repealed to reflect:

38 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Section
39 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel). See
40 also Sections 68086 (fees for reporting services), 69941 (appointment of official reporters), 69947
41 (compensation of official reporter).

42 (2) Enactment of the Trial Court Funding Act. See Section 77009 (Trial Court Operations
43 Fund). See also Sections 68086 (fees for reporting services in civil cases generally).

44 **Note: Comment Requested**

45 Existing law requires that certain court reporter fees be deposited into the county general or
46 salary fund (see, e.g., Gov't Code § 70104). The Commission is reviewing whether the county
47 treasury provisions remain viable, given the enactment of the Trial Court Funding Act, the Trial
48 Court Employment Protection and Governance Act, and other changes to the structure of the trial
49 courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial

1 Court Operations Fund), 77200 (state funding of trial court operations). These matters are also
2 being examined by a Joint Court-County Working Group on Trial Court Funding. The
3 Commission solicits comment on the proper treatment of these provisions.

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

5 **Article 12. Alternative Provisions for Official Reporter in Counties**
6 **with a Population of 700,000 and Under 750,000**

7 70100. This article applies in each county with a population of 700,000 and under 750,000, as
8 determined by the 1950 federal census. The provisions of Article 11 of this chapter which apply
9 in counties with a population of 750,000 or over apply in each county with a population of
10 700,000 and under 750,000 except as is otherwise validly provided in this article or in Section
11 70058.

12 70101. If a majority of the judges of the superior court of any county with a population of
13 700,000 and under 750,000 concur in an order that appointments may be made pursuant to this
14 article, they may each appoint a competent phonographic reporter, specifying that the
15 appointment is pursuant to Article 12, Chapter 5, Title 8, of this code.

16 70104. In such event in cases in which a phonographic reporter is requested and the fees
17 provided for by Article 11 for counties with a population of 700,000 and under 750,000 have not
18 been paid, the parties litigant shall pay to the clerk of the court, prior to the hearing of the cases,
19 the phonographic reporters' fees prescribed by Article 9. Such fees shall be deposited by the clerk
20 in the county treasury to the credit of the salary fund of the county.

21 **Gov't Code §§ 70110-70113 (repealed). Official reporters in Tulare County**

22 SEC. ____ . Article 12.1 (commencing with Section 70110) of Chapter 5 of Title 8 of
23 the Government Code is repealed.

24 **Comment.** Sections 70110-70113 are repealed to reflect:

25 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
26 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
27 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
28 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
29 (employment selection and advancement), 71650-71658 (employment protection system), 71673
30 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
31 (compensation of official reporter), 69950 (transcription fee).

32 (2) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
33 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

35 **Article 12.1. Official Reporters in Tulare County**

36 70110. In Tulare County, each judge of the superior court may appoint a competent
37 phonographic reporter, to be known as a regular official reporter of that court, and such pro
38 tempore reporters as necessary to report the proceedings of the court. Regular official reporters
39 shall hold office during the pleasure of the appointing judge.

40 The duties of regular official reporters appointed pursuant to this section shall be performed as
41 elsewhere provided by law, and shall include the reporting of every civil proceeding.

42 70111. (a) In consideration of all reporting services, official court reporters shall be paid
43 biweekly at Range 184 of the current Tulare County salary schedule.

1 The initial rate for currently appointed official superior court court reporters on the effective
2 date of this article shall be Range 184, step “E,” two thousand five hundred eighty-four dollars
3 and five cents (\$2,584.05).

4 The initial hiring rate for each position shall be Range 184, step A. However, a judge of the
5 superior court may appoint any such court reporter at a higher initial step if, in the opinion of the
6 judge of the superior court, an individual to be appointed has such experience and qualifications
7 to entitle that individual to the higher initial step.

8 The county shall provide each reporter stenographic machine paper, ink, and ribbons necessary
9 for reporting.

10 (b) Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall
11 receive a per diem of one hundred fifteen dollars (\$115) a day for the day the pro tempore
12 reporter actually is on duty under order of the court.

13 Pro tempore reporters shall not receive more than one per diem fee a day from the county.

14 (c) This per diem rate shall also apply when a reporter is appointed pursuant to Section 869 of
15 the Penal Code by a justice court judge acting as a magistrate.

16 (d) Each full-time official reporter and each official reporter pro tempore shall receive the
17 salaries specified in subdivisions (a) and (b) respectively, unless the Board of Supervisors of
18 Tulare County, by ordinance, provides for compensation in excess of the specified amounts, in
19 which event the amount set by ordinance shall apply.

20 (e) For all transcripts incident to reporting services, each reporter shall receive the fees
21 provided for in Section 69950.

22 70112. In addition to the compensation provided in this article, each full-time reporter of the
23 superior court shall be entitled to, and shall receive the same vacation, sick leave, salary step
24 advancements, and similar privileges and benefits as are now or may hereafter be provided for the
25 employees of the county.

26 Regular official reporters of the superior court shall participate in any group health, accident,
27 life insurance, or deferred compensation plan adopted by the county.

28 70113. Official superior court court reporters shall be members of any retirement system
29 maintained by the county. For retirement credit purposes compensation earnable shall be deemed
30 to be the annual salary paid by the county to each official superior court court reporter.

31 **Gov’t Code §§ 70125-70128 (repealed). Official reporters in Humboldt County**

32 SEC. ____ . Article 12.5 (commencing with Section 70125) of Chapter 5 of Title 8 of
33 the Government Code is repealed.

34 **Comment.** Sections 70125-70128 are repealed to reflect:

35 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
36 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71623
37 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
38 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
39 (employment selection and advancement), 71650-71658 (employment protection system), 71673
40 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
41 (compensation of official reporter).

42 (2) Enactment of the Trial Court Funding Act. See Section 77009 (Trial Court Operations
43 Fund). See also Sections 68086 (fees for reporting services in civil cases generally).

44 **Note: Comment Requested**

45 Existing law requires that certain court reporter fees received by the county clerk, be deposited
46 into the county general or salary fund (see, e.g., Gov’t Code § 70128). The Commission is
47 reviewing whether the county clerk and county treasury provisions remain viable, given the
48 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
49 Governance Act, and other changes to the structure of the trial courts. See Gov’t Code §§ 77003

1 and Cal. R. Ct. 810 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
2 (state funding of trial court operations). These matters are also being examined by a Joint Court-
3 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
4 treatment of these provisions.

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

6 **Article 12.5. Official Reporters in Counties with a**
7 **Population of 95,000 and Under 120,000**

8 70125. In each county having a population of more than 95,000 and less than 120,000, as
9 determined by the 1960 federal census, to assist the court in the transaction of its judicial
10 business, a majority of the judges of the superior court for such county may appoint as many
11 regular official phonographic reporters as necessary to report the proceedings in the court. The
12 number of reporters so appointed shall not exceed at any one time the number of judges provided
13 by law for the court. The reporters shall hold office during the pleasure of a majority of the judges
14 of the court.

15 70126. A judge of the superior court may appoint a pro tempore official reporter, to serve as the
16 convenience of the court may require, when an official reporter is unavailable.

17 70127. Each regular official reporter shall be paid an annual salary of twenty thousand nine
18 hundred eighty-three dollars and ninety-two cents (\$20,983. 92). Adjustments in salary shall be
19 made annually by the board of supervisors by an amount which is equivalent to the increase or
20 decrease in the salary of related classes in the classified service of the county, and each pro
21 tempore official reporter shall be paid per day the amounts prescribed in Article 9 (commencing
22 with Section 69941) of Chapter 5 of Title 8 for the days he is actually on duty under the order of
23 the court.

24 In addition to the compensation provided in this article, the board of supervisors of Humboldt
25 County may provide by ordinance that each regular court reporter of the superior court shall be
26 entitled to, and shall receive, the same vacation, sick leave and similar privileges and benefits as
27 are now, or may be hereafter, provided to employees in Humboldt County classifications serving
28 in the superior court, including the right to participate in any group life, health, dental, or other
29 benefit program adopted by the board of supervisors.

30 70128. Except in criminal cases, the fees prescribed in Article 9 (commencing with Section
31 69941), Chapter 5, Title 8, shall be paid for the services of a court reporter. The fees for reporting
32 testimony and proceedings in contested cases and for reporting default or uncontested actions or
33 proceedings shall be paid to the county clerk and deposited in the county treasury. All other fees
34 prescribed in Article 9, Chapter 5, Title 8, shall be paid to the reporter rendering the service and
35 retained by him.

36 **Gov’t Code §§ 70130-70134 (repealed). Official reporters in Marin County**

37 SEC. ____ . Article 12.7 (commencing with Section 70130) of Chapter 5 of Title 8 of
38 the Government Code is repealed.

39 **Comment.** Sections 70130-70134 are repealed to reflect:

40 (1) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
41 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71623
42 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
43 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
44 (employment selection and advancement), 71650-71658 (employment protection system), 71673
45 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
46 (compensation of official reporter).

1 (2) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
2 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
3 Section 69952 (payment from Trial Court Operations Fund).

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

5 **Article 12.7. Official Reporters in Counties with a**
6 **Population of 140,000 to 147,000**

7 70130. (a) In a county with a population of over 205,000 and not over 225,000 as determined
8 by the 1970 federal decennial census, within which there is located a facility of the Department of
9 Corrections of the State of California, each full-time official reporter shall receive a salary
10 recommended by the superior court and approved by the board of supervisors.

11 Any appointee to an official reporter position shall be compensated at the first step and advance
12 to each higher step upon completion of each year of service. Upon the recommendation of the
13 superior court and approval of the board of supervisors, official reporters may be employed at or
14 may be granted a special step increase to any step within the salary range on the basis of
15 experience or qualifications.

16 (b) The compensation for each official reporter pro tempore shall be the equivalent of the daily
17 wage of the third step in the salary range for full-time official reporters for each day he actually is
18 on duty under order of the court.

19 (c) In addition to the compensation provided in this article, each full-time reporter of the
20 superior court shall be entitled to, and shall receive, the same vacation, sick leave, and similar
21 privileges and benefits as are now, or may hereafter be provided for the employees of the County
22 of Marin, including the right to participate in any group, accident, health or life insurance plan
23 adopted by the board of supervisors of the county.

24 (d) Until such time as the salaries of full-time official reporters and official reporters pro
25 tempore are approved by the board of supervisors pursuant to subdivision (a), such reporters shall
26 receive the salaries in effect immediately prior to the effective date of the amendments to this
27 section enacted by the Legislature at its 1975-76 Regular Session.

28 70130.5. No further fee, charge or salary other than the salary or compensation provided by
29 Section 70130 shall be collected from, or assessed against, any party to any proceeding for the
30 services of an official reporter in taking down in shorthand the testimony and other proceedings in
31 the trial or hearing of any matter as required by law or by order of the court; but an official
32 reporter shall be allowed, and shall receive, unless waived by him, the fees allowed by law for
33 transcribing his shorthand notes of the testimony and proceedings reported by him, and such fees
34 for transcription shall be paid as provided by Sections 69947 to 69953, inclusive, and by any
35 other law of this state pertinent to the case.

36 70131. In criminal cases in which the court specifically so directs, the fee for a transcript
37 ordered by the court to be made shall be paid out of the county treasury on the order of the court.
38 The court shall not order to be transcribed and paid for out of the county treasury any matter or
39 material except that reported by the reporter pursuant to Code of Civil Procedure Section 269.
40 When the court orders a daily transcript, necessitating the services of two official reporters, the
41 reporting fee for each of the reporters and the transcript fee shall be proper charges against the
42 county treasury, and such daily transcript shall be pursuant to Code of Civil Procedure Section
43 269.

44 70131.5. Fees for transcription of testimony and proceedings in the court shall be paid by the
45 litigants to full-time official reporters and official reporters pro tempore as otherwise provided by
46 law. In all cases where by law the court may direct the payment of transcription fees out of the
47 county treasury, such fees shall, upon order of the court, be paid from the general fund including

1 fees for transcription of testimony and proceedings in criminal cases as provided in Sections
2 69947 to 69953, inclusive, which shall be paid from the county treasury.

3 70132. The official reporters of the court, if otherwise eligible, shall be members of any
4 retirement system maintained by the county that includes attaches of the court. For the purposes
5 of such retirement system, the salary or compensation provided for reporters in this article shall
6 be deemed their entire compensation, except that where credit is claimed for service rendered
7 prior to the establishment of such salary or compensation, the actual compensation paid to them
8 by the county shall be the basis for contributions for such prior service, and continuous
9 employment of the court, prior to membership in such retirement system, shall be considered as
10 “prior service” therein upon the payment by the reporters of the sums due, if any, under the
11 retirement system.

12 70132.5. (a) The official reporter shall perform the duties required of him by law. When not
13 actually engaged in the performance of any other duty imposed on him by law, he shall render
14 stenographic or clerical assistance, or both, to the judge or judges of the department to which he is
15 assigned as such judge or judges may direct. This subdivision shall not apply to reporters who
16 elect to be paid on a per diem and fee basis.

17 (b) The official reporter in each department shall be selected by, and serve solely and directly
18 under the authority and control of, the judge thereof, and shall not be subject to the authority of
19 any county administrative office or personnel commission.

20 70133. Nothing in any county ordinance or in any state law disqualifying employees at any age
21 from further employment, shall affect any reporter employed on the effective date of this article,
22 or for a period of 10 years thereafter.

23 70134. The official reporters of the court, in addition to membership in any appropriate county
24 retirement system, unless otherwise specified in this article, shall be bound by the same
25 restrictions applicable to other county employees. Such reporters shall not use county equipment
26 or county premises or county working hours for the purpose of doing work not in the service of
27 the county or the court.

28 **Gov’t Code §§ 70136-70139 (repealed). Official reporters in Santa Cruz County**

29 SEC. ____ . Article 12.8 (commencing with Section 70136) of Chapter 5 of Title 8 of
30 the Government Code is repealed.

31 **Comment.** Sections 70136-70139 are repealed to reflect:

32 (1) Unification of the municipal and superior courts in Santa Cruz County pursuant to Article
33 VI, Section 5(e), of the California Constitution, effective July 1, 1998.

34 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
35 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71623
36 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
37 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
38 (employment selection and advancement), 71650-71658 (employment protection system), 71673
39 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
40 (compensation of official reporter), 69953 (payment of fees), 69953.5 (daily transcript requiring
41 more than one reporter).

42 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
43 employees).

44 (4) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
45 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
46 Section 69952 (payment from Trial Court Operations Fund).

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

Article 12.8. Official Reporters and Fees in Counties
with a Population of 120,000 to 130,000

70136. (a) Notwithstanding any other provision of law, the monthly salary of each full-time official reporter of the Superior Court in Santa Cruz County shall be as follows:

Step 1: \$1,614

Step 2: \$1,685

Step 3: \$1,758

Step 4: \$1,834

Step 5: \$1,941

The initial hiring rate for each position shall be step 1. However, the judges of the superior court may appoint any such court reporter at a higher initial step if, in the opinion of the judges of the superior court, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step.

In addition to the compensation provided in this article, each full-time reporter of the superior court shall be entitled to, and shall receive the same vacation, sick leave, salary step advancements, and similar privileges and benefits as are now or may hereafter be provided for the employees of the county.

(b) Notwithstanding any other provision of the law, compensation for each official reporter pro tempore shall be sixty-five dollars (\$65) a day for each day such reporter pro tempore is on duty under order of the court. Each reporter pro tempore shall receive from the county the necessary traveling and other expenses when necessarily called from other counties.

(c) Each full-time official reporter and each official reporter pro tempore shall receive the salaries specified in subdivisions (a) and (b), respectively, unless the board of supervisors of Santa Cruz County by ordinance provides for compensation in excess of the specified amounts, in which event the amount set by ordinance shall apply.

70137. Fees for transcription of testimony and proceedings in the court shall be paid by the litigant to full-time official reporters or to official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the General Fund, including fees for transcription of testimony of proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive, of this code, which shall be paid from the county treasury.

70138. (a) The official reporter shall perform the duties required by law. When not actually engaged in the performance of any other duty imposed by law, the official reporter shall render stenographic or clerical assistance, or both, to the judge or judges of the department to which such reporter is assigned as such judge or judges may direct.

(b) The official reporter in each department shall be selected by and serve directly under the authority and control of the judge thereof, provided, however, that whenever the services of an official reporter are not required in the actual prosecution of the business of his department, the presiding judge of the superior court may temporarily assign any such reporter to act as an official reporter for another department of the superior court or as an official reporter of a municipal court within the same county.

70139. (a) A reporter's filing fee of twelve dollars (\$12) shall be paid in actions and proceedings as specified in Section 68090.5 in the Santa Cruz County Superior Court.

(b) In addition to any fee otherwise required, in civil cases that last longer than one judicial day, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the second and each successive day a reporter is required.

(c) In addition to any fee otherwise required, in a civil case in which a court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily

1 transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for
2 the services of the second reporter for the first and each successive day.

3 **Gov't Code §§ 70140-70148 (repealed). Court commissioners**

4 SEC. ____ . Article 13 (commencing with Section 70140) of Chapter 5 of Title 8 of the
5 Government Code is repealed.

6 **Comment.** Sections 70140-70148 are repealed to reflect:

7 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
8 California Constitution.

9 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
10 71612 (existing terms of employment not affected), 71615(c)(1) (preservation of employees' job
11 classifications), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans),
12 71625 (accrued leave benefits), 71626 (retiree group insurance benefits), 71626.5 (county retiree
13 group insurance benefits), 71629 (trial court employment benefits not affected), 71643 (excluded
14 positions), 71673 (authority of court). See also Fam. Code §§ 4250-4253 (child support
15 commissioners).

16 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
17 employees).

18 (4) Enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court
19 operations).

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

21 **Article 13. Court Commissioners**

22 70140. (a) Except as provided in subdivision (b) and notwithstanding any other provision of
23 law, the superior court in any county with a unified superior court pursuant to subdivision (e) of
24 Section 5 of Article VI of the California Constitution may establish the salary of a former
25 municipal court commissioner or referee at a salary not to exceed that of a superior court
26 commissioner in that court, other than a commissioner established pursuant to subdivision (e) of
27 Section 70141, subject to certification by the court that it is able to support the proposed salary
28 levels within the court's current allocation. In a county where no superior court commissioner or
29 referee existed, other than a commissioner established pursuant to subdivision (e) of Section
30 70141, prior to the unification of the superior and municipal courts, the salary of a commissioner
31 or referee shall be set at a rate not to exceed the percentage of a superior court judge's salary that
32 the commissioner or referee received of a municipal court judge's salary prior to unification.

33 (b) No commissioner shall have his or her current salary reduced below that salary in effect on
34 June 1, 1998, by application of this section.

35 70140.5. All trial court commissioner and referee positions in the superior courts that were
36 funded and filled as of January 1, 1999, and that are not authorized under any other section of the
37 Government Code are hereby authorized under this section. This section is not intended to
38 replace, modify, or otherwise alter the terms, conditions, or qualifications of any existing section
39 pertaining to the appointment of trial court commissioners and referees.

40 70141. (a) To assist the court in disposing of its business connected with the administration of
41 justice, upon approval by the Judicial Council, the superior court of any city and county may
42 appoint not exceeding 10 commissioners, and the superior court of every county, except a county
43 with a population of 4,000,000 or over, may appoint one commissioner. Each person so appointed
44 shall be designated as "court commissioner" of the county.

45 (b) Until July 1, 1997, in addition to the court commissioners authorized by subdivision (a) or
46 any other provision of law, either the superior court or the municipal court, but not both, of any
47 county or city and county may appoint one additional commissioner, at the same rate of

1 compensation as the other commissioner or commissioners for that court, upon adoption of a
2 resolution by the board of supervisors pursuant to subdivision (c).

3 (c) The county or city and county shall be bound by, and the resolution adopted by the board of
4 supervisors shall specifically recognize, the following conditions:

5 (1) The county or city and county has sufficient funds for the support of the position and any
6 staff who will provide direct support to the position, agrees to assume any and all additional costs
7 that may result therefrom, and agrees that no state funds shall be made available, or shall be used,
8 in support of this position or any staff who provide direct support to this position.

9 (2) The additional commissioner shall not be deemed a judicial position for purposes of
10 calculating trial court funding pursuant to Section 77202.

11 (3) The salary for this position and for any staff who provide direct support to this position
12 shall not be considered as part of court operations for purposes of Sections 77003 and 77204.

13 (4) The county or city and county agrees not to seek funding from the state for payment of the
14 salary, benefits, or other compensation for such a commissioner or for any staff who provide
15 direct support to such a commissioner.

16 (d) The court may provide that the additional commissioner may perform all duties authorized
17 for a commissioner of that court in the county. In a county or city and county that has undertaken
18 a consolidation of the trial courts, the additional commissioner shall be appointed by the superior
19 or municipal courts pursuant to the consolidation agreement.

20 (e) In addition to the court commissioners authorized by subdivisions (a) and (b), the superior
21 court of any county or city and county shall appoint additional commissioners pursuant to
22 Sections 4251 and 4252 of the Family Code. These commissioners shall receive a salary equal to
23 85 percent of a superior court judge's salary.

24 **Note.** References to "city and county" in Government Section 70141 apply to San Francisco
25 County. The reference to a county with a population of 4,000,000 or over in subdivision (a)
26 applies to Los Angeles County.

27 70141.1. (a) In El Dorado County, a majority of the judges of the superior court, may appoint
28 one or more commissioners up to one full-time equivalent, subject to the availability of funding.
29 The superior court may provide that the commissioner, in addition to the duties prescribed in
30 Section 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner
31 appointed pursuant to Section 69897 or any other duties authorized by law for a commissioner to
32 perform. The superior court may also authorize the commissioner to perform the duties of a
33 juvenile court referee appointed pursuant to Section 247 of the Welfare and Institutions Code.

34 (b) Any commissioner appointed pursuant to this section shall receive compensation equivalent
35 to 70 to 91 percent of a superior court judge's salary.

36 The salary shall be adjusted by the county at the time and in the manner specified in Section
37 68203. The court shall determine the level of salary to be received by a court commissioner,
38 making adjustments in accordance with qualifications, performance, and other factors deemed
39 relevant by the court. The commissioner position shall be included in the El Dorado County
40 personnel allocation. The commissioner shall be a member of the Public Employee's Retirement
41 system and shall receive vacation, sick leave, management leave and fringe benefits identical to
42 unrepresented management employee classifications in El Dorado County.

43 (c) The presiding judge of the superior court shall specify the days, hours, and court locations
44 for the commissioner. Each commissioner shall also be allowed actual traveling expenses
45 pursuant to Section 70148.

46 (d) Any commissioner appointed pursuant to this section shall have been admitted to practice
47 law in California for not less than five years, shall hold office at the pleasure of the superior court,
48 and shall not engage in the private practice of law.

49 70141.4. In any county with a population exceeding 500,000 and not exceeding 557,000 as
50 determined by the 1970 federal census, the superior court may provide that commissioners, in
51 addition to the duties prescribed by Section 259 of the Code of Civil Procedure, shall perform the
52 duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the

1 duties of a probate commissioner appointed pursuant to Section 69897 of this code. A court
2 commissioner shall receive a salary representing 70 percent, 75 percent, or 80 percent of the
3 annual salary for a superior court judge. The court shall determine the level of salary to be
4 received by a court commissioner, making adjustments on the three levels in accordance with the
5 qualifications, performance, and other factors deemed relevant by the court.

6 **Note.** Government Section 70141.4 applies to San Mateo County.

7 70141.5. In any county with a population exceeding 291,000 and not exceeding 900,000, as
8 determined by the 1950 federal census, the superior court may provide that the commissioner, in
9 addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the
10 duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the
11 duties of a probate commissioner appointed pursuant to Section 69897 of this code. Any
12 commissioner who is authorized to perform such duties in any county with a population
13 exceeding 291,000 and not exceeding 900,000 shall receive an annual salary of eight thousand
14 four hundred dollars (\$8,400). Such commissioner shall be allowed actual traveling expenses
15 pursuant to Section 70148.

16 **Note.** Government Section 70141.5 applies to Alameda, Contra Costa, San Diego, and San
17 Francisco Counties.

18 70141.6. (a) In Kern County, the superior court may provide that the commissioner, in addition
19 to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties
20 prescribed by Section 259a of the Code of Civil Procedure and the duties of a probate
21 commissioner appointed pursuant to Section 69897.


22 (b) The commissioner shall receive a salary equal to 70 to 85 percent of the annual salary for a
23 superior court judge. The commissioner shall be paid biweekly pursuant to the payroll procedures
24 in effect in the County of Kern in an amount equivalent to 70 to 85 percent of a superior court
25 judge's salary. The court shall recommend to the board of supervisors the level of salary to be
26 received by the commissioner based on qualifications, performance, and other factors deemed
27 relevant by the court, and the board of supervisors shall determine the salary level within the
28 specified range. The biweekly salary rate of the commissioner shall be adjusted at the same time
29 and manner and in the same percentage amount as set forth in Section 68203. The commissioner
30 shall also be allowed actual traveling expenses pursuant to Section 70148.

31 (c) In addition to the compensation provided for in this section, the commissioner shall be
32 entitled to and shall receive on the same basis as other county employees, the same benefits and
33 privileges, with respect to retirement, group insurance, sick leave, and vacation. The
34 commissioner shall observe the same holidays as other court employees.

35 70141.7. In any county with a population exceeding 650,000 and not exceeding 700,000, as
36 determined by the 1970 federal census, the superior court may appoint four commissioners. The
37 superior court may appoint a fifth commissioner if the superior court eliminates an occupied
38 juvenile court referee position. The superior court may provide that the commissioners, in
39 addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the
40 duties prescribed in Section 259a of the Code of Civil Procedure and in addition thereto the duties
41 of a probate commissioner appointed pursuant to Section 69897 of this code. The superior court
42 may also authorize the commissioners to perform the duties of a juvenile court referee appointed
43 pursuant to Section 553 of the Welfare and Institutions Code. Any commissioner authorized to
44 perform the duties set forth above shall receive a salary equal to 80 percent of the salary of a
45 judge of the superior court; provided, that upon the adoption of a resolution of the board of
46 supervisors so providing, which takes effect on or after January 1, 1987, the salary shall be equal
47 to 85 percent of the salary of a judge of the superior court. The salary shall be automatically
48 increased periodically at the time and in the manner specified by Section 68203. Each
49 commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

50 **Note.** Government Section 70141.7 applies to San Bernardino County.

1 70141.8. In any county with a population exceeding 290,000 and not exceeding 291,000, as
2 determined by the 1950 federal census, the superior court may provide that the commissioner in
3 addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the
4 duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the
5 duties of a probate commissioner appointed pursuant to Section 69897 of this code. Any
6 commissioner authorized to perform such duties shall receive an annual salary of twelve thousand
7 dollars (\$12,000).

8  **Note.** Government Section 70141.8 applies to Santa Clara County.

9 70141.9. In a county of the 11th class, the superior court, subject to prior approval by the board
10 of supervisors, may appoint four commissioners. However, at such time as the board of
11 supervisors finds that there are sufficient funds for up to seven commissioners, and adopts a
12 resolution to that effect, there shall be seven commissioners for the superior court. Authorization
13 of the fifth, sixth, and seventh positions shall not increase trial court funding provided to
14 Riverside County pursuant to Sections 77003 and 77004. The superior court may provide that the
15 commissioners, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure,
16 shall perform the duties of a probate commissioner appointed pursuant to Section 69897. The
17 superior court may also authorize the commissioners to perform the duties of a juvenile court
18 referee appointed pursuant to Section 247 of the Welfare and Institutions Code. Any
19 commissioner authorized to perform the duties set forth above shall receive a salary equal to 75,
20 80, or 85 percent of the salary of a judge of the superior court. The court shall determine the level
21 of the salary to be received by a court commissioner, making adjustments on the three levels in
22 accordance with the qualifications, performance, and other factors deemed relevant by the court.
23 The salary shall be adjusted by the court at the time and in the manner specified in Section 68203.
24 Each commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

25 The amendment of this section made at the 1985-86 Regular Session of the Legislature does not
26 constitute a change in, but is declaratory of, the existing law.

27 70141.10. In the County of Marin, the superior court may provide that the commissioner, in
28 addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the
29 duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the
30 duties of a probate commissioner appointed pursuant to Section 69897 of this code.

31 Any commissioner appointed pursuant to this section shall have been admitted to practice law
32 in California for not less than five years and shall receive a salary recommended by the superior
33 court and approved by the board of supervisors.

34 If the board of supervisors, in its sole discretion, appropriates the necessary funds therefor, any
35 court commissioner who has been duly appointed and has thereafter been retired from service,
36 may be assigned by the presiding judge of the superior court to serve as a court commissioner for
37 such periods as he is needed for the prompt and efficient discharge of the business of the court. If
38 the board of supervisors, in its sole discretion, appropriates the necessary funds therefor, any
39 court commissioner who has been duly appointed and has thereafter been retired from service,
40 may be assigned by the presiding judge of the municipal court to serve as a court commissioner of
41 the municipal court. While so serving, he shall receive his retirement allowance and, in addition,
42 the county shall pay him the amount equal to the difference between such retirement allowance
43 and the full compensation of a court commissioner. Such employment shall not operate to
44 reinstate him as a member of the county retirement system or in any way affect his retirement
45 rights or allowances, and no deduction shall be made from his compensation contributions to the
46 retirement system.

47  **Note: Comment Requested**

48 The staff is researching whether the provisions relating to retired annuitants should be
49 preserved. The Commission solicits comments on this issue and whether these provisions are
50 superseded by provisions of the individual retirement plans, the Trial Court Funding Act, the

1 Trial Court Employment Protection and Governance Act, and other changes to the structure of the
2 trial courts.

3 70141.11. In Contra Costa County, the superior court may provide that the commissioner, and
4 the referee who shall have been a member of the State Bar for a period of at least five years
5 immediately preceding his or her appointment and has been appointed pursuant to Section 247 of
6 the Welfare and Institutions Code, shall, in addition to the duties prescribed in Section 259 of the
7 Code of Civil Procedure, perform the duties of a probate commissioner appointed pursuant to
8 Section 69897 of this code.

9 This section shall not affect any of the powers or duties otherwise authorized for the referee
10 appointed pursuant to Section 247 of the Welfare and Institutions Code.

11 The commissioner shall be paid the salary recommended by the superior court and approved by
12 the board of supervisors plus reimbursement for necessary, reasonable and actual expenses in
13 connection with official duties. Any court reporting functions for the commissioner may be by
14 electronic or mechanical means and devices.

15  **Note: Comment Requested**

16 The last sentence of Government Code Section 70141.11 will likely be preserved, in some
17 form. A proposed recodification is shown below. The Commission solicits comments on whether
18 the section continues to serve a useful purpose and whether the proposed recodification is
19 appropriate.

20 70141.12. (a) In Stanislaus County, the judges of the superior court, by majority vote, may
21 appoint two court commissioners to replace two existing referees appointed pursuant to Section
22 247 of the Welfare and Institutions Code. The superior court may provide that the commissioners,
23 in addition to the powers and duties specified in Section 259 of the Code of Civil Procedure, shall
24 perform the duties of a probate commissioner appointed pursuant to Section 69897 and, if
25 appointed by the presiding judge of the juvenile court, shall perform the duties of a juvenile court
26 referee as specified in Section 247 of the Welfare and Institutions Code.

27 (b) Any commissioner appointed pursuant to this section shall have been admitted to practice
28 law in California for not less than five years, shall hold office at the pleasure of the superior court,
29 and shall not engage in the private practice of law.

30 (c) The salary of a commissioner for all duties performed pursuant to this section shall be equal
31 to 75 percent of the annual salary of a judge of a superior court. The commissioner shall receive
32 vacation, sick leave, and fringe benefits identical to those provided Stanislaus County
33 management employees.

34 70141.13. (a) In Santa Cruz County, the superior court may provide that the commissioner, in
35 addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the
36 duties of a juvenile court referee appointed pursuant to Section 247 of the Welfare and
37 Institutions Code, and other duties as specified by the superior court.

38 (b) Any commissioner appointed pursuant to this section shall have been admitted to practice
39 law in California for not less than five years, shall hold office at the pleasure of the court, and
40 shall not engage in the private practice of law.

41 70142. Every court commissioner shall be a citizen of the United States, a resident of this state,
42 and, if required by the court for which he is to be a commissioner, shall have been admitted to
43 practice before the Supreme Court of the state for a period of at least five years immediately
44 preceding his appointment. He shall hold office during the pleasure of the court appointing him
45 and shall not engage in the private practice of law.

46 Notwithstanding any other provision of law, a court commissioner in any county with a
47 population of 3,000,000 or more who has been duly appointed and has thereafter been retired for
48 service, may be assigned by the presiding judge of a court to serve as a court commissioner of the
49 court for such periods as he is needed for the prompt and efficient discharge of the business of
50 that court. While so serving, he shall be paid the full compensation of a court commissioner,

1 payable as follows: He shall continue to receive his retirement allowance, and in addition the
2 county shall pay him the amount equal to the difference between such retirement allowance and
3 such full compensation. Such employment shall not operate to reinstate him as a member of the
4 county retirement system or to terminate or suspend his retirement rights or allowance, and no
5 deductions shall be made from his compensation as contributions to the retirement system.

6 **Note: Comment Requested**

7 The staff is researching whether the provisions relating to retired annuitants in Government
8 Code Section 70142 should be preserved. The Commission solicits comments on this issue and
9 whether these provisions are superseded by provisions of the individual retirement plans, the Trial
10 Court Funding Act, the Trial Court Employment Protection and Governance Act, and other
11 changes to the structure of the trial courts.

12 The reference to a county with a population of 3,000,000 or more applies to Los Angeles
13 County.

14 70142.11. (a) In lieu of the court commissioner authorized pursuant to Section 70141, in
15 Solano County, the judges of the superior court, by majority vote, may appoint two court
16 commissioners and may provide that the commissioners, in addition to the powers and duties
17 specified in Section 259 of the Code of Civil Procedure, may perform the duties of a probate
18 commissioner specified in Section 69897 and, if appointed by the presiding judge of the juvenile
19 court, shall perform the duties of a juvenile court referee as specified in Section 247 of the
20 Welfare and Institutions Code.

21 (b) Any commissioner appointed pursuant to this section shall have been admitted to practice
22 law in California for not less than five years, shall hold office at the pleasure of the superior court,
23 and shall not engage in the private practice of law.

24 (c) The salary of the commissioners for all duties performed pursuant to this section shall be set
25 by the board of supervisors, not to exceed the annual salary of a judge of a superior court. The
26 commissioners shall be members of the Solano County Retirement System and shall receive
27 vacation, sick leave, and fringe benefits identical to those provided to Solano County
28 administrative management employees.

29 (d) The commissioner positions shall not be counted in the calculation of trial court funding
30 pursuant to Section 77202, and the salary for these positions shall not be considered as a part of
31 "court operations" for Solano County for purposes of Sections 77003 and 77204.

32 70142.12. (a) In Sonoma County, the judges of the superior court, by majority vote, may
33 appoint a court commissioner. The superior court may provide that the commissioner, in addition
34 to the powers and duties specified in Section 259 of the Code of Civil Procedure, shall perform
35 the duties of a probate commissioner appointed pursuant to Section 69897 and, if appointed by
36 the presiding judge of the juvenile court, shall perform the duties of a juvenile court referee as
37 specified in Section 247 of the Welfare and Institutions Code.

38 (b) Any commissioner appointed pursuant to this section shall have been admitted to practice
39 law in California for not less than five years, shall hold office at the pleasure of the superior court,
40 and shall not engage in the private practice of law.

41 (c) The salary of the commissioner for all duties performed pursuant to this section shall be
42 equal to 78 percent of the annual salary of a judge of a superior court. The commissioner shall be
43 a member of the Sonoma County Retirement System and shall receive vacation, sick leave and
44 fringe benefits identical to those provided Sonoma County administrative management
45 employees.

46 70142.13. (a) In lieu of appointing a juvenile court referee pursuant to Section 247 of the
47 Welfare and Institutions Code, the judges of the superior court in Tulare County, by majority
48 vote, may appoint a court commissioner. The superior court may provide that the commissioner,
49 in addition to the powers and duties specified in Section 259 of the Code of Civil Procedure, shall
50 perform the duties of a probate commissioner appointed pursuant to Section 69897 and, if
51 appointed by the presiding judge of the juvenile court, shall perform the duties of a juvenile court
52 referee as specified in Section 247 of the Welfare and Institutions Code.

1 (b) Any commissioner appointed pursuant to this section shall have been admitted to practice
2 law in California for not less than five years, shall hold office at the pleasure of the superior court,
3 and shall not engage in the private practice of law.

4 (c) The salary of the commissioner for all duties performed pursuant to this section shall be up
5 to 85 percent of the annual salary of a judge of a superior court. The commissioner shall be a
6 member of the Tulare County Retirement System and shall receive vacation, sick leave, and
7 fringe benefits as determined by the board of supervisors.

8 (d) Notwithstanding subdivision (c) of Section 77202, the court commissioner position shall be
9 counted in determining the number of subordinate judicial positions in the county and shall be
10 considered as part of the court operations for the county for purposes of Sections 77003 and
11 77204.

12 70142.16. (a) In the County of Placer, the court commissioner appointed pursuant to Section
13 70141 shall hold office at the pleasure of a majority of the judges. Subject to subdivision (c), the
14 superior court may provide that the commissioner, in addition to the duties prescribed in Section
15 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner appointed
16 pursuant to Section 69897 of the Government Code. The superior court may also authorize the
17 commissioner to perform the duties of a juvenile court referee appointed pursuant to Section 247
18 of the Welfare and Institutions Code, and other duties as specified by the superior court.

19 (b) The superior court shall not appoint a commissioner pursuant to Section 70141 unless there
20 is a prior finding by the board of supervisors that there are sufficient funds for this purpose.

21 (c) Any commissioner authorized to perform additional duties pursuant to this section shall
22 have been admitted to practice law in California for not less than five years, but in no case shall a
23 commissioner engage in the practice of law during his or her period of service as a commissioner.

24 (d) Any commissioner authorized to perform additional duties pursuant to this section shall
25 receive compensation pursuant to a salary recommended by the superior court and approved
26 annually by the board of supervisors. The presiding judge of the superior court shall specify the
27 days, hours, and court locations for the commissioner.

28 (e) The commissioner appointed pursuant to Section 70141 shall not be counted in the
29 calculation of trial court funding pursuant to Sections 77200 and 77202, and the salary for this
30 position shall not be considered as a part of court operations for Placer County for purposes of
31 Sections 77203 and 77204.

32 70143. The judges of the superior courts of two or more counties may appoint the same person
33 as court commissioner.

34 70144. The appointment of a court commissioner shall be made by order entered in the minutes
35 of the court.

36 70145. Court commissioners appointed pursuant to Section 70141 are of two grades, Grade 1
37 and Grade 2. The superior court at the time of appointment shall designate the grade of the
38 commissioner and fix his annual salary, and in the case of a commissioner, Grade 1, may increase
39 such salary from time to time not to exceed the limit authorized by Section 70146.
40 Commissioners, Grade 1, are those commissioners who have performed the duties of a court
41 commissioner or of a clerk of superior court judges or have had equivalent experience for a
42 period of at least five years, and who have been approved by the court for appointment to Grade
43 1. All other commissioners are Grade 2.

44 70146. Unless otherwise prescribed by law, when appointed pursuant to Section 70141 court
45 commissioners, Grade 1, shall receive an annual salary of an amount not in excess of seven
46 thousand two hundred dollars (\$7,200) as fixed by the superior court, and court commissioners,
47 Grade 2, shall receive an annual salary of an amount not in excess of five thousand one hundred
48 dollars (\$5,100) as fixed by the superior court.

49 70147. The salary of a court commissioner appointed pursuant to this article shall be paid in
50 monthly installments out of the salary fund of the county or, if there is none, out of such fund as

1 other salary demands against the county are paid. Such salary shall be allowed and audited in the
2 same manner as the law requires for other salary demands against the county.

3 70148. The court commissioners as provided for in Sections 70140 and 70141 shall be allowed
4 actual traveling expenses incurred in the performance of their duties. Such expenses shall be
5 audited, allowed, and paid out of the general fund of the county.

6 **Gov't Code § 70141.11 (added). Court commissioners**

7 SEC. ____ . Article 13 (commencing with Section 70141.11) is added to Chapter 5 of
8 Title 8 of the Government Code, to read:

9 Article 13. Court Commissioners

10 **§ 70141.11. Court commissioners**

11 70141.11. Notwithstanding Section 269 of the Code of Civil Procedure, any court
12 reporting functions for the commissioner in Contra Costa County may be by electronic or
13 mechanical means and devices.

14 **Comment.** Section 70141.11 continues the last sentence of former Section 70141.11 (1995 Cal.
15 Stat. ch. 91, § 59), with nonsubstantive revisions to clarify its interrelationship with Code of Civil
16 Procedure Section 269.

17 For provisions relating to restatements and continuations of existing law, see Section 2. For
18 disposition of the provisions of former Section 70141.11 that are not continued, see the Comment
19 to former Article 13 (commencing with former Section 70140).

20 **Gov't Code § 70214.5 (repealed). Conversion of Contra Costa County referees to**
21 **commissioners**

22 SEC. ____ . Section 70214.5 of the Government Code is repealed.

23 ~~70214.5. Subject to certification by the court to the Administrative Office of the Courts~~
24 ~~that the court is able to absorb the differential salary costs within the court's existing~~
25 ~~budget, the Contra Costa County Superior Court may convert and reclassify four existing~~
26 ~~referee positions to four additional court commissioner positions.~~

27 **Comment.** Section 70214.5 is repealed to reflect enactment of the Trial Court Employment
28 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
29 classifications), 71622 (subordinate judicial officers).

30 **Gov't Code § 70214.6 (repealed). Conversion of Santa Barbara County traffic referee to**
31 **commissioner**

32 SEC. ____ . Section 70214.6 of the Government Code is repealed.

33 ~~70214.6. Subject to certification by the court to the Administrative Office of the Courts~~
34 ~~that the court is able to absorb the differential salary cost within the court's existing~~
35 ~~budget, the Santa Barbara County Superior Court may convert and reclassify one existing~~
36 ~~traffic referee position to one additional court commissioner position.~~

37 **Comment.** Section 70214.6 is repealed to reflect enactment of the Trial Court Employment
38 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
39 classifications), 71622 (subordinate judicial officers).

1 **Gov't Code § 70219 (added). Judicial Council and Law Revision Commission studies and**
2 **recommendations**

3 SEC. ____ . Section 70219 is added to the Government Code, to read:

4 70219. On submission by the California Law Revision Commission of its report to the
5 Governor and Legislature pursuant to Resolution Chapter 102 of the Statutes of 1997
6 recommending statutory changes that may be necessitated by court unification, the
7 Judicial Council and the California Law Revision Commission shall study and make
8 recommendations to the Governor and Legislature on the issues identified in the report as
9 appropriate for future study, including consideration of the experience in counties in
10 which the courts have unified. Each agency shall assume primary or joint responsibility
11 for the studies and recommendations as outlined in the report, and each agency shall
12 consult with the other in the studies and recommendations. This section does not limit
13 any authority of the Judicial Council or the California Law Revision Commission to
14 conduct studies and make recommendations authorized or directed by law.

15 **Comment.** Section 70219 continues former Section 70219 without change. For provisions
16 relating to restatements and continuations of existing law, see Section 2.

17 **Gov't Code §§ 71001-71009 (repealed). General provisions**

18 SEC. ____ . Article 1 (commencing with Section 71001) of Chapter 6 of Title 8 of the
19 Government Code is repealed.

20 **Comment.** Sections 71001-71009 are repealed to:

21 (1) Reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e),
22 of the California Constitution. *Cf.* former Section 71264 (municipal court served by marshal).

23 (2) Reflect elimination of the justice court pursuant to Article VI, Sections 1 and 5(b), of the
24 California Constitution.

25 (3) Eliminate redundant and obsolete material. See former Sections 71006, 71009.

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

27 **Article 1. General Provisions**

28 71001. All laws relating to the municipal and justices' courts existing prior to November 7,
29 1950, and to the judges, marshals, and other officers or attaches of the courts, not inconsistent
30 with the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act,
31 apply to the municipal and justice courts provided for in the Municipal and Justice Court Act of
32 1949, or the provisions of law succeeding that act, and to the judges, marshals, and other officers
33 or attaches of the courts until altered by the Legislature.

34 71002. The board of supervisors shall provide suitable quarters for the municipal courts,
35 including heating, lighting, and janitorial services, and shall supply them with furniture, books,
36 and supplies necessary for carrying out their duties, including supplies and equipment for the
37 preparation and maintenance of duplicate records of the court or a division of the court when
38 sessions are held at more than one place.

39  **Note: Comment Requested**

40 Issues involving sessions and facilities are still unsettled, but Government Code Section 71002
41 is proposed for repeal because it falls within a municipal court article. The Commission solicits
42 comments on whether the section should be preserved pending (1) any implementation of
43 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
44 among the interested parties. A proposed recodification is shown below.

1 71003. The municipal court and the justice court and each judge of the court has all the powers
2 and shall perform all of the acts which were by law conferred upon or required of any court
3 superseded by such municipal or justice court and any judge or justice of such superseded court,
4 and all such laws not inconsistent with the Municipal and Justice Court Act of 1949, or the
5 provisions of law succeeding that act, apply to any such municipal and justice court and to each
6 judge of such court.

7 71004. Whenever by law any power is conferred, or duty imposed, upon a clerk of any court
8 superseded by a municipal court, the person discharging the same or similar duties in the
9 municipal court has the same power and duty with respect to the office in the municipal court.

10 71005. The provisions of the Municipal Court Act of 1925 relative to the obligations of
11 counties and cities in connection with the cost of maintaining and operating municipal courts and
12 relative to the disposition of fines and forfeitures collected therein shall not apply to municipal
13 courts from and after January 1, 1952.

14 71006. All fines, forfeitures, deposits in court, and unclaimed bail shall be disposed of as
15 provided in Chapter 1 (commencing with Section 1425) of Title 11 of Part 2 of the Penal Code
16 and Sections 42200, 42201, and 42203 of the Vehicle Code.

17 **Note.** Recodification of Government Section 71006 appears unnecessary, because the
18 provisions referenced in it stand on their own. If for some reason it is preserved, the reference to
19 “Chapter 1 (commencing with Section 1425) of Title 11 of Part 2 of the Penal Code” should be
20 revised to reflect that Chapter 1 commences with Section 1427, not Section 1425.

21 71009. (a) All exhibits which have been introduced or filed in any criminal action or
22 proceeding shall be disposed of as provided in Chapter 13 (commencing with Section 1417) of
23 Title 10 of Part 2 of the Penal Code.

24 (b) Dangerous and deadly weapons shall be disposed of in accordance with the provisions of
25 Article 3 (commencing with Section 12028) of Chapter 1 of Title 2 of the Penal Code.

26 (c) Controlled substances and property subject to forfeiture under the provisions of Chapter 8
27 (commencing with Section 11470) of Division 10 of the Health and Safety Code shall be disposed
28 of in accordance with the provisions of Sections 11474 and 11474.5 of the Health and Safety
29 Code.

30 (d) Civil exhibits, including exhibits in small claims cases, and depositions shall be destroyed
31 in accordance with the provisions of Sections 1952, 1952.2 and 1952.3 of the Code of Civil
32 Procedure.

33 **Note.** Recodification of Government Section 71009 appears unnecessary, because the
34 provisions referenced in it stand on their own. If for some reason it is preserved, several
35 corrections would be necessary:

36 (1) The reference to “Article 3 (commencing with Section 12028) of Chapter 1 of Title 2 of the
37 Penal Code” is incorrect. Referring to Penal Code Section 12028 appears appropriate, but Section
38 12028 is in the middle of Article 2 of Chapter 1 of Title 2 of the Penal Code, not at the beginning
39 of that article.

40 (2) The reference to “Chapter 8 (commencing with Section 11470) of Division 10 of the Health
41 and Safety Code” should be corrected to reflect that the chapter commences with Section 11469,
42 not Section 11470.

43 (3) The reference to Health and Safety Code Section 11474.5 should be corrected, because that
44 provision was renumbered as Section 11473.5 in 1980. It might also be appropriate to add a
45 reference to Health and Safety Code Section 11473 (destruction of property seized).

46 **Gov’t Code §§ 71002 (added). General Provisions**

47 SEC. ____ . Article 1 (commencing with Section 71002) is added to Chapter 6 of Title 8
48 of the Government Code, to read:

1 Article 1. General Provisions

2 § 71002. Municipal court facilities

3 71002. The board of supervisors shall provide suitable quarters for the municipal
4 courts, including heating, lighting, and janitorial services, and shall supply them with
5 furniture, books, and supplies necessary for carrying out their duties, including supplies
6 and equipment for the preparation and maintenance of duplicate records of the court or a
7 division of the court when sessions are held at more than one place.

8 **Comment.** Section 71002 continues former Section 71002 without substantive change.
9 For provisions relating to restatements and continuations of existing law, see Section 2.

10  **Note: Comment Requested**

11 The substance of Government Code Section 71002 needs to be reconsidered in light of (1)
12 unification of the municipal and superior courts, and (2) enactment of the Trial Court Funding
13 Act.

14 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
15 reexamination of the substance of Section 71002 pending completion of (1) the study and
16 recommendation by the task force on court facilities, and (2) negotiations among other interested
17 parties. The Commission solicits comments on this approach and the underlying issues.

18 **Gov't Code §§ 71040-71046 (repealed). Creation of judicial districts**

19 SEC. ____ . Article 2 (commencing with Section 71040) of Chapter 6 of Title 8 of the
20 Government Code is repealed.

21 **Comment.** Sections 71040-71046 are repealed to reflect unification of the municipal and
22 superior courts pursuant to Article VI, Section 5(e), of the California Constitution. *Cf.* Sections
23 71042.5 (preservation of judicial districts for purposes of publication), 71042.6 (map to establish
24 district boundaries), 71043 (determination of population of former judicial district); former
25 Section 71264 (municipal court served by marshal).

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

27 Article 2. Creation of Judicial Districts

28 71040. As public convenience requires, the board of supervisors shall divide the county into
29 judicial districts for the purpose of electing judges and other officers of municipal courts, and
30 may change district boundaries and create other districts. No city or city and county shall be
31 divided so as to lie within more than one district.

32 71040.1. If territory is annexed to a city or city and county pursuant to law, the boundaries of
33 the judicial district which includes such city or city and county shall be, upon the effective date of
34 the annexation, automatically changed to include the territory so annexed, and the boundaries of
35 any judicial district which includes such annexed territory prior to the effective date of the
36 annexation shall be, on such date, automatically changed to exclude such annexed territory.

37 71040.4. In the event that the Board of Supervisors of Kings County consolidates the Hanford
38 Judicial District and the Lemoore Judicial District, any municipal court established in the
39 consolidation shall have two judges. The judges shall be selected as otherwise provided by law.
40 The constable of the Hanford Judicial District shall become the marshal of the municipal court
41 upon any such consolidation. The board of supervisors may by resolution or ordinance provide
42 for the sheriff and his deputies to act ex officio as the marshal and deputy marshals of the

1 municipal court beginning on January 1, 1990, or upon a vacancy in the office, whichever occurs
2 first.

3 **Note.** Government Section 71040.5 is not reproduced here, because it was repealed by AB
4 1700 (Steinberg & Frommer), 2001 Cal. Stat. ch. 824, § 24.

5 71040.6. Notwithstanding the provisions of Section 71040, the portion of the City of San Diego
6 lying south of the City of Chula Vista and the portion of the City of San Diego lying within San
7 Diego Bay south of a westerly continuation of the northern boundary of National City to the point
8 of intersection with the eastern boundary of the City of Coronado shall be part of the South Bay
9 Municipal Court District and the remainder of the City of San Diego shall be part of the San
10 Diego Municipal Court District.

11 **Note.** The substance of Government Section 71040.6 is continued in subdivision (b) of
12 Section 69595.5.

13 **Note.** Government Section 71040.7 is not reproduced here, because it was repealed by AB
14 1700 (Steinberg & Frommer), 2001 Cal. Stat. ch. 824, § 25.

15 71040.8. The Ukiah Justice Court District and the Little Lake Justice Court District are hereby
16 consolidated, to be known as the “Mount Sanhedrin Municipal Court District.” The municipal
17 court district shall have two judges. The judge of the municipal court may select either the sheriff
18 or the marshal and their deputies to provide court-related services to the municipal court.

19 71041. Unless other provision has previously been made by the board of supervisors, the
20 township subdivisions of a county existing as of January 1, 1951, and the cities in which
21 municipal courts have been established prior to November 7, 1950, pursuant to the Municipal
22 Court Act of 1925 shall be deemed to be the judicial districts provided for in Section 71040, until
23 otherwise provided by law or until altered by the board of supervisors. In every county containing
24 a city which lies partly within one township and partly within another, the board of supervisors
25 shall immediately after January 1, 1951, redistrict the county so as to comply with Section 71040.

26 71042. From time to time, following its survey of the condition of business in the several
27 courts, the Judicial Council shall submit to the boards of supervisors its recommendations
28 concerning the consolidation or enlargement of judicial districts and other alteration of district
29 boundaries with a view toward creating a greater number of full-time judicial offices, equalizing
30 the work of the judges, expediting judicial business, and improving the administration of justice.

31 No consolidation of judicial districts shall take place until the board of supervisors has held
32 public hearings on the matter. Notice of such hearings shall be given, stating the date, time, and
33 place they shall be held, at least 15 days prior to the date fixed therefor. Notice shall be published
34 pursuant to Section 6061 in a newspaper of general circulation in the county.

35 71042.5. Notwithstanding any other provision of law, upon consolidation of judicial districts or
36 unification of municipal and superior courts in a county, the territory embraced within the
37 respective prior component judicial districts shall be separate judicial districts for the purpose of
38 publication within a judicial district.

39 **Note: Comment Requested**

40 Government Code Section 71042.5 will likely be preserved, in some form. A proposed
41 recodification is shown below. The Commission solicits comments on whether the section
42 continues to serve a useful purpose and whether the proposed recodification is appropriate.

43 71042.6. For the purpose of establishing boundaries under Section 71042.5, upon consolidation
44 of judicial districts or unification of municipal and superior courts in a county, a map approved by
45 the county surveyor shall be filed with the county recorder showing the boundaries of all
46 consolidated or unified districts and component districts as of the date of consolidation or
47 unification.

1 Such map and boundaries shall be applicable to any consolidation or unification which
2 becomes effective on or after the effective date of this section.

3 Such map shall be conclusively presumed to be accurate and may be used in evidence in any
4 proceeding involving application of Section 71042.5.

5 **Note: Comment Requested**

6 Government Code Section 71042.6 will likely be preserved, in some form. A proposed
7 recodification is shown below. The Commission solicits comments on whether the section
8 continues to serve a useful purpose and whether the proposed recodification is appropriate.

9 71043. The determination of whether a judicial district has a population above or below 40,000
10 shall be made on the latest occurring of the following bases:

11 (a) As shown by the last preceding federal census of the district or of the aggregate cities and
12 other political subdivisions situated within the district, whichever is greater.

13 (b) As shown by a subsequent census taken pursuant to Section 26203.

14 (c) As may have been found to be the fact in any proceeding for declaratory relief brought in a
15 court having jurisdiction.

16 **Note: Comment Requested**

17 Government Code Section 71043 will likely be preserved, in some form, because it is cross-
18 referenced in Government Code Sections 69744.5 and 69746.6. A proposed recodification is
19 shown below. The Commission solicits comments on whether this section continues to serve a
20 useful purpose and whether the proposed recodification is appropriate.

21 71044. When any enumeration of the population of a city made by the United States Bureau of
22 Census is officially announced and certified and a copy filed with the Secretary of the State, it
23 shall be considered the federal census of the city within the meaning of this article.

24 **Note.** Government Section 71045 is not reproduced here, because it was repealed by AB 1700
25 (Steinberg & Frommer), 2001 Cal. Stat. ch. 824, § 26.

26 71046. The board of supervisors shall declare the name of each judicial district in the ordinance
27 setting forth the boundaries of the district.

28 **Gov't Code §§ 71042.5-71043 (added). Preservation of judicial districts**

29 SEC. ____ . Article 2 (commencing with Section 71042.5) is added to Chapter 6 of Title
30 8 of the Government Code, to read:

31 Article 2. Preservation of Judicial Districts

32 **§ 71042.5. Preservation of judicial districts for purpose of publication**

33 71042.5. Notwithstanding any other provision of law, where judicial districts in a
34 county have been consolidated, or where the municipal and superior courts in a county
35 have unified, the territory embraced within the respective prior component judicial
36 districts shall be separate judicial districts for the purpose of publication within a judicial
37 district.

38 **Comment.** Section 71042.5 continues former Section 71042.5 without substantive change.

39 For provisions relating to restatements and continuations of existing law, see Section 2.

40 **§ 71042.6. Map to establish district boundaries**

41 71042.6. For the purpose of establishing boundaries under Section 71042.5, a map
42 approved by the county surveyor shall be kept on file with the county recorder showing

1 the boundaries of all consolidated or unified districts and component districts as of the
2 date of consolidation or unification.

3 Such map shall be conclusively presumed to be accurate and may be used in evidence
4 in any proceeding involving application of Section 71042.5.

5 **Comment.** Section 71042.6 continues the first and third paragraphs of former Section 71042.6
6 without substantive change. The second paragraph of former Section 71042.6 is deleted as
7 obsolete.

8 For provisions relating to restatements and continuations of existing law, see Section 2.

9 **§ 71043. Determination of population of judicial district**

10 71043. The determination of whether a judicial district or former judicial district has a
11 population above or below 40,000 shall be made on the latest occurring of the following
12 bases:

13 (a) As shown by the last preceding federal census of the district or of the aggregate
14 cities and other political subdivisions situated within the district, whichever is greater.

15 (b) As shown by a subsequent census taken pursuant to Section 26203.

16 (c) As may have been found to be the fact in any proceeding for declaratory relief
17 brought in a court having jurisdiction.

18 **Comment.** Section 71043 continues former Section 71043 without change, except revisions to
19 extend it to a former judicial district.

20 For provisions relating to restatements and continuations of existing law, see Section 2.

21 **Gov't Code §§ 71080-71100 (repealed). Personnel, records, and cases of superseded courts**

22 SEC. ____ . Article 3 (commencing with Section 71080) of Chapter 6 of Title 8 of the
23 Government Code is repealed.

24 **Comment.** Sections 71080-71100 are repealed to reflect:

25 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
26 California Constitution. *Cf.* former Section 71264 (municipal court served by marshal).

27 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
28 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court
29 employees), 71620(a) (job classifications and appointments), 71623 (salaries).

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

31 **Article 3. Personnel, Records, and Cases of Superseded Courts**

32 71080. (a) Upon the establishment of a municipal court, the judges of existing municipal courts
33 in any city, township, or judicial subdivision situated wholly or partly in the district or city and
34 county for which a municipal court is established shall, if eligible, become the judges of the
35 municipal court until the election or appointment and qualification of their successors. The time
36 for election and qualification of their successors shall be that previously fixed for the election and
37 qualification of their successors for the court and office superseded, had such courts not been
38 superseded, but in no event shall that election of successors be held within 10 months of
39 succession to the office of the new court.

40 (b) If the number of eligible incumbent judges who have not filed a written statement with the
41 county elections official disclaiming their desire to succeed to office exceeds the number of
42 judicial offices provided by law for the municipal court, the incumbents shall not automatically
43 succeed to judicial positions in the municipal court, and the existing courts shall continue to
44 function within the district until the first judge or judges of the municipal court are elected by the

1 qualified electors of the district at the first statewide general election held following the
2 expiration of 90 days and qualify.

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

14 71081. Whenever the judge of an existing court would be entitled pursuant to this article to
15 become the judge of more than one court, he shall file a written statement with the county clerk
16 electing the judicial office to which he will assert his claim of eligibility. Failure to file a
17 statement is deemed an election by the judge to assert his claim of eligibility to office in the court
18 of the district in which the existing court is located.

19 71082. Notwithstanding anything to the contrary in the Municipal and Justice Court Act of
20 1949, or the provisions of law succeeding that act, the judges, officers, and attaches of a
21 municipal court established prior to November 7, 1950, under the Municipal Court Act of 1925
22 who hold such offices or employments on January 1, 1952, shall continue to hold offices or
23 employments as the judges, officers, and attaches of the municipal court established for the city
24 and county or district embracing the city in which they were elected or appointed to serve until
25 the election or appointment and qualification of their successors.

26 71083. Whenever the territory of a judicial district (herein called the annexed district) is
27 annexed to a judicial district theretofore having a municipal court (herein called the annexing
28 district), a judge of a court partly or wholly superseded thereby shall, if eligible, succeed to the
29 first vacant judgeship on such municipal court, whether such vacancy then exists or occurs within
30 two years thereafter through the creation of a new judgeship or otherwise, if any one of the
31 following subdivisions apply:

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

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

36 Whenever part of an annexed district is annexed to an annexing district and because of the
37 application of this subdivision, a judge of the annexed district becomes entitled to succeed to a
38 vacant judgeship as above provided, no subsequent annexation of all or part of the remainder of
39 the annexed district to the same annexing district shall entitle any judge of the annexed district to
40 succeed to a vacant judgeship in the annexing district.

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

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

51 Any judge entitled to succeed as above provided shall declare an acceptance of the judgeship
52 for which a vacancy exists or occurs within 30 days of the date of annexation if the vacancy exists

1 upon the date of annexation or, if no such vacancy then exists, within 30 days of the occurrence
2 of the vacancy later occurring.

3 This section, as amended at the 1959 Regular Session of the Legislature, applies to annexations
4 occurring before or after the effective date of the amendment to this section enacted at the 1959
5 Regular Session of the Legislature.

6 **Note.** Government Section 71083.1 is not reproduced here, because it was repealed by AB
7 1700 (Steinberg & Frommer), 2001 Cal. Stat. ch. 824, § 27.

8 71085. (a) The clerk, or chief clerical officer by whatever name known, the marshal, or similar
9 official, their deputies and attaches, and all other officers or employees of each court wholly or
10 partly superseded by a municipal court, shall become the clerk, the marshal, their deputies and
11 attaches, and officers or employees of that municipal court upon its organization, so far as those
12 positions are provided by law. If no provision is made by law for officers and employees of a
13 municipal court, there shall be the officers and employees for that court specified in subdivision
14 (b). They shall receive compensation for their services fixed by the judge, if there are one or more
15 other municipal courts in the county in which the court is established, at a rate comparable to but
16 not greater than that provided by law for comparable officers and employees in any other
17 municipal court in the county. If there is no other municipal court in the county in which the court
18 is established, the officers and employees of the court shall receive the compensation for their
19 services fixed by the judge within the ranges provided below until express provision has been
20 made for officers and employees of the court, except that if any officer or employee was receiving
21 compensation in a superseded justice court greater than the maximum range provided in this
22 section for a comparable position in the municipal court, he or she shall continue to receive that
23 compensation until express provision has been made by law for officers and employees of that
24 municipal court. The interim compensation fixed by the judge shall be effective only until the
25 61st day after final adjournment of the next succeeding regular session of the Legislature.

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

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

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

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

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

41 **Note.** Government Section 71085.1 is not reproduced here, because it was repealed by AB
42 1700 (Steinberg & Frommer), 2001 Cal. Stat. ch. 824, § 28.

43 71086. All persons specified in Section 71085 shall be deemed to be appointed upon the
44 organization of the court and to have met all of the requirements for appointment to permanent
45 positions as provided in the Municipal and Justice Court Act of 1949, or the provisions of law
46 succeeding that act, and shall be removed only for the causes and in the manner provided for the
47 removal of officers and attaches.

48 71088. Any police officer appointed and acting as bailiff in any court superseded by a
49 municipal court shall be deemed to be appointed ex officio a deputy marshal subject to the same
50 conditions under which he or she was first appointed, without prejudice to his or her rights by
51 virtue of employment as police officer.

1 71089. In any city and county having a consolidated city and county government, the sheriff of
2 the city and county and his deputies shall be ex officio the marshal and deputy marshals of the
3 municipal court and shall perform all the duties imposed and exercise all the powers conferred
4 upon the marshal and deputy marshals of the municipal court.

5 71091. If it appears that two or more clerks, marshals, deputies, and other officers or attaches
6 are equally entitled by virtue of the office held in any superseded court, to any one office in the
7 municipal court, the judge, a majority of the judges, or the judge senior in service when there is
8 an equal division of the judges shall determine which person is entitled to the office in which the
9 conflict exists.

10 71092. So far as practical, upon the organization of the court, the clerks, deputies, and attaches
11 or employees of the superseded court shall be assigned to positions in the municipal court similar
12 in duties and compensation to the positions held in the superseded court.

13 71093. Every person who succeeds to any office or position in the municipal court pursuant to
14 the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, is
15 entitled to all of the benefits and privileges, not inconsistent with such act or provisions of law,
16 which attached to such person by virtue of an office or position in any superseded court.

17 71094. Continuous employment in a court superseded by a municipal court, or in a court
18 previously superseded by such superseded court, of the officers and attaches of such superseded
19 court who succeed to positions in a municipal court pursuant to the Municipal and Justice Court
20 Act of 1949, or the provisions of law succeeding that act, shall be considered as prior service
21 within the definition of that term in any retirement or pension system adopted which includes
22 municipal court officers and attaches.

23  **Note: Comment Requested**

24 Government Code Section 71094 will likely be preserved, in some form. A proposed
25 recodification is shown below. The Commission solicits comments on whether the section
26 continues to serve a useful purpose and whether the proposed recodification is appropriate.

27 71095. All actions pending in, and records of, every municipal court in any city, city and
28 county, township, or judicial subdivision situated wholly within a district for which a municipal
29 court is established shall, upon the supersedure of such existing court, be transferred to and
30 become cases pending in and records of the municipal court. All actions pending in, and records
31 of, an existing court in any township or judicial subdivision situated partly within one district for
32 which a municipal court is established and partly within another such district shall, upon the
33 supersedure of such existing court, be transferred to and become cases pending in and records of
34 the municipal court of the district in which the action should have been brought had such court
35 been established and organized when the action was brought.

36 71098. Any action pending in the superior court upon the establishment and organization in the
37 county of a municipal court which would be within the jurisdiction of the municipal court if
38 commenced after its establishment shall continue in the superior court until final determination.

39 71099. Whenever a municipal court is established in a city and county or in a district containing
40 a city in which there is an officer charged with the duty of prosecuting misdemeanor charges in a
41 court superseded by such municipal court, the officer shall prosecute all such misdemeanor
42 charges in the municipal court with the same rights, duties, and privileges that the officer
43 formerly exercised with respect to such charges in the superseded court, including the prosecution
44 of appeals in criminal cases arising in the municipal court and the defense of all writs arising out
45 of arrests for offenses triable in the municipal court in whatever court or courts they may be
46 appealed to or initiated in.

47 71100. Whenever a municipal court is established in a city and county or in a district containing
48 a city in which there is a probation officer, public defender, parole board, or other officer or board

1 charged with duties relating to misdemeanor charges prosecuted in a court superseded by the
2 municipal court, the boards, officers, and their deputies shall perform the same duties in the
3 municipal court as they performed in the superseded court.

4 **Gov't Code § 71094 (added). Court superseded by municipal court**

5 SEC. ____ . Article 3 (commencing with Section 71094) is added to Chapter 6 of Title 8
6 of the Government Code, to read:

7 Article 3. Court Superseded by Municipal Court

8 **§ 71094. Service in court superseded by municipal court**

9 71094. Continuous employment in a court superseded by a municipal court, or in a
10 court previously superseded by such superseded court, of the officers and attachés of such
11 superseded court who succeeded to positions in a municipal court pursuant to the
12 Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act,
13 shall be considered prior service within the definition of that term in any retirement or
14 pension system that includes former municipal court officers and attachés.

15 **Comment.** Section 71094 continues former Section 71094 without substantive change.
16 For provisions relating to restatements and continuations of existing law, see Section 2.

17 **Gov't Code §§ 71140-71145.1 (repealed). Qualifications, election, and term of office of**
18 **judges and other personnel**

19 SEC. ____ . Article 4 (commencing with Section 71140) of Chapter 6 of Title 8 of the
20 Government Code is repealed.

21 **Comment.** Sections 71140-71145.1 are repealed to reflect unification of the municipal and
22 superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For
23 qualifications of judges, see Cal. Const. art. VI, § 15. For election and terms of judges, see Cal.
24 Const. art. VI, § 16.

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

26 Article 4. Qualifications, Election, and Term of Office of Judges and Other
27 Personnel

28 71140. The judges of a municipal court shall be residents eligible to vote in the judicial district
29 or city and county in which they are elected or appointed for a period of at least 54 days prior to
30 the date of their election or appointment. This requirement shall not affect the right of any person
31 to automatically succeed to an office or position pursuant to Sections 71080 to 71083, inclusive,
32 and Sections 71085 to 71090, inclusive.

33 This requirement shall not apply to a judge of a municipal court for the rest of his or her
34 unexpired term and for one successive term of office for which he or she is subsequently
35 reelected when:

36 (a) The judge has succeeded to office under the provisions of Section 71083 and his or her
37 residence is not in the annexed district.

38 (b) Part of a municipal court district is annexed to another municipal court district and the judge
39 of the original district lives in the part that is annexed.

40 71140.1. The attaches of a municipal court may reside in counties adjoining the county in
41 which they are employed.

1 71140.2. Notwithstanding any provisions of Section 71140 to the contrary, in the County of
2 Fresno a person is eligible to be elected or appointed to the office of judge of a municipal court of
3 a judicial district if he is a resident eligible to vote in the county in which the judicial district is
4 situated for a period of at least 54 days prior to the date of his election or appointment.

5 71140.3. Notwithstanding any provisions of Section 71140 to the contrary, in the Counties of
6 Humboldt, Stanislaus, San Mateo, Santa Clara, San Diego, Los Angeles, and Orange a person is
7 eligible to be elected or appointed to the office of judge of a municipal court of a judicial district
8 if he is a resident eligible to vote in the county in which the judicial district is situated for a period
9 of at least 54 days prior to the date of his election or appointment.

10 71141. Judges of the municipal court shall be elected at the general state election next
11 preceding the expiration of the term for which the incumbent has been elected.

12 71143. The provisions of the Elections Code relating to the nomination and election of judicial
13 officers apply to the judges of municipal courts.

14 71144. No judge shall be deemed to have qualified before the date fixed for the commencement
15 of his term of office.

16 71145. The term of office of judges of municipal courts is six years from and including the first
17 Monday of January after the January 1st next succeeding their election. Judges shall hold office
18 until their successors are elected and qualify, but the office shall be deemed to be vacant upon the
19 expiration of the fixed term for the purpose of selecting a successor.

20 71145.1. Notwithstanding any provision to the contrary, the term of any judge who was elected
21 as one of the first judges of a municipal court with two judges established under the Municipal
22 Court Act of 1925, and who automatically succeeded to the office of judge of the municipal court
23 which superseded such municipal court to which such judge was elected, shall be six years from
24 the date upon which his term of office commenced unless such term expires in a year when no
25 general state election is held, in which case, the judge shall continue to hold office until his
26 successor is elected at the general state election next succeeding the expiration of his term, and
27 until such successor qualifies.

28 **Gov't Code §§ 71180-71184 (repealed). Filling of vacancies**

29 SEC. ____ . Article 5 (commencing with Section 71180) of Chapter 6 of Title 8 of the
30 Government Code is repealed.

31 **Comment.** Sections 71180-71184 are repealed to reflect:

32 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
33 California Constitution. For election and terms of superior court judges, see Cal. Const. art. VI, §
34 16.

35 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
36 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court
37 employees), 71620(a) (job classifications and appointments), 71623 (salaries), 71640-71645
38 (employment selection and advancement), 71673 (authority of court). Cf. Sections 68504 (notice
39 of death, removal, or resignation of Supreme Court justice, court of appeal justice, or superior
40 court judge), 72025 (filing notice of retirement with Judges' Retirement System), 75033.5 (notice
41 and election of early retirement), 73796 (Merced County marshal). For provisions relating to the
42 appointment of county employees, see Cal. Const. art. XI, §§ 1(b) and 4 (county governing board
43 shall provide for the number, compensation, tenure, and appointment of employees), and Section
44 25300 (board of supervisors shall provide for the appointment of county employees). See also
45 Sections 77212(d) (contract for county services), 77212.5 (agreement with sheriff's department
46 regarding court security services).

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

Article 5. Filling of Vacancies

71180. (a) Any vacancy in the office of judge of a municipal court shall be filled by appointment by the Governor, but no vacancy shall be deemed to exist in any office before the time fixed in Sections 71080, 71082, and 71083 for the selection of the judges of that court and the time fixed by law for their qualification. The appointee shall hold office for the remainder of the unexpired term of his or her predecessor and until his or her successor is elected and qualifies.

If the office to which any person so appointed was not previously occupied, he or she shall hold office until his or her successor is elected at the general state election next succeeding the occurrence of the vacancy and qualifies. No successor to the appointee shall be elected at any election held within 10 months of the date of the occurrence of the vacancy.

(b) If a vacancy in the office of judge of a municipal court occurs between the last day candidacy declaration papers may be filed and the June direct primary election and that vacancy occurs because of the appointment of the incumbent judge to another office by the Governor, or because the incumbent has resigned, retired, died, or been removed from office in accordance with subdivision (b) or (c) of Section 18 of Article VI of the California Constitution, and if one or more qualified persons other than the incumbent have filed candidacy declaration papers for the office, no vacancy shall be deemed to exist for purposes of subdivision (a), and the election for the office of judge shall be postponed until the next November statewide election.

If the Governor appoints the incumbent judge to another office within 68 days of the June direct primary election, and, as a result, the elections officer does not have sufficient time to remove the candidates' names from the ballot, the June direct primary election for the office shall not be deemed to have been held. At the next November statewide election, the candidate who receives the most votes shall be elected.

In order for a person's name to appear on the ballot at the next November statewide election the person shall file nomination documents in accordance with Article 2 (commencing with Section 8020) of Chapter 1 of Part 1 of Division 8 of the Elections Code. No previously filed documents shall satisfy this subdivision. Qualified persons who did not file nomination documents for the June direct primary election, as well as qualified persons who filed nomination documents for the June direct primary election, shall be permitted to file nomination documents for the November statewide election.

Persons who had previously paid the filing fee at the time of filing nomination documents for the June direct primary election shall not be required to pay a filing fee for the November statewide election.

71180.5. Upon the appointment, election, death, removal, or resignation of a judge of a municipal court, the clerk or administrator of that municipal court shall immediately give the Judges' Retirement System or the Judges' Retirement System II written notice thereof.

71181. All vacancies in the office of clerk of a municipal court and marshal of a municipal court shall be filled by appointment by the judge, by a majority of the judges, or by the judge senior in service when there is an equal division of the judges. All vacancies in the clerk's office shall be filled by appointment by the clerk.

Note: Comment Requested

Government Code Section 71181 appears to be obsolete. The appointment of clerks and marshals who are court employees is now governed by the Trial Court Employment Protection and Governance Act. Of the four marshals who serve the superior court, two are court employees and one marshal is elected to office. The remaining marshal is an employee of the County of Merced and appointed pursuant to Government Code Section 73796. Therefore, the Commission solicits comments on the continuing usefulness of Section 71181.

71182. All vacancies in the marshal's office shall be filled by appointment by the marshal. The marshal may appoint a deputy clerk or court clerk to serve ex officio as a deputy marshal, but no person so appointed shall receive any increased compensation by reason of such appointment.

1 **Note: Comment Requested**

2 Government Code Section 71182 appears to be superseded by the Trial Court Employment
3 Protection and Governance Act with regard to court employees. County ordinances and
4 memoranda of understanding appear to govern the appointment of deputy marshals who are
5 county employees. The Commission would like to receive comments on these points and whether
6 the repeal of Section 71182 is appropriate.

7 71183. In any county or city and county which has a civil service commission, all appointments
8 to fill vacancies pursuant to Sections 71181 and 71182 shall be from among the three highest of
9 those certified to the appointing authority by the commission to be eligible to the office or
10 position to be filled. Such eligible lists shall be obtained as the result of a competitive
11 examination given to determine the relative fitness of those taking it for the position to be filled.
12 A temporary appointment may be made if there is no list containing at least three names of
13 persons eligible and willing to accept an appointment. A temporary appointment is not valid more
14 than 30 days after a list of three eligibles is certified to the appointing authority by the
15 commission. If no eligible list is certified to the appointing authority within six months after a
16 temporary appointment, the appointing authority may declare the appointment permanent and the
17 appointee thereafter is entitled to all the rights and privileges of one examined and certified by the
18 commission and appointed under such certification.

19 **Note: Comment Requested**

20 Government Code Section 71183 appears to be obsolete. The appointment of clerks and
21 marshals who are court employees is now governed by the Trial Court Employment Protection
22 and Governance Act. Government Code Section 73796, county ordinances and memoranda of
23 understanding appear to govern the appointment of county employees. In most cases, services
24 provided by county employees for the superior court will be governed by contract pursuant to
25 Government Code Sections 77212 or 77212.5. Therefore, the Commission solicits comments on
26 the continuing usefulness of Section 71183.

27 71184. In any county or city and county which has no civil service commission, the secretary of
28 the court, the clerk, the marshal, and their deputies and attaches shall be appointed because of
29 their ability and fitness for the positions they are to fill. The appointments shall be subject to
30 confirmation by the judge, by a majority of the judges of the court, or by the judge senior in
31 service when there is an equal division of the judges.

32 **Note: Comment Requested**

33 Government Code Section 71184 appears to be obsolete. The appointment of secretaries,
34 clerks, marshals, deputies and attachés who are court employees is now governed by the Trial
35 Court Employment Protection and Governance Act. Government Code Section 73796, county
36 ordinances and memoranda of understanding appear to govern the appointment of county
37 employees. In most cases, services provided by county employees for the superior court will be
38 governed by contract pursuant to Government Code Sections 77212 or 77212.5. Therefore, the
39 Commission solicits comments on the continuing usefulness of Section 71184.

40 **Gov't Code §§ 71220-71221 (repealed). Salaries**

41 SEC. ____ . Article 6 (commencing with Section 71220) of Chapter 6 of Title 8 of the
42 Government Code is repealed.

43 **Comment.** Sections 71220-71221 are repealed to reflect:

44 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
45 California Constitution.

46 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
47 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court
48 employees), 71623 (salaries), 71673 (authority of court). For provisions relating to the
49 compensation of superior court judges, see Cal. Const. art. III, § 4, art. VI, § 19, and Sections

1 68202, 77003. For provisions relating to the payment of county employee salaries from the
2 county treasury, see Sections 28000, 28002, 28004.

3 (3) Enactment of the Trial Court Funding Act. See, e.g., Sections 77003 and Cal. R. Ct. 810
4 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial
5 court operations), 77212 (continuation of services by counties). Counties may charge superior
6 courts for the costs of providing services as described in Sections 77003 and 77212, not to exceed
7 the equivalent charges to county departments or special districts for similar services. See Section
8 77009(g).

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

10 Article 6. Payment of Salaries and Traveling Expenses of Judges

11 71220. The salaries of the judges, clerks, marshals, and other officers or attaches of each
12 municipal court shall be paid by the county in which the court is situated out of the salary fund or,
13 if there is none, out of the general fund of the county.

14 71221. Except as otherwise provided in this section, the clerk of each municipal court, or if
15 there is none, the judge of the court, shall certify monthly to the county auditor a list showing the
16 amount of compensation of the judges, clerks, and other officers and attaches of that court, except
17 marshals. The marshal of a municipal court shall certify monthly to the county auditor a list
18 showing the amount of compensation of the marshals of the court.

19 The clerk of the municipal court in the City and County of San Francisco shall certify to the
20 county auditor a list showing the amount of compensation of the judges, clerks, and other officers
21 and attaches of that court, except marshals, in the same manner and for the same period as for
22 departments and employees of the City and County of San Francisco, and the auditor is
23 authorized to pay that compensation in the same manner and for the same period as for employees
24 of the City and County of San Francisco.

25 **Gov’t Code §§ 71260-71280.5 (repealed). Clerk and marshal**

26 SEC. ____ . Article 7 (commencing with Section 71260) of Chapter 6 of Title 8 of the
27 Government Code is repealed.

28 **Comment.** Sections 71260-71280.5 are repealed to reflect:

29 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
30 California Constitution. *Cf.* former Section 71264 (municipal court served by marshal). See also
31 Sections 26603 (superior court attendance), 26608 (service of process and notices), 26665
32 (service of writs and process in civil actions), 69844 (minutes and other records of superior
33 court), 69844.5 (certification and submission of superior court records relating to criminal
34 convictions), 69844.7 (minute orders of superior court kept in chronological order), 69846.5
35 (endorsement of filing date on paper filed with superior court), 71265 (marshals’ powers, duties
36 and liabilities).

37 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
38 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court
39 employees), 71620(a) (job classifications and appointments), 71640-71645 (employment
40 selection and advancement), 71650-71658 (employment protection system). For marshals who
41 are county employees, former Section 71269 is superseded by county ordinances or memoranda
42 of understanding.

43 (3) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in
44 Los Angeles County, effective January 1, 1994.

45 (4) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in
46 San Diego County, effective January 1, 2000.

1 (5) The fact that former Sections 71268 and 71269 are obsolete relics derived from former
2 Government Code provisions relating to the succession of inferior courts by municipal and justice
3 courts. See 1951 Cal. Stat. ch. 1296, § 5.

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

5 Article 7. Clerk and Marshal

6 71260. The clerk of the court, the marshal, and their deputies and attachés, and other appointive
7 officers or attachés of the court who were appointed from civil service lists or who are entitled to
8 the rights and privileges of one so appointed pursuant to law shall hold office during good
9 behavior and may be discharged by the appointing authority only for the good of the service;
10 provided, however, that in any county of the first class the appointment and removal of the
11 marshal of said county shall be made by a majority vote of the municipal court judges of the said
12 county, and said marshal shall serve during the pleasure of said judges; but any action to
13 discharge, suspend or demote him shall not be effective, unless at least 10 days prior thereto he
14 has been served with a statement of the reasons for such proposed action, and has been afforded a
15 hearing upon the grounds specified before the judges, in person or by counsel or both, and has
16 been afforded a reasonable opportunity to reply to the same, and to produce evidence, oral or
17 documentary, in his behalf. If any such discharge or demotion is made by the judges for the good
18 of the service, not involving moral turpitude or gross neglect of duty, a person removed from the
19 position as marshal shall be entitled to resume the position in the office of the marshal formerly
20 held by him, at the salary paid for that position upon his resumption thereof; and shall be entitled
21 to pay and seniority based on all prior service therein and in the position of marshal. If a person
22 so discharged or demoted as marshal was appointed to such position from a position formerly
23 held as an attache of a superseded court, he shall assume a position in the office of marshal which
24 most nearly corresponds to that previously held by him as an attache of a superseded court, at the
25 salary paid to such position at the time he assumes the same; and shall be entitled to pay and
26 seniority based on all prior service therein and in the position of marshal; and in addition shall be
27 entitled to the rights specified in Section 72650.

28 **Note: Comment Requested**

29 Government Code Section 71260 appears to be superseded by the Trial Court Employment
30 Protection and Governance Act with regard to court employees. County ordinances and
31 memoranda of understanding appear to govern the discharge of county employees. The
32 Commission would like to receive comments on these points and whether the repeal of Section
33 71260 is appropriate.

34 71261. The reasons for the discharge shall be filed with the secretary of the court, or if there is
35 none, with the clerk of the court, at least 10 days before the discharge shall be effective. Upon the
36 filing of the reasons, the person proposed to be discharged may be suspended from duty with or
37 without pay, pending his final discharge.

38 71262. The person against whom charges have been filed may within 10 days file his reply. At
39 the end of the 10 days the person shall be either reinstated or discharged unless an additional time
40 for investigation is desired by the appointing officer.

41 71263. The determination of the appointing authority to discharge the person against whom
42 charges have been filed is final, except that nothing in the Municipal and Justice Court Act of
43 1949, or any provision of law succeeding that act, shall limit the right of any person to the
44 benefits of the civil service provisions of the charter of the county or city and county in which any
45 such court is situated, or of the rules of the civil service commission having jurisdiction of such
46 person, respecting suspensions and dismissals.

1 71264. Whenever required, marshals shall attend the municipal courts of the district in which
2 they are appointed or elected to act; provided, however, that a marshal shall attend a civil action
3 only if the presiding judge or his or her designee makes a determination that the attendance of the
4 marshal at that action is necessary for reasons of public safety. Within their counties they shall
5 execute, serve, and return all writs, processes, and notices directed or delivered to them by
6 municipal courts or by other competent authority. A marshal of a municipal court who is
7 authorized by law to appoint not more than four deputies, shall not be required to travel outside of
8 his or her district to serve any civil process or notice. With respect to proceedings in the
9 municipal court, the marshal of the court has all the powers and duties imposed by law upon the
10 sheriff with respect to proceedings in the superior court. In a county of the third class, the marshal
11 shall attend all superior courts held within the county, subject to the restrictions of this section or
12 Section 26603.

13 71265. All provisions of Government Code Sections 26600-26602, 26604, 26606-26608.1,
14 26609, 26611, 26660-26664, 26680, and Code of Civil Procedure Sections 262, 262.1, 262.2,
15 262.3, 262.4, and 262.5, apply to marshals and govern their powers, duties and liabilities.

16 **Note: Comment Requested**

17 Government Code Section 71265 will be preserved, in some form. A proposed recodification is
18 shown below. The Commission solicits comments on whether the proposed recodification is
19 appropriate.

20 71266. Marshals shall charge and collect for their services the fees, expenses and mileage
21 allowed by law to sheriffs. They shall pay those fees into the county treasury on or before the fifth
22 day of each month, except where those fees, expenses and mileage or a percentage of them are
23 allowed those officers.

24 **Note: Comment Requested**

25 Government Code Section 71266 will be preserved, in some form. A proposed recodification is
26 shown below. The Commission solicits comments on whether the proposed recodification is
27 appropriate.

28 71267. The board of supervisors may establish a revolving fund for the use of the clerk or
29 marshal of any municipal court within the county pursuant to Sections 29320 to 29331, inclusive.

30 **Note: Comment Requested**

31 Government Code Section 71267 will likely be preserved, in some form. A proposed
32 recodification is shown below. The Commission solicits comments on whether the proposed
33 recodification is appropriate.

34 71268. Whenever a special assignment or branch of work is indicated for a particular deputy or
35 position in the clerk's or marshal's office, except that of custodian, the assignment so designated
36 is not intended to be exclusive, but to designate the principal work incident to such deputy or
37 position.

38 71269. In order to equalize the work of the office of the clerk or marshal and to render prompt
39 and efficient service to the public, each deputy clerk, deputy marshal, or attache shall perform
40 such service as the clerk or marshal directs, whether the service is within the scope of the special
41 designation or not.

42 71270. In addition to the deputy clerks for which provision is made herein, upon application of
43 any municipality within the judicial district, the clerk may appoint the nominee of such
44 municipality a deputy clerk to perform such clerical functions as may be delegated by the clerk,
45 such as, to receive bail posted for traffic law violations. The compensation, if any, of any such
46 deputy clerk appointed under this section shall not be a county charge, but such appointment shall
47 be solely for the convenience and at the expense of such municipality.

1 71273. In addition to the deputy clerks for which provision is made herein, upon application of
2 the county within which the judicial district is located the clerk may appoint an officer or
3 employee of such county a deputy clerk to perform such clerical functions as may be delegated by
4 the clerk. No person so appointed shall receive any increased compensation by reason of such
5 appointment.

6 71280. With respect to proceedings in the municipal court the clerk of the court has all the
7 powers conferred by law upon the clerk of the superior court with respect to proceedings in the
8 superior court.

9 71280.1. The clerk of every municipal court shall keep the minutes and other records of the
10 court, entering at length within the time specified by law, or forthwith if no time is specified, any
11 order, judgment, and decree of the court which is required to be entered and showing the date
12 when each entry is made. Failure to enter the date or failure to enter the order, judgment, or
13 decree within the time specified in this section shall not affect the validity or effectiveness of the
14 entry.

15 71280.2. Notwithstanding any provisions of law to the contrary, in those counties where it is
16 required by court order or rule that the clerk of the municipal court place individual civil minute
17 orders in the court's file of actions in chronological order, the clerk shall not be required to keep a
18 minute book but shall be required to keep minutes. Nothing contained in this section shall
19 eliminate the requirement for a judgment book where judgments and decrees are required to be
20 entered.

21 71280.3. The clerk of a municipal court shall keep among the records of the court such indexes
22 as will insure ready reference to any action or proceeding filed in the court. There shall be
23 separate indexes of plaintiffs and defendants in civil actions and of defendants in criminal actions
24 and the name of each plaintiff and defendant shall be indexed and there shall appear opposite each
25 name indexed the number of the action or proceeding and the name or names of the adverse
26 litigant or litigants, if any, and the date of filing. This section does not apply to criminal actions
27 filed by notice in lieu of a verified complaint pursuant to Section 40513 of the Vehicle Code.

28 71280.4. The clerk of the municipal court shall endorse on each paper filed with the court the
29 day, month, and year it is filed.

30 71280.5. On and after July 1, 1997, each clerk of the municipal court or of the superior court in
31 a county in which there is no municipal court shall prospectively certify and submit those court
32 records specified by the Judicial Council which relate to criminal convictions for entry into a
33 computer system operated by the Department of Justice that can be accessed by authorized agents
34 of any district attorney or other state prosecuting agency. This section shall not be construed to
35 require a court to acquire any new equipment or to implement any new procedures.

36 **Gov't Code §§ 71265-71267 (added). Clerk and marshal**

37 SEC. ____ . Article 7 (commencing with Section 71265) is added to Chapter 6 of Title 8
38 of the Government Code, to read:

39 **Article 7. Clerk and Marshal**

40 **§ 71265. Marshals' powers, duties, and liabilities**

41 71265. All provisions of Sections 26600-26604, 26607-26608.1, 26609, 26611, 26660-
42 26664, and 26680 of the Government Code, and Sections 262, 262.1, 262.2, 262.3, 262.4,
43 and 262.5 of the Code of Civil Procedure, apply to marshals and govern their powers,
44 duties and liabilities.

1 **Comment.** Section 71265 continues former Section 71265 with revisions to:

2 (1) Reflect the fact that the court services referred to in Section 26603 (superior court
3 attendance) are provided by the marshal and not by the sheriff in some counties. See, e.g., former
4 Section 26603.1 (Merced County) and Section 72116 (Shasta County).

5 (2) Delete the reference to former Section 26606. See Code Civ. Proc. §§ 488.730 (release of
6 attachment), 699.060 (release from execution).

7 For provisions relating to restatements and continuations of existing law, see Section 2.

8 **§ 71266. Fees to be collected by marshals**

9 71266. Marshals shall charge and collect for their services the fees, expenses and
10 mileage allowed by law to sheriffs. They shall pay those fees into the county treasury on
11 or before the fifth day of each month, except where those fees, expenses and mileage or a
12 percentage of them are allowed those officers.

13 **Comment.** Section 71266 continues former Section 71266 without change.

14 For provisions relating to restatements and continuations of existing law, see Section 2.

15 **Note: Comment Requested**

16 The Commission is reviewing whether county treasury provisions such as the second sentence
17 of Government Code Section 71266 remain viable, given the enactment of the Trial Court
18 Funding Act, the Trial Court Employment Protection and Governance Act, and other changes to
19 the structure of the trial courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations"
20 defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).
21 These matters are also being examined by a Joint Court-County Working Group on Trial Court
22 Funding. The Commission solicits comment on the proper treatment of Section 71266.

23 **§ 71267. Revolving fund for marshal**

24 71267. The board of supervisors may establish a revolving fund for the use of the
25 marshal who serves the superior court within the county and is a county officer, pursuant
26 to Sections 29320 to 29331, inclusive. The fund may only be used for services or
27 materials that are a legal charge against the county.

28 **Comment.** Section 71267 continues former Section 71267 with revisions to:

29 (1) Reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e),
30 of the California Constitution.

31 (2) Reflect enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial
32 court operations). See also Section 29320 ("officer of the county" defined).

33 For provisions relating to restatements and continuations of existing law, see Section 2.

34 **Gov't Code § 71305 (amended). Conditions of grant of benefits**

35 SEC. ____ . Section 71305 of the Government Code is amended to read:

36 71305. The retirement annuity or pension provided by this article shall be granted to the
37 marshal and constable only if in the county where the ~~municipal or justice~~ superior court
38 is located there is provided a retirement annuity or pension for county and township peace
39 officers who perform duties of the same character as those performed by the marshal and
40 constable.

41 **Comment.** Section 71305 is amended to reflect unification of the municipal and superior courts
42 pursuant to Article VI, Section 5(e), of the California Constitution.

43 The section is also amended to reflect elimination of the justice court pursuant to Article VI,
44 Sections 1 and 5(b), of the California Constitution.

1 **Gov't Code §§ 71341-71342 (unchanged). Sessions of court**

2 **Note: Comment Requested**

3 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
4 work on this article pending completion of (1) the study and recommendation by the task force on
5 court facilities, and (2) negotiations among other interested parties. The Commission solicits
6 comments on this approach and the underlying issues.

7 The text of the article is set out below.

8 **Article 9. Sessions of Court**

9 71340. There may be as many sessions of a municipal court at the same time as there are judges
10 elected, appointed, or assigned to the court. The judgments, orders, and proceedings of any
11 session of a municipal court held by any one or more of the judges sitting in the court shall be
12 equally effectual as though all the judges of the court presided at the session.

13 71341. (a) Sessions of a municipal court may be held at any place or places within the district
14 for which the court is established.

15 (b) Notwithstanding any other provision of law, the presiding or sole judge of a municipal court
16 may direct that a session of the court be held at any place in the county where any superior or
17 municipal court regularly conducts sessions, if each of the following applies:

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

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

24 (3) The session is held in furtherance of a coordination plan approved under Section 68112.

25 Any type of proceeding may be heard in these sessions.

26 71342. Where a municipal court district embraces two or more cities, municipal court sessions
27 shall be held at such places within the district as the board of supervisors by ordinance shall
28 designate from time to time as the public convenience requires.

29 **Gov't Code § 71380 (amended). Uniform accounting system**

30 SEC. ____ . Section 71380 of the Government Code is amended to read:

31 71380. The Controller shall establish, supervise, and as necessary revise a uniform
32 accounting system, including a system of audit, to the end that all fines, penalties,
33 forfeitures, and fees assessed by courts, and their collection and appropriate
34 disbursement, shall be properly and uniformly accounted for. The accounting system
35 shall apply to superior and municipal courts, together with probation offices, central
36 collection bureaus and any other agencies having a role in this process.

37 **Comment.** Section 71380 is amended to reflect unification of the municipal and superior courts
38 pursuant to Article VI, Section 5(e), of the California Constitution.

39 **Gov't Code § 71381 (unchanged). Bank accounts, records, reports, and procedures**

40 71381. Such system may provide for bank accounts for each municipal court, in which
41 money received by such court may be deposited and disbursed as provided therein, and
42 for such records, reports, and procedures as the Controller may deem necessary to carry
43 out the purposes of this article.

1 **Note.** The matter of bank deposits is still unsettled and involves policy and fiscal issues that
2 are substantive in nature. The Commission is deferring work on Government Section 71381 until
3 the interested parties have resolved these issues. See Commission Staff Memorandum 2001-78
4 (Sept. 11, 2001), pp. 13-14.

5 **Gov't Code § 71382 (amended). Willful failure to keep accounts**

6 SEC. ____ . Section 71382 of the Government Code is amended to read:

7 71382. Every judge of a superior ~~or municipal~~ court, or the clerk of any such court,
8 who willfully fails to keep accounts pursuant to the system or to account for the money
9 paid into and disbursed by the court pursuant to the system established by the Controller
10 pursuant to this article is guilty of a misdemeanor.

11 **Comment.** Section 71382 is amended to reflect unification of the municipal and superior courts
12 pursuant to Article VI, Section 5(e), of the California Constitution.

13 **Gov't Code § 71384 (amended). Deposit of money collected and audit of accounts**

14 SEC. ____ . Section 71384 of the Government Code is amended to read:

15 71384. The system established pursuant to this article may provide for the deposit of all
16 money collected by ~~municipal~~ superior courts in the county treasury, for disbursement
17 from it, and for the audit of such accounts by the county auditor.

18 **Comment.** Section 71382 is amended to reflect unification of the municipal and superior courts
19 pursuant to Article VI, Section 5(e), of the California Constitution.

20 **Note: Comment Requested**

21 The Commission is reviewing whether county treasury provisions remain viable, given the
22 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
23 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
24 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
25 (state funding of trial court operations). These matters are also being examined by a Joint Court-
26 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
27 treatment of Government Code Section 71382.

28 **Gov't Code § 71386 (amended). Acceptance of checks and money orders**

29 SEC. ____ . Section 71386 of the Government Code is amended to read:

30 71386. (a) Each superior ~~and municipal~~ court shall adopt a written policy, consistent
31 with rules adopted by the Judicial Council, governing the acceptance of checks and
32 money orders in payment of any fees, fines, or bail deposits. Such policy shall permit
33 clerks to accept checks and money orders under conditions which tend to assure their
34 validity.

35 (b) A court shall accept a personal check, bank cashier's check, or money order for
36 payment of any fee or fine, or for a deposit of bail for any offense which is not declared
37 to be a felony, provided such check or money order meets the criteria established in
38 subdivision (a). However, no court shall be required to accept a check in excess of three
39 hundred dollars (\$300) from a defendant in custody as a deposit of bail for any alleged
40 violation of the Penal Code.

41 (c) The acceptance of a check pursuant to this section constitutes payment of the
42 obligation owed to the payee public agency to the extent of the amount of the check as of
43 the date of acceptance when, but not before, the check is duly paid.

44 (d) If any check offered in payment pursuant to this section is returned to the payee
45 without payment, a reasonable charge for the returned check not to exceed the actual

1 costs incurred by the court may be imposed to recover the court’s processing and
2 collection costs. This charge may be added to, and become part of, any underlying
3 obligation other than an obligation which constitutes a lien on real property, or a different
4 method of payment for that payment and future payments by such person may be
5 prescribed. The charges imposed by a court for a returned check shall be retained by the
6 treasurer of the county and be deposited in the county general fund.

7 **Comment.** Subdivision (a) of Section 71386 is amended to reflect unification of the municipal
8 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

9 **Note: Comment Requested**

10 The Commission is reviewing whether county treasury provisions remain viable, given the
11 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
12 Governance Act, and other changes to the structure of the trial courts. See Gov’t Code §§ 77003
13 and Cal. R. Ct. 810 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
14 (state funding of trial court operations). These matters are also being examined by a Joint Court-
15 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
16 treatment of Section 71386.

17 **Gov’t Code § 71601 (amended). Definitions**

18 SEC. ____ . Section 71601 of the Government Code is amended to read:

19 71601. For purposes of this chapter, the following definitions shall apply:

20 (a) “Appointment” means the offer to and acceptance by a person of a position in the
21 trial court in accordance with this chapter and the trial court’s personnel policies,
22 procedures, and plans.

23 (b) “Employee organization” means any organization that includes trial court
24 employees and has as one of its primary purposes representing those employees in their
25 relations with the trial court.

26 (c) “Hiring” means appointment as defined in subdivision (a).

27 (d) “Mediation” means effort by an impartial third party to assist in reconciling a
28 dispute regarding wages, hours, and other terms and conditions of employment between
29 representatives of the trial court and the recognized employee organization or recognized
30 employee organizations through interpretation, suggestion, and advice.

31 (e) “Meet and confer in good faith” means that a trial court or representatives as it may
32 designate, and representatives of recognized employee organizations, shall have the
33 mutual obligation personally to meet and confer promptly upon request by either party
34 and continue for a reasonable period of time in order to exchange freely information,
35 opinions, and proposals, and to endeavor to reach agreement on matters within the scope
36 of representation. The process should include adequate time for the resolution of
37 impasses where specific procedures for resolution are contained in this chapter or in a
38 local rule, or when the procedures are utilized by mutual consent.

39 (f) “Personnel rules,” “personnel policies, procedures, and plans,” and “rules and
40 regulations” mean policies, procedures, plans, rules, or regulations adopted by a trial
41 court or its designee pertaining to conditions of employment of trial court employees,
42 subject to meet and confer in good faith.

43 (g) “Promotion” means promotion within the trial court as defined in the trial court’s
44 personnel policies, procedures, and plans, subject to meet and confer in good faith.

45 (h) “Recognized employee organization” means an employee organization that has
46 been formally acknowledged to represent trial court employees by the county under
47 Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by
48 the trial court under Rules 2201 to 2210, inclusive, of the California Rules of Court, as

1 those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3
2 (commencing with Section 71630) of this chapter.

3 (i) “Subordinate judicial officer” means an officer appointed to perform subordinate
4 judicial duties as authorized by Section 22 of Article VI of the California Constitution,
5 including, but not limited to, a court commissioner, probate commissioner, child support
6 commissioner, referee, traffic trial commissioner, traffic referee, traffic hearing officer,
7 juvenile referee, and judge ~~pro tempore~~ juvenile hearing officer.

8 (j) “Transfer” means transfer within the trial court as defined in the trial court’s
9 personnel policies, procedures, and plans, subject to meet and confer in good faith.

10 (k) “Trial court” means a superior court ~~or a municipal court~~.

11 (l) “Trial court employee” means a person who is both of the following:

12 (1) Paid from the trial court’s budget, regardless of the funding source. For the purpose
13 of this paragraph, “trial court’s budget” means funds from which the presiding judge of a
14 trial court, or his or her designee, has authority to control, authorize, and direct
15 expenditures, including, but not limited to, local revenues, all grant funds, and trial court
16 operations funds.

17 (2) Subject to the trial court’s right to control the manner and means of his or her work
18 because of the trial court’s authority to hire, supervise, discipline, and terminate
19 employment. For purposes of this paragraph only, the “trial court” includes the judges of
20 a trial court or their appointees who are vested with or delegated the authority to hire,
21 supervise, discipline, and terminate.

22 (m) A person is a “trial court employee” if and only if both paragraphs (1) and (2) of
23 subdivision (l) are true irrespective of job classification or whether the functions
24 performed by that person are identified in Rule 810 of the California Rules of Court. The
25 phrase “trial court employee” includes those subordinate judicial officers who satisfy
26 paragraphs (1) and (2) of subdivision (l). The phrase “trial court employee” does not
27 include temporary employees hired through agencies, jurors, individuals hired by the trial
28 court pursuant to an independent contractor agreement, individuals for whom the county
29 or trial court reports income to the Internal Revenue Service on a Form 1099 and does not
30 withhold employment taxes, sheriffs, and judges whether elected or appointed.

31 **Comment.** Subdivision (i) of Section 71601 is amended to refer to types of subordinate judicial
32 officers. See Fam. Code §§ 4250-4253 (child support commissioners); former Sections 72408
33 (traffic hearing officer in Santa Barbara County), 72450 (traffic trial commissioners); Welf. &
34 Inst. Code § 255 (juvenile hearing officers). Subdivision (i) is also amended to delete the
35 reference to a temporary judge.

36 Subdivision (k) is amended to reflect unification of the municipal and superior courts pursuant
37 to Article VI, Section 5(e), of the California Constitution.

38 **Note: Comment Requested**

39 Government Section 71601 reflects legislative changes made in SB 128 (Burton). See 2001
40 Cal. Stat. ch. 270, § 1.

41 The Commission solicits comment on the proposed deletion of the reference to a “judge pro
42 tempore.” The reference would be deleted to eliminate the implication that a commissioner
43 serving as a temporary judge acts under auspices of Article 1, Section 22, of the California
44 Constitution (subordinate judicial officers). The authority of a temporary judge is derived from
45 Article 1, Section 21, of the California Constitution (temporary judges). See also Code Civ. Proc.
46 § 259(e) (powers of court commissioners); Fam. Code § 4251(b) (powers of child support
47 commissioners).

1 **Gov't Code § 71617 (unchanged). Application of chapter to municipal court**

2 71617. To the extent this chapter applies to a municipal court, any action by the
3 municipal court specifying the number, qualification, or compensation of officers or
4 employees of the municipal court which differs from that prescribed by the Legislature
5 pursuant to Section 5 of Article VI of the California Constitution shall remain in effect
6 for a period of no more than two years unless prescribed by the Legislature within that
7 period.

8 **Note: Comment Requested**

9 The Commission proposes to defer work on Government Code Section 71617 until February 8,
10 2003, or later (i.e., two years after unification of the last remaining municipal court). The
11 Commission solicits comment on this approach.

12 **Gov't Code § 71620 (amended). Trial court personnel**

13 SEC. ____ . Section 71620 of the Government Code is amended to read:

14 71620. (a) Each trial court may establish such job classifications and may appoint such
15 trial court officers, deputies, assistants, and employees as are deemed necessary for the
16 performance of the duties and the exercise of the powers conferred by law upon the trial
17 court and its members.

18 (b) Each trial court may appoint an executive or administrative officer who shall hold
19 office at the pleasure of the trial court and shall exercise such administrative powers and
20 perform such other duties as may be required by the trial court. The executive or
21 administrative officer has the authority of a clerk of the trial court. The trial court shall fix
22 the qualifications of the executive or administrative officer and may delegate to him or
23 her any administrative powers and duties required to be exercised by the trial court.
24 ~~Notwithstanding any other provision of law, the trial court may, by local rule, specify~~
25 ~~which of the powers, duties, and responsibilities required or permitted to be exercised by~~
26 ~~the county clerk in connection with judicial actions, proceedings, and records shall be~~
27 ~~exercised or performed by the executive or administrative officer. The county clerk shall~~
28 ~~be relieved of any obligation imposed on him or her by law with respect to these~~
29 ~~specified powers, duties, and responsibilities, to the extent the local rule imposes on the~~
30 ~~executive or administrative officer the same powers, duties, and responsibilities.~~

31 **Comment.** Subdivision (a) of Section 71620 is amended to make clear that the court (or the
32 court's appointee) has the authority to appoint deputy court officers. It should be noted that
33 Article 7 (commencing with Section 1190) of Chapter 1 of Division 4 of Title 1 applies to all
34 deputy court officers.

35 The last two sentences of subdivision (b) are superseded by Section 69840 (powers, duties, and
36 responsibilities of clerk of court).

37 **Note: Comment Requested**

38 Government Code Section 71620 is based on the assumption that the functions of the court
39 clerk are performed by a court officer rather than by the county clerk. The Commission solicits
40 comment on the question whether the county clerk continues to act as court clerk in any county,
41 and if so whether it is necessary to preserve statutes authorizing that, as well as to provide for
42 reimbursement to the county for court clerk services performed by the county clerk.

43 **Gov't Code § 71622 (amended). Subordinate judicial officers**

44 SEC. ____ . Section 71622 of the Government Code is amended to read:

45 71622. (a) Each trial court may establish and may appoint such subordinate judicial
46 officers as are deemed necessary for the performance of subordinate judicial duties as are

1 authorized by law to be performed by subordinate judicial officers. However, the number
2 and type of subordinate judicial officers in a trial court shall be subject to approval by the
3 Judicial Council. Subordinate judicial officers shall serve at the pleasure of the trial court.

4 (b) The appointment of a subordinate judicial officer shall be made by order entered in
5 the minutes of the court.

6 (c) The Judicial Council shall promulgate rules establishing the minimum qualifications
7 and training requirements for subordinate judicial officers.

8 (d) The presiding judge of a superior court may cross-assign one type of subordinate
9 judicial officer to exercise all the powers and perform all the duties authorized by law to
10 be performed by another type of subordinate judicial officer, but only if the person cross-
11 assigned satisfies the minimum qualifications and training requirements for the new
12 assignment established by the Judicial Council pursuant to subdivision (c).

13 (e) The superior courts of two or more counties may appoint the same person as court
14 commissioner.

15 (f) As of the implementation date of this chapter, all persons who were authorized to
16 serve as subordinate judicial officers pursuant to other provisions of law shall be
17 authorized by this section to serve as subordinate judicial officers at their existing salary
18 rate, which may be a percentage of the salary of a judicial officer.

19 (g) A subordinate judicial officer may not engage in the private practice of law except
20 to the extent permitted by Judicial Council rules.

21 **Comment.** Subdivision (g) of Section 71622 continues and generalizes provisions that
22 formerly governed the private practice of law by commissioners and referees of the superior and
23 municipal courts. See, e.g., former Sections 70141.1 (superior court commissioner in El Dorado
24 County), 70142 (superior court commissioners), 72190 (municipal court commissioners), 72450
25 (municipal court traffic trial commissioners), 74925 (municipal court commissioner in Tulare
26 County). See also Cal. Code Jud. Ethics, Canons 4G (practice of law), 6 (compliance with Code).

27 Under subdivision (g), the Judicial Council is authorized to establish exceptions to the general
28 statutory prohibition to allow subordinate judicial officers, or classes of subordinate judicial
29 officers, to engage in the private practice of law. For example, special provisions formerly
30 permitted certain types or classes of municipal court commissioners and referees to engage in the
31 private practice of law before any court except the court in which they served. See, e.g., former
32 Sections 74703(e) (temporary municipal court traffic referees in Sonoma County), 74982(d)
33 (part-time municipal court commissioners in Shasta County).

34 **Gov't Code § 71674 (amended). Law Revision Commission study**

35 SEC. ____ . Section 71674 of the Government Code is amended to read:

36 71674. The California Law Revision Commission shall determine whether any
37 provisions of law are obsolete as a result of the enactment of this chapter, the enactment
38 of the Lockyer-Isenberg Trial Court Funding Act of 1997 (Chapter 850 of the Statutes of
39 1997), or the implementation of trial court unification, and shall recommend to the
40 Legislature any amendments to remove those obsolete provisions. The commission shall
41 report its recommendations to the Legislature, including any proposed statutory changes,
42 ~~on or before January 1, 2002.~~

43 **Comment.** Section 71674 is amended to delete the report deadline. This is intended to foster
44 cleanup of obsolete statutes on a continuing basis as unresolved issues are settled after January 1,
45 2002.

46 **Gov't Code §§ 72000-72006 (repealed). General provisions**

47 SEC. ____. Article 1 (commencing with Section 72000) of Chapter 8 of Title 8 of the
48 Government Code is repealed.

1 **Comment.** Sections 72000-72006 are repealed to reflect:

2 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
3 California Constitution. See Cal. Const. art. VI, § 4 (Legislature to prescribe number of superior
4 court judges); Section 69507 (marriage in superior court without fee),

5 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
6 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court
7 employees), 71650-71658 (employment protection system), 71673 (authority of trial courts to
8 establish terms and conditions of employment). For marshals who are county employees, former
9 Section 72002 section is superseded by county ordinances or memoranda of understanding.

10 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
11 employees).

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

13 **Article 1. General Provisions**

14 72000. The Legislature shall prescribe the number and compensation of judges, officers, and
15 attaches of each municipal court.

16 72001. Annual increments provided by law in the salary of an officer or attache of a municipal
17 court shall be dependent upon the employee maintaining the minimum efficiency rating
18 designated by the appointing authority. If the efficiency rating falls below the minimum standard
19 the appointing authority may suspend all or any part of the annual increments.

20 72002. The clerk or marshal of a municipal court may lay off and suspend a deputy or
21 employee because of lack of work requiring the service of existing personnel of the office or
22 department. The clerk or marshal may also require a deputy or employee to work temporarily in
23 the office of clerk or marshal of another municipal court situated in the same county if a request
24 for assistance has been made by such other court. Except as provided in Section 72053, the
25 temporary assignment of a deputy or employee to the clerk’s office or marshal’s office of another
26 municipal court shall not affect his compensation.

27  **Note: Comment Requested**

28 Government Code Section 72002 appears to be obsolete since enactment of the Trial Court
29 Employment Protection and Governance Act and the Trial Court Funding Act. In those counties
30 where the marshals and deputies are county employees, county ordinances or memoranda of
31 understanding would appear to govern the terms and conditions of employment. Therefore, the
32 Commission requests input as to whether Section 72002 continues to serve a useful purpose.

33 72002.1. In any chartered county in which a system of civil service is in effect, the civil service
34 commission thereof shall administer any civil service provisions made applicable by this code to
35 attaches of municipal courts.

36 Subject to the express provisions of this section and of any other state law, the provisions of the
37 county charter relating to civil service and the rules of the civil service commission adopted
38 pursuant thereto shall be applicable to the said attaches of the municipal courts in the same
39 manner and to the same extent as applicable generally to officers and employees of such county.

40 It shall be competent for the judge or a majority of the judges of any municipal court to adopt
41 rules for the conduct of, and personnel privileges to be afforded, the personnel of their court; or
42 for a majority of all of the municipal court judges in a county, convened from time to time by the
43 presiding judge of the municipal court district which embraces the county seat to adopt uniform
44 rules for such purposes relative to the personnel serving the municipal courts in such county; and
45 for that purpose they may adopt in whole or in part the provisions of any county ordinance
46 applicable to employees of the county, except where the same may be in conflict with any
47 provisions of the State Constitution or laws relating to municipal courts and their attaches. In any
48 such county, subject to approval by the board of supervisors and subject to the county charter,

1 such attaches may be voluntarily transferred from a position in a judicial district to any position in
2 county employment and promoted or voluntarily demoted from a position in a judicial district to
3 any position in county employment in substantially the same manner as transfers, demotions and
4 promotions are authorized generally in county departments or between departments of the county.

5 This section shall not apply to municipal courts in judicial districts in San Diego County.

6 72003. In addition to salaries, the judges of the municipal court shall be allowed traveling
7 expenses of twenty and one-half cents (\$0.205) for each mile actually traveled when the business
8 of the court requires their attendance for holding regular sessions of the court at a location other
9 than that designated as their principal office. The mileage allowance shall not be computed upon
10 a greater distance than that between the principal office and such departments of the court, or that
11 between the place for regular sessions and such special or extra session of the court.

12 72004. Sections 24350 to 24356, inclusive, and Sections 29350 and 29351 apply to officers of
13 municipal courts and to the disposition of fees collected by such officers.

14 **Note: Comment Requested**

15 Government Code Section 72004 will likely be preserved, in some form. A proposed
16 recodification is shown below. The Commission solicits comments on whether the proposed
17 recodification is appropriate.

18 72006. The presiding judge of each municipal court may designate a judge of the court to be
19 available on days other than a Saturday, Sunday, or legal holiday to perform a marriage without
20 fee.

21 **Gov't Code § 72004 (added). General provisions**

22 SEC. ____ . Article 1 (commencing with Section 72004) is added to Chapter 8 of Title 8
23 of the Government Code, to read:

24 **Article 1. General Provisions**

25 **§ 72004. Fees collected**

26 72004. Sections 24350 to 24356, inclusive, and Sections 29350 and 29351 apply to
27 officers of superior courts and to the disposition of fees collected by those officers.

28 **Comment.** Section 72004 continues former Section 72004 with revisions to reflect unification
29 of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California
30 Constitution.

31 For provisions relating to restatements and continuations of existing law, see Section 2.

32 **Note: Comment Requested**

33 The Commission is reviewing whether county treasury provisions such as the ones referenced
34 in Government Code Section 72004 remain viable, given the enactment of the Trial Court
35 Funding Act, the Trial Court Employment Protection and Governance Act, and other changes to
36 the structure of the trial courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations"
37 defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).
38 These matters are also being examined by a Joint Court-County Working Group on Trial Court
39 Funding. The Commission solicits comment on the proper treatment of Section 72004.

40 **Gov't Code § 72053.5 (repealed). Expenses of attending convention, school, conference, or**
41 **meeting**

42 SEC. ____ . Section 72053.5 of the Government Code is repealed.

1 ~~72053.5. In addition to salary, a judge, commissioner, traffic referee, or clerk of the~~
2 ~~municipal court shall be allowed any registration fee or other charge necessarily incurred~~
3 ~~in connection with any convention, school, conference, or meeting at which his~~
4 ~~attendance is authorized by the board of supervisors, and he shall also be allowed his~~
5 ~~necessary traveling expenses which shall be computed at the same rate for each mile~~
6 ~~traveled that is authorized by the board of supervisors as travel expense for officers of the~~
7 ~~county.~~

8 **Comment.** Section 72053.5 is repealed to reflect:

9 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
10 California Constitution. For training of superior court personnel, see Section 68551 (judge
11 attending institute or seminar).

12 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
13 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court
14 employees), 71673 (authority of trial courts to establish terms and conditions of employment).

15 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
16 employees).

17 (4) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
18 77200 (state funding of trial court operations); Cal. R. Court 810(d), Function 10 (training fees
19 for court personnel).

20 **Gov’t Code § 72110 (amended). Consolidation of court-related services**

21 SEC. ____ . Section 72110 of the Government Code is amended to read:

22 72110. (a) Notwithstanding any other provision of law, the Board of Supervisors of
23 Riverside County may find, after holding a public hearing on the issue, that cost savings
24 can be realized by consolidation of court-related services provided by the sheriff and both
25 offices of the marshal within that county. If that finding is made, there shall be conducted
26 among all of the judges of the superior and municipal courts of that county an election to
27 determine the agency, either the sheriff or both offices of the marshal, under which court-
28 related services shall be consolidated. The outcome shall be determined by a simple
29 majority of votes cast. The registrar of voters shall administer that election and tabulate
30 the results thereof. The results of that election shall be reported within 15 days following
31 the election period by the registrar of voters to the board of supervisors and to the judges
32 of the superior and municipal courts of that county. The board of supervisors shall
33 immediately commence and, within a reasonable time not to exceed 90 days, implement
34 the determination made by a majority of the votes cast by the judges of the superior and
35 municipal courts of the county in that election. If an election is not conducted within 90
36 days of notification of the board of supervisors’ finding, or if the results of the election
37 are evenly divided, the board of supervisors of that county shall determine under which
38 agency, either the sheriff or both offices of the marshal, court-related services shall be
39 consolidated, and shall proceed to implement that consolidation as if on the basis of a
40 majority of the votes cast by the judges of the superior and municipal courts of that
41 county.

42 (b) Notwithstanding any other provision of law, the marshals and all personnel of the
43 marshals’ offices or personnel of the sheriff’s office affected by a consolidation of court-
44 related services under this section or ~~Section 26668~~ shall become employees of that
45 consolidated office at their existing or equivalent classifications, salaries, and benefits,
46 and except as may be necessary for the operation of the agency under which court-related
47 services are consolidated, shall not be involuntarily transferred during a period of six
48 years following the consolidation out of that consolidated court-related services office.
49 The elective offices of marshal for the County of Riverside shall be abolished upon a

1 determination pursuant to the procedures required by this section or ~~Section 26668~~ that
2 consolidated court-related services shall be provided by the sheriff.

3 (c) Permanent employees of the marshals' offices or sheriff's office on the effective
4 date of a consolidation under this section or ~~Section 26668~~ shall be deemed qualified, and
5 no other qualifications shall be required for employment or retention. Probationary
6 employees of the sheriff's office or the marshals' offices on the effective date of a
7 consolidation under this section or ~~Section 26668~~ shall retain their probationary status
8 and rights, and shall not be deemed to have transferred so as to require serving a new
9 probationary period. Transferring personnel may be required to take a promotional
10 examination to promote to a higher classification but shall not be required to retest for his
11 or her existing classification as a prerequisite to testing for a higher classification. A
12 transferring deputy marshal requesting a transfer to another division in the sheriff's office
13 shall not be required to take a written test as a prerequisite to making a lateral transfer.

14 (d) All county service or service by employees of the sheriff's office or the marshals'
15 offices on the effective date of a consolidation under this section or ~~Section 26668~~ shall
16 be counted toward seniority in that court-related services office, and all time spent in the
17 same, equivalent, or higher classification shall be counted toward classification seniority.

18 (e) No employee of the sheriff's office or the marshals' offices on the effective date of
19 a consolidation under this section or ~~Section 26668~~ shall lose peace officer status, or be
20 demoted or otherwise adversely affected by a consolidation of court services.

21 (f) This section shall remain in effect only until January 1, 2018, and as of that date is
22 repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or
23 extends that date. The repeal of this section does not affect any right or benefit to which a
24 person was entitled on the date of repeal.

25 **Comment.** Section 72110 is amended to delete references to former Section 26668.

26 The section is also amended to provide for its automatic repeal in fifteen years.

27 **Note: Comment Requested**

28 The Commission requests input as to whether Government Code Section 72110 continues to
29 serve a useful purpose and, if so, whether further revisions are needed to reflect current practice.

30 **Gov't Code § 72111 (repealed). Expenses**

31 SEC. ____ . Section 72111 of the Government Code is repealed.

32 ~~72111. In addition to their salaries, the marshals, assistants, and deputies of municipal~~
33 ~~courts, except custodians, shall be allowed their actual and necessary incidental expenses~~
34 ~~incurred in the actual performance of their duties, including traveling expenses. At the~~
35 ~~option of the board of supervisors, they may be furnished with automobiles at public~~
36 ~~expense or allowed traveling expenses at the rate a mile fixed by the board of supervisors~~
37 ~~for the operation of automobiles actually used in performance of their duty on public~~
38 ~~business or paid for such other method of transportation as they may adopt.~~

39 **Comment.** Section 72111 is repealed to reflect:

40 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
41 California Constitution.

42 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
43 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court
44 employees), 71673 (authority of trial courts to establish terms and conditions of employment).
45 For county employees, this section is superseded by county ordinances or memoranda of
46 understanding.

47 (3) Enactment of the Trial Court Funding Act. See Section 77001 (local trial court
48 management).

Note: Comment Requested

Government Code Section 72111 appears to be obsolete since enactment of the Trial Court Employment Protection and Governance Act and the Trial Court Funding Act. In those counties where the marshals and deputies are county employees, county ordinances or memoranda of understanding would appear to govern the terms and conditions of employment. Therefore, the Commission requests input as to whether Section 72111 continues to serve a useful purpose.

Gov't Code § 72113 (repealed). Parity with county employees

SEC. ____ . Section 72113 of the Government Code is repealed.

~~72113. Wherever parity of salaries and employee benefits have been established between marshals attaches and county employees by the provisions of this code and a county adopts an educational incentive program by virtue of which employees of the department of sheriff receive additional compensation or remuneration dependent upon the class of certificate acquired from the Commission on Peace Officer Standards and Training, a specialized certificate issued to a peace officer member of a marshal's department shall be deemed to be the equivalent of a Commission on Peace Officer Standards and Training certificate issued to peace officer members of a sheriff's department or a police department of a city.~~

~~For the purposes of this section the term "law enforcement experience," as used in the regulations and specifications adopted by the Commission on Peace Officer Standards and Training, shall be deemed to include service in a peace officer classification of a marshals department.~~

~~Whenever the requirements of the Commission on Peace Officer Standards and Training for a basic, intermediate, or advanced certificate have been fully met and this fact is certified to the county auditor by a school certified by the Commission on Peace Officer Standards and Training and the marshal, and a certificate is issued, the employee shall be entitled to any additional compensation as described above as though he held such a certificate.~~

Comment. Section 72113 is repealed as obsolete because there are no longer any statutes requiring parity of salaries and employee benefits between marshals, attachés and county employees.

Gov't Code § 72114.1 (repealed). Effect of consolidation on marshal's office personnel

SEC. ____ . Section 72114.1 of the Government Code is repealed.

~~72114.1. (a) The marshal and all personnel of a marshal's office affected by a consolidation of court-related services under Section 72114 shall become members of such consolidated office at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of such consolidated court-related services office.~~

~~(b) Permanent employees of a marshal's office on the effective date of a consolidation under Section 72114 shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of a marshal's office on the effective date of a consolidation under Section 72114 shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.~~

~~(c) All county service or service in a marshal's office of employees of a marshal's office on the effective date of a consolidation under Section 72114 shall be counted~~

1 ~~toward seniority in such court-related services office, and all time spent in the same,~~
2 ~~equivalent or higher classification shall be counted toward classification seniority.~~

3 ~~(d) No employee of a marshal's office on the effective date of a consolidation under~~
4 ~~Section 72114 shall lose peace officer status, or be demoted or otherwise adversely~~
5 ~~affected by a consolidation of court services under this section.~~

6 **Comment.** Section 72114.1 is repealed as obsolete. Section 72114 has been repealed and is
7 superseded by Section 72114.2.

8 **Gov't Code § 72114.2 (amended). Consolidation of court-related services**

9 SEC. ____ . Section 72114.2 of the Government Code is amended to read:

10 72114.2. (a) Notwithstanding any other provision of law, on or after January 1, 2000,
11 the San Diego County Marshal's Office shall be abolished, and there shall be a bureau in
12 the San Diego County Sheriff's Department under which court security services and the
13 service of civil and criminal process are consolidated.

14 This bureau's primary function shall be to provide the management with direction,
15 supervision, and personnel for court-related services that include court security, the
16 service of civil and criminal process, public safety protection, judicial protection,
17 standards of performance, and other matters incidental to the performance of those
18 services.

19 The sheriff shall be appointing authority for all bureau personnel. The person selected
20 by the sheriff to oversee the operation of court-related services, as described in this
21 section, shall report directly to the sheriff.

22 Notwithstanding Section 77212, the operational service level for court security services
23 shall be in accordance with agreements between the court and the County of San Diego,
24 which shall not provide a lesser operational service level than may be required by statute.

25 The operational service level for the service of civil and criminal process and for
26 administrative services shall be in accordance with agreements between the court and the
27 County of San Diego, which shall not provide a lesser operational service level than may
28 be required by statute.

29 To ensure that the costs assessed to the court for bureau services are in full
30 conformance with the rules of court and statutes concerning trial court funding, the
31 bureau shall be maintained as a separate organizational unit for budgeting and cost
32 accounting purposes.

33 On a semiannual basis or more often as required by law, the sheriff shall provide the
34 court with an accounting of costs for the bureau, in sufficient detail to allow for an
35 assessment of budget performance, separately, for each function of the bureau. The
36 county auditor and controller shall provide to the court copies of each audit report
37 conducted on the bureau. The court is authorized to conduct, and the sheriff shall
38 cooperate in, independent financial audits of the bureau, either by court staff or by
39 independent auditors.

40 (b) Notwithstanding any other provision of law, concomitant with the abolition of the
41 marshal's office all personnel of the marshal's office shall become employees of the
42 sheriff's department at their existing or equivalent classification, salaries, and benefits.

43 The marshal and the assistant marshal, or their equivalents, may become employees of
44 the sheriff's department.

45 (c) Permanent employees of the marshal's office on the effective date of transfer of
46 services from the marshal to the sheriff pursuant to this section shall be deemed to be
47 qualified, and no other qualifications shall be required for employment or retention.
48 Promotions for all personnel from the marshal's office shall be made pursuant to

1 standards set by the sheriff. Probationary employees in the marshal's office on the
2 effective date of the abolition shall not be required to serve a new probationary period.
3 All probationary time served as an employee of the marshal shall be credited toward
4 probationary time required as an employee of the sheriff's department.

5 (d) All county service and all service with the marshal's office by employees of the
6 marshal's office on the effective date of the abolition of the marshal's office shall be
7 counted toward seniority in the sheriff's department. All time spent in the same,
8 equivalent, or higher classification shall be counted toward classification seniority.

9 (e) As a result of the abolition of the marshal's office, no employee of the marshal's
10 office who becomes an employee of the sheriff's department pursuant to this section shall
11 lose peace officer status or be reduced in rank or salary.

12 (f) Prior to the abolition of the marshal's office, the court and the County of San Diego
13 shall enter into a contractual agreement regarding the provision of court security services
14 to be provided by the sheriff. Thereafter, from time to time, the court and the County of
15 San Diego may enter into agreements regarding the provision of court security services to
16 be provided by the sheriff.

17 (g) After abolition of the marshal's office, a two-member committee comprised of a
18 representative of the presiding judge of the superior court and a representative of the
19 sheriff shall make recommendations to the sheriff regarding courtroom assignments of
20 bailiffs. Bailiff assignments and the release from those assignments shall be made only
21 after consultation with, and concurrence of, the affected judge or judicial officer. The
22 presiding judge may provide the concurrence required by this section. This subdivision
23 shall not apply to actions instituted by the sheriff for fitness for duty reasons or discipline
24 that is subject to review by the San Diego County Civil Service Commission.

25 (h) For a period of five years following the abolition of the marshal's office, personnel
26 of the marshal's office who become employees of the sheriff's department shall not be
27 transferred from the bureau in the sheriff's department under which court-related services
28 and the service of civil and criminal process are consolidated, unless the transfer is
29 voluntary or is the result of fitness for duty reasons or discipline that is subject to review
30 by the San Diego County Civil Service Commission.

31 (i) Personnel of the marshal's office who become employees of the sheriff's department
32 shall be entitled to request an assignment to another bureau or division within the
33 sheriff's department, and that request shall be reviewed the same as any other request
34 from within the department.

35 (j) This section shall become operative in the County of San Diego when the board of
36 supervisors adopts a resolution declaring this section operative. The implementation of
37 this section shall be subject to approval and adoption by the board of supervisors of
38 necessary actions, appropriations, and ordinances consistent with the charter of the
39 County of San Diego and other statutory authority.

40 (k) This section shall remain in effect only until January 1, 2005, and as of that date is
41 repealed unless a later enacted statute, which is enacted before January 1, 2005, deletes or
42 extends that date. The repeal of this section does not affect any right or benefit to which a
43 person was entitled on the date of repeal.

44 **Comment.** Subdivision (k) of Section 72114.2 is added to provide for the automatic repeal of
45 this section on January 1, 2005.

46 **Note: Comment Requested**

47 The Commission requests input as to whether Government Code Section 72114.2 continues to
48 serve a useful purpose and, if so, whether further revisions are needed to reflect current practice.

1 **Gov't Code § 72115 (amended). Consolidation of court-related services**

2 SEC. ____ . Section 72115 of the Government Code is amended to read:

3 72115. (a) ~~Notwithstanding any other provision of law, the Board of Supervisors of San~~
4 ~~Bernardino County may, no later than 30 days after the effective date of this section,~~
5 ~~commence public hearings regarding the abolition of the marshal's office and the~~
6 ~~transferring of court-related services provided by the marshal within the county to the~~
7 ~~sheriff's department. Within 30 days of the commencement of public hearings as~~
8 ~~authorized by this section, the board shall make a final determination as to the most cost-~~
9 ~~effective and most efficient manner of providing court-related services.~~

10 (b) ~~Concurrently, an election may be conducted among all of the judges of the~~
11 ~~Consolidated Courts of San Bernardino County to provide an advisory recommendation~~
12 ~~to the board of supervisors on the abolition of the marshal's office and the transferring of~~
13 ~~court-related services provided by the marshal within the county to the sheriff's~~
14 ~~department. The outcome shall be determined by a simple majority of votes cast. The~~
15 ~~vote of the judges shall then be forwarded to the board of supervisors prior to the close of~~
16 ~~the public hearing, and the board of supervisors shall take into advisement the~~
17 ~~recommendation of the judges provided by the election report.~~

18 (c) ~~If the board determines to abolish the marshal's office and transfer the duties of the~~
19 ~~marshal to the sheriff's office, the abolishment of the office and the transfer of those~~
20 ~~duties shall be completed within 30 days of that determination. This section applies to the~~
21 ~~abolition of the marshal's office and the transfer of court-related services provided by the~~
22 ~~marshal within the county to the sheriff's department.~~

23 (d) (b) ~~The courtroom assignment of bailiffs after abolition of the marshal's office and~~
24 ~~the consolidation pursuant to this section shall be determined by a two-member~~
25 ~~committee comprised of the presiding judge of the consolidated superior court and the~~
26 ~~sheriff, or their designees. Any new bailiff assignments shall be made only after~~
27 ~~consultation with the affected judge or commissioner in whose courtroom a new~~
28 ~~assignment is planned.~~

29 It is the intent of the Legislature, in enacting this subdivision, to ensure that courtroom
30 assignments are made in a manner which best assures that the interests of the affected
31 judge or commissioner and bailiff are protected.

32 (e) (c) ~~Notwithstanding any other provision of law, the marshal and all personnel of the~~
33 ~~marshal's office affected by the abolition of the marshal's office in San Bernardino~~
34 ~~County shall become employees of the sheriff's department at their existing or equivalent~~
35 ~~classification, salaries, and benefits, and, except as may be necessary for the operation of~~
36 ~~the agency under which court-related services and the service of civil and criminal~~
37 ~~process are consolidated, they shall not be involuntarily transferred out of the~~
38 ~~consolidated office for a period of five years following the consolidation.~~

39 (f) (d) ~~Personnel of the abolished marshal's office shall be entitled to request an~~
40 ~~assignment to another division within the sheriff's department, and that request shall be~~
41 ~~reviewed in the same manner as any other request from within the department. Persons~~
42 ~~who accept a voluntary transfer from the court services/civil division shall waive their~~
43 ~~rights pursuant to subdivision (e).~~

44 (g) (e) ~~Permanent employees of the marshal's office on the effective date of the~~
45 ~~abolition of the marshal's office pursuant to this section shall be deemed to be qualified,~~
46 ~~and no other qualifications shall be required for employment or retention. Probationary~~
47 ~~employees of the marshal's office on the effective date of a consolidation pursuant to this~~
48 ~~section shall retain their probationary status and rights, and shall not be deemed to have~~
49 ~~transferred so as to require serving a new probationary period.~~

1 (h) (f) All county service or service by employees of the marshal's office on the
2 effective date of a consolidation pursuant to this section shall be counted toward seniority
3 in the consolidated office, and all time spent in the same, equivalent, or higher
4 classification shall be counted toward classification seniority.

5 (i) (g) No employee of the marshal's office on the effective date of a consolidation
6 pursuant to this section shall lose peace officer status, or otherwise be adversely affected
7 as a result of the abolition and merger of personnel into the sheriff's department.

8 (h) This section shall remain in effect only until January 1, 2018, and as of that date is
9 repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or
10 extends that date. The repeal of this section does not affect any right or benefit to which a
11 person was entitled on the date of repeal.

12 **Comment.** Former subdivisions (a)-(c) are deleted and new subdivision (a) is added to Section
13 72115 to reflect consolidation of court-related services in San Bernardino County within the
14 sheriff's office, effective October 9, 1999.

15 Subdivision (b) is amended to reflect unification of the municipal and superior courts in San
16 Bernardino County pursuant to Article VI, Section 5(e), of the California Constitution, effective
17 August 10, 1998.

18 Subdivision (h) is added to provide for the automatic repeal of this section in fifteen years.

19 **Gov't Code § 72116 (amended). Consolidation of court-related services**

20 SEC. ____ . Section 72116 of the Government Code is amended to read:

21 ~~72116. (a) Notwithstanding any other provision of law, the board of supervisors of~~
22 ~~Shasta County may find, after holding a public hearing on the issue, that cost savings or~~
23 ~~efficiencies can be realized by consolidation of court-related services provided by the~~
24 ~~marshal and sheriff within that county. If this finding is made, an election shall be~~
25 ~~conducted among all of the judges of the superior and municipal courts of the county to~~
26 ~~determine the agency, either the marshal or the sheriff, under which court-related services~~
27 ~~shall be consolidated. The outcome shall be determined by a simple majority of votes cast~~
28 ~~by secret ballot, provided, that the total number of votes cast exceeds 50 percent of the~~
29 ~~number of superior and municipal court judges in the county, by at least one vote. The~~
30 ~~executive officer of the courts shall administer the election and tabulate the results. The~~
31 ~~presiding judges of the superior and municipal courts shall inform the board of~~
32 ~~supervisors of the results of the election within 15 days of the election. The board of~~
33 ~~supervisors shall immediately commence and, within a reasonable time not to exceed 90~~
34 ~~days, implement the determination made by a majority of the judges of the superior and~~
35 ~~municipal courts in the election. If an election is not conducted within 90 days of~~
36 ~~notification of the board of supervisors' finding, or if the results of the election are evenly~~
37 ~~divided, the board of supervisors shall determine under which agency, either the marshal~~
38 ~~or the sheriff, court-related services shall be consolidated, and shall proceed to implement~~
39 ~~consolidation as if on the basis of a majority vote of the judges of the superior and~~
40 ~~municipal courts. This section applies to the consolidation of court-related services within~~
41 ~~the marshal's office in Shasta County.~~

42 (b) Except as provided in subdivision (f), all personnel of the marshal's office or
43 personnel of the sheriff's office affected by a consolidation of court-related services
44 under this section or Section 26670 shall become employees of that consolidated office at
45 their existing or equivalent classifications, salaries, and benefits, and except as may be
46 necessary for the operation of the agency under which court-related services are
47 consolidated, shall not be involuntarily transferred out of the consolidated court-related
48 services office for a period of four years following the consolidation.

1 (c) Permanent employees of the marshal's office or sheriff's office on the effective date
2 of consolidation under this section ~~or Section 26670~~ shall be deemed qualified, and no
3 other qualifications shall be required for employment or retention. Probationary
4 employees of the marshal's office or the sheriff's office on the effective date of a
5 consolidation under this section ~~or Section 26670~~ shall retain their probationary status
6 and rights, and shall not be deemed to have transferred so as to require serving a new
7 probationary period.

8 (d) All county service or service by employees of the marshal's office or the sheriff's
9 office on the effective date of a consolidation under this section ~~or Section 26670~~ shall be
10 counted toward seniority in that court-related services office, and all time spent in the
11 same, equivalent, or higher classification shall be counted toward classification seniority.

12 (e) No employee of the marshal's office or the sheriff's office on the effective date of a
13 consolidation under this section ~~or Section 26670~~ shall lose peace officer status, or be
14 demoted or otherwise adversely affected by a consolidation of court-related services.

15 (f) ~~In the event that court-related services are consolidated under the marshal's office,~~
16 ~~all All sheriff's bailiffs affected by the consolidation shall be given the option of~~
17 ~~becoming employees of the marshal's office or of remaining with the sheriff's office. If a~~
18 ~~staffing shortage is created by the exercise of this option by these bailiffs, the marshal~~
19 ~~may accept qualified applicants from the sheriff's office under the provisions of~~
20 ~~subdivisions (b), (c), (d), and (e).~~

21 **Comment.** Section 72116 is amended to reflect consolidation of court-related services in
22 Shasta County within the marshal's office, effective July 1, 1993.

23 The section is also amended to delete references to former Section 26670.

24 **Gov't Code § 72150 (repealed). Additional deputies**

25 SEC. ____ . Section 72150 of the Government Code is repealed.

26 ~~72150. If an increase in business of any municipal court or other emergency requires a~~
27 ~~greater number of employees for the prompt and faithful discharge of the business of the~~
28 ~~court than the number expressly provided by law, or requires the performance of duties of~~
29 ~~positions in the lowest salary bracket where all such positions have been filled, with the~~
30 ~~approval of the judge or judges, the clerk or the marshal of the court, or both, may~~
31 ~~appoint as many additional deputies as will enable them to promptly and faithfully~~
32 ~~discharge the duties of their respective offices.~~

33 **Comment.** Section 72150 is repealed to reflect:

34 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
35 California Constitution.

36 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
37 71601(l) ("trial court employee" defined), 71615(c)(5) (trial court as employer of all trial court
38 employees), 71620(a) (job classifications and appointments).

39 **Gov't Code § 72151 (repealed). Selection and compensation of additional deputies**

40 SEC. ____ . Section 72151 of the Government Code is repealed.

41 ~~72151. The additional deputies shall be selected in the same manner as those for whom~~
42 ~~express provision is made, and they shall receive compensation from the same source and~~
43 ~~in the same amount as the salary provided by law for the position of deputy clerk or~~
44 ~~deputy marshal of such court, respectively, but may hold office by virtue of such~~
45 ~~appointment not longer than 90 days after the adjournment of the next regular session of~~
46 ~~the Legislature. Where the provisions of law applicable to the particular municipal court~~
47 ~~provide for increments of salary after a specified period of service, additional deputies~~

1 employed pursuant to Section 72150 and this section shall receive credit toward such
2 increments for service performed pursuant to these sections. No deputy so temporarily
3 appointed shall be eligible for reappointment pursuant to this article, unless the increase
4 in business of the court or other emergency for which the appointment has been made is
5 deemed by the judge or judges to still exist, in either of which case such deputy or
6 deputies may receive one reappointment, to be made as in the case of an original
7 appointment.

8 **Comment.** Section 72151 is repealed to reflect:

9 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
10 California Constitution.

11 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
12 71601(l) (“trial court employee” defined), 71615(c)(5) (trial court as employer of all trial court
13 employees), 71620(a) (job classifications and appointments), 71623 (salaries), 71640-71645
14 (employment selection and advancement).

15 **Gov’t Code § 72190 (amended). Court commissioners**

16 SEC. ____ . Section 72190 of the Government Code is amended to read:

17 72190. Within the jurisdiction of the court and under the direction of the judges,
18 commissioners of municipal courts shall exercise all the powers and perform all of the
19 duties authorized by law to be performed by commissioners of superior courts and such
20 additional powers and duties as may be prescribed by law. At the direction of the judges,
21 commissioners may have the same jurisdiction and exercise the same powers and duties
22 as the judges of the court with respect to any infraction or small claims action. The
23 commissioners of municipal courts shall possess the same qualifications the law requires
24 of a judge and shall hold office during the pleasure of the court appointing them and shall
25 not engage in the private practice of law. They shall be ex officio deputy clerks.

26 Notwithstanding any other provision of law, a commissioner of a municipal court or a
27 justice court of any judicial district in this state who has been duly appointed and has
28 thereafter been retired for service, or a commissioner of a superior court in this state A
29 commissioner who has been duly appointed and has thereafter been retired from service,
30 may be assigned by the presiding judge or sole judge of a municipal court to serve as a
31 court commissioner of the court for any periods of time as he or she is needed for the
32 prompt and efficient discharge of the business of that court. While serving, he or she shall
33 be paid the full compensation of a court commissioner, payable as follows: he or she shall
34 continue to receive his or her retirement allowance, and in addition the county court shall
35 pay him or her the amount equal to the difference between the retirement allowance and
36 full compensation. That employment shall not operate to reinstate him or her as a member
37 of the county retirement system or to terminate or suspend his or her retirement rights or
38 allowance, and no deductions shall be made from his or her compensation as
39 contributions to the retirement system.

40 **Comment.** Section 72190 is amended to reflect unification of the municipal and superior courts
41 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 70214
42 (commissioners and referees).

43 The section is also amended to reflect enactment of the Trial Court Employment Protection and
44 Governance Act. See Section 71622 (subordinate judicial officers).

45 The section is also amended to reflect enactment of the Trial Court Funding Act. See Section
46 77200 (state funding of trial court operations). Cf. Section 77003(a)(1) (Judicial Council approval
47 required for commissioner positions created after July 1, 1997).

48 The section is also amended to delete language referring to the sole judge. Every superior court
49 has at least two judgeships as a result of trial court unification. See Section 69580 *et seq.* (number

1 of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the
2 “presiding judge” means the sole judge of the court. See Section 69508.5 (presiding judge).

3 **Gov’t Code § 72190.1 (amended). Arraignments**

4 SEC. ____ . Section 72190.1 of the Government Code is amended to read:

5 72190.1. A commissioner of a municipal court may conduct arraignment proceedings
6 in the court on a complaint if directed to perform those duties by the presiding or sole
7 judge of the court, including the issuance and signing of bench warrants.

8 **Comment.** Section 72190.1 is amended to reflect unification of the municipal and superior
9 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Sections 70211
10 (effect of unification on judgeships), 70214 (commissioners and referees).

11 The section is also amended to delete language referring to the sole judge. Every superior court
12 has at least two judgeships as a result of trial court unification. See Section 69580 *et seq.* (number
13 of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the
14 “presiding judge” means the sole judge of the court. See Section 69508.5 (presiding judge).

15 **Gov’t Code § 72190.2 (amended). Bench warrants**

16 SEC. ____ . Section 72190.2 of the Government Code is amended to read:

17 72190.2. If directed to perform such duties by the presiding judge or sole judge of the
18 court, a commissioner of the municipal court may issue and sign a bench warrant for the
19 arrest of a defendant who fails to appear in court when required to appear by law or who
20 fails to perform any act required by court order.

21 **Comment.** Section 72190.2 is amended to reflect unification of the municipal and superior
22 courts pursuant to Article VI, Section 5(e), of the California Constitution. See Sections 70211
23 (effect of unification on judgeships), 70214 (commissioners and referees).

24 The section is also amended to delete language referring to the sole judge. Every superior court
25 has at least two judgeships as a result of trial court unification. See Section 69580 *et seq.* (number
26 of judges). Where a court has only one judge due to a vacancy or otherwise, the reference to the
27 “presiding judge” means the sole judge of the court. See Section 69508.5 (presiding judge).

28 **Gov’t Code § 72190.5 (repealed). Authorization of unauthorized positions**

29 SEC. ____ . Section 72190.5 of the Government Code is repealed.

30 ~~72190.5. All trial court commissioner and referee positions in the municipal courts that
31 were funded and filled as of January 1, 1999, and that are not authorized under any other
32 section of the Government Code are hereby authorized under this section. This section is
33 not intended to replace, modify, or otherwise alter the terms, conditions, or qualifications
34 of any existing section pertaining to the appointment of trial court commissioners and
35 referees.~~

36 **Comment.** Section 72190.5 is repealed to reflect unification of the municipal and superior
37 courts pursuant to Article VI, Section 5(e), of the California Constitution.

38 The section is also repealed to reflect enactment of the Trial Court Employment Protection and
39 Governance Act. See Section 71622 (subordinate judicial officers).

40 **Gov’t Code § 72191 (repealed). Powers of municipal court jury commissioner**

41 SEC. ____ . Section 72191 of the Government Code is repealed.

42 ~~72191. The jury commissioner of a municipal court shall exercise all the powers of the
43 jury commissioner of a superior court insofar as they are applicable to municipal courts,
44 and in addition without extra compensation may be appointed and serve as a general
45 commissioner of the court if he possesses the qualifications prescribed therefor.~~

1 **Comment.** Section 72191 is repealed to reflect:

2 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
3 California Constitution. See Section 70214 (commissioners and referees) and Code Civ. Proc. §
4 195 (superior court jury commissioners).

5 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
6 71620(a) (job classifications and appointments), 71622 (subordinate judicial officers), 71624
7 (retirement plans), 71640-71645 (employment selection and advancement), 71650-71658
8 (employment protection system).

9 **Note: Comment Requested**

10 The Commission is researching several issues pertaining to jury commissioners, including
11 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
12 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
13 by that Act. The Commission solicits comments on these points.

14 **Gov't Code § 72192 (repealed). Appointment of commissioner or jury commissioner**

15 SEC. ____ . Section 72192 of the Government Code is repealed.

16 ~~72192. Whenever the appointment of a commissioner or jury commissioner is~~
17 ~~authorized by law, he shall be appointed by and hold office at the pleasure of a majority~~
18 ~~of the judges or the judge senior in service when there is an equal division of the judges.~~
19 ~~He shall be a member of any retirement system which includes municipal court attaches.~~

20 **Comment.** Section 72192 is repealed to reflect:

21 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
22 California Constitution. See Section 70214 (commissioners and referees) and Code Civ. Proc. §
23 195 (superior court jury commissioners).

24 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
25 71620(a) (job classifications and appointments), 71622 (subordinate judicial officers), 71624
26 (retirement plans), 71640-71645 (employment selection and advancement), 71650-71658
27 (employment protection system).

28 **Note: Comment Requested**

29 The Commission is researching several issues pertaining to jury commissioners, including
30 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
31 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
32 by that Act. The Commission solicits comments on these points.

33 **Gov't Code § 72194 (repealed). Municipal court reporters**

34 SEC. ____ . Section 72194 of the Government Code is repealed.

35 ~~72194. By order entered upon the minutes of the court, a majority of the judges of the~~
36 ~~municipal court may appoint as many competent phonographic reporters as the business~~
37 ~~of the court requires, to be known as official reporters of such court. The official reporters~~
38 ~~shall hold office during the pleasure of the judges of such court.~~

39 **Comment.** Section 72194 is repealed to reflect unification of the municipal and superior courts
40 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 69941
41 (appointment of official reporters).

42 **Gov't Code § 72194.5 (amended). Use of electronic equipment**


43 SEC. ____ . Section 72194.5 of the Government Code is amended to read:

44 72194.5. Whenever an official court reporter or a temporary court reporter reporter or
45 an official reporter pro tempore is unavailable to report an action or proceeding in a court,

1 subject to the availability of approved equipment and equipment monitors, the court may
2 order that, in a limited civil case, or a misdemeanor or infraction case, the action or
3 proceeding be electronically recorded, including all the testimony, the objections made,
4 the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of
5 defendants in criminal cases, the arguments of the attorneys to the jury, and all statements
6 and remarks made and oral instructions given by the judge. ~~The court shall assign~~
7 ~~available reporters first to report preliminary hearings and then to other proceedings.~~ A
8 transcript derived from an electronic recording may be utilized whenever a transcript of
9 court proceedings is required. The electronic recording device and appurtenant equipment
10 shall be of a type approved by the Judicial Council for courtroom use.

11 **Comment.** Section 72194.5 is amended to reflect unification of the municipal and superior
12 courts pursuant to Article VI, Section 5(e), of the California Constitution.

13 The section is also amended for consistency of terminology. See, e.g., Section 69941
14 (appointment of official reporters).

15  **Note.** Government Section 72194.5 may be relocated among other provisions relating to
16 official reporters.

17 **Gov't Code § 72195 (repealed). Municipal court reporters**

18 SEC. ____ . Section 72195 of the Government Code is repealed.

19 ~~72195. Sections 69942 to 69955, inclusive, of this code and Section 273 of the Code of~~
20 ~~Civil Procedure are hereby made applicable to the qualifications, duties, official oath,~~
21 ~~certification of transcripts, fees, and notes of official reporters of municipal courts, except~~
22 ~~that the fee for reporting testimony and proceedings in contested cases, except for official~~
23 ~~reporters of municipal courts where a statute provides otherwise, is fifty-five dollars~~
24 ~~(\$55) a day, or any fractional part thereof.~~

25 **Comment.** Section 72195 is repealed to reflect unification of the municipal and superior courts
26 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 69941 *et seq.*
27 (official reporters generally).

28 **Gov't Code § 72196 (repealed). Assignment to municipal court**

29 SEC. ____ . Section 72196 of the Government Code is repealed.

30 ~~72196. Whenever the business of the court requires, the presiding or sole judge of the~~
31 ~~municipal court may request the services of one or more official reporters of the superior~~
32 ~~court within the same county to act as pro tempore phonographic reporter of the~~
33 ~~municipal court in criminal cases. Any such request shall be addressed to the presiding~~
34 ~~judge of the superior court. Such request shall be granted or denied in the manner and~~
35 ~~subject to the provisions set forth in Article 9 (commencing with Section 69941) of~~
36 ~~Chapter 5 of Title 8 of this code.~~

37 **Comment.** Section 72196 is repealed to reflect unification of the municipal and superior courts
38 pursuant to Article VI, Section 5(e), of the California Constitution.

39 **Gov't Code § 72197 (repealed). Duties on assignment to municipal court**

40 SEC. ____ . Section 72197 of the Government Code is repealed.

41 ~~72197. Whenever such request has been granted and any official reporter of the~~
42 ~~superior court has been assigned to act as a pro tempore phonographic reporter of the~~
43 ~~municipal court, such reporter shall, during the period of such assignment to the~~
44 ~~municipal court, perform the duties of an official reporter of such municipal court and~~
45 ~~during the time of any such assignment such reporter shall be subject to the provisions of~~

1 Sections 69942 to 69955, inclusive, and Sections 273 and 274c of the Code of Civil
2 Procedure.

3 **Comment.** Section 72197 is repealed to reflect unification of the municipal and superior courts
4 pursuant to Article VI, Section 5(e), of the California Constitution.

5 **Gov't Code § 72198 (repealed). Compensation on assignment to municipal court**

6 SEC. ____ . Section 72198 of the Government Code is repealed.

7 ~~72198. In any county in which the official reporter of the superior court receives an
8 annual salary fixed by law no additional compensation shall be paid to such reporter for
9 any service rendered by the reporter while assigned to the municipal court; provided,
10 however, that any official reporter of the superior court assigned to a municipal court
11 situated at a place other than the situs of the superior court in which said reporter
12 regularly serves shall receive mileage from said superior court to the municipal court to
13 which the reporter has been assigned, and return, for each day, or fraction thereof, during
14 which said superior court reporter serves in the municipal court; the rate for mileage so
15 allowed shall be that fixed and paid to county employees generally.~~

16 **Comment.** Section 72198 is repealed to reflect unification of the municipal and superior courts
17 pursuant to Article VI, Section 5(e), of the California Constitution.

18 **Gov't Code § 72199 (repealed). Daily transcript requiring more than one reporter**

19 SEC. ____ . Section 72199 of the Government Code is repealed.

20 ~~72199. Notwithstanding any other provision of law, whenever a daily transcript is
21 ordered in a civil case requiring the services of more than one phonographic reporter, the
22 party requesting the daily transcript, in addition to any other required fee, shall pay a fee
23 per day, or portion thereof, equal to the per diem rate for pro tempore reporters
24 established by statute, local rule, or ordinance for the services of each additional reporter
25 for the first day and each subsequent day the additional reporters are required.~~

26 **Comment.** Section 72199 is repealed to reflect unification of the municipal and superior courts
27 pursuant to Article VI, Section 5(e), of the California Constitution. See Section 69953.5 (daily
28 transcript requiring more than one reporter).

29 **Gov't Code §§ 72230-72232 (repealed). Witness and juror fees**

30 SEC. ____. Article 6 (commencing with Section 72230) of Chapter 8 of Title 8 of the
31 Government Code is repealed.

32 **Comment.** Sections 72230-72232 are repealed to reflect unification of the municipal and
33 superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For witness
34 and juror fees in superior court, see Sections 29603 (payments to jurors and witnesses), 68093
35 (witness fees), 68098 (witness fees in criminal cases).

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

37 **Article 6. Witnesses' and Jurors' Fees**

38 72230. Except as otherwise provided by law, witnesses in municipal courts shall be paid the
39 fees provided to be paid to witnesses in the superior court in the county or city and county in
40 which the municipal court is situated.

41 72232. Witnesses and jurors in criminal cases shall be paid by the county in the manner
42 provided for the payment of such fees in the county or city and county in which any such
43 municipal court is situated.

1 **Gov't Code §§ 72270-72274 (repealed). Departments**

2 SEC. ___. Article 7 (commencing with Section 72270) of Chapter 8 of Title 8 of the
3 Government Code is repealed.

4 **Comment.** Sections 72270-72274 are repealed to reflect unification of the municipal and
5 superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For provisions
6 governing the selection and duties of the presiding judge in superior court, see Sections 69508,
7 69508.5.

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

9 **Article 7. Departments**

10 72270. The municipal court shall be divided into as many departments as there are judges of the
11 court.

12 72271. Annually the judges shall choose from their number a presiding judge. The presiding
13 judge may be removed at any time and another chosen in his place by a majority vote of the
14 judges of the court.

15 72271.5. In courts with two judges a presiding judge shall be selected by the judges each
16 calendar year and the selection should be on the basis of administrative qualifications and interest.
17 If a selection cannot be agreed upon, then the office of presiding judge shall be rotated each
18 calendar year between the two judges, commencing with the senior judge. If the judges are of
19 equal seniority, the first presiding judge shall be selected by lot.

20 72272. The presiding judge shall assign the judges to their respective departments. Any judge
21 may preside in any department in case of the absence or inability to act of the judge of such
22 department.

23 72273. In the absence or inability to act of the presiding judge, the remaining judges may select
24 one of their number to act as presiding judge during such absence or inability. His official acts
25 during such time shall have the same effect as though done by the presiding judge.

26 72274. Subject to the regulations of the Judicial Council, the presiding judge shall apportion the
27 business of the court among the several departments and transfer cases from one department to
28 another if necessary or convenient to facilitate the dispatch of the business of the court.

29 **Gov't Code § 72301 (amended). Bail**

30 SEC. ___. Section 72301 of the Government Code is amended to read:

31 72301. The clerk of the ~~municipal court or superior court in a county in which there is~~
32 ~~no municipal court~~ or one or more deputy clerks, the sheriff or one or more deputy
33 sheriffs, or one or more city police officers shall be in attendance at all hours of the day
34 and night, including Sundays and holidays, and may fix and accept bail pursuant to
35 procedures established by the court for the appearance before the court of any defendant
36 charged in the court with an offense of which the court has jurisdiction or whenever a
37 defendant has been arrested and booked within the territorial limits of said judicial district
38 county for having committed a misdemeanor. The amount of bail shall be pursuant to a
39 schedule of bail in such cases previously fixed and approved by the judges of the court at
40 their annual meeting. If a warrant has been issued for the arrest of the defendant, the bail
41 shall be in the amount fixed in the warrant. The bail shall be cash, negotiable United
42 States Treasury bonds, or a surety bond executed by a certified, admitted surety insurer as
43 provided in the Insurance Code.

1 **Comment.** Section 72301 is amended to reflect unification of the municipal and superior courts
2 pursuant to Article VI, Section 5(e), of the California Constitution. See Code Civ. Proc. § 38
3 (judicial districts).


4 **Gov't Code § 72400 (repealed). Traffic referees**

5 SEC. ____ . Section 72400 of the Government Code is repealed.

6 ~~72400. The judges of a municipal court having three or more judges may appoint one~~
7 ~~traffic referee, who shall hold office at the pleasure of the judges. The judges of a~~
8 ~~municipal court having more than 20 judges and located in a county containing a~~
9 ~~population, as determined by the 1970 federal decennial census, of 1,300,000 and under~~
10 ~~1,400,000, may appoint two traffic referees, who shall hold office at the pleasure of the~~
11 ~~judges. A traffic referee shall serve his court full time or, if appointed to serve two or~~
12 ~~more courts, sufficient time with each to total full time. A person is ineligible to be a~~
13 ~~traffic referee unless he is a member of the State Bar of California or has had five years'~~
14 ~~experience as a justice court judge in this state within the eight years immediately~~
15 ~~preceding his appointment as a traffic referee.~~

16 **Comment.** Section 72400 is repealed to reflect unification of the municipal and superior courts
17 pursuant to Article VI, Section 5(e), of the California Constitution.

18 The section is also repealed to reflect enactment of the Trial Court Employment Protection and
19 Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications),
20 71622 (subordinate judicial officers).

21  **Note.** The provision of Government Section 72400 referencing a county with a population of
22 1,300,000 and under 1,400,000, as determined by the 1970 federal census, applies to San Diego
23 County.

24 **Gov't Code § 72403 (amended). Powers and duties**

25 SEC. ____ . Section 72403 of the Government Code is amended to read:

26 72403. The traffic referee shall have the power of a deputy clerk of the court, and shall
27 perform such other duties as may be assigned to him by the court, ~~and shall be a member~~
28 ~~of any retirement system which includes the attaches of the court. In addition if he~~
29 ~~possesses the qualifications prescribed by law for such office he may be appointed and~~
30 ~~serve as a commissioner of the court and receive the monthly salary provided by law for a~~
31 ~~commissioner of the court.~~

32 **Comment.** Section 72403 is amended to reflect enactment of the Trial Court Employment
33 Protection and Governance Act. See Section 71612 (existing terms of employment not affected),
34 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71629 (trial
35 court employment benefits not affected).

36 **Gov't Code § 72404 (repealed). Salary**

37 SEC. ____ . Section 72404 of the Government Code is repealed.

38 ~~72404. Unless otherwise provided by statute the traffic referee shall receive a salary~~
39 ~~equal to 50 percent of the salary of a judge of the municipal court.~~

40 **Comment.** Section 72404 is repealed to reflect unification of the municipal and superior courts
41 pursuant to Article VI, Section 5(e), of the California Constitution.

42 The section is also repealed to reflect enactment of the Trial Court Employment Protection and
43 Governance Act. See Section 71622 (subordinate judicial officers).

1 **Gov't Code § 72405 (repealed). Cross assignment of commissioner**

2 SEC. ____ . Section 72405 of the Government Code is repealed.

3 ~~72405. Any commissioner of the court having the qualifications prescribed in this~~
4 ~~article for a traffic referee or those prescribed in Section 72190 for commissioners may at~~
5 ~~the direction of the court exercise any of the powers which a traffic referee may exercise.~~

6 **Comment.** Section 72405 is repealed to reflect enactment of the Trial Court Employment
7 Protection and Governance Act. See Section 71622 (subordinate judicial officers).

8 **Gov't Code § 72406 (repealed). Grandfather clause**

9 SEC. ____ . Section 72406 of the Government Code is repealed.

10 ~~72406. Notwithstanding the provisions of Section 72400 any person who was~~
11 ~~performing duties substantially comparable to those set forth in this article on the~~
12 ~~effective date of this article and who has performed such duties for a period of at least~~
13 ~~one year prior to July 1, 1969, shall be eligible for appointment to the position of traffic~~
14 ~~referee and shall receive a salary equal to 65 percent of the salary of a judge of the~~
15 ~~municipal court.~~

16 **Comment.** Section 72406 is repealed to reflect unification of the municipal and superior courts
17 pursuant to Article VI, Section 5(e), of the California Constitution.

18 The section is also repealed to reflect enactment of the Trial Court Employment Protection and
19 Governance Act. See Section 71622 (subordinate judicial officers).

20 **Gov't Code § 72407 (unchanged). Retired annuitants**

21 72407. Notwithstanding any other provision of law, a traffic referee in any county with
22 a population of 3,000,000 or more who has been duly appointed and has thereafter been
23 retired for service, may be assigned by the presiding judge of a court to serve as a traffic
24 referee of the court for such periods as he is needed for the prompt and efficient discharge
25 of the business of that court. While so serving, he shall be paid the full compensation of a
26 traffic referee, payable as follows: He shall continue to receive his retirement allowance,
27 and in addition the county shall pay him the amount equal to the difference between such
28 retirement allowance and such full compensation. Such employment shall not operate to
29 reinstate him as a member of the county retirement system or to terminate or suspend his
30 retirement rights or allowance, and no deductions shall be made from his compensation
31 as contributions to the retirement system.

32 **Note: Comment Requested**

33 The staff is researching whether Government Code Section 72407 (and other sections relating
34 to retired annuitants) should be preserved. The Commission solicits comments on this issue and
35 whether these sections are superseded by provisions of the individual retirement plans, the Trial
36 Court Funding Act, the Trial Court Employment Protection and Governance Act, and other
37 changes to the structure of the trial courts.

38 **Gov't Code § 72408 (repealed). Santa Barbara County**

39 SEC. ____ . Section 72408 of the Government Code is repealed.

40 ~~72408. (a) Notwithstanding Section 72400, in Santa Barbara County, upon adoption of~~
41 ~~a resolution described in subdivision (b) by the board of supervisors, the judges of the~~
42 ~~municipal court may appoint a traffic referee or a hearing officer who may hear traffic~~
43 ~~matters and exercise the powers of a traffic referee. Either the traffic referee or the~~
44 ~~hearing officer shall hold office at the pleasure of the judges of the municipal court.~~

1 ~~(b) The county shall be bound by, and the resolution adopted by the board of~~
2 ~~supervisors shall specifically recognize, the following conditions:~~

3 ~~(1) The county has sufficient funds for the support of either position and any staff who~~
4 ~~will provide direct support to the position, agrees to assume any additional costs that may~~
5 ~~result therefrom, and agrees that no state funds shall be made available, or shall be used,~~
6 ~~in support of this position or any staff who provide direct support to this position.~~

7 ~~(2) Neither the traffic referee nor the hearing officer shall be deemed a judicial position~~
8 ~~for purposes of calculating trial court funding pursuant to Section 77202.~~

9 ~~(3) The salary for either position and for any staff who provide direct support to the~~
10 ~~position shall not be considered as part of court operations for purposes of Sections~~
11 ~~77003 and 77204.~~

12 ~~(4) The county agrees not to seek funding from the state for payment of the salary,~~
13 ~~benefits, or other compensation for such a referee or hearing officer or for any staff who~~
14 ~~provide direct support to the position.~~

15 **Comment.** Section 72408 is repealed to reflect enactment of the Trial Court Employment
16 Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job
17 classifications), 71622 (subordinate judicial officers).

18 **Gov't Code § 72450 (repealed). Traffic trial commissioners**

19 SEC. ____ . Article 10 (commencing with Section 72450) of Chapter 8 of Title 8 of the
20 Government Code is repealed.

21 **Comment.** Section 72450 is repealed to reflect:

22 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
23 California Constitution. See Section 70212 (transitional provisions).

24 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
25 71622 (subordinate judicial officers), 71623 (salaries).

26 (3) Enactment of the Trial Court Funding Act. See Section 77200 (state funding of trial court
27 operations).

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

29 Article 10. Traffic Trial Commissioners

30 72450. A municipal court, if the board of supervisors finds there are sufficient funds for the
31 position, may appoint a traffic trial commissioner to serve, at the pleasure of the court. The traffic
32 trial commissioner shall be selected from a list of qualified applicants openly recruited after
33 advertisement for the position in a newspaper of general circulation pursuant to Sections 6000
34 and 6061.3. A traffic trial commissioner shall serve full time but may be appointed to serve two
35 or more courts. Each traffic trial commissioner shall have the qualifications of a judge of the
36 municipal court and shall not engage in the private practice of law. A traffic trial commissioner
37 may exercise all the powers and perform all the duties authorized by law to be performed by
38 commissioners of municipal courts. Unless otherwise expressly provided by law, a traffic trial
39 commissioner shall receive the same salary provided by law for municipal court commissioners in
40 the county. In a county where there is no salary established for a municipal court commissioner, a
41 traffic trial commissioner shall receive a salary of not less than 75 percent of that paid to a judge
42 of the municipal court.

43 **Gov't Code §§ 72600-72784 (repealed). Los Angeles County municipal court districts**

44 SEC. ____ . Chapter 9 (commencing with Section 72600) of Title 8 of the Government
45 Code is repealed.

1 **Comment.** Sections 72600-72784 are repealed to reflect:

2 (1) Unification of the municipal and superior courts in Los Angeles County pursuant to Article
3 VI, Section 5(e), of the California Constitution, effective January 22, 2000. See Sections 70211
4 (former municipal court judgeships continued as superior court judgeships), 70212 (transitional
5 provisions). See also Code Civ. Proc. §§ 38 (judicial districts), 190 *et seq.* (jury selection);
6 Sections 68070 (local rules of court), 69508 (presiding judge), 69586 (number of judges in Los
7 Angeles County); Cal. R. Ct. 6.603 (authority and duties of presiding judge). *Cf.* Section 71042.5
8 (preservation of judicial districts for purposes of publication).

9 (2) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in
10 Los Angeles County, effective January 1, 1994. See Sections 26639-26639.4 (sheriff-marshall
11 consolidation). See also Sections 26726 (fees for sheriff keeping property under attachment,
12 execution, or claim and delivery), 77212.5(a) (agreement with sheriff’s department regarding
13 court security services).

14 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
15 71612 (existing terms of employment not affected), 71615(c)(1) (preservation of employees’ job
16 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623
17 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
18 compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-
19 71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658
20 (employment protection system), 71673 (authority of court). See also Sections 68086 (fees for
21 reporting services), 69941 (appointment of official reporters), 69947 (compensation of official
22 reporter).

23 (4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
24 management), 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
25 (state funding of trial court operations). See also Section 69952 (payment from Trial Court
26 Operations Fund).

27 **Note: Comment Requested**

28 The Commission is researching several issues pertaining to jury commissioners, including
29 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
30 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
31 by that Act. The Commission solicits comments on these points.

32 The text of the repealed chapter is set out below.

33 **Chapter 9. Municipal Court Districts in Los Angeles County**

34 **Article 1. General Provisions**

35 72600. When an annual salary is prescribed in this chapter, the salary is payable in equal
36 monthly installments.

37 72602. Each of the Los Angeles County municipal courts established in judicial districts shall
38 have the number of judges set out below opposite the name of the judicial district over which
39 such court has jurisdiction:

40	Whittier Municipal Court District	3
41	San Antonio Municipal Court District	3
42	East Los Angeles Municipal Court District	3
43	Inglewood Municipal Court District	3
44	South Bay Municipal Court District	5
45	Compton Municipal Court District	6
46	Downey Municipal Court District	2
47	Los Angeles Municipal Court District	64
48	Santa Anita Municipal Court District	1

1 Alhambra Municipal Court District3
2 Los Cerritos Municipal Court District2
3 Long Beach Municipal Court District5
4 Beverly Hills Municipal Court District.....3
5 Santa Monica Municipal Court District3
6 Burbank Municipal Court District2
7 Glendale Municipal Court District.....2
8 Pasadena Municipal Court District.4
9 Rio Hondo Municipal Court District4
10 Pomona Municipal Court District.3
11 South Gate Municipal Court District1
12 Citrus Judicial District4
13 Antelope Municipal Court District.1
14 Culver Municipal Court District.2
15 Newhall Municipal Court District2
16 Malibu Municipal Court District.....1

17 72602.1. In addition to the number of judges prescribed by Section 72602, there shall be two
18 additional judges for the Long Beach Municipal Court District; provided, that at such time as the
19 Los Angeles County Board of Supervisors finds there are sufficient funds for a total of up to five
20 additional judges for the Long Beach Municipal Court District and adopts a resolution or
21 resolutions to that effect, there shall be a total of five additional judges for the Long Beach
22 Municipal Court District.

23 72602.2. In addition to the number of judges prescribed by Section 72602, there shall be two
24 judges for the Downey Municipal Court District. However, at such time as the Los Angeles
25 County Board of Supervisors finds there are sufficient funds for one additional judge for the
26 Downey Municipal Court District and adopts a resolution to that effect, there shall be three judges
27 for the Downey Municipal Court District in addition to the number prescribed by Section 72602.

28 72602.3. In addition to the number of judges prescribed by Section 72602, there shall be one
29 additional judge for the South Bay Municipal Court District. However, at such time as the Los
30 Angeles County Board of Supervisors finds there are sufficient funds for up to three additional
31 judges for the South Bay Municipal Court District and adopts a resolution to that effect, there
32 shall be up to three additional judges for the South Bay Municipal Court District.

33 72602.4. In addition to the number of judges prescribed in Section 72602, at such time as the
34 Los Angeles County Board of Supervisors finds there are sufficient funds for any number of
35 additional judges up to a total number of 24 for the Los Angeles Municipal Court District and
36 adopts a resolution or resolutions to that effect, there shall be those additional judges in the Los
37 Angeles Municipal Court District.

38 72602.5. (a) In addition to the number of judges specified in Section 72602, there are two
39 judges for the Antelope Municipal Court District. However, at such time as the Los Angeles
40 County Board of Supervisors finds there are sufficient funds for an additional judge for the
41 Antelope Municipal Court District and adopts a resolution or resolutions to that effect, there shall
42 be an additional judges for the Antelope Municipal Court District.

43 72602.6. (a) In addition to the number of judges prescribed by Section 72602, at any time as the
44 Los Angeles County Board of Supervisors finds there are sufficient funds for one additional judge
45 for the Glendale Municipal Court District and adopts a resolution to that effect, there shall be one
46 additional judge for the Glendale Municipal Court District.

47 (b) In addition to the number of judges prescribed by Section 72602.5, at any time as the Los
48 Angeles County Board of Supervisors finds there are sufficient funds for one additional judge for

1 the Antelope Municipal Court District and adopts a resolution to that effect, there shall be one
2 additional judge for the Antelope Municipal Court District.

3 72602.7. In addition to the number of judges prescribed by Section 72602, there shall be one
4 judge in the Los Cerritos Municipal Court District.

5 72602.9. Notwithstanding any other provision of law, there shall be seven judges in the Citrus
6 Judicial District; provided that at such time as the Los Angeles County Board of Supervisors finds
7 there are sufficient funds for one additional judge for that district and adopts a resolution to that
8 effect, there shall be eight judges in the Citrus Judicial District; and further provided that,
9 following the appointment of an eighth judge, there shall be no more than one court
10 commissioner in the Citrus Judicial District unless and until the Los Angeles County Board of
11 Supervisors finds that there are sufficient funds for a second court commissioner for that district
12 and adopts a resolution to that effect, at which time there shall be two court commissioners in the
13 Citrus Judicial District.

14 72602.11. Notwithstanding any other provision of law, there shall be four judges in the
15 Whittier Municipal Court District.

16 72602.12. (a) In addition to the number of judges specified in Section 72602, there shall be one
17 additional judge in the East Los Angeles Municipal Court District. However, at such time as the
18 Los Angeles County Board of Supervisors finds there are sufficient funds for an additional judge
19 for the East Los Angeles Municipal Court District and adopts a resolution to that effect, there
20 shall be an additional judge for the East Los Angeles Municipal Court District.

21 (b) The judges of the East Los Angeles Municipal Court District may appoint one special
22 assistant, East Los Angeles Municipal Court, who shall be entitled to the same benefits as, and
23 receive a monthly salary at the same rate specified for, the clerk-administrative officer of such
24 court.

25 72602.13. In addition to the number of judges prescribed by Section 72602, there shall be three
26 additional judges for the Inglewood Municipal Court District.

27 72602.14. In addition to the number of judges prescribed by Section 72602, at such time as the
28 Los Angeles County Board of Supervisors finds there are sufficient funds for one additional judge
29 for the Newhall Municipal Court District and adopts a resolution to that effect, there shall be one
30 additional judge for the Newhall Municipal Court District.

31 72602.15. Notwithstanding Section 72602, the San Antonio Municipal Court District and South
32 Gate Municipal Court District are consolidated into the Southeast Municipal Court District which
33 shall have five judges.

34 The officers and attaches of the San Antonio Municipal Court District and the South Gate
35 Municipal Court District employed by those districts on the operative date of this section shall be
36 the officers and attaches of the Southeast Municipal Court District with all of the rights and
37 benefits to which they were entitled as employees of those districts.

38 72602.20. In addition to the number of judges prescribed in Section 72602, at such time as the
39 Los Angeles County Board of Supervisors finds there are sufficient funds for up to three
40 additional judges for the Compton Municipal Court District and adopts a resolution or resolutions
41 to that effect, there shall be a total of up to three additional judges for the Compton Municipal
42 Court District. Following the appointment of the first additional judge there shall be only 2.6
43 court commissioners in the district, following the appointment of the second additional judge
44 there shall be only 1.6 court commissioners in the district. The part-time commissioner in the
45 Compton Municipal Court District shall be compensated at six-tenths of that received by a
46 commissioner, unless and until the Los Angeles County Board of Supervisors finds that there are
47 sufficient funds for up to three additional court commissioners for that district and adopts a
48 resolution or resolutions to that effect, at which time there shall be such additional number of

1 court commissioners as stated in the resolution or resolutions for the Compton Municipal Court
2 District.

3 72604. Notwithstanding Article 9 (commencing with Section 69941) of Chapter 5, or any other
4 provision of law in conflict with this section, in each municipal court district in counties having a
5 population of 2,000,000 inhabitants, or over, as determined by the 1970 federal census, except in
6 municipal court districts where a statute provides otherwise, the official reporter and official
7 reporters pro tempore in those districts governed by this section shall receive for their services the
8 same per diem fee paid to official court reporters pro tempore of the Superior Court of Los
9 Angeles County. All other fees of these reporters for transcription shall be as provided in Article
10 9 (commencing with Section 69941) of Chapter 5.

11 72604.1. Notwithstanding Section 72604, there shall be an official reporter in the Antelope
12 Municipal Court District who shall be an attache of the court. In lieu of any other compensation
13 provided by law for his services in reporting testimony and proceedings in the court, the official
14 reporter shall receive a monthly salary equal to that provided by law for official reporters of the
15 Los Angeles Municipal Court District.

16 72605. In all municipal courts in a county with a population of 2,000,000 or over, the names of
17 prospective jurors shall be determined by the application of a suitable "key number" to the
18 precinct lists of registered voters within the respective judicial districts. Prospective jurors in such
19 courts shall be given a uniform examination and when found to be qualified shall be given a
20 uniform instruction pamphlet. Such examination and pamphlet shall be prepared by the judges of
21 such courts, acting as an aggregate official body.

22 72606. Any person who leaves a position enumerated in Articles 2, 3, or 4 of Chapter 9 who
23 immediately prior to such separation, shall have occupied such position for one year or more,
24 shall be allowed a leaving vacation consisting of the number of days earned during the current
25 year and the number of days earned but not taken in the previous year, or may be allowed an
26 equivalent lump sum payment for such earned vacation in lieu of retaining such person on the
27 payroll. Such person may not be reemployed in any position the compensation for which is an
28 obligation of the County of Los Angeles until the number of days for which he has been paid has
29 elapsed.

30 72606.1. Any person occupying a position set forth in Articles 2, 3, or 4 of Chapter 9, which
31 position is subject to the salary adjustment provisions of either Section 72608 or 72704.5, shall be
32 entitled to the same compensatory leaves of absence with pay for overtime service as are provided
33 for an employee of the County of Los Angeles holding a position of equivalent classification. In
34 lieu of such leave of absence such municipal court employee may, and, under the same conditions
35 as such county employee, shall, be paid as extra compensation a percentage of his normal salary
36 equal to the percentage of normal salary payable to such county employee as extra compensation
37 for overtime service in lieu of leave of absence with pay.

38 72606.2. Persons appointed to positions enumerated in Articles 2, 3, or 4 of Chapter 9 shall be
39 entitled to the same credit for any period of prior employment by the County of Los Angeles as is
40 allowable for an equal period of prior service in a court position of similar classification.

41 72607. Notwithstanding the numbers and classifications of court officers and attaches specified
42 in Articles 1.5 (commencing with Section 72620), 1.6 (commencing with Section 72630), 2
43 (commencing with Section 72640), 3 (commencing with Section 72700), and 4 (commencing
44 with Section 72750), the judges of a municipal court in a county having a population of 3,000,000
45 or over, with the approval of the board of supervisors, may appoint and employ additional
46 commissioners, officers, and attaches that are necessary to the performance of duties and exercise
47 of powers within the jurisdiction of the court. The compensation of these appointees shall be as

1 provided in that chapter for the same position, or, where not so provided, as may be established
2 by the judges with the approval of the board of supervisors.


3 The majority of municipal court judges in the county, with the approval of the board of
4 supervisors, may authorize the marshal, and the judges of any municipal court in that county, with
5 that approval, may authorize the clerk of the court, to adjust rates of compensation, to appoint
6 additional deputies in any classifications that may be required for the prompt and faithful
7 discharge of the duties of the respective offices. Deputies so appointed shall receive the respective
8 rates of pay provided for existing classifications, or, if there be no existing classification for
9 which a pay rate has been established, then they shall receive the rates of pay as shall be
10 established by the judges authorizing the appointments and approved by the board of supervisors.

11 Appointments and adjustments made pursuant to this section shall be on an interim basis and
12 shall expire 90 days after the adjournment of the next regular session of the Legislature unless
13 ratified at such session. It is the intention of the Legislature that this section be cumulative to, and
14 not in abrogation of, other provisions of law governing the additional or emergency appointment
15 of deputy clerks and deputy marshals.

16 72608. Certain classes of positions prescribed in Article 1.5 (commencing with Section 72620),
17 Article 1.6 (commencing with Section 72630), Article 2 (commencing with Section 72640),
18 Article 3 (commencing with Section 72700), and Article 4 (commencing with Section 72750) are
19 deemed to be related in job and compensation to position classifications included in the Los
20 Angeles County Code, and in the case of certain classes of positions, to the administrative series
21 included in Section 69894.1. In order to maintain the relationship of compensation and employee
22 rights and benefits between officers and attaches of municipal courts and county or superior court
23 employees having commensurate duties and responsibilities and to provide appropriate salary
24 adjustments and employee rights and benefits for related classes of court positions, this section
25 shall govern salary adjustments and employee rights and benefits for officers and attaches of
26 municipal courts in Los Angeles County.

27 On the effective date of any amendment to the Los Angeles County Code adjusting the salary
28 of a county employee classification listed in the table of positions set forth in this section, or on
29 the effective date of a resolution or ordinance by the board of supervisors approving interim
30 salary adjustments for superior court classes pursuant to Section 69894.2, the salary of the related
31 municipal court position listed opposite thereto shall be adjusted an equivalent number of
32 schedules or steps in a schedule in the salary schedule to which that position is attached. If the
33 level of compensation established by any salary adjustment is not reflected in the salary schedule
34 number provided for any court classification, the adjustment shall apply to each position in the
35 classification on the effective date of the act fixing the salary schedule number. Classes of
36 positions in the Management Appraisal and Performance Plan shall be compensated and adjusted
37 in accordance with provisions approved by the board of supervisors.

38 Likewise, the salary of any court classification being enumerated in Article 1.5 (commencing
39 with Section 72620), Article 1.6 (commencing with Section 72630), Article 2 (commencing with
40 Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with
41 Section 72750) for the first time as an amendment to this chapter shall be adjusted as necessary
42 on the effective date of that amendment to provide the same relationship to the county
43 classification to which it is attached as that established when the court classification was
44 approved in accordance with Section 72607.

45  **Note.** To conserve resources, the table of positions has not been reproduced.

46 All classes of positions approved by a majority of the judges of the municipal court and the
47 board of supervisors for inclusion in the Los Angeles County Management Appraisal and
48 Performance (MAP) Plan will be compensated in accordance with this plan as set forth in Part 3,
49 Chapter 6.08, of the Los Angeles County Code. All of these provisions are applicable to
50 participants in the marshal's department, except that for the marshal, the appointing authority is
51 the municipal court judges of Los Angeles County, and for all other participants in the marshal's
52 department, the appointing authority is the marshal. For purposes of MAP Plan administration

1 only, the appointing authority for the court administrator, Los Angeles Judicial District, is the
2 court's executive board. The court administrator is the appointing authority for all other
3 participants in the Los Angeles Judicial District.

4 The presiding judge, the immediate past presiding judge (if still a member of the Los Angeles
5 Municipal Court) and the assistant presiding judge will confer with the court administrator to
6 establish new performance goals and evaluate the completion of previously established goals;
7 these judges will then rate the court administrator's performance using the MAP Plan rating
8 categories established in the county code. The presiding judge shall present this rating to the
9 executive board for ratification at its October meeting. In the event the executive board does not
10 act upon the rating, that rating will stand. In the event a rating is not completed, the court
11 administrator's rating is deemed to be "merit performance." Adjustments to the court
12 administrator's salary will be in accordance with Part 3, Chapter 6.08, of the Los Angeles County
13 Code.

14 Any existing special pay provision applicable to court classes included in MAP Plan and which
15 is expressed in terms of additional schedules of compensation will be converted to a percentage
16 basis in accordance with the county's plan which equates each schedule with 2.75 percent.

17 Salary adjustments made pursuant to this section shall be on an interim basis and shall expire
18 90 days after the adjournment of the next regular session of the Legislature unless ratified at such
19 session.

20 Officers and attaches of municipal courts in Los Angeles County shall be entitled to all
21 employee rights, programs and benefits, including, but not limited to, paid medical plans,
22 management incentive, management appraisal and performance plan, deferred compensation
23 plans, flexible benefit plans, and early separation programs, parking and cafeteria privileges,
24 longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to
25 meet with those entities which prescribe their compensation, that are provided for or made
26 applicable to the related Los Angeles County and superior court employee classification.
27 Participation in management incentive early separation programs and management appraisal and
28 performance plan shall be established by joint action and approval of a majority of the board of
29 supervisors and a majority of the judges of the court, except in the Los Angeles Judicial District
30 where joint action shall be approved by a majority of the board of supervisors and a majority of
31 the court's executive board.

32 Bonus Level I assignments of deputy marshals are as follows:

33 Nineteen positions--assistant commander, small division.

34 Twelve positions--court supervisor.

35 Nine positions--field supervisor.

36 Nine positions--office supervisor.

37 Three positions--communications and fleet management supervisor.

38 One position--training officer.

39 One position--real estate levy/bookkeeping section supervisor.

40 Bonus Level II assignments of deputy marshals are as follows:

41 One position--security liaison and investigations.

42 Deputy marshals with Bonus Level I assignments shall receive additional compensation in the
43 same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to
44 Bonus Level I positions. Deputy marshals with Bonus Level II assignments shall receive
45 additional compensation in the same amounts, for the same periods, and paid on the same terms,
46 as deputy sheriffs assigned to Bonus Level II positions.


47 In addition to the salary adjustment otherwise provided by this section, persons employed in the
48 classifications of executive secretary, M.C., senior management secretary, M.C., and secretary to
49 the presiding judge shall receive a one-time only two-schedule salary increase effective January 1,
50 1989. The resulting salary rate shall constitute the base rates for subsequent salary adjustments.

51 In addition to the salary provided by the applicable management appraisal and performance
52 plan provisions, a 16.5 percent bonus shall be paid to no more than one position of deputy court
53 administrator in the Los Angeles Municipal Court who is admitted to practice law before all

1 courts in California and required to render legal opinions and provide legal advice to the court
2 administrator and judges.

3 Any deputy municipal court clerk I, deputy municipal court clerk I, NCS, deputy municipal
4 court clerk II, deputy municipal court clerk II, NCS, deputy clerk III, M.C., deputy clerk III,
5 M.C., NCS, deputy clerk IV, M.C., municipal court judicial assistant, NCS, or court clerk, M.C.
6 who, in addition to a regular courtroom assignment, is required to operate and monitor electronic
7 recording equipment to produce the official record of the court proceedings shall receive a two-
8 schedule increase in compensation while so engaged. Effective January 3, 1989, any deputy clerk
9 IV, M.C., municipal court judicial assistant, NCS, or court clerk, M.C. assigned to a courtroom,
10 who in addition to his or her regular duties, is required to operate and monitor electronic
11 recording equipment to produce a record of court proceedings shall receive an increase of eight
12 standard salary levels while so engaged. However, in no event shall a person who is receiving
13 additional compensation for performing duties involving greater skill and responsibility as
14 described in subdivision (b) of Section 72705 or subdivision (k), (l), or (m) of Section 72755 be
15 eligible to receive additional compensation pursuant to this subdivision, except for a deputy clerk
16 III, M.C. or deputy clerk III, M.C., NCS assigned to the regular duties of a deputy clerk IV, M.C.
17 or court clerk, M.C. as provided in subdivision (j) of Section 72755.

18 72609. (a) Except where otherwise provided by law, officers and attaches of municipal courts
19 in Los Angeles County shall receive a monthly salary at a rate specified in the Los Angeles
20 County Code as follows:

21  **Note.** To conserve resources, the salary schedule has not been reproduced.

22 The term “schedule” as used in this section refers to the salary schedule of the Los Angeles
23 County Code. The term “range” as used in this section refers to the Management Appraisal and
24 Performance Plan of Los Angeles County.

25 As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes are used
26 instead of schedule numbers:

27 F -- Flat rate per month.

28 FD -- Flat rate per day.

29 FH -- Flat rate per hour.

30 As defined in the Los Angeles County Code, Section 6.28.040, the following abbreviations are
31 used in conjunction with or instead of schedule or range numbers:


32 N -- Note (refers to Notes at end of Section 6.28.050).

33 W/O Comp. -- Without compensation.


34 “R” or “A” used instead of a schedule number indicates a position’s inclusion in the county’s
35 Management Appraisal and Performance Plan. The grade number following the “R” or “A”
36 designation indicates the salary range. Compensation of these positions is in accordance with
37 Sections 6.08.300 to 6.08.380, inclusive, of the Los Angeles County Code.

38 The term “NCS” as used in the title of a class in this chapter refers to a non-civil-service
39 position. Personnel appointed to this class shall serve at the pleasure of the appointing authority
40 and may at any time be removed by the appointing authority.

41 (b) This section shall become operative on January 1, 2000. In addition to the salary
42 adjustments, otherwise, provided by this section, all persons employed in the following
43 classifications shall receive a salary as listed below, effective July 1, 2000, which shall remain in
44 effect only until January 1, 2001:

45  **Note.** To conserve resources, the salary schedule has not been reproduced.

46 (c) In addition to the salary adjustments otherwise provided by this section, all persons
47 employed in the following classifications shall receive a salary as listed, effective January 1,
48 2001:

49  **Note.** To conserve resources, the salary schedule has not been reproduced.

1 72610. In addition to any other fees or charges required by law, in all civil cases and
2 proceedings, exclusive of small claims court cases, the clerk shall collect from all parties, private
3 persons, firms, and corporations the same fee as collected by the clerk of the Superior Court of
4 Los Angeles County.

5 Section 72004 shall apply to the collection and disposition of all sums collected pursuant to this
6 section.

7 **Note: Comment Requested**

8 The Commission is reviewing whether county treasury provisions remain viable, given the
9 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
10 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
11 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
12 (state funding of trial court operations). These matters are also being examined by a Joint Court-
13 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
14 treatment of Government Code Section 72610.

15 **Article 1.5. Los Angeles County Municipal Court Judges Law**

16 72620. This article may be cited as the Los Angeles County Municipal Court Judges Law.

17 72621. Under such organization, rules, and procedure as the judges of the municipal courts
18 established in Los Angeles County may adopt therefor, all of such judges in such county shall
19 constitute an aggregate official body for their consideration and action in matters of judicial
20 business and in matters connected with judicial administration deemed of common interest by
21 such judges, and, for the discharge of any functions devolving collectively upon them by law,
22 including, but not limited to, the adoption of bail schedules, the selection of law library trustees,
23 the appointment, removal, and supervision of the Marshal of Municipal Courts, Los Angeles
24 County, and selection of bailiffs to serve in such courts.

25 72622. By majority vote, the judges constituting such official body may adopt rules or bylaws
26 for conducting the affairs and proceedings of such body, including provision for officers and
27 committees, and defining their composition, qualification, powers and duties. The judges may
28 assign one municipal court attache to serve as nonmember secretary to the official body and as
29 executive assistant to the officers and committees thereof. Such assignment shall be in addition to
30 such attache's regular duties. While so assigned the compensation to which such attache is
31 normally entitled shall be increased ten (10) percent; provided, that such attache shall not receive
32 a compensation which is greater than the compensation received by a judge of the municipal court
33 in that county.

34 72623. By majority vote the judges of the municipal courts established in Los Angeles County
35 may establish and maintain a central traffic index for the purpose of mutually preserving records
36 and supplying information to the municipal courts regarding violations of law relating to the
37 operation of motor vehicles occurring within their jurisdiction. Participation in the program of the
38 central traffic index system shall be optional with each municipal court district within the county.
39 For the purpose of implementing such program, the judges of the municipal courts participating
40 shall, by rule or bylaw provide for the supervision and operation of such central traffic index, the
41 cost of operation of which shall be a county charge. Clerks of the municipal courts participating
42 in such program shall transmit such records as may be deemed necessary to the central traffic
43 index.

44 The actions of participating courts prior to the effective date of this section which were taken in
45 substantial compliance with the provisions of this section are as valid and effective as if taken
46 pursuant to the provisions of this section.

Note: Comment Requested

The Commission solicits comments regarding the use of a central traffic index in the Los Angeles Superior Court and the need to preserve Government Code Section 72623, in some form.

72624. By a two-thirds vote of the total number of judges constituting such official body, the body may recommend to the Judicial Council uniform court rules for all the municipal court judicial districts in the County of Los Angeles.

72627. The judges of the municipal courts of Los Angeles County may appoint one chief staff attorney, planning and research, municipal courts. The chief staff attorney shall hold office at the pleasure of the judges of the municipal courts.

72627.5. (a) The chief staff attorney, planning and research, municipal courts, may appoint:

- (1) Two assistant chief staff attorneys, planning and research.
- (2) Three staff attorneys III, planning and research.
- (3) Four staff attorneys II, planning and research.
- (4) One senior programmer analyst, M.C.
- (5) One principal budget analyst, planning and research.
- (6) One staff assistant, M.C.
- (7) One senior secretary III, M.C., who shall receive a monthly salary at the rate specified for senior judicial secretary.
- (8) One senior secretary II, M.C.
- (9) One stenographer, M.C.
- (10) Four legal research assistants, planning and research.
- (11) Three planning analyst aides, planning and research.
- (12) One planning analyst, planning and research.
- (13) Two senior planning analysts, planning and research.
- (14) One data systems analyst I, M.C.
- (15) Two data systems analysts II, M.C.
- (16) One head of management services, planning and research, NCS.
- (17) Three principal program analysts.
- (18) Three law clerks, M.C.
- (19) Four student professional workers.

(b) The positions appointed pursuant to this section shall not be deemed civil service positions. Each person appointed to these positions shall serve at the pleasure of the chief staff attorney.

72628. The judges of the municipal courts of Los Angeles County may appoint one senior judicial secretary, who shall serve at the pleasure of the judges.

Article 1.6. Presiding Judges Law

72630. The presiding judges of the municipal courts in Los Angeles County shall, by a majority vote of their aggregate number, select, appoint and discharge a court coordinator for the municipal court judicial districts of the county under such organization, rules and procedure as they shall adopt therefor. The presiding judges may prescribe and regulate by majority vote the organization, policies and rules for the conduct of the court coordinator and it shall be his duty to govern himself thereby. For the purpose of voting to select, appoint or discharge the court coordinator or to prescribe and regulate the organization, policies, rules and regulations aforesaid, upon five days written notice, the presiding judges of the municipal courts in judicial districts in Los Angeles County shall meet at a time and place designated by the presiding judge of the municipal court of the judicial district in which is located the county seat. The court coordinator shall receive a salary which shall be established by the board of supervisors, not to exceed the salary of a municipal court judge.

1 72631. The court coordinator shall make recommendations to the several presiding judges
2 concerning the transfer of municipal court cases from one district to another under Section 402 of
3 the Code of Civil Procedure and shall work in cooperation with the Judicial Council in arranging
4 for the assignment of judges between districts under Section 6 of Article VI of the Constitution.

5 72632. "Presiding judge" as used in this article includes the senior judge of a two-judge court
6 and the judge of a one-judge court.

7 72635. The executive committee of the presiding judges association of the municipal courts of
8 Los Angeles County may appoint two senior planning analysts, planning and research.

9 Article 2. Marshal

10 72640. There shall be one marshal for all municipal courts established in judicial districts in
11 Los Angeles County, who shall be appointed pursuant to this article.

12 72641. The marshal shall be designated as Marshal of Municipal Courts, Los Angeles County.

13 72642. He shall possess the rights and powers and perform the duties imposed upon marshals
14 of municipal courts generally. With respect to proceedings in each of the municipal courts
15 established in Los Angeles County, he shall exercise all powers and perform all duties imposed
16 by law upon the sheriff with respect to proceedings in the superior court, except that each
17 municipal court included in the county shall separately select its own bailiffs from among the
18 deputies selected by him.

19 72643. The judges of all the municipal courts in Los Angeles County, by a majority vote of
20 their aggregate number, shall select, appoint, and discharge the Marshal of Municipal Courts, Los
21 Angeles County, under such organization, rules, and procedure as they adopt or ratify therefor.
22 Said judges may prescribe and regulate by majority vote the organization, policies, rules, and
23 regulations for the conduct of the marshal and his office; and it shall be his duty and that of the
24 personnel of his office to be governed thereby. For the purpose of voting to select, appoint, or
25 discharge the marshal or to prescribe and regulate the organization, policies, rules, and
26 regulations aforesaid, upon five days written notice, the judges of the municipal courts in judicial
27 districts located in Los Angeles County shall meet at a time and place designated by the presiding
28 judge of the municipal court of the judicial district in which is included the county seat. If and
29 when, under any provision of law, the municipal court judges in the judicial districts of said
30 county have formally organized to administer all matters jointly affecting their courts, the conduct
31 of such meetings and the voting thereat shall be pursuant to the rules or by-laws adopted by said
32 judges for that purpose.

33 72644. A branch office of the Marshal of Municipal Courts, Los Angeles County, shall be
34 maintained in each municipal court district.

35 72645. The marshal shall appoint all of the following:

36 (a) One assistant marshal. The marshal shall make the appointment from the peace officer
37 members of the marshal's office of the rank of lieutenant or higher and the appointee shall serve
38 solely at the pleasure of the marshal. Section 72649 does not apply to the appointment to, nor
39 removal of a person from, this position, but all other provisions of Section 72649 apply. Upon
40 removal by the marshal for any reason other than that which would be cause for the discharge of
41 any other member, an appointee shall revert to the rank held by the appointee prior to his or her
42 appointment to the position of assistant marshal.

43 (b) Three commanders. Upon the occurrence of a vacancy, any succeeding appointment to this
44 position may be made by the marshal at his or her sole discretion. At that time and thereafter,
45 Section 72649 shall not be applicable to the appointment to, nor removal of, a person from, this
46 position, but all other provisions of Section 72649 shall be applicable. The marshal shall make
47 this appointment from the peace officer members of his or her office of the rank of lieutenant or

1 higher, and the appointee shall serve solely at the pleasure of the marshal. Upon removal by the
2 marshal for any reason other than that which would be cause for the discharge of any other
3 member, an appointee shall revert to the rank held prior to appointment as commander.

4 (c) Nine captains.

5 (d) Twenty-eight lieutenants.

6 (e) Forty-one sergeants.

7 (f) Six hundred forty-four deputy marshals; except that the number of deputy marshals shall be
8 reduced by the number of deputy marshal IV positions required to be retained pursuant to Section
9 72645.5.

10 (g) Twenty-seven deputy marshal trainees. Appointments to the positions shall be made from
11 civil service lists resulting from open competitive examinations, provided that notwithstanding
12 Section 72649, the appointees shall be subject to a 12-month period of probation.

13 (h) Four deputy marshal-matrons, each of whom shall have completed a course of training
14 which meets the requirements of the POST commission for a specialized law enforcement basic
15 certificate.

16 (i) Two deputy clerk-custody officers.

17 (j) Forty legal services specialists, marshal, each of whom shall receive monthly compensation
18 at the same rate specified for the county's class of security officer II.

19 72645.5. There shall be retained a number of deputy marshal IV positions equal to the number
20 of persons who held those positions immediately prior to January 1, 1982, and who continue to
21 hold those positions. When an incumbent for any reason vacates a deputy marshal IV position,
22 that position shall automatically cease to exist, and an additional deputy marshal position, under
23 Section 72645(f), shall automatically be created.

24 72646. The marshal shall appoint:

25 (a) One head, fiscal and administrative services, marshal.

26 (b) One senior staff assistant, marshal.

27 (c) One executive secretary, marshal. Appointment to this position shall be at step 3 of the
28 schedule.

29 (d) Four staff assistants, marshal.

30 (e) Three management secretaries, marshal.

31 (f) One principal clerk.

32 (g) One supply and reproduction supervisor, marshal.

33 (h) Four senior secretaries, marshal.

34 (i) Nine administrative clerks.

35 (j) One supervising payroll clerk, marshal.

36 (k) One supply and reproduction assistant, marshal.

37 (l) Sixty deputy clerks, grade III.

38 (m) Three secretaries, marshal.

39 (n) Fifty-two deputy clerks, grade II.

40 (o) Eight deputy clerks, grade I.

41 (p) Deputies who shall be keepers, that may be reasonably required pursuant to law, at the fee
42 allowed by law for keeping property.

43 (q) Five marshal's dispatchers I.

44 (r) One safety officer, marshal.

45 (s) One head personnel technician, marshal.

46 (t) One assistant head, fiscal and administrative services, marshal.

47 (u) One personnel technician, marshal.

48 (v) One senior payroll clerk, marshal.

49 (w) Four payroll clerks, marshal.

50 (x) One light vehicle driver, marshal.

51 (y) Five marshal's dispatchers II.

52 (z) Five personnel assistants, marshal.

- 1 (aa) One hundred thirty-six security officers I, marshal.
- 2 (bb) Seventy-five security officers II, marshal.
- 3 (cc) Three senior personnel assistants, marshal.
- 4 (dd) One principal assistant, fiscal services, marshal.
- 5 (ee) One warehouse worker I, marshal.

6 72648. The judges of each municipal court established in a judicial district in Los Angeles
7 County, except those of the Los Angeles Judicial District, shall select, from among the deputies
8 of the marshal's office, such person or persons to act as court bailiffs as may be reasonably
9 necessary for the proper operation of such court. Any deputy so selected shall serve as bailiff
10 during the pleasure of the judge or judges of such court, and shall perform his official duties as
11 bailiff under his or their sole direction.

12 72649. Except where this title otherwise provides, all deputies and other employees of the
13 marshal of municipal courts, Los Angeles County, may be appointed, removed, suspended, or
14 discharged for cause by the marshal, subject in such appointment, removal, suspension, or
15 discharge to all civil service provisions applicable to the personnel of the office of sheriff, Los
16 Angeles County:

17 (a) Whenever reference to a numbered salary schedule is made in any section of this article, the
18 schedule found in the code of the County of Los Angeles shall apply.

19 (b) Unless otherwise specifically provided, each person appointed to a position, the
20 compensation of which is fixed by reference to the salary schedule, shall, for the first six months
21 of service, receive monthly the rate of compensation specified in the first step of the salary
22 schedule for the position to which he is appointed. Upon the first day of the month following six
23 months' continuous service in a class, the initial rate of compensation of such person shall be
24 increased to the next higher step of the salary schedule for the position occupied. On and after the
25 first day of the month following each ensuing 12 months of such service such compensation shall
26 be increased to the rate specified in the next higher step of the salary schedule for the position
27 occupied until such compensation equals the sum specified in step 5 of such schedule.

28 (c) When any person in the service of the court or of the marshal is appointed or promoted to
29 another office or position in such service compensated at a higher numbered schedule, he shall
30 receive step 1 of such schedule if step 1 is at least one step higher than the salary received in the
31 office or position relinquished; but if not, he shall receive initially that step of the schedule
32 pertaining to such office or position which will provide a one-step increase in his compensation.
33 Provided, whenever a person occupying a permanent superior position is supervising a
34 subordinate and the subordinate is receiving compensation at a rate equal to or greater than that
35 which the superior is receiving, the person occupying the superior position shall be entitled to be
36 advanced in steps to the highest salary paid to the highest ranking subordinate which he
37 supervises plus one dollar (\$1).

38 (d) Notwithstanding the above, each person appointed to a peace officer position set forth in
39 Section 72608, 72640, or 72645 shall be entitled to the same salary step placement during his
40 employment by the marshal and upon appointment, promotion or demotion as an employee of the
41 marshal, as he would receive if he were employed in a related position in the classified service of
42 the County of Los Angeles.

43 (e) Persons appointed to deputy marshal shall, upon the first day of the month following
44 completion of six years' service including at least two years in a court-related assignment and
45 eighteen months in a field assignment, receive monthly the rate of compensation specified in Step
46 6 of the schedule.

47 (f) When any person is demoted to another office or position he shall receive the fifth step rate
48 of salary for the position to which he is demoted, except that if such demotion is due to
49 disciplinary action, the appointing power may indicate any step rate of the lower position which
50 provides compensation not higher than that last previously received by such person.

51 72651. All provisions of law relating to marshals of municipal courts, or a marshal of a
52 municipal court and the deputies and attaches thereof, not inconsistent with the provisions of this

1 article, apply to the Marshal of Municipal Courts, Los Angeles County, and to the officers,
2 deputies, and attaches of the marshal. The judges of the municipal courts of the judicial districts
3 in Los Angeles County acting jointly by a vote of a majority of said judges may adopt rules not
4 inconsistent with the provisions of this article to make effective the provisions thereof.

5 72652. The Board of Supervisors of Los Angeles County shall provide suitable quarters for the
6 marshal, including heating, lighting, and janitorial services, and shall supply furniture, books, and
7 supplies necessary for carrying out the duties prescribed by law for the marshal.

8 Article 3. City of Los Angeles

9 72700. This article applies to the municipal court established in a judicial district embracing the
10 City of Los Angeles.

11 72701. The judges of the municipal court shall appoint as many commissioners, not exceeding
12 22, as the business of the court requires. Each commissioner shall possess the same qualifications
13 as the law requires of a judge of the court. Within the jurisdiction of the court and under the
14 direction of the judges, each commissioner shall exercise the powers and perform the duties
15 authorized by law to be performed by commissioners of the superior court and such additional
16 powers and duties as may be prescribed by law. Each commissioner shall hold office at the
17 pleasure of the judges and shall receive a monthly salary in the same sum as is paid the court
18 commissioners of the Superior Court of the County of Los Angeles. If, however, the amount of
19 the salary is fixed under a step plan of compensation based upon tenure of service, each
20 incumbent shall nevertheless receive a salary equal to the top step thereof. In no event shall such
21 salary exceed the salary provided for the judges of the municipal courts. The commissioners shall
22 be ex officio deputy clerks of the court and shall be members of any retirement system which
23 includes attaches of the court. They shall not engage in the private practice of law.

24 72702. There shall be one court administrator who shall be the clerk of the court and who shall
25 be appointed by, and hold office at the pleasure of, the judges of the court and who shall receive a
26 monthly salary at a rate specified in Section 72609, and who shall be designated as an "L" item
27 pursuant to 6.28.020 B of the Los Angeles County Code. In addition to the duties prescribed by
28 law, the judges of the court may delegate to the court administrator and clerk of the court the
29 administrative powers and duties they deem necessary for the administration of the court.

30 72702.5. The clerk may appoint one deputy clerk who shall be assistant court administrator,
31 one deputy clerk who shall be deputy court administrator, administrative and financial services,
32 and four deputy clerks who shall be deputy court administrators, operations, and that number of
33 law clerks paid by the hour as approved by the board of supervisors which positions shall not be
34 deemed civil service positions. The positions of assistant court administrator, deputy court
35 administrator, administrative and financial services, deputy court administrator, operations, legal
36 research assistant, and all positions designated in the Management Appraisal and Performance
37 Plan for the Los Angeles Municipal Court shall not be deemed civil service positions for any
38 person initially appointed to these positions after November 1, 1987. Incumbents with civil
39 service status as of November 1, 1987, shall retain civil service status. Each person appointed to
40 these positions shall serve at the pleasure of the court administrator.

41 72703. The clerk may appoint:

- 42 (a) One chief, systems division; and 11 division chiefs, operations.
- 43 (b) Seventeen senior court managers.
- 44 (c) Nine principal administrative assistants, municipal court.
- 45 (d) One personnel administrator, municipal court.
- 46 (e) Four personnel technicians, municipal court.
- 47 (f) Six personnel assistants, municipal court.
- 48 (g) Fifteen senior administrative assistants, municipal court.

- 1 (h) Five administrative assistants, municipal court.
- 2 (i) Three accounting technicians, municipal court.
- 3 (j) Seven staff assistants, municipal court.
- 4 (k) Five accountants, municipal court.
- 5 (l) Seven intermediate accountants, municipal court.
- 6 (m) Four senior accountants, municipal court.
- 7 (n) Sixteen account clerks, municipal court.
- 8 (o) One assistant capital projects manager, municipal court.
- 9 (p) One capital projects manager, municipal court.
- 10 (q) One court information officer, municipal court.
- 11 (r) Two head personnel technicians, municipal court.
- 12 (s) One judicial management intern, municipal court.
- 13 (t) One managing court reporter, municipal court.
- 14 (u) One personnel clerk, municipal court.
- 15 (v) One principal personnel assistant, municipal court.
- 16 (w) Three senior personnel assistants, municipal court.
- 17 (x) One procurement assistant II, municipal court.
- 18 (y) One supervising accountant, municipal court.
- 19 (z) One warehouse manager, municipal court.
- 20 (aa) Four warehouse workers II, municipal court.
- 21 (bb) Three warehouse worker aides, municipal court.
- 22 (cc) Thirty-nine court managers, municipal court.
- 23 (dd) Two graphic artists, municipal court.
- 24 (ee) One assistant payroll technician, municipal court.
- 25 (ff) One payroll technician, municipal court.
- 26 (gg) One supervising payroll technician, municipal court.
- 27 (hh) One warehouse worker I, municipal court.
- 28 (ii) One procurement assistant I, municipal court.
- 29 (jj) One data systems analyst aide, municipal court.
- 30 (kk) One EDP support analyst II, municipal court.
- 31 (ll) One administrative services manager, M.C., NCS.
- 32 (mm) One senior systems aide, municipal court.
- 33 (nn) One systems aide, municipal court.
- 34 (oo) One management secretary II, municipal court.
- 35 (pp) One management services specialist, municipal court.
- 36 (qq) One office services assistant I, M.C., NCS.
- 37 (rr) One office services assistant II, M.C., NCS.
- 38 (ss) One office services assistant III, M.C., NCS.
- 39 72704. The clerk may also appoint:
- 40 (a) One hundred fifty-one deputy clerks IV, plus one additional deputy clerk IV for each judge
- 41 in excess of 88 and each commissioner or traffic referee in excess of 22 to which the court is or
- 42 may become entitled by law.
- 43 (b) One secretary to the presiding judge.
- 44 (c) One executive secretary, Los Angeles Municipal Court.
- 45 (d) One senior management secretary, municipal court.
- 46 (e) Fourteen senior judicial secretaries who shall receive a monthly salary at the same rate
- 47 specified for the superior court class of senior judicial secretary. Appointments to the positions
- 48 shall be at step 3 of the schedule.
- 49 (f) One hundred four deputy clerks III.
- 50 (g) Three hundred fifty deputy municipal court clerks II.
- 51 (h) Eleven senior secretaries II, municipal court.
- 52 (i) Six secretaries, municipal court.

- 1 (j) Four management secretaries, municipal court.
- 2 (k) Three facilities services assistants, municipal court.
- 3 (l) Two procurement aides, municipal court.
- 4 (m) One facilities planning assistant, municipal court.
- 5 (n) One statistical analyst.
- 6 (o) Three staff development specialists, municipal court.
- 7 (p) One municipal court clerk trainee.
- 8 (q) Five clerical aides.
- 9 (r) Forty-one deputy clerk supervisors.
- 10 (s) One general maintenance supervisor, municipal court.
- 11 (t) Two general maintenance workers, municipal court.
- 12 (u) One court clerk, municipal court.
- 13 (v) One municipal court judicial assistant.
- 14 (w) One municipal court judicial assistant trainee.
- 15 (x) Nineteen student professional workers.
- 16 (y) Seventy-three student workers.
- 17 (z) One volunteer, M.C.

18 72704.5. The clerk may also appoint:

- 19 (a) One computer operations supervisor, municipal court.
- 20 (b) One data conversion supervisor I, municipal court.
- 21 (c) Two senior data conversion equipment operators.
- 22 (d) Twenty-four data systems analysts II, municipal court.
- 23 (e) Three data systems analysts I, municipal court.
- 24 (f) One supervising computer operator, municipal court.
- 25 (g) Four computer systems operators, municipal court.
- 26 (h) Two computer equipment operators, municipal court.
- 27 (i) Two senior data control clerks, municipal court.
- 28 (j) Five data control clerks, municipal court.
- 29 (k) Twelve data systems coordinators, municipal court.
- 30 (l) Five senior program and systems analysts.
- 31 (m) One principal programmer analyst.
- 32 (n) Nine senior programmer analysts, municipal court.
- 33 (o) One systems programmer, municipal court.
- 34 (p) Two telecommunications technicians.
- 35 (q) One senior telecommunications systems engineer, municipal court.
- 36 (r) Two data processing specialists I, municipal court.
- 37 (s) One EDP staff aide, municipal court.

38 72705. (a) Whenever reference to a numbered salary schedule is made in any section of this
39 article, the schedule found in the Salary Ordinance of the County of Los Angeles shall apply.

40 (b) Not more than 29 deputy clerks IV or municipal court clerk trainees, while assigned to
41 duties in divisions of the court requiring greater skill and responsibility, shall receive a two-
42 schedule increase in compensation.

43 (c) Unless otherwise specifically provided, each person appointed to a position set forth in
44 Sections 72702, 72702.5, 72703, 72704, and 72704.5 shall be entitled to the same rights,
45 privileges, and benefits allowed Los Angeles County employees as provided in Chapter 1 of
46 Ordinance 6222 of the County of Los Angeles (Title 6, Los Angeles County Code). Any person
47 appointed, promoted, or demoted to another office or position in that service, shall be
48 compensated at the schedule provided for that appointment, promotion, or demotion in Chapter 1
49 of Ordinance 6222 (Title 6, Los Angeles County Code).

50 72706. In lieu of any position established for a court in this chapter, and to meet the needs of
51 that court, the court administrator may appoint additional deputy clerks to any appropriate

1 classification and title set forth in Los Angeles County Ordinance 6222 (Title 6, Los Angeles
2 County Code) or in Section 72609, provided, however, that a nonjudicial budgeted position of an
3 equal or greater pay level is encumbered.

4 72708. Notwithstanding the provisions of Section 72400 of the Government Code, the Judges
5 of the Municipal Court, Los Angeles Judicial District, may appoint such number of traffic
6 referees, not exceeding five, as the business of the court requires who shall possess the powers
7 and perform the duties specified in Article 9 (commencing with Section 72400) of Chapter 8 of
8 Title 8 of the Government Code. Each of such traffic referees shall hold office at the pleasure of
9 the judges of the court and shall receive a salary equal to sixty-five percent (65%) of the salary of
10 a judge of such court. They shall be members of any retirement system which includes attaches of
11 the court.

12 72708.5. The judges of the court may appoint as many interpreters, not exceeding two, and as
13 many law clerks, not exceeding 14, as the business of the court may require. Two of the law
14 clerks may be appointed supervising law clerks. Employees appointed pursuant to this section
15 shall hold office at the pleasure of the judges and shall receive compensation as provided in
16 Section 72609. They shall be members of any retirement system which includes attaches of the
17 court.

18 72709. Each official reporter in the municipal court appointed pursuant to Section 72194 shall
19 be an attache of the court. In lieu of any other compensation provided by law for his services in
20 reporting testimony and proceedings in the court, each official reporter shall receive a monthly
21 salary in the same sum as is paid official court reporters of the Superior Court of the County of
22 Los Angeles; provided, that if the amount of such salary is fixed under a step plan of
23 compensation based upon tenure of service, the provisions of Section 72705(c) shall apply in
24 fixing the respective salary step placements for official court reporters of the municipal court and
25 any period of appointment as official court reporters pro tempore of the court shall be included as
26 service under this section. In no event shall the salary of an official municipal court reporter
27 exceed the highest salary paid to an official court reporter of the Superior Court of Los Angeles
28 County, and in no event shall any one adjustment in the rate of the salary exceed eight schedule
29 numbers of the salary schedule. The salaries of official court reporters shall be paid from the
30 reporters' salary fund.

31 The judges of the court may provide employee benefits to official court reporters which are
32 comparable to those provided official reporters in the superior court pursuant to Section 69894.3.
33 In addition, on and after January 1, 1980, the judges may make one adjustment to the sick leave
34 benefits of official court reporters to a reasonable amount in proportion to the sick leave benefits
35 that other county employees have received. Such benefits shall be charged to the reporter's salary
36 fund.

37 72710. The judges of the court may appoint as many additional reporters as the business of the
38 court requires, who shall be known as official reporters pro tempore. They shall serve without
39 salary, but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in
40 lieu of the per diem fees provided in those sections for reporting testimony and proceedings, the
41 official reporters pro tempore shall in all cases receive the same per diem fee paid official court
42 reporters pro tempore of the Superior Court of Los Angeles County which upon the order of the
43 court shall be paid from the reporters' salary fund. The judges of the court may provide benefits
44 to official reporters pro tempore comparable to those afforded other county employees who are
45 employed on a daily basis. Such benefits shall be charged to the reporter's salary fund.

46 72711. The per diem fees specified in this article, or if not so specified, otherwise payable by
47 law by the parties to proceedings in the court to official reporters or official reporters pro tempore
48 shall be paid to the clerk of the court, who shall deposit them in the reporters' salary fund.

49 Fees for transcription of testimony and proceedings in the court shall be paid by the parties to
50 official reporters and official reporters pro tempore as otherwise provided by law, and in all cases

1 where by law the court may direct the payment of transcription fees out of the county treasury,
2 such fee upon order of the court, shall be paid from the reporters' salary fund, except fees for
3 transcription of testimony and proceedings in felony cases, which shall be paid from the county
4 treasury.

5 72711.5. The per diem and transcription fees payable pursuant to Section 72711 shall also be
6 payable in the same sums and in the same manner by the parties to proceedings in the court for
7 electronically recording an action or proceeding pursuant to Section 72194.5 or for transcriptions
8 of testimony and proceedings in the court stenographically recorded. Such fees shall be paid to
9 the clerk of the court, who shall deposit them in the reporters' salary fund. In any case where by
10 law the court may direct the payment of a transcription fee out of the county treasury, upon order
11 of the court the fee for transcription of testimony and proceedings in the court electronically
12 recorded shall be paid from the reporters' salary fund, except fees for transcription of testimony
13 and proceedings in felony cases, which shall be paid from the county treasury.

14 72712. There shall be set aside from the revenue of the court a revolving fund in the amount of
15 seven hundred fifty thousand dollars (\$750,000). The fund shall be known as the Reporters'
16 Salary Fund.

17 At the time of each monthly distribution of the revenue of the court to the cities within the
18 judicial district and to the county within which the court is established, the clerk of the court shall
19 deduct proportionately from their respective total shares such sum as will, when added to the sum
20 then remaining in the fund, equal seven hundred fifty thousand dollars (\$750,000) and deposit it
21 in the fund. Such sum shall include the cost incurred pursuant to Section 72194.5 from electronic
22 recording devices, appurtenant equipment, supplies, recordings and transcriptions produced from
23 electronic recording of testimony and proceedings in the court.

24 Deductions from the county's share of the revenue shall be made from that portion of it
25 distributable to the salary fund of the county, and deductions from each city's share shall be made
26 from that portion of it distributable to the general fund of each city.

27 For the purposes of this section the "revenue" of the court includes all fines, forfeitures, and
28 fees accruing to the cities or the county, except law library fees.

29 72713. If at any time the reporters' salary fund is insufficient, upon order of the court, the
30 amount of the deficiency shall be paid from the general fund of the county.

31 The county treasurer shall be the depository, and the county auditor the disbursing agent, for the
32 fund.

33 **Note: Comment Requested**

34 Government Code Sections 72709-72713 refer to a reporters' salary fund. The Commission
35 solicits comments on the continuing use of such a fund with regard to the superior court and the
36 need to preserve these sections, in some form.

37 72714. Official reporters shall be members of any retirement system which includes attaches of
38 the court. For the purposes of the retirement system, the salary provided in this article for the
39 reporters shall be deemed their entire compensation, except that where credit is claimed for
40 service rendered prior to the establishment of the salary, the actual compensation paid to them by
41 the county shall be the basis for contributions for the prior service, and continuous employment in
42 the municipal court, or a court superseded by it, prior to membership in the retirement system,
43 shall be considered as "prior service" upon the payment by the reporters of the sums due under
44 the retirement system.

45 72715. Any law to the contrary notwithstanding, Sections 72701 to 72714, inclusive, shall
46 apply to the municipal court established in a judicial district embracing the City of Los Angeles,
47 and to all cities included in such judicial district.

48 72720. The Chief Deputy Marshal, Municipal Courts, Los Angeles County, shall be ex officio
49 Superintendent of Bailiffs, Municipal Court, Los Angeles Judicial District. There shall be such

1 number of deputy bailiffs of said court, not to exceed a number equal to the number of judges of
2 said court, to be nominated by the superintendent of bailiffs, and confirmed by the presiding
3 judge of the court; which personnel shall be selected from the personnel of the Office of Marshal,
4 Municipal Courts, Los Angeles County, for such assignment. During such assignment, said
5 superintendent and such deputy bailiffs shall be under the exclusive jurisdiction of said court, but
6 they shall continue to have all rights in employment as such chief deputy marshal and officers or
7 deputies in the office of the marshal.

8 Any demotion, suspension or discharge of the chief deputy marshal, or any release from his
9 assignment as superintendent of bailiffs shall require the concurrent action of the Marshal,
10 Municipal Courts, Los Angeles County, and of two-thirds of all the judges of said municipal
11 court.

12 Pursuant to the designation of deputies bailiff by the superintendent of bailiffs and the presiding
13 judge, the Marshal, Municipal Courts, Los Angeles County, shall not be required to make
14 available more than one captain, two lieutenants, and five sergeants, by grade, in the personnel so
15 selected; and the remaining number may be senior deputies marshal.

16 Suitable quarters, heating, lighting, furniture, books, supplies, motor vehicles for transportation,
17 and janitor service shall be made available for the superintendent of bailiffs and said deputies
18 bailiff in the performance of their duties by the Board of Supervisors, Los Angeles County.

19 72721. Upon the effective date of this act, the Marshal of Municipal Courts, Los Angeles
20 County, without additional compensation, shall be ex officio the Superintendent of Bailiffs,
21 Municipal Court, Los Angeles Judicial District. During such times as he acts in said capacity, all
22 provisions of Section 72720 shall be inoperative, and the selection, tenure and duties of court
23 bailiffs for the Municipal Court, Los Angeles Judicial District, shall be governed by Section
24 72648. Motor vehicles for the transportation of court bailiffs in the performance of their duties
25 shall be made available by the Board of Supervisors, Los Angeles County.

26 Article 4. Courts in Los Angeles County

27 72750. This article applies only to municipal courts established in districts in Los Angeles
28 County except the Los Angeles Judicial District.

29 72750.4. In each municipal court district having eight judges authorized by law, the officers
30 and attaches shall be appointed, as follows:

31 There shall be one court administrator who shall be the clerk appointed by the judges of the
32 court.

33 The clerk may appoint:

34 (a) Seventeen deputy municipal court clerks I.

35 (b) Seventeen deputy municipal court clerks II.

36 (c) Fourteen deputy clerks III, M.C.

37 (d) Twelve deputy clerks IV, M.C., plus one additional such deputy clerk for each
38 commissioner or traffic referee appointed pursuant to Section 72400 or 72757.

39 (e) One senior judicial secretary, M.C.

40 (f) Five assistant chief deputy clerks, M.C.

41 (g) One occupant of an assistant chief deputy clerk position as set forth in this section shall be
42 designated by the court administrator as assistant court administrator and shall receive a monthly
43 salary eight schedules less than the schedule specified for the court administrator of the court.

44 72750.5. In each municipal court district having seven judges authorized by law the officers
45 and attaches shall be appointed as follows:

46 There shall be one court administrator who shall be the clerk appointed by the judges of the
47 court.

48 The clerk may appoint:

49 (a) Eleven deputy municipal court clerks I.

- 1 (b) Thirteen deputy municipal court clerks II.
2 (c) Nine deputy clerks III, M.C.
3 (d) Nine deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner
4 or traffic referee appointed pursuant to Section 72400 or 72757.
5 (e) One senior judicial secretary.
6 (f) Five assistant chief deputy clerks, M.C.
7 (g) One occupant of an assistant chief deputy position as set forth in this section shall be
8 designated by the court administrator as assistant court administrator and shall receive a monthly
9 salary eight schedules less than the schedule for the court administrator of the court.

10 72751. In each municipal court district having six judges authorized by law the officers and
11 attaches shall be appointed as follows:

12 There shall be one court administrator who shall be the clerk appointed by the judges of the
13 court.

14 The clerk may appoint:

- 15 (a) Ten deputy municipal court clerks I.
16 (b) Twelve deputy municipal court clerks II.
17 (c) Eight deputy clerks III, M.C.
18 (d) Nine deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner
19 or traffic referee appointed pursuant to Section 72400 or 72757.
20 (e) One assistant court administrator who shall receive a monthly salary eight schedules less
21 than the schedule specified for the court administrator of the court.

22 72751.1. In each municipal court district having five judges authorized by law the officers and
23 attaches shall be appointed as follows:

24 There shall be one court administrator who shall be the clerk appointed by the judges of the
25 court.

26 The clerk may appoint:

- 27 (a) Nine deputy municipal court clerks I.
28 (b) Eleven deputy municipal court clerks II.
29 (c) Nine deputy clerks III, M.C.
30 (d) Seven deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner
31 or traffic referee appointed pursuant to Section 72400 or 72757.
32 (e) One assistant court administrator who shall receive a monthly salary eight schedules less
33 than the schedule specified for the court administrator of said court.

34 72751.5. In each municipal court district having four judges authorized by law the officers and
35 attaches shall be appointed as follows:

36 There shall be one court administrator who shall be the clerk appointed by the judges of the
37 court.

38 The clerk may appoint:

- 39 (a) Nine deputy municipal court clerks I.
40 (b) Eleven deputy municipal court clerks II.
41 (c) Nine deputy clerks III, M.C.
42 (d) Six deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner or
43 traffic referee appointed pursuant to Section 72400 or 72757.
44 (e) One assistant court administrator who shall receive a monthly salary eight schedules less
45 than the schedule specified for the court administrator of the court.

46 72752. In each municipal court district having three judges authorized by law the officers and
47 attaches shall be appointed as follows:

48 There shall be one court administrator who shall be the clerk appointed by the judges of the
49 court.

50 The clerk may appoint:

- 1 (a) Nine deputy municipal court clerks I.
2 (b) Eleven deputy municipal court clerks II.
3 (c) Nine deputy clerks III, M.C.
4 (d) Five deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner
5 or traffic referee appointed pursuant to Section 72400 or 72757.
6 (e) One assistant court administrator who shall receive a monthly salary eight schedules less
7 than the schedule specified for the court administrator of the court.

8 72753. In each municipal court district having two judges authorized by law the officers and
9 attaches shall be appointed as follows:

10 There shall be one court administrator who shall be the clerk appointed by the judges of the
11 court.

12 The clerk may appoint:

- 13 (a) Six deputy municipal court clerks I.
14 (b) Eight deputy municipal court clerks II.
15 (c) Six deputy clerks III, M.C.
16 (d) Three deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner
17 appointed pursuant to Section 72757.
18 (e) One assistant court administrator who shall receive a monthly salary eight schedules less
19 than the schedule specified for the court administrator of the court.

20 72754. In each municipal court district having one judge authorized by law the officers and
21 attaches shall be appointed and compensated as follows:

22 There shall be one court administrator who shall be the clerk appointed by the judge of the
23 court.

24 The clerk may appoint:

- 25 (a) Three deputy municipal court clerks I.
26 (b) Four deputy municipal court clerks II.
27 (c) Four deputy clerks III, M. C.
28 (d) Two deputy clerks IV, M.C., plus one additional such deputy clerk for each commissioner
29 appointed pursuant to Section 72757.
30 (e) One assistant court administrator who shall receive a monthly salary eight schedules less
31 than the schedule specified for the court administrator of the court.

32 72755. In those positions for which this article provides a multistep rate of compensation, this
33 section shall apply.

34 (a) Except in the case of transfer, demotion, promotion or where otherwise specifically
35 provided, original appointments to these positions shall be at the rate designated for step 1 of the
36 salary schedule pertaining to the position occupied.

37 (b) The initial rate of compensation shall be increased to the next higher step of the schedule
38 applicable to the position occupied upon the completion of six months' continuous service in the
39 same position. Upon the completion of each ensuing 12 months of service, the compensation shall
40 be increased to the rate specified in the next higher step of the salary schedule for the position
41 occupied until the compensation equals the sum specified in the highest step of that schedule.

42 (c) A person for whom an "unsatisfactory" or "improvement needed" performance evaluation
43 has been filed with the county director of personnel shall not be granted a step advancement in the
44 position held when the rating was given until a "competent" or better rating is filed.

45 (d) When a person is promoted to a position on a multistep basis, he or she shall receive the
46 lowest step rate in the salary schedule of the new position which results in an increase in salary.
47 However, when the increase in salary is less than the equivalent of a one-schedule increase in
48 salary, the person shall be placed on the next higher step of the position to which he or she is
49 appointed. Step advancements thereafter shall be as otherwise provided in this section.

50 (e) When the increase in salary provided for in subdivision (d) is at least equivalent to a one-
51 schedule increase in salary, but less than the equivalent of a two-schedule increase in salary, the

1 person shall be entitled to advance to the next higher step of the position to which he or she was
2 appointed in one-half of the time otherwise required. Step advancements thereafter shall be as
3 otherwise provided.

4 (f) A person demoted to a lower position shall be entitled to receive whichever of the following
5 rates is lower:

6 (1) The highest step of the salary schedule pertaining to the position to which he or she is
7 demoted.

8 (2) The same rate of pay which he or she was receiving prior to demotion.

9 (g) The appointing power who demotes a person for disciplinary reasons may specify any step
10 rate in the salary schedule pertaining to the lower position except that it shall not be higher than
11 the step rate held by the employee in the higher position.

12 (h) If a person begins employment between the 1st and 15th of any calendar month, inclusive,
13 his or her step advancement shall be calculated from the first day of that month. Where a person
14 begins employment on or after the 16th day of a calendar month, the step advancement shall be
15 calculated from the first of the next month.

16 (i) Upon demotion, a person shall retain the anniversary date held in the higher position.

17 (j) Any deputy clerk III, M.C. who is necessarily assigned to the regular duties of a deputy
18 clerk IV, M.C. or court clerk, M.C. because of an absence of a deputy clerk IV, M.C. or court
19 clerk, M.C. shall, for any period of that assignment in excess of 30 calendar days, receive
20 compensation at the rate of that higher numbered salary schedule which will increase his or her
21 basic compensation by four schedules.

22 (k) One deputy municipal court clerk I, deputy municipal court clerk II, or deputy clerk III,
23 M.C. in each municipal court of six judges or fewer, who having met the stenographic skills
24 proficiency qualification required by the County of Los Angeles for the county position of
25 stenographer, shall be entitled to receive a four-schedule increase in salary when regularly
26 required to provide stenographic and secretarial services to the judge or judges of the court.

27 (l) Not more than one deputy clerk IV, M.C. or court clerk, M.C. in each municipal court
28 having six judges or fewer, or a total of two deputy clerks IV, M.C. or court clerks, M.C. in each
29 municipal court having seven judges or more, while assigned to duties in divisions of the court
30 requiring greater skill and responsibility, shall receive a two-schedule increase in salary.

31 (m) Not more than a total of two deputy municipal court clerks I, deputy municipal court clerks
32 II, or deputy clerks III, M.C. in each municipal court, while assigned to duties in divisions of the
33 court requiring greater skill and responsibility, shall receive a two-schedule increase in
34 compensation while so assigned. However, in no event shall a deputy clerk who is receiving
35 additional compensation pursuant to subdivision (k) receive the compensation prescribed by this
36 subdivision.

37 72756. Whenever reference to a numbered Salary Schedule is made in any section of this
38 article, the schedule found in the salary ordinance of the County of Los Angeles shall apply.

39 72757. In each municipal court district having not more than 10 judges authorized by law, a
40 jury commissioner may be appointed by and hold office at the pleasure of the majority of the
41 judges, or the senior judge in service in a municipal court district having two judges.

42 72758. The jury commissioner shall exercise all the powers and perform all of the duties of the
43 jury commissioner of a superior court insofar as they are applicable to municipal courts, together
44 with such additional powers and duties as may be prescribed by law. In addition and without extra
45 compensation, he may be appointed and serve as a general commissioner of the court if he
46 possesses the qualifications prescribed therefor. As such general commissioner, he shall exercise
47 all the powers and perform all of the duties of a commissioner of a superior court insofar as they
48 are applicable to municipal courts, together with such additional powers and duties as may be
49 prescribed by law.

50 72759. The jury commissioner shall meet the provisions of Section 72190 relating to
51 qualifications and shall receive an annual salary equal to that provided by law for Commissioners

1 of the Municipal Court, Los Angeles Judicial District. He shall be a member of any retirement
2 system which includes clerks and deputy clerks of said court. The requirements relating to
3 qualifications do not apply to any jury commissioner who was an incumbent on January 1, 1957.

4 Any jury commissioner who has been appointed from the staff of court clerks shall continue to
5 be the clerk or deputy clerk of the judicial district in such position as he has theretofore been
6 appointed without additional compensation.

7 72760. Notwithstanding the provisions of Section 72648, the judges and any judges pro
8 tempore of each municipal court under this article, may select, from among the deputy clerks of
9 the court, such person or persons to act as court clerks as may be reasonably necessary for the
10 proper operation of such court. Any deputy clerk so selected shall serve as court clerk during the
11 pleasure of the judge or judges of such court, and shall perform his official duties as court clerk
12 under his or their sole direction.

13 72761. Notwithstanding Section 72400, the presiding judge of the Beverly Hills Municipal
14 Court District may also appoint the clerk-administrative officer, on an as-needed basis, to serve
15 temporarily as traffic referee without additional compensation, provided he or she is a member of
16 the State Bar of California.

17 72762. In the Alhambra Municipal Court District, the officers and attaches shall be appointed
18 as follows:

19 (a) There is one court administrator who shall be the clerk appointed by the judges of the court.

20 (b) The clerk may appoint:

21 (1) One deputy municipal court clerk I.

22 (2) Fourteen deputy municipal court clerks II.

23 (3) Six deputy clerks III, M.C.

24 (4) Four court clerks, M.C.

25 (5) Three supervising deputy clerks I, M.C.

26 (6) Three supervising deputy clerks II, M.C.

27 (7) Four student workers.

28 (8) One student professional worker.

29 (9) One accountant, M.C.

30 (10) One EDP programmer analyst II.

31 (11) One judicial secretary.

32 (12) One assistant court administrator who shall receive a monthly salary eight schedules less
33 than the schedule specified for the court administrator of the court.

34 (c) The court administrator shall hold office at the pleasure of the judges of that court. This
35 subdivision applies to vacancies occurring on or after January 1, 1991.

36 72763. In the Antelope Municipal Court District, the officers and the attaches shall be
37 appointed, as follows:

38 (a) There is one court administrator who shall be the clerk appointed by the judges of that court.

39 (b) The clerk may appoint:

40 (1) Nine deputy municipal court clerks I.

41 (2) Eleven deputy municipal court clerks II.

42 (3) Nine deputy clerks III, M.C.

43 (4) Seven deputy clerks IV, M.C.

44 (5) One accountant, M.C.

45 (6) Two student workers.

46 (7) Two supervising deputy clerks II, M.C.

47 (8) One student professional worker.

48 (9) One assistant court administrator who shall receive a monthly salary eight schedules less
49 than the schedule specified for the court administrator of that court.

1 72764. In the Beverly Hills Municipal Court District, the officers and attaches shall be
2 appointed as follows:

3 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
4 and who shall hold office at the pleasure of the judges of that court.

5 (b) The clerk may appoint:

6 (1) Seven deputy municipal court clerks I.

7 (2) Eleven deputy municipal court clerks II.

8 (3) Four deputy clerks III, M.C.

9 (4) Six deputy clerks IV, M.C.

10 (5) One student worker.

11 (6) One administrative assistant, M.C.

12 (7) One data systems analyst I, M.C.

13 (8) One management secretary, M.C.

14 (9) Three student professional workers.

15 (10) One chief deputy clerk.

16 (11) One assistant court administrator who shall receive a monthly salary eight schedules less
17 than the schedule specified for the court administrator of that court. Any person appointed to this
18 position shall serve at the pleasure of the court administrator and shall acquire no civil service
19 status.

20 72765. The court administrator of the Burbank Municipal Court District shall hold office at the
21 pleasure of the judges of that court.

22 72766. In the Citrus Municipal Court District, the officers and attaches shall be appointed, as
23 follows:

24 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
25 and who shall hold office at the pleasure of the judges of that court.

26 (b) The clerk may appoint:

27 (1) Eighteen deputy municipal court clerks I.

28 (2) Fifteen deputy municipal court clerks II.

29 (3) Nine deputy clerks III, M.C.

30 (4) Thirteen deputy clerks IV, M.C.

31 (5) One senior secretary III, Muni Ct.

32 (6) Twelve student workers.

33 (7) Four supervising deputy clerks I, M.C.

34 (8) Three supervising deputy clerks II, M.C.

35 (9) Four assistant chief deputy clerks, M.C.

36 (10) One senior administrative assistant, M.C.

37 (11) Two student professional workers.

38 (12) One assistant court administrator who shall receive a monthly salary eight schedules less
39 than the schedule specified for the court administrator of that court.

40 72767. In the Compton Municipal Court District, the officers and attaches shall be appointed,
41 as follows:

42 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
43 and who shall hold office at the pleasure of the judges of that court.

44 (b) The clerk may appoint:

45 (1) Thirty-two deputy municipal court clerks I.

46 (2) Thirty-two deputy municipal court clerks II.

47 (3) Twenty-two deputy clerks III, M.C.

48 (4) Fifteen deputy clerks IV, M.C.

49 (5) One senior administrative assistant, M.C.

50 (6) Six assistant chief deputy clerks, M.C.

51 (7) One data systems analyst II, M.C.

- 1 (8) One head personnel technician, M.C., NCS.
- 2 (9) One senior judicial secretary, Muni Ct.
- 3 (10) One senior secretary III, Muni Ct.
- 4 (11) One student professional worker.
- 5 (12) Four student workers.
- 6 (13) Five supervising deputy clerks I, M.C.
- 7 (14) Five supervising deputy clerks II, M.C.
- 8 (15) Two data systems analysts I, M.C.
- 9 (16) Five division chiefs, M.C., NCS.
- 10 (17) One personnel assistant, M.C.
- 11 (18) One staff assistant, Muni Ct.
- 12 (19) One assistant court administrator who shall receive a monthly salary eight schedules less
- 13 than the schedule specified for the court administrator of that court and who shall serve at the
- 14 pleasure of the court administrator.

15 72767.1. Notwithstanding Section 72604, in the Compton Municipal Court District, official
16 reporters shall be appointed as follows:

17 (a) The judges may appoint as many phonographic reporters, not exceeding twelve, as the
18 business of the court may require. The reporters shall be known as official reporters and shall
19 serve at the pleasure of the judges of the court.

20 (b) In lieu of any other compensation provided by law for his or her services in reporting
21 testimony and proceedings in the court, each official reporter shall receive the same monthly
22 salary and medical benefits received by official reporters of the Los Angeles Municipal Court
23 District, pursuant to Section 72709. Fees for transcription shall be as provided in Article 9
24 (commencing with Section 69941) of Chapter 5.

25 72768. In the Culver Municipal Court District, the officers and attaches shall be appointed, as
26 follows:

27 (a) There is one court administrator, who shall be the clerk appointed by the judges of that
28 court.

29 (b) The clerk may appoint:

- 30 (1) Six deputy municipal court clerks I.
- 31 (2) Eight deputy municipal court clerks II.
- 32 (3) Six deputy clerks III, M.C.
- 33 (4) Four deputy clerks IV, M.C.
- 34 (5) One student worker.
- 35 (6) One supervising deputy clerk II, M.C.
- 36 (7) One senior secretary I, Muni. Ct.

37 (8) One assistant court administrator who shall receive a monthly salary eight schedules less
38 than the schedule specified for the court administrator of that court.

39 72769. In the Downey Municipal Court District, the officers and attaches shall be appointed, as
40 follows:

41 (a) There is one court administrator who shall be the clerk appointed by the judges of that court
42 and who shall hold office at the pleasure of the judges of that court.

43 (b) The clerk may appoint:

- 44 (1) Nine deputy municipal court clerks I.
- 45 (2) Twelve deputy municipal court clerks II.
- 46 (3) Nine deputy clerks III, M.C.
- 47 (4) Six court clerks, M.C.
- 48 (5) Two accounting technicians, M.C.
- 49 (6) One principal clerk, Los Angeles.
- 50 (7) One secretary, Muni Ct.
- 51 (8) Five student workers, M.C., NCS.
- 52 (9) Three supervising deputy clerks II, M.C.

- 1 (10) One financial evaluator, M.C., NCS.
2 (11) One procurement aide, M.C.
3 (12) One assistant court administrator, who shall receive a monthly salary eight schedules less
4 than the schedule specified for the court administrator of that court.

5 72770. In the East Los Angeles Municipal Court District, the officers and attaches shall be
6 appointed, as follows:

7 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
8 and who shall hold office at the pleasure of the judges of that court.

9 (b) The clerk may appoint:

- 10 (1) Nine deputy municipal court clerks I.
11 (2) Twelve deputy municipal court clerks II.
12 (3) Nine deputy clerks III, M.C.
13 (4) Twelve deputy clerks IV, M.C.
14 (5) Six student workers.

15 (6) One assistant court administrator who shall receive a monthly salary eight schedules less
16 than the schedule specified for the court administrator of the court.

17 72771. In the Glendale Municipal Court District, the officers and attaches shall be appointed, as
18 follows:

19 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
20 and who shall hold office at the pleasure of the judges of that court.

21 (b) The clerk may appoint:

- 22 (1) Fifteen deputy municipal court clerks II.
23 (2) Five deputy clerks III, M.C.
24 (3) Seven court clerks, M.C.
25 (4) One principal administrative assistant, M.C.
26 (5) One senior secretary II, Muni Ct.
27 (6) Two supervising deputy clerks I, M.C.
28 (7) One accountant, M.C.
29 (8) Three student workers.

30 (9) One assistant court administrator who shall receive a monthly salary eight schedules less
31 than the schedule specified for the court administrator of that court.

32 72771.1. Notwithstanding Section 72604, in the Glendale Municipal Court District, official
33 reporters shall be appointed as follows:

34 (a) The judges may appoint as many phonographic reporters, not exceeding four, as the
35 business of the court may require. The reporters shall be known as official reporters and shall
36 serve at the pleasure of the judges of the court.

37 (b) In lieu of any other compensation provided by law for his or her services in reporting
38 testimony and proceedings in the court, each official reporter shall receive the same monthly
39 salary and benefits received by official reporters of the Los Angeles Municipal Court District,
40 pursuant to Section 72709. Fees for transcription shall be as provided in Article 9 (commencing
41 with Section 69941) of Chapter 5.

42 72772. In the Inglewood Municipal Court District, the officers and attaches shall be appointed,
43 as follows:

44 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
45 and who shall hold office at the pleasure of the judges of that court.

46 (b) The clerk may appoint:

- 47 (1) Sixteen deputy municipal court clerks I.
48 (2) Twenty-six deputy municipal court clerks II.
49 (3) Three deputy clerks III, M.C.
50 (4) Eleven deputy clerks IV, M.C.

- 1 (5) Two principal clerks, Los Angeles.
- 2 (6) One procurement aide, M.C.
- 3 (7) One senior administrative assistant, M.C.
- 4 (8) One senior judicial secretary, Muni Ct.
- 5 (9) Three student workers.
- 6 (10) Three supervising deputy clerks I, M. C.
- 7 (11) Four supervising deputy clerks II, M.C.
- 8 (12) One assistant court administrator who shall receive a monthly salary eight schedules less
- 9 than the schedule specified for the court administrator of that court.

10 72773. In the Long Beach Municipal District, the officers and attaches shall be appointed, as
11 follows:

- 12 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
- 13 and who shall hold office at the pleasure of the judges of that court.
- 14 (b) The clerk may appoint:
- 15 (1) Twenty-six deputy municipal court clerks I.
- 16 (2) Twenty-four deputy municipal court clerks II.
- 17 (3) Twenty-one deputy clerks III, M.C.
- 18 (4) Thirteen deputy clerks IV, M.C.
- 19 (5) Two deputy clerks, senior judicial secretaries, Muni Ct.
- 20 (6) Five division chiefs, Long Beach M.C.
- 21 (7) One assistant court administrator who shall receive a monthly salary eight schedules less
- 22 than the schedule specified for the court administrator of that court.
- 23 (8) Seven supervising deputy clerks I, M.C.
- 24 (9) Five supervising deputy clerks II, M.C.
- 25 (10) Seven principal clerks, Los Angeles.
- 26 (11) One senior secretary III, Muni Ct.
- 27 (12) Two administrative assistants, M.C.
- 28 (13) One data systems analyst II, M.C.
- 29 (14) One legal research assistant, planning and research.
- 30 (15) Two senior administrative assistants, M.C.
- 31 (16) One accountant, M.C.
- 32 (17) One personnel technician, M.C.
- 33 (18) One student professional worker.
- 34 (19) Eight student workers.
- 35 (20) One procurement aide, M.C.

36 72774. In the Los Cerritos Municipal Court District, the officers and attaches shall be
37 appointed, as follows:

- 38 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
- 39 and who shall hold office at the pleasure of the judges of that court.
- 40 (b) The clerk may appoint:
- 41 (1) Seventeen deputy municipal court clerks II.
- 42 (2) Three deputy clerks III, M.C.
- 43 (3) Six deputy clerks IV, M.C.
- 44 (4) One senior judicial secretary, Muni Ct.
- 45 (5) Three supervising deputy clerks I, M.C.
- 46 (6) Three supervising deputy clerks II, M.C.
- 47 (7) Two student workers.
- 48 (8) One assistant court administrator who shall receive a monthly salary eight schedules less
- 49 than the schedule specified for the court administrator of that court.
- 50 (9) One data systems analyst II, M.C.

1 72775. In the Malibu Municipal Court District, the officers and attaches shall be appointed, as
2 follows:

3 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
4 and who shall hold office at the pleasure of the judges of that court.

5 (b) The clerk may appoint:

6 (1) Five deputy municipal court clerks I.

7 (2) Six deputy municipal court clerks II.

8 (3) Six deputy clerks III, M.C.

9 (4) Three deputy clerks IV, M.C.

10 (5) One senior secretary III, M.C.

11 (6) One senior administrative assistant, M.C.

12 (7) Two supervising deputy clerks II, M.C.

13 (8) Three student workers.

14 (9) One assistant court administrator who shall receive a monthly salary eight schedules less
15 than the schedule specified for the court administrator of the court.

16 72776. In the Newhall Municipal Court District, the officers and attaches shall be appointed, as
17 follows:

18 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
19 and who, for any vacancy occurring on or after January 1, 1991, shall hold office at the pleasure
20 of the judges of that court.

21 (b) The clerk may appoint:

22 (1) Two deputy municipal court clerks I.

23 (2) Twelve deputy municipal court clerks II.

24 (3) Six deputy clerks III, M.C.

25 (4) Five court clerks, M.C., plus one additional court clerk, M.C. for each commissioner or
26 traffic referee appointed pursuant to Section 72400, 72450, or 72607.

27 (5) One accounting technician, M.C.

28 (6) One senior secretary III, M.C.

29 (7) One supervising deputy clerk II, M.C.

30 (8) One data systems analyst I, M.C.

31 (9) One administrative assistant, M.C.

32 (10) Two student workers.

33 (11) One assistant court administrator who shall receive a monthly salary eight schedules less
34 than the schedule specified for the court administrator of that court.

35 72777. In the Pasadena Municipal Court District, the officers and attaches shall be appointed,
36 as follows:

37 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
38 and who shall hold office at the pleasure of the judges of that court.

39 (b) The clerk may appoint:

40 (1) Twelve deputy municipal court clerks I.

41 (2) Ten deputy municipal court clerks II.

42 (3) Seven deputy clerks III, M.C.

43 (4) Eight deputy clerks IV, M.C.

44 (5) Four student workers.

45 (6) One student professional worker.

46 (7) One secretary, Muni.Ct.

47 (8) One administrative assistant, M.C.

48 (9) One principal clerk, Los Angeles.

49 (10) One assistant court administrator who shall receive a monthly salary eight schedules less
50 than the schedule specified for the court administrator of that court.

1 72778. In the Pomona Municipal Court District, the officers and attaches shall be appointed, as
2 follows:

3 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
4 and who shall hold office at the pleasure of the judges of that court.

5 (b) The clerk may appoint:

6 (1) Ten deputy municipal court clerks I.

7 (2) Eleven deputy municipal court clerks II.

8 (3) Ten deputy clerks III, M.C.

9 (4) Ten court clerks, M.C.

10 (5) One student professional worker.

11 (6) Four student workers, M.C., NCS.

12 (7) Two assistant chief deputy clerks, M.C.

13 (8) One staff assistant, Muni Ct.

14 (9) One data systems analyst I, M.C.

15 (10) One assistant court administrator who shall receive a monthly salary eight schedules less
16 than the schedule specified for the court administrator of that court.

17 72778.1. Notwithstanding Section 72604, in the Pomona Municipal Court District, official
18 reporters shall be appointed as follows:

19 (a) The judges may appoint as many phonographic reporters, not exceeding five, as the
20 business of the court may require. The reporters shall be known as official reporters and shall
21 serve at the pleasure of the judges of the court.

22 (b) In lieu of any other compensation provided by law for his or her services in reporting
23 testimony and proceedings in the court, each official reporter shall receive the same monthly
24 salary and benefits received by official reporters of the Los Angeles Municipal Court District,
25 pursuant to Section 72709. Fees for transcription shall be as provided in Article 9 (commencing
26 with Section 69941) of Chapter 5.

27 72779. In the Rio Hondo Municipal Court District, the officers and attaches shall be appointed,
28 as follows:

29 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
30 and who shall hold office at the pleasure of the judges of that court.

31 (b) The clerk may appoint:

32 (1) Eleven deputy municipal court clerks I.

33 (2) Ten deputy municipal court clerks II.

34 (3) Seven deputy clerks III, M.C.

35 (4) Five deputy clerks IV, M.C.

36 (5) Three supervising deputy clerks I, M.C.

37 (6) Three supervising deputy clerks II, M.C.

38 (7) One student professional worker.

39 (8) Four student workers.

40 (9) One assistant court administrator who shall receive a monthly salary eight schedules less
41 than the schedule specified for the court administrator of that court.

42 72780. In the Santa Anita Municipal Court District, the officers and attaches shall be appointed,
43 as follows:

44 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
45 and who shall hold office at the pleasure of the judges of that court.

46 (b) The clerk may appoint:

47 (1) Four deputy municipal court clerks I.

48 (2) Eight deputy municipal court clerks II.

49 (3) Two deputy clerks III, M.C.

50 (4) Five deputy clerks IV, M.C.

51 (5) Two senior administrative assistants, M.C.

52 (6) One student professional worker.

- 1 (7) Two student workers.
2 (8) One assistant court administrator who shall receive a monthly salary eight schedules less
3 than the schedule specified for the court administrator of that court.

4 72781. In the Santa Monica Municipal Court District, the officers and attaches shall be
5 appointed, as follows:

- 6 (a) There is one court administrator who shall be the clerk appointed by the judges of the court.
7 (b) The clerk may appoint:
8 (1) Ten deputy municipal court clerks I.
9 (2) Eleven deputy municipal court clerks II.
10 (3) Nine deputy clerks III, M.C.
11 (4) Six deputy clerks IV, M.C.
12 (5) One senior judicial secretary, Muni Ct.
13 (6) One secretary, Muni Ct.
14 (7) Seven student workers.
15 (8) One assistant court administrator who shall receive a monthly salary eight schedules less
16 than the schedule specified for the court administrator of the court.
17 (c) The court administrator shall hold office at the pleasure of the judges of the court. This
18 subdivision applies to vacancies occurring on or after January 1, 1989.

19 72782. In the South Bay Municipal Court District, the officers and attaches shall be appointed,
20 as follows:

- 21 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
22 and who shall hold office at the pleasure of the judges of that court.
23 (b) The court administrator may appoint:
24 (1) Five deputy municipal court clerks I.
25 (2) Fifteen deputy municipal court clerks II.
26 (3) Twenty-six deputy clerks III, M.C.
27 (4) One deputy clerk, senior personnel assistant, M.C., NCS.
28 (5) One deputy clerk, senior judicial secretary, M.C., NCS.
29 (6) Seven supervising deputy clerks I, M.C.
30 (7) Two student professional workers, M.C., NCS.
31 (8) Five custodians, M.C., NCS.
32 (9) One general maintenance supervisor, M.C., NCS.
33 (10) Four deputy clerks, principal clerk, Los Angeles.
34 (11) One accountant, M.C., NCS.
35 (12) One data systems analyst I, M.C., NCS.
36 (13) One data systems analyst II, M.C., NCS.
37 (14) One deputy clerk III, M.C., NCS.
38 (15) Six deputy clerk supervisors, M.C., NCS.
39 (16) One deputy municipal court clerk I, NCS.
40 (17) One deputy municipal court clerk II, NCS.
41 (18) One deputy municipal court clerk aide, NCS.
42 (19) Four division chiefs, M.C., NCS.
43 (20) Two law clerks, M.C.
44 (21) One management secretary II, M.C., NCS.
45 (22) Twelve municipal court judicial assistants, NCS.
46 (23) One office services assistant I, M.C., NCS.
47 (24) One office services assistant II, M.C., NCS.
48 (25) One office services assistant III, M.C., NCS.
49 (26) One senior accountant, M.C., NCS.
50 (27) One senior administrative assistant, M.C., NCS.
51 (28) One senior general maintenance worker, M.C., NCS.
52 (29) Three staff assistants, M.C., NCS.

1 (30) One deputy clerk, assistant court administrator, who shall receive a monthly salary eight
2 schedules less than the schedule specified for the court administrator of that court.

3 72783. In the Southeast Municipal Court District, the officers and attaches shall be appointed,
4 as follows:

5 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
6 and who shall hold office at the pleasure of the judges of that court.

7 (b) The clerk may appoint:

8 (1) Twenty-seven deputy municipal court clerks II.

9 (2) Ten deputy clerks III, M.C.

10 (3) Eleven deputy clerks IV, M.C.

11 (4) Six supervising deputy clerks II, M.C.

12 (5) One accounting technician II, M.C.

13 (6) One senior secretary III, Muni Ct.

14 (7) Two student professional workers.

15 (8) Seven student workers.

16 (9) Two assistant court administrators who shall receive monthly salaries eight schedules less
17 than the schedule specified for the court administrator of that court.

18 72784. In the Whittier Municipal Court District, the officers and attaches shall be appointed, as
19 follows:

20 (a) There is one court administrator who shall be the clerk appointed by the judges of the court
21 and who shall hold office at the pleasure of the judges of that court.

22 (b) The clerk may appoint:

23 (1) Nine deputy municipal court clerks I.

24 (2) Eleven deputy municipal court clerks II.

25 (3) Eight deputy clerks III, M.C.

26 (4) Six judicial assistants.

27 (5) One principal administrative assistant, M.C.

28 (6) One student professional worker, M.C., NCS.

29 (7) Five student workers, M.C., NCS.

30 (8) Three supervising deputy clerks II, M.C.

31 (9) One financial evaluator, M.C., NCS.

32 (10) One assistant court administrator who shall receive a monthly salary eight schedules less
33 than the schedule specified for the court administrator of that court.

34 **Gov't Code §§ 73075-73096.1 (repealed). Alameda County municipal court districts**

35 SEC. ____ . Chapter 9.1 (commencing with Section 73075) of Title 8 of the Government
36 Code is repealed.

37 **Comment.** Sections 73075-73096.1 are repealed to reflect:

38 (1) Unification of the municipal and superior courts in Alameda County pursuant to Article VI,
39 Section 5(e), of the California Constitution, effective July 31, 1998. See Section 70211 (former
40 municipal court judgeships continued as superior court judgeships). See also Cal. Const. art. VI, §
41 16 (election of judges); Code Civ. Proc. § 38 (judicial districts); Elec. Code § 8203 (reelection of
42 incumbent judge); Section 69580 (number of judges in Alameda County). Cf. Section 71042.5
43 (preservation of judicial districts for purposes of publication); former Section 71264 (municipal
44 court served by marshal).

45 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
46 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
47 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
48 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
49 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment

1 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
2 reporters), 69947 (compensation of official reporter).

3 **Note.** We anticipate relocating court interpreter provisions to integrate them with trial court
4 employment and trial court funding provisions. This material is not yet drafted, and will be
5 circulated for comment separately.

6 The text of the repealed chapter is set out below.

7 Chapter 9.1. Municipal Court Districts in Alameda County

8 Article 1. General Provisions

9 73075. Each of the municipal court districts established in Alameda County shall have the
10 number of judges set out below opposite the name of the judicial district over which such court
11 has jurisdiction:

12	Alameda Judicial District	1
13	Berkeley-Albany Judicial District	4
14	Oakland-Piedmont-Emeryville Judicial District	14
15	San Leandro-Hayward Judicial District	8
16	Fremont-Newark-Union City Judicial District	4
17	Livermore-Pleasanton-Dublin Judicial District.	3

18 73075.1. In any judicial district in Alameda County having a municipal court, in which only the
19 incumbent municipal court judge has filed nomination papers for the office of municipal court
20 judge, his name shall not appear on the ballot unless there is filed with the county clerk or
21 registrar of voters, within 20 days after the final date for filing nomination papers for the office, a
22 petition indicating that a write-in campaign will be conducted for the office and signed by 100
23 registered voters qualified to vote with respect to the office.

24 If a petition indicating that a write-in campaign will be conducted for the office at the general
25 election, signed by 100 registered voters qualified to vote with respect to the office, is filed with
26 the county clerk or registrar of voters not less than 45 days before the general election, the name
27 of the incumbent shall be placed on the general election ballot if it has not appeared on the direct
28 primary election ballot.

29 If, in conformity with this section, the name of the incumbent does not appear either on the
30 primary ballot or general election ballot, the county clerk or registrar of voters, on the day of the
31 general election, shall declare the incumbent reelected.

32 73076. Whenever reference to salary item number classification is made in any section of this
33 chapter, the item classification found in the salary ordinance established for municipal courts in
34 Alameda County and the salary ordinance for the County of Alameda shall apply.

35 73077. (a) Except as provided in this section, each clerk and deputy clerk appointed to a
36 position enumerated in this chapter, where compensation is designated by a schedule of steps, the
37 rate of compensation in case of an original appointment shall be at the rate designated under the
38 first step. After a person completes 13 full bi-weekly pay periods of continuous full-time service
39 in the same classification at the first or second step, he or she shall advance to the next step. After
40 he or she has completed 26 full bi-weekly pay periods of continuous service in the same
41 classification at the third or fourth step, he or she shall advance to the next step.

42 (b) The anniversary date of an employee shall always be the first day of a bi-weekly pay period.
43 For purposes of determining effective dates of advancement to higher steps, the anniversary date
44 of a person shall be the first day of the bi-weekly pay period the appointment is effective,
45 provided that the appointment is effective in the first five calendar days of that pay period.

1 excluding holidays; otherwise, the anniversary date shall be the first day of the succeeding bi-
2 weekly pay period.

3 (c) Where the schedule of steps shown for a classification begins at step 2, 3, or 4, the rate of
4 compensation in case of an original appointment shall be at the rate designated under the 2nd,
5 3rd, or 4th step, respectively, after which further increments shall be received as set forth in
6 subdivision (a). An initial appointment to a professional, technical, or administrative
7 classification may be made at any step in the salary range for that classification, provided the
8 request of the department head is in accordance with established criteria and has been authorized
9 by the county administrator and director of personnel and labor relations.

10 73078. The value in dollars of each bi-weekly salary provided by this chapter shall be at the
11 rates indicated opposite the item classification in the salary ordinance established for municipal
12 court and the county salary ordinance.

13 73079. If a clerk, deputy clerk, or attache of a municipal court in Alameda County changes his
14 position to another position of higher salary schedule, he shall receive compensation at the salary
15 schedule for the new position that represents one step increment over the amount he was
16 receiving in the former position.

17 73080. Persons appointed to positions in the court immediately following employment in
18 positions in other municipal courts in the County of Alameda, or in positions in the classified
19 service of the county as set forth in the county charter, shall receive credit for prior continuous
20 service in such positions. The clerk and each deputy clerk and attache, in addition to the
21 minimum salary for his position shall receive the increments to which his length of service in any
22 municipal court in Alameda County or any superseded court entitles him. In no circumstance
23 shall an employee of the court have his salary range reduced below that salary range he was
24 entitled to as a permanent employee before the effective date of this section.

25 73082. The Sheriff of Alameda County and his deputies shall ex officio be the marshal and
26 deputy marshals of the municipal courts in Alameda County.

27 Article 2. Courts in Alameda County

28 73083. This article applies only to municipal courts established in judicial districts in Alameda
29 County.

30 73084. (a) In each municipal court established in Alameda County one clerk who shall also be
31 known as the court administrative officer shall be appointed by the judge or judges of each court.

32 (b) The clerk and administrative officers of the following districts shall receive a bi-weekly
33 salary at the rate set forth for that classification in the ordinance established for municipal courts
34 in Alameda County:

	Ordinance Class No.
35 Alameda Judicial District	1690M
36 Berkeley-Albany Judicial District	1691M
37 Fremont-Newark-Union City Judicial District	1692M
38 Livermore-Pleasanton-Dublin Judicial District	1693M
39 Oakland-Piedmont-Emeryville Judicial District	1694M
40 San Leandro-Hayward Judicial District	1695M

41 73084.1. The clerk and administrative officer of the municipal court for the Alameda Judicial
42 District may appoint the following deputy clerks:

- 43 (a) One chief deputy clerk.
44 (b) Two deputy clerks, municipal courtroom clerk.
45 (c) Three deputy clerks, division chiefs.
46
47

- 1 (d) Three deputy clerks, senior municipal court clerk.
- 2 (e) Eight deputy clerks, municipal court clerk.
- 3 (f) One deputy clerk, clerk II.
- 4 (g) One deputy clerk, supervising accountant I.
- 5 (h) One deputy clerk, secretary II.

6 Not more than one such deputy clerk may be assigned as court interpreter at the additional
7 percentage compensation provided for county employees required to possess bilingual
8 capabilities.

9 73084.2. The clerk and administrative officer of the municipal court for the Berkeley-Albany
10 Judicial District may appoint the following deputy clerks:

- 11 (a) One chief deputy clerk.
- 12 (b) Three deputy clerks, division chief.
- 13 (c) One deputy clerk, financial hearing officer.
- 14 (d) Five deputy clerks, municipal courtroom clerk.
- 15 (e) Six deputy clerks, senior municipal court clerk.
- 16 (f) Ten deputy clerks, municipal court clerk.
- 17 (g) Two deputy clerks, clerk II.
- 18 (h) One deputy clerk, secretary II.
- 19 (i) One deputy clerk, supervising accountant I.
- 20 (j) One deputy clerk, account clerk II.
- 21 (k) One deputy clerk, account clerk I.
- 22 (l) Two deputy clerks, data input clerk.
- 23 (m) One deputy clerk, court attendant.
- 24 (n) Two court reporters.

25 Not more than three such deputy clerks may be assigned as court interpreter at the additional
26 percentage compensation provided for county employees required to possess bilingual
27 capabilities.

28 73084.3. The clerk and administrative officer of the municipal court for the Oakland-Piedmont-
29 Emeryville Judicial District may appoint the following deputy clerks:

- 30 (a) One chief deputy clerk.
- 31 (b) Three deputy clerks, division chiefs. The clerk and administrative officer may transfer the
32 division chiefs from one division to another regardless of any resulting change in salary as set
33 forth in Section 73086.
- 34 (c) Four deputy clerks, assistant division chiefs.
- 35 (d) One deputy clerk, calendar coordinator.
- 36 (e) Six deputy clerks, supervising municipal court clerk II.
- 37 (f) Eighteen deputy clerks, municipal courtroom clerk.
- 38 (g) Four deputy clerks, supervising municipal court clerk I.
- 39 (h) Eight deputy clerks, senior municipal court clerk.
- 40 (i) Fifty-eight deputy clerks, municipal court clerk.
- 41 (j) Ten clerks, clerk II.
- 42 (k) One deputy clerk, supervising secretary II.
- 43 (l) Two deputy clerks, secretary II.
- 44 (m) Eight deputy clerks, data input clerk.
- 45 (n) Two deputy clerks, pretrial specialist.
- 46 (o) One deputy clerk, management specialist.
- 47 (p) Two deputy clerks, financial hearing officers.
- 48 (q) One deputy clerk, systems analyst.
- 49 (r) Eight court reporters.
- 50 (s) One deputy clerk, court training officer.
- 51 (t) One deputy clerk, information systems director.
- 52 (u) One deputy clerk, information systems analyst.

1 (v) One deputy clerk, information systems specialist.
2 Not more than eight such deputy clerks may be assigned as court interpreters at the additional
3 percentage compensation provided for county employees required to possess bilingual
4 capabilities.

5 73084.4. The clerk and court administrator of the municipal court for the San Leandro-
6 Hayward Judicial District may appoint the following deputy clerks:

- 7 (a) One assistant clerk and court administrator.
8 (b) Five deputy clerks, division chiefs. The clerk and court administrator may transfer the
9 division chiefs from one division to another regardless of any resulting change in salary as set
10 forth in Section 73086.
11 (c) Nine deputy clerks, municipal courtroom clerk.
12 (d) Five deputy clerks, supervising municipal court clerk I.
13 (e) Three deputy clerks, senior municipal court clerk.
14 (f) Thirty-nine deputy clerks, municipal court clerk.
15 (g) One deputy clerk, supply clerk II.
16 (h) One deputy clerk, supervising secretary II.
17 (i) One deputy clerk, secretary II.
18 (j) One deputy clerk, accounting specialist.
19 (k) One deputy clerk, court attendant.
20 (l) Two deputy clerks, financial hearing officer.
21 (m) One deputy clerk, information systems analyst.

22 Not more than five such deputy clerks may be assigned as court interpreters at the additional
23 percentage compensation provided for county employees required to possess bilingual
24 capabilities.

25 73084.5. The clerk and administrative officer of the municipal court for the Fremont-Newark-
26 Union City Judicial District may appoint the following deputy clerks:

- 27 (a) One chief deputy clerk.
28 (b) Six deputy clerks, municipal courtroom clerk.
29 (c) Four deputy clerks, division chief.
30 (d) Six deputy clerks, senior municipal court clerk.
31 (e) Twenty-three deputy clerks, municipal court clerk.
32 (f) Four deputy clerks, clerk II.
33 (g) One deputy clerk, secretary II.
34 (h) One deputy clerk, supervising accountant I.
35 (i) Two deputy clerks, account clerk II.
36 (j) One deputy clerk, account clerk I.
37 (k) Three deputy clerks, data input clerk.
38 (l) Three deputy clerks, supervising municipal court clerk I.
39 (m) One deputy clerk, financial hearing officer.
40 (n) One deputy clerk, supervising secretary II.
41 (o) One deputy clerk, court attendant.
42 (p) One deputy clerk, pretrial specialist.
43 (q) One deputy clerk, information systems technician II.

44 Not more than five deputy clerks may be assigned as court interpreters at the additional
45 percentage compensation provided for county employees required to possess bilingual
46 capabilities.

47 73084.6. The clerk and administrative officer of the municipal court for the Livermore-
48 Pleasanton-Dublin Judicial District may appoint the following deputy clerks:

- 49 (a) One chief deputy clerk.
50 (b) Three deputy clerks, municipal courtroom clerk.
51 (c) Three deputy clerks, supervising municipal court clerk II.

- 1 (d) Four deputy clerks, senior municipal court clerk.
- 2 (e) Twelve deputy clerks, municipal court clerk.
- 3 (f) One deputy clerk, supervising accountant I.
- 4 (g) One deputy clerk, secretary II.
- 5 (h) Two deputy clerks, data input clerk.
- 6 (i) One deputy clerk, financial hearing officer.
- 7 (j) One deputy clerk, court attendant.
- 8 Not more than four such deputy clerks may be assigned as court interpreter at the additional
- 9 percentage compensation provided for county employees required to possess bilingual
- 10 capabilities.

11 73085. Chief deputy clerks of the following districts shall receive a bi-weekly salary at the rate
 12 set forth for that item number classification in the ordinance established for municipal courts:

	Ordinance
	Class No.
15 Oakland-Piedmont-Emeryville Judicial District	1675M
16 Hayward-San Leandro Judicial District	1676M
17 Fremont-Newark-Union City Judicial District	1677M
18 Berkeley-Albany Judicial District	1678M
19 Livermore-Pleasanton-Dublin Judicial District	1674M
20 Alameda Judicial District	1679M

21 73086. Deputy clerks, division chiefs of the following districts shall receive a biweekly salary
 22 at the rate set forth for that item number classification in the ordinance established for municipal
 23 courts:

	Ordinance
	Class No.
26 Oakland-Piedmont-Emeryville Judicial District, criminal	1680M
27 Oakland-Piedmont-Emeryville Judicial District, civil	1681M
28 Oakland-Piedmont-Emeryville Judicial District, traffic	1682M
29 Berkeley-Albany Judicial District, division chief	1683M
30 San Leandro-Hayward Judicial District, division chief	1684M
31 Fremont-Newark-Union City Judicial District, division chief	1685M

32 73086.5. The following personnel of the Oakland-Piedmont-Emeryville Judicial District shall
 33 receive a bi-weekly salary at the rate set forth for that item number classification in the ordinance
 34 established for municipal courts:

	Ordinance
	Class No.
37 Deputy clerks, assistant division chief	1667M
38 Deputy clerks, calendar coordinator	1668M

39 73087. (a) Deputy clerks in each municipal court in Alameda County shall receive a biweekly
 40 salary at the rate set forth for that item number classification in the ordinance established for
 41 municipal courts as follows:

	Ordinance
	Class No.
44 Deputy clerk, municipal court clerk	1615
45 Deputy clerk, senior municipal court clerk	1620
46 Deputy clerk, supervising municipal court clerk I	1655M
47 Deputy clerk, supervising municipal court clerk II	1656M
48 Deputy clerk, municipal courtroom clerk	1660
49 Deputy clerk, court attendant	9067 or
50	9067N

1 (b) Deputy clerks in each municipal court in Alameda County shall receive a biweekly salary at
2 the rate set forth for that item number classification in the Alameda County ordinance as follows:

	Ordinance
	Class No.
3 Deputy clerk, account clerk I	1305
4 Deputy clerk, account clerk II	1310
5 Deputy clerk, accounting technician	1315M
6 Deputy clerk, administrative services assistant I	0220M
7 Deputy clerk, administrative services officer I	0224M
8 Deputy clerk, clerk I	1115
9 Deputy clerk, clerk II	1120
10 Deputy clerk, data input clerk	1131
11 Deputy clerk, information systems analyst	0419M
12 Deputy clerk, secretary I	1215
13 Deputy clerk, secretary II	1220M
14 Deputy clerk, stenographer II	1210
15 Deputy clerk, supervising accountant I	0133M
16 Deputy clerk, supervising secretary I	1216M
17 Deputy clerk, supervising secretary II	1221M
18 Deputy clerk, financial hearing officer	1426

19 (c) Notwithstanding any other provisions of this code, the rules governing flexibly staffed
20 classifications, the administration of the pay plan and additional compensation shall be the same
21 as that for employees of Alameda County.
22
23

24 73088. All deputy clerks who are required by the clerk to work a “night shift” on each regular
25 working day of a month shall be allowed additional compensation in addition to their regular
26 compensation otherwise provided for in this article, such compensation for each such shift to be
27 at the rate of 5 percent of the pay for his position. For the purposes of this section, a “night shift”
28 is defined as meaning all time worked by a person required by the clerk to work at least five-
29 eighths (5/8) of his normal daily tour of duty after 4:30 p.m. or before 8 a.m.

30 73089. With the approval of the board of supervisors, judges of each municipal court concerned
31 within Alameda County may establish additional titles and pay rates as are required and may
32 appoint additional deputy clerks, officers, assistants, and other employees as deemed necessary
33 for the powers conferred by law upon the court and its members. Rates of compensation of the
34 clerk and administrative officers, deputy clerks, officers, assistants, and other employees may be
35 adjusted by joint action and approval of the board of supervisors and the judges in each respective
36 municipal court within the county.

37 If the board of supervisors provides by ordinance or resolution for any increase in the number
38 or rate of compensation of any municipal court personnel pursuant to this section, that increase
39 shall be effective only until January 1, 2000, and shall be effective at the same time and in the
40 same manner as increases for Alameda County employees generally.

41 73089.1. Any traffic trial commissioner appointed pursuant to Article 10 (commencing with
42 Section 72450) of Chapter 8 of this title to serve in a municipal court district in Alameda County,
43 shall receive a salary equal to 80 percent (80%) of the salary of a judge of the superior court.

44 73091. In addition to the positions created in this article, there are hereby created the following
45 positions to be filled only while higher positions remain unfilled and if persons in a lower grade
46 fail to qualify or receive an appointment to upgraded or newly created positions provided in this
47 article:

48 (a) One assistant division chief, supervising municipal court clerk II, or municipal courtroom
49 clerk position for each unfilled division chief position.

50 (b) One supervising municipal court clerk I or senior municipal court clerk position for each
51 unfilled municipal courtroom clerk position or supervising municipal court clerk II.

1 (c) One municipal court clerk position for each unfilled supervising municipal court clerk I or
2 senior municipal court clerk position.

3 (d) One clerk II position for each unfilled municipal court clerk position.

4 (e) One stenographer I position for each unfilled stenographer II position.

5 (f) One secretary I position for each unfilled secretary II position.

6 (g) One secretary II position for each unfilled supervising secretary II position.

7 Notwithstanding any other provisions of this code, all unfilled classified positions other than
8 those above may be filled by the next lower class as listed in the salary ordinance established for
9 municipal courts and the Alameda County salary ordinance.

10 73092. Whenever the business of the court requires, the appointing officer may request the
11 Civil Service Commission to study the duties of positions in any of the grades of deputy clerk and
12 on the basis of its findings, to certify eligibles with appropriate qualifications in typing,
13 stenography, account keeping, telephone switchboard and other mechanical equipment operation.

14 73093. Notwithstanding any other provision of this code, the clerk and deputy clerks provided
15 for by this article shall be entitled to receive the same mileage allowances for use of their private
16 automobile while on official business of the court as that provided for other employees of the
17 County of Alameda.

18 73094. The clerk and deputy clerks shall be entitled to the same vacation, sickness and other
19 leaves of absences, reinstatement privileges, longevity compensation, and similar privileges and
20 benefits as are now or may hereafter be provided for other employees of the County of Alameda,
21 State of California, including the right to participate in any group accident, health or life
22 insurance plan or service adopted by the Board of Supervisors of the County of Alameda, State of
23 California, and such privileges and benefits may be retrospectively applied.

24 73095. The judges of the Oakland-Piedmont-Emeryville Municipal Court may appoint one
25 official court interpreter. The individual appointed pursuant to this section shall hold office at the
26 pleasure of the judges and shall receive an annual salary including additional compensation for
27 bilingual skills, and all other benefits, in the same amount as are provided for the class of
28 municipal court clerk of the Oakland-Piedmont Municipal Court.

29 73096. Official reporters of municipal courts in Alameda County, in lieu of any other
30 compensation provided by law for their services in reporting testimony and proceedings in such
31 court, shall receive one of the following:

32 (a) Two hundred twenty-one dollars and ten cents (\$221.10) a day for the days they actually are
33 on duty under order of the court.

34 (b) A minimum payment of one hundred ten dollars and fifty-five cents (\$110.55) for serving
35 four hours or less a day.

36 (c) Regular official court reporters shall receive a salary, vacation leave, and sick leave, in the
37 same amounts as the official reporters of the Superior Court in Alameda County as set forth in
38 Alameda County Salary Ordinance for item number classification 1625.

39 Rates of compensation of regular official reporters and official reporters pro tempore may be
40 adjusted by joint action and approval of the board of supervisors and a majority of the judges of
41 the court, provided, however, that any changes in compensation which are made pursuant to this
42 section shall be on an interim basis and shall remain in effect only until January 1, 2000, unless
43 ratified by statute by the Legislature prior to that date.

44 73096.1. The judges of each municipal court district set forth below may appoint the following
45 number of regular official reporters:

46 Alameda Judicial District	1
47 Berkeley-Albany Judicial District	4
48 Oakland-Piedmont-Emeryville Judicial District	8
49 San Leandro-Hayward Judicial District	7

1	Fremont-Newark-Union City Judicial District	5
2	Livermore-Pleasanton-Dublin Judicial District	2

3 **Gov’t Code §§ 73100-73122 (repealed). San Bernardino County Municipal Court District**

4 SEC. ____ . Chapter 9.2 (commencing with Section 73100) of Title 8 of the Government
5 Code is repealed.


6 **Comment.** Sections 73100-73122 are repealed to reflect:

7 (1) Unification of the municipal and superior courts in San Bernardino County pursuant to
8 Article VI, Section 5(e), of the California Constitution, effective August 10, 1998. See Section
9 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
10 Const. art. VI, § 16 (election of judges); Code Civ. Proc. §§ 38 (judicial districts), 190 *et seq.*
11 (jury selection); Sections 69508 (presiding judge), 69594 (number of judges in San Bernardino
12 County). *Cf.* Section 71042.5 (preservation of judicial districts for purposes of publication).

13 (2) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in
14 San Bernardino County, effective October 9, 1999. *Cf.* Section 26603 (sheriff shall attend
15 superior court). For other provisions governing keepers fees, see Sections 26726 (fees for sheriff
16 keeping property under attachment, execution, or claim and delivery), 71266 (sheriff fee statutes
17 applicable to marshals), 72112 (deputy marshals serving as custodians).

18 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
19 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71622
20 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
21 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
22 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
23 protection system), 71673 (authority of court). See also Sections 68086 (fees for reporting
24 services), 69941 (appointment of official reporters), 69947 (compensation of official reporter),
25 69953.5 (daily transcript requiring more than one reporter), 72190 (court commissioners).

26 (4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
27 management), 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
28 (state funding of trial court operations). See also Section 69952 (payment from Trial Court
29 Operations Fund).

30  **Note.** The text of the repealed chapter is set out below.

31 **Chapter 9.2. Municipal Courts in San Bernardino County**

32 73100. There is in the County of San Bernardino, on and after the effective date of this section,
33 a single municipal court district known as the San Bernardino County Municipal Court District.

34 73101. The San Bernardino County Municipal Court District shall consist of the following
35 divisions, embracing that territory which is within the following judicial districts in the County of
36 San Bernardino on the date specified, and as such divisions are thereafter modified by the board
37 of supervisors or operation of law.

38 (a) On November 8, 1967:

39 (1) East Division--That territory within the Redlands Judicial District. On March 14, 1979, that
40 territory within the Highland and Yucaipa Judicial Districts.

41 (2) Central Division--That territory within the San Bernardino Judicial District. On October 1,
42 1980, that territory within the Colton and Mission Judicial Districts.

43 (3) Valley Division--That territory within the Fontana and Rialto Judicial Districts. On January
44 1, 1979, that territory within the Bloomington Judicial District.

45 (4) West Valley Division--That territory within the West Valley Municipal Court District. On
46 January 12, 1981, that territory within the Cucamonga-Etiwanda Judicial District.

47 (5) Victorville Division--That territory within the Victor Judicial District.

48 (b) On August 5, 1973:

1 (1) Barstow Division--That territory within the Barstow and Yermo-Belleville Judicial
2 Districts.

3 (c) On November 26, 1973:

4 (1) Chino Division--That territory within the Chino Judicial District.

5 (d) On July 1, 1979:

6 (1) Morongo Basin Division--That territory within the Twenty-nine Palms Judicial District.

7 73101.5. There shall be the following number of judges in divisions of the San Bernardino
8 County Municipal Court District:

9 (a) In the East Division, two.

10 (b) In the Central Division, seven.

11 (c) In the Valley Division, three.

12 (d) In the West Valley Division, seven.

13 (e) In the Victorville Division, two.

14 (f) In the Barstow Division, two.

15 (g) In the Chino Division, two.

16 (h) In the Morongo Basin Division, one.

17 73102. The Board of Supervisors of the County of San Bernardino may, by ordinance, create
18 new divisions of the San Bernardino County Municipal Court District and may modify or enlarge
19 the divisions created by this chapter. This provision shall not be construed to limit, or be limited
20 by, existing provisions of law conferring authority upon the board of supervisors to revise judicial
21 district boundaries or to consolidate judicial districts, provided that except for such changes in
22 judicial district boundaries as may be mandated by statute, no further annexation will be made to
23 the San Bernardino County Municipal Court District except after public hearing before the board
24 of supervisors.

25 73103. For purposes of qualification and election of judges, the "division" referred to in this
26 chapter is and shall continue to be the "district" referred to in subdivision (b) of Section 16 of
27 Article VI of the Constitution of the State of California.

28 73104. Within each division of the San Bernardino County Municipal Court District, even in
29 divisions having only one judge, there shall be a supervising judge of the division.

30 73105. The judges of the San Bernardino County Municipal Court District shall, by majority
31 vote, elect one of the judges of the district to serve as presiding judge of the district and shall
32 formulate rules and regulations not inconsistent with law or rules and regulations adopted and
33 prescribed by the Judicial Council for transfer of cases, assignment of judges, scheduling of
34 vacation of judges, and other administrative matters such as will promote uniformity of
35 procedures and efficiency and economy in the business of the district. Such rules and regulations
36 shall be administered by the municipal court administrator under the supervision and control of
37 the presiding judge of the district. Any rules and regulations adopted pursuant to Section 72002.1
38 shall be adopted by a majority vote of the judges of the district.

39 73106. The judges of the district shall meet quarterly, and more often if necessary, upon the call
40 in writing of the presiding judge of the district or of any two supervising judges. At the last
41 meeting of each calendar year, the judges shall elect the presiding judge of the district for the next
42 ensuing year commencing January 1, shall review the business of the district, and shall make such
43 recommendations to the board of supervisors and to the Judicial Council as it deems desirable or
44 necessary to promote the administration of justice in the courts of the district.

45 73107. There shall be one clerk of the San Bernardino County Municipal Court District to be
46 known as the municipal court administrator who shall be appointed by, and serve at the pleasure
47 of, a majority of the judges, from among applicants certified to those judges on the basis of a
48 competitive examination pursuant to personnel rules and regulations of the County of San
49 Bernardino. The municipal court administrator shall receive an annual salary of eighty thousand

1 one hundred eighteen dollars (\$80,118) commencing July 1, 1992, and shall be the appointing
2 authority for those positions listed in Section 73113.

3 73109. The municipal court administrator shall be the administrative officer of the district
4 under the control and supervision of the presiding judge of the district. The judges shall prescribe
5 and regulate, by majority vote, the duties and authority of the municipal court administrator,
6 among which shall be:

7 (a) To direct and coordinate the nonjudicial activities of the district.

8 (b) To coordinate the personnel practices in compliance with rules of the district and those of
9 the County of San Bernardino.

10 (c) To prepare and administer the budget of the district.

11 (d) To coordinate with other county agencies the acquisition, utilization, maintenance, and
12 disposition of county facilities, equipment and supplies necessary for operation of the district.

13 (e) To initiate studies and prepare appropriate recommendations and reports to the presiding
14 judge of the district and the judges relating to the business of the district, including, but not
15 limited to, such matters as standardization of forms, procedures, and of classification and
16 compensation of officers and employees.

17 (f) To collect, compare, and analyze statistical data on a continuing basis concerning the status
18 of judicial and nonjudicial business of the district and to prepare periodic reports and
19 recommendations based on such data.

20 (g) To make arrangements for and attend all meetings of the judges, to assist the presiding
21 judge of the district in the preparation of the agenda, and to prepare minutes of the meetings of
22 the judges.

23 (h) To serve as liaison for the district with other persons, committees, boards, groups, and
24 associations as directed by the presiding judge of the district or the judges.

25 73110. (a) There shall be one marshal designated as the Marshal of San Bernardino County, for
26 the superior and municipal courts established in San Bernardino County. The marshal shall serve
27 at the pleasure of a majority of the judges of the superior and municipal courts in the county. The
28 marshal shall receive an annual salary of seventy-seven thousand eight hundred eighty-one
29 dollars (\$77,881) commencing July 1, 1992. The marshal shall be the appointing power for those
30 positions listed in Section 73113 as being appointed by the marshal.

31 (b) Whenever required, the marshal shall attend all superior and municipal courts held within
32 San Bernardino County, provided, however, that a marshal shall attend a civil action only if the
33 presiding judge or his or her designee makes a determination that the attendance of the marshal at
34 that action is necessary for reasons of public safety.

35 (c) Whenever a vacancy occurs in the position of Marshal of San Bernardino County, the
36 judges of the superior court and all the municipal courts in San Bernardino County, by a majority
37 vote of their aggregate number, shall select and appoint the marshal under the organization, rules,
38 and procedures they adopt or ratify therefor. Discharge of the marshal shall be by a majority vote
39 of the judges of the municipal courts and the superior courts.

40 73110.5. There shall be, in San Bernardino County, the Court Service Oversight Committee
41 which will consist of three judges from the municipal court, three judges from the superior court,
42 and the presiding judge of the municipal court in even-numbered years and the presiding judge of
43 the superior court in odd-numbered years. The presiding judge serving shall be the chairperson of
44 the committee. The presiding judge of the superior court shall be the appointing authority for the
45 members from the superior court and the presiding judge of the municipal court shall be the
46 appointing authority for the members from the municipal court. The superior court administrator,
47 the municipal court administrator, and the marshal shall be nonvoting members of the committee
48 and shall act in an advisory capacity to the committee. The committee shall review and approve
49 the marshal's budget annually. The committee may review and make recommendations to the
50 marshal concerning policy and procedural issues that relate to the marshal's court service
51 responsibility and may request action by the marshal to facilitate the efficient operation of the

1 courts. The committee shall have the authority to recommend, after a hearing has been held and
 2 evidence presented, discipline or dismissal of the marshal of court services. The recommendation
 3 shall be supported by a majority vote of the judges sitting on the committee. That
 4 recommendation shall then be made to all the judges of the municipal and superior courts for
 5 further action. Based on the recommendation of the committee, and after due consideration of all
 6 facts and circumstances, the judges of the municipal and superior court, by a majority vote of
 7 their total number, may discipline the marshal or dismiss the marshal from office. The committee
 8 shall meet at least quarterly or as often as necessary to conduct business related to the marshal's
 9 court service operation.

10 73111. A branch office of the Marshal of San Bernardino County shall be maintained in each
 11 division of the superior and municipal courts of the county.

12 73111.5. Whenever required, the marshal shall attend all superior and municipal courts held
 13 within San Bernardino County. However, a marshal shall attend a civil action only if the
 14 presiding judge or his or her designee makes a determination that the attendance of the marshal at
 15 that action is necessary for reasons of public safety.

16 73112. Mediators in small claims proceedings in San Bernardino County under the Small
 17 Claims Act (Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of
 18 Civil Procedure) shall receive for their services such fees, not to exceed one hundred dollars
 19 (\$100) per day, as may be established by the court upon authorization and approval of the board
 20 of supervisors.

21 73113. The number of positions within each job classification which may be filled by
 22 appointment by the municipal court administrator and the marshal and the salary range prescribed
 23 in Section 73113.5 which constitutes the compensation for each job classification are as follows:

24 Appointed by the Municipal Court Administrator

Job Classification	Number	Salary Range Effective	
		12/28/91	06/27/92
Accountant I	1	J48	K48
Assistant Municipal Court Administrator	1	J72	K72
Automated Systems Analyst I	1	J53	K53
Automated Systems Analyst II	1	J60	K60
Automated Systems Technician	4	J42	K42
Clerk III	104	J30	K30
Clerk IV	11	J34	K34
Court Reporter	18	J65	K65
Courtroom Clerk II	41	J41	K41
Executive Secretary III	1	J42	K42
Fiscal Clerk II	11	J31	K31
Fiscal Clerk III	2	J36	K36
Legal Procedures Clerk I	51	J32	K32
Legal Procedures Clerk II	4	J38	K38
Legal Procedures Clerk III	7	J45	K45
Municipal Court Division Manager I	5	J55	K55
Municipal Court Division Manager II	3	J59	K59
Municipal Court Division Supervisor I	5	J45	K45
Municipal Court Division Supervisor II	3	J51	K51
Secretary I	1	J35	K35
Secretary II	6	J38	K38
Supervisor of Administrative Services I	1	J54	K54

25 Appointed by Marshal

Job Classification	Number	Salary Range Effective		
		***	***	***
		12-29-90		6-27-92

1	Marshal's Captain	3	***	H29	
2	Marshal's Lieutenant	8	***	H28	
3	Marshal's Sergeant	9	***	H25	
4	Deputy Marshal	112.5	***	F17	
5	Administrative Clerk II	1	***	***	K43
6	Marshal's Clerk II	13	***	***	K31
7	Marshal's Clerk I	19	***	***	K29
8	Marshal's Technician	25	***	***	K32
9	Marshal's Radio Dispatch Clerk	5	***	***	K33
10	Executive Secretary II	1	***	***	K38
11	Staff Analyst II	1	***	***	K54

12 The marshal shall also appoint as many deputy marshal keepers as may be required by law. The
 13 deputy marshal keepers shall be compensated at the fee allowed for keeping property.

14 In hiring for vacancies in the position of deputy marshal, the marshal may appoint successful
 15 candidates as deputy marshal probationary at a flat hourly rate. The flat hourly rate shall be in the
 16 sum of fourteen dollars and sixty-three cents (\$14.63) commencing December 29, 1990, and shall
 17 be payable until successful completion of a probationary period of one year, except that the
 18 marshal may extend the probationary period for not to exceed six months, after which the deputy
 19 marshal probationary shall be advanced to the deputy marshal classification at the "A" step of the
 20 appropriate salary range.

21 73113.5. Whenever reference is made to a numbered salary range in any section of this chapter,
 22 the salary schedule found in the salary ordinance of San Bernardino County in effect on
 23 December 29, 1990, shall apply.

24 Administration of the salary plan provided by this chapter, including the hiring date; increases
 25 within range; salary on promotion, transfer, or demotion; salary on position reclassification,
 26 obligations and benefits and all other relevant matters, shall be in accordance with the current
 27 personnel rules and ordinances of the County of San Bernardino. The provisions of the San
 28 Bernardino County charter relating to civil service shall be applicable to all marshal employees in
 29 the same manner and to the same extent as applicable, generally, to the officers and employees of
 30 San Bernardino County. The San Bernardino County Civil Service Commission shall exercise the
 31 same jurisdiction over marshal employees as it exercises over officers and employees of the
 32 county.

33 Notwithstanding any other provisions of law, the salary and classifications of municipal court
 34 and marshal employees provided by Sections 73107, 73110, 73113, 73114, 73121, and 73122,
 35 and this section may be increased or decreased within the range limits of the salary schedule
 36 incorporated by reference by this section in order to provide classification and compensation that
 37 is comparable to county employees of similar qualifications and experience in the classified
 38 service of San Bernardino County as that comparability is determined by the board of supervisors.
 39 Any salary increases granted or reclassifications made pursuant to this paragraph shall be
 40 effective only until January 1, 1994.

41 73114. By order entered in the minutes of the court, a majority of the judges may appoint up to
 42 two secretaries as the business of the court requires, to be classified as secretary II. Each shall
 43 receive a salary at a rate specified in range C38 of the salary schedule effective on July 1, 1989,
 44 and range D38 effective June 30, 1990, and be otherwise subject to the salary plan provided by
 45 Section 73113.5.

46 73115. In the event the board of supervisors creates any new divisions or modifies any
 47 divisions established hereby pursuant to the provisions of Section 73102, the number,
 48 classification, and compensation of additional municipal court personnel necessitated thereby
 49 shall be governed by the provisions of Article 3 (commencing with Section 71080) of Chapter 6
 50 and Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 of this code.

1 73116. Trial jurors for each session of the courts of the district shall be selected from persons
2 residing within the divisions within which such sessions are held. Upon adoption of a rule
3 pertaining thereto by the judges, any division may use the same jury panel as that summoned for
4 service in the superior court. When selected from the superior court panel, persons so selected for
5 jury duty in the municipal court division need not be residents of the division.

6 73117. Official reporters in the Municipal Court of the San Bernardino County Municipal
7 Court District appointed pursuant to Section 72194 shall be attaches of that court and in lieu of
8 any other compensation provided by law for services in reporting testimony and proceedings in
9 that court shall receive salary and vacation leave time in the same amount as is received by the
10 official reporters of the Superior Court of the County of San Bernardino, which shall be charged
11 against the general fund of the county. Official reporters of the courts of the San Bernardino
12 County Municipal Court District, other than official reporters pro tempore, shall be entitled to the
13 same sick leave benefits as classified employees of the County of San Bernardino, and shall be
14 subject to the same regulations governing the accrual and use of such benefits as apply to county
15 employees, to the extent that Section 5 of Article VI of the California Constitution is not violated.

16 73118. In any civil action or proceedings, in addition to the fees required by Article 2
17 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars and fifty cents
18 (\$16.50) shall be paid to the clerk of the court by each party or jointly by parties appearing
19 jointly, once only in any such action or proceedings, in the following instances:

- 20 (a) Upon the filing of a complaint or other first paper;
- 21 (b) Upon the filing of an answer or other first paper on behalf of any party (or parties appearing
22 jointly) other than the plaintiff;
- 23 (c) Upon the filing of papers transmitted from another court on the transfer of a civil action or a
24 special proceeding.

25 In civil cases that last longer than one judicial day, a fee per day equal to the per diem rate for
26 official reporters pro tempore shall be charged to the parties for the services of an official reporter
27 for the second and each successive day a reporter is required. The foregoing fees shall apply to
28 cases in which the services of only one official reporter are required; in the event the court, at the
29 request of a party, orders a daily transcript, necessitating the services of two phonographic
30 reporters, the party requesting the daily transcript shall pay an additional fee per day equal to the
31 per diem rate for official reporters pro tempore for the services of the second reporter for the first
32 and each successive day.

33 The fees so required shall be taxed as costs in favor of the party paying the same and to whom
34 costs are awarded by the judgment of the court. All fees collected under the provisions of this
35 section shall be transmitted to the county treasurer in the same manner as fees collected under
36 Article 2 (commencing with Section 72050) of Chapter 8 of this title. They are not subject to
37 Section 6103.

38 **Note: Comment Requested**

39 Issues involving filing fees are still unsettled. Government Code Section 73118 may need to be
40 preserved pending resolution of these issues.

41 The Commission is reviewing whether provisions governing the deposit of fees into the county
42 treasury remain viable, given the enactment of the Trial Court Funding Act, the Trial Court
43 Employment Protection and Governance Act, and other changes to the structure of the trial
44 courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial
45 Court Operations Fund), 77200 (state funding of trial court operations). These matters are also
46 being examined by a Joint Court-County Working Group on Trial Court Funding. The
47 Commission solicits comment on the proper treatment of these provisions.

48 73119. Fees for transcription of testimony and proceedings in the court shall be paid by the
49 litigants to official reporters and official reporters pro tempore as otherwise provided by law. In
50 all cases where by law the court may direct the payment of transcription fees out of the county
51 treasury, such fees shall, upon order of the court, be paid from the general fund including fees for

1 transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to
2 69953, inclusive, which shall be paid from the county treasury.

3 73120. Official reporters of the court shall be members of any retirement system maintained by
4 the county in which they are employed. For the purposes of such retirement system, the salary
5 provided for such reporters in this article shall be deemed their entire compensation.

6 73121. By majority vote, the judges may appoint a court commissioner who shall meet the
7 qualifications and have the powers and duties specified in Sections 72190, 72190.1, and 72190.2
8 of this code and Section 259 of the Code of Civil Procedure. Any commissioner so appointed
9 shall also have the power and duties of a traffic referee as provided in Article 9 (commencing
10 with Section 72400) of Chapter 8 of Title 8. The salary of the commissioner for all duties
11 performed pursuant to this section shall be equal to 85 percent of the salary of a judge of the
12 municipal court. A commissioner shall be entitled to the same benefits as are or shall be provided
13 to a commissioner of the superior court in the County of San Bernardino.

14 73122. Any traffic trial commissioner appointed pursuant to Section 72450 shall be entitled to
15 the same benefits as a commissioner appointed pursuant to Section 73121.

16 **Gov't Code § 73300 (repealed). Salary payments**

17 SEC. ____ . Section 73300 of the Government Code is repealed.

18 ~~73300. When an annual salary is prescribed in this chapter, the salary is payable in~~
19 ~~equal monthly installments, except that if an annual salary is prescribed in this chapter for~~
20 ~~the judges, clerks, and other officers and attaches of the municipal court of the City and~~
21 ~~County of San Francisco, such salary is payable either in equal monthly installments or in~~
22 ~~equal semimonthly installments, as may be determined pursuant to law.~~

23 **Comment.** Section 73300 is repealed to reflect:

24 (1) Unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
25 California Constitution.

26 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Section
27 71623 (salaries).

28 **Gov't Code § 73301 (amended). Prior service in court superseded by municipal court**

29 SEC. ____ . Section 73301 of the Government Code is amended to read:

30 73301. Persons who succeeded to positions in the municipal court upon its
31 establishment shall receive credit for continuous prior service in superseded courts and in
32 the sheriff's department or constabulary of the county, and, in addition to the minimum
33 rate, such persons shall receive the annual increments commensurate with such years of
34 prior service up to the maximum rate set. This section applies to municipal courts
35 provided for in former Articles 3, 7, 12, 13, 15, 18, 22, 23, 29, 31, and 32 of this chapter.

36 **Comment.** Section 73301 is amended to reflect unification of the municipal and superior courts
37 pursuant to Article VI, Section 5(e), of the California Constitution.

38  **Note: Comment Requested**

39 Is Government Code Section 73301 obsolete? The Commission solicits comment on whether
40 the provision continues to serve a useful purpose.

41 **Gov't Code § 73330 (repealed). Calaveras County consolidated courts**

42 SEC. ____ . Article 1.5 (commencing with Section 73330) of Chapter 10 of Title 8 of
43 the Government Code is repealed.

44 **Comment.** Section 73330 is repealed to reflect:

(1) Unification of the municipal and superior courts in Calaveras County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Sections 70210 (adoption of rules), 70212 (officers and employees), 70215 (construction with other laws).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees' job classifications), 71620(a) (job classifications and appointments), 71623 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Code Civ. Proc. § 195 (jury commissioners).

Note: Comment Requested

The Commission is researching several issues pertaining to jury commissioners, including whether jury commissioner provisions in the Government and Penal Codes should be relocated to the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded by that Act. The Commission solicits comments on these points.

The text of the repealed article is set out below.

Article 1.5. Calaveras County

73330. The judges of Calaveras County have approved the coordination and consolidation of the municipal and superior courts administratively and judicially to meet the requirements of California Rule of Court 991.

All matters affecting the employment of staff of the consolidated courts that are not specifically determined by this article or another provision of state law shall be governed by the personnel ordinance and resolutions of the County of Calaveras. Employees currently governed by the terms and conditions of the current Memorandum of Understanding between the County of Calaveras and the Calaveras County Employees Association shall continue to be covered by the agreement until amended or superseded by mutual agreement.

There shall be one clerk of the court and jury commissioner for the Calaveras County Consolidated Courts, who shall be the court executive officer and receive an annual salary set by the court, as provided for in Section 69898.

The Calaveras County Consolidated Courts are judicially and administratively consolidated with joint job classifications and the work of the Superior and Municipal Courts in Calaveras County is to be performed, minimally, by each of the positions herein identified by the trial courts of Calaveras County. The court executive officer, with the approval of the judges, may appoint the following authorized titles, number of positions, and compensation rates for employees of the Calaveras County consolidated courts:

No. of Positions	Position Title	Range
2	Supervising Court Clerks	1037
3	Court Clerk I/II	0631
6	Court Clerk I/II	0782
3	Legal Process Clerk I/II	0782
1	Account Clerk I/II	0558
2	Account Clerk I/II	0630

The court executive officer may also appoint other employees, with the approval of the board of supervisors, upon the recommendation of the courts, and those employees shall receive a salary recommended by the courts and approved by the board of supervisors.

The salaries associated with the ranges listed above are available in the office of the Auditor-Controller of Calaveras County.

Gov't Code §§ 73340-73366 (repealed). Contra Costa County municipal court districts


SEC. ____ . Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code is repealed.

1 **Comment.** Sections 73340-73366 are repealed to reflect:

2 (1) Unification of the municipal and superior courts in Contra Costa County pursuant to Article
3 VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former
4 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
5 (judicial districts); Section 69582 (number of judges in Contra Costa County). Cf. Section
6 71042.5 (preservation of judicial districts for purposes of publication).

7 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
8 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71622
9 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
10 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
11 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
12 protection system), 71673 (authority of court). See also Sections 69840 (powers, duties, and
13 responsibilities of clerk of court), 69941 (appointment of official reporters), 69947 (compensation
14 of official reporter), 72190 (court commissioners).

15 (3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
16 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

18 **Article 2. Municipal Courts in Contra Costa County**

19 73340. This article applies only to municipal courts established in judicial districts in Contra
20 Costa County.

21 73341. Except as otherwise provided in this article, each municipal court district established in
22 Contra Costa County shall have the number of judges set forth opposite the name of the judicial
23 district over which that court has jurisdiction.

24	Bay Judicial District	5
25	Delta Judicial District	2
26	Mt. Diablo Judicial District	4
27	Walnut Creek-Danville Judicial District	3

28 73342. Consolidation of any judicial districts listed in Section 73341 shall be effective only
29 with the concurrent approval of the Board of Supervisors of Contra Costa County and a majority
30 of the judges in the affected judicial districts.

31 73343. Official reporters shall be appointed by the judges of each municipal court district
32 pursuant to Section 72194 and shall serve at the pleasure of the judges.

33 The salary of each official reporter shall be at the rates provided for by Section 73348, which
34 shall be a charge against the general fund of the county.

35 73344. (a) Pursuant to Section 72194, the judges of the court may appoint as many additional
36 reporters as the business of the court requires, who shall be known as official reporters pro
37 tempore. They shall serve without salary but shall receive as compensation a fee which shall be
38 an amount equivalent to 1.05 times the daily wage of the fourth step in the salary range for full-
39 time official reporters in Contra Costa County as provided for by Section 73348 for each day that
40 reporter is on duty under order of the court.

41 (b) Additional official reporters pro tempore may also be appointed on a half-day basis as the
42 business of the court requires. Those reporters shall serve without salary but shall receive as
43 compensation a fee which shall be 55 percent of the daily wage of an official reporter pro tempore
44 for each period up to four hours that the reporter is on duty under order of the court.

45 73345. Any official reporter may be assigned by the presiding judge of his or her district to act
46 as official reporter pro tempore in any municipal court in Contra Costa County. During any such

1 assignment he or she shall continue to receive his or her regular salary in lieu of any other
2 compensation provided by law.

3 73347. The official reporters of the court shall be members of any retirement system
4 maintained by the county. For the purposes of that retirement system, the salary provided for
5 reporters in this article shall be deemed their entire compensation.

6 73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be
7 based on a four-step salary plan with one-year increments. Effective October 1, 1997, the four
8 salary steps are as follows:

9 Step 1. Forty-nine thousand five hundred twelve dollars (\$49,512).

10 Step 2. Fifty-one thousand nine hundred eighty-four dollars (\$51,984).

11 Step 3. Fifty-four thousand five hundred eighty-eight dollars (\$54,588).

12 Step 4. Fifty-seven thousand three hundred twelve dollars (\$57,312).

13 The step of entry to the above schedule shall be Step 1. However, the judges of the court may
14 appoint a court reporter to a duly allocated exempt position at a higher step if, in the opinion of
15 the appointing judge, an individual to be appointed has the experience and qualifications to entitle
16 that individual to the higher initial step, and if the higher initial salary has the approval of the
17 presiding judge of the court and the board of supervisors, but in no case may the initial salary be
18 above the third step of the salary range. Except as provided below, official reporters shall advance
19 to the next higher step on the salary plan annually. The compensation of each official reporter pro
20 tempore shall be an amount which is equivalent to 1.05 times the daily wage of the fourth step in
21 the salary range for full-time official reporters in Contra Costa County for each day the reporter
22 actually is on duty under order of the court which per diem rate shall apply when an official
23 reporter is appointed pursuant to Section 869 of the Penal Code.

24 Irrespective of the step of the salary range to which initially appointed, an official court reporter
25 shall be eligible for advancement to the next higher step in the salary range after six months'
26 service, and thereafter shall advance on the salary range based on annual reviews.

27 (b) During the hours which the court is open for the transaction of judicial business, the regular
28 official reporter shall perform the duties required by law. When not engaged in the performance
29 of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical
30 assistance to the judge of the court to which he or she is assigned as the judge may direct.

31 (c) The board of supervisors shall adjust the salary of regular official reporters as part of its
32 regular review of county employee compensation. The adjustment shall be to that salary level
33 closest to the average percentage adjustment in basic salaries of the county classes of superior
34 court clerk, legal clerk, secretary, and clerk (experienced level). The reporter salary adjustment
35 shall be effective on the same day as the effective date of the board's action as to all of the
36 aforesaid county classifications, but for official reporters of each municipal court district shall be
37 effective only until January 1 of the second year following the calendar year in which the
38 adjustment is made. The compensation of each official reporter pro tempore shall remain at the
39 rate specified in subdivision (a) for the days he or she actually is on duty until changed by the
40 board of supervisors at the same time and on the same basis as regular official reporters.

41 73349. Except as otherwise provided in this article, all paid employments of any municipal
42 court now established or which may subsequently be established in Contra Costa County shall be
43 under the merit system established in the county or the exempt system established by court
44 personnel rules. The merit board of the county shall exercise the same jurisdiction over municipal
45 court employments as it exercises over other county employments in the same manner as they
46 apply to other merit system employments in the Contra Costa County service. In addition, all paid
47 employments of any municipal court shall be subject to all provisions of the County Personnel
48 Management Regulations and of the County Salary Regulations except as otherwise may be
49 provided in this article.

50 In the event that one or more eligibles are not certified to a vacancy within six months of the
51 date the position became vacant, or of the date of receipt of an examination request, whichever is
52 later, the appointing authority may fill the vacancy by appointing any candidate who meets the

1 minimum qualifications for the class as set forth in the class specification. The appointee shall
2 thereby obtain merit system status as described above.

3 73350. Except as otherwise provided in this article, all employments of any municipal court
4 now established or which may be established in Contra Costa County shall be compensated and
5 receive other benefits in accordance with the salary ordinance of the county governing other
6 county employments. Any subsequent change in benefits provided by the salary ordinance to
7 employees of the county shall apply equally to employees of the municipal courts and shall have
8 the same effective date. These benefits may also be retroactively applied. References hereafter to
9 range allocation and salary steps apply to the basic salary schedule set forth in Section 73352.

10 Within-range step increases shall be granted only upon the affirmative recommendation of the
11 appointing authority.

12 Overtime payments must bear the same approval as within-range step increases.

13 73351. There are the following classes of positions into which each of the positions of the
14 municipal courts shall be assigned as prescribed in the section pertaining to each court:

15 (a) Deputy clerk-beginning level, which shall include all municipal court employments
16 assigned routine clerical tasks under continuous immediate supervision.

17 (b) Deputy clerk-data entry operator I, which shall include all municipal court employments at
18 the entry level assigned to operate data entry devices for the purpose of entering and verifying a
19 wide variety of data from coded or uncoded source documents.

20 (c) Deputy clerk-experienced level, which shall include all municipal court employments
21 assigned clerical tasks requiring exercise of discretion as to methods and priorities and for which
22 supervision is available on a periodic basis only.

23 (d) Deputy clerk-data entry operator II, which shall include all municipal court employments at
24 the experienced working level assigned to operate data entry devices for the purpose of entering
25 and verifying a wide variety of data from coded or uncoded source documents.

26 (e) Deputy clerk-senior level, which shall include all municipal court employments assigned
27 complex clerical work involving responsibility for the establishment, maintenance, calendaring,
28 issuance of process, and updating of case records using manual and automated systems.

29 (f) Deputy clerk-specialist level, which shall include all municipal court employments assigned
30 lead direction of a work unit or assigned clerical duties of a complex administrative nature,
31 requiring exercise of initiative and discretion in work organization, methods, and priorities.

32 (g) Deputy clerk-courtroom clerk, which shall include all municipal court employments
33 assigned clerical duties involving responsibility for keeping the minutes of court proceedings and
34 the processing and maintenance of a variety of documents and records.

35 (h) Municipal court division supervisor or court services coordinator-exempt, which shall
36 include all municipal court employments assigned responsibility for planning, organizing, and
37 directing the clerical activities of a division in a municipal court including the supervision of
38 clerical staff.

39 (i) Court operations coordinator I and II, or court services coordinator-exempt-levels A and B,
40 which shall include any municipal court position charged with the overall responsibility for
41 managing and supervising court clerical operations including courtroom duties.

42 (j) Court probation officer, which shall include all municipal court employments assigned to
43 exercise the same powers and duties of deputy probation officers with respect to the business of
44 the court.

45 (k) Court commissioner, which shall include all municipal court employments who exercise the
46 same powers and duties of judges of the court with respect to traffic and small claims matters.

47 (l) Executive officer, coordinated trial courts of Contra Costa County, which shall be
48 responsible for the overall administration of all municipal court judicial districts in the county.

49 (m) Municipal court systems and facilities manager, which shall be responsible for managing
50 the development, implementation, and enhancement of court systems, and related work as
51 required.

(n) Municipal court fiscal and administrative manager or fiscal budget officer-exempt, which shall be responsible for planning, reviewing, and coordinating fiscal and accounting activities of the county's municipal courts, and related work as required.

(o) Municipal court accounting specialist, which shall be responsible for assisting the municipal court fiscal and administrative manager with departmental budgetary and accounting activities, and for coordinating the day-to-day activities of the court collections unit.

(p) Municipal court collection agent, which shall be responsible for intensive collection efforts on delinquent court accounts.

The board of supervisors may create a new class or classes by specifying the number of positions for each new class and the compensation therefor, provided that the new class or classes shall be effective only until January 1 of the second year following the calendar year in which the classes are created, unless the change has been incorporated into this article.

73352. Whenever reference is made to a numbered salary level in any section of this article, the salary schedule applicable to equivalent employees of Contra Costa County as set forth in Section 73354 shall apply. If the board of supervisors adopts a revised salary schedule for equivalent county employees, the new schedule shall apply equally to municipal courts and conversion to the new schedule shall be effected for employees of the municipal courts in the same manner and on the same date as for county employees, but any adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made, unless the change has been incorporated into this article.

73353. Effective October 1, 1997, classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

Class Title	Salary Schedule	Pay Level
Deputy Clerk-Beginning Level	C5-1320	1700-2067
Deputy Clerk-Experienced Level	C5-1474	1983-2411
Deputy Clerk-Senior Level	XC-1623	2191-2798
Deputy Clerk-Specialist Level	XC-1745	2474-3160
Deputy Clerk-DEO I	C5-1387	1818-2210
Deputy Clerk-DEO II	C5-1484	2003-2435
Deputy Clerk-Courtroom Clerk	C5-1886	2994-3639
Court Operations Coordinator II	C5-2201	4102-4986
Court Operations Coordinator I	C5-2056	3548-4313
Court Services Coordinator-exempt	C5-1985	3305-4018
Court Services Administrator-exempt- Level A	C5-2261	4355-5294
Court Services Administrator-exempt- Level B	C5-2372	4866-5915
Court Probation Officer	C5-1997	3345-4066
Municipal Court Collection Agent	C5-1777	2685-3264
Municipal Court Computer Systems Technician	C5-1873	2955-3592
Municipal Court Accounting Specialist	XC-1824	2679-3422
Municipal Court Division Supervisor	C5-1911	3070-3731
Municipal Court Systems and Facilities Manager	C5-2246	4291-5215
Municipal Court Fiscal and Administrative Manager	C5-2269	4390-5336
Executive Officer, Coordinated Trial Courts of Contra Costa County	C5-2829	7684-9340

73353.2. The Contra Costa County Board of Supervisors may adopt a resolution establishing a pay-for-performance bonus as defined in subdivision (d). Such a resolution shall state that the bonus program shall be funded by the county solely out of county funds, that the compensation is not a "court operation" for purposes of Sections 77003 and 77204, that the payment of the compensation shall not be a state obligation under the Brown-Presley Trial Court Funding Act, the Trial Court Realignment and Efficiency Act of 1991, or any other related measure, and that the county agrees not to seek funding from the state for the payment of the authorized compensation. If such a resolution is adopted:

(a) At six-month intervals, on January 1 and July 1 of each calendar year, the Executive Officer, Coordinated Trial Courts of Contra Costa County, may conduct assessments of all permanent employees in designated classes, for the purpose of determining eligibility for receipt of a pay-for-performance bonus.

(b) The appointing authority for the position of Executive Officer, Coordinated Trial Courts of Contra Costa County, may conduct an assessment on each January 1 and July 1 for the purpose of determining eligibility for receipt of a pay-for-performance bonus.

(c) The employees described in subdivisions (a) and (b) who are determined eligible for a pay-for-performance bonus at the semiannual review may be awarded that bonus. No pay-for-performance bonus may be awarded for a period longer than six months from the date of the semiannual review. Performance must be reevaluated each six months and reauthorization approved pursuant to subdivisions (a) and (b) for any bonus to continue.

(d) "Pay-for-performance bonus," as used in this section, means a monthly bonus, based on performance, equal to either 2.5 percent or 5 percent of the employee's monthly base pay as of the date of the semiannual review, to be awarded for up to a six-month period.

Note: Comment Requested

The Commission requests input as to whether the bonus program established in Government Code Section 73353.2 continues to reflect current practice and, therefore, should be preserved in some fashion.

73354. Certain classifications in the municipal courts are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts shall be adjusted a commensurate number of levels on the salary schedule. The adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but the adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made, unless the change has been incorporated into Article 2 (commencing with Section 73340) of Chapter 10.

(a) The individual court class and equivalent county class or relationship are as follows:

Court Class	Equivalent County Class
Deputy Clerk--Beginning	3% above Clerk--Beginning
Deputy Clerk--Experienced	Clerk--Experienced
Deputy Clerk--Senior	Clerk--Senior
Deputy Clerk--Specialist	Clerk--Specialist
Deputy Clerk--DEO I	Data Entry Operator I
Deputy Clerk--DEO II	Data Entry Operator II
Court Probation Officer	Deputy Probation Officer III
Municipal Court Reporter	Superior Court Reporter
Deputy Clerk--Courtroom Clerk	4.8% below Superior Court Clerk

(b) The municipal court classes listed below are designated management classes and are eligible for all of the compensation and benefit considerations that the board of supervisors may extend to county management employees. Whenever the board of supervisors adopts a general salary adjustment for county management classes, the respective salary schedules of municipal court management classes shall be adjusted by an equivalent percentage amount. In no event shall the salary of Municipal Court Division Supervisor be less than 2.5 percent above the salary of Deputy Clerk-Courtroom Clerk.

Management Positions:

- Municipal Court Division Supervisor or Court Services Coordinator-Exempt
- Court Operations Coordinator II or Court Services Administrator-Exempt-Level A
- Court Operations Coordinator I or Court Services Administrator-Exempt-Level B
- Municipal Court Systems and Facilities Manager
- Municipal Court Fiscal and Administrative Manager or Fiscal Budget Officer-Exempt

1 Executive Officer, Coordinated Trial Courts of Contra Costa County

2 (c) The class of court probation officer shall be allocated to a five-step salary schedule in 5
 3 percent incremental steps with the top step equivalent to the top step of deputy probation officer
 4 III. Upon appointment, a new court probation officer shall be allocated to the first step of the
 5 salary schedule, except that an appointee with exceptionally high qualifications and experience
 6 may be appointed at a higher step with the board of supervisors' approval.

7 (d) The class of court commissioner shall be allocated to a three-step salary schedule, in 5
 8 percent incremental steps with the third step equivalent to 85 percent of the salary of a municipal
 9 court judge in the County of Contra Costa. Upon appointment, a new court commissioner shall be
 10 allocated to the first step of the schedule, except that an appointee with exceptionally high
 11 qualifications and experience may be appointed at a higher step with the board of supervisors'
 12 approval.

13 73355. The Executive Officer, Coordinated Trial Courts of Contra Costa County, shall serve as
 14 the clerk of the court for each judicial district and shall be appointed by a majority of the judges
 15 of Contra Costa County. Except as provided in Sections 73348 and 73356, the Executive Officer,
 16 Coordinated Trial Courts of Contra Costa County, shall appoint all other employments in the
 17 municipal court offices of the judicial districts in Contra Costa County. Persons in these positions
 18 shall serve as deputy clerks, with full statutory authority, in addition to other duties set forth in
 19 Section 73351.

20 73356. Certain classifications in the municipal courts are excluded from the merit system.

21 (a) A majority of the judges in Contra Costa County shall appoint the Executive Officer,
 22 Coordinated Trial Courts of Contra Costa County, whose position shall be exempt from the merit
 23 system. The Executive Officer, Coordinated Trial Courts of Contra Costa County, shall serve at
 24 the pleasure of the judges, and may be removed by a majority of the judges at their discretion.

25 (b) Appointment to the classification of court commissioner shall be made in accordance with
 26 Section 73362.

27 73357. Municipal court judicial districts in the County of Contra Costa may have no more than
 28 four court probation officers for all districts in total. Court probation officers shall be appointed
 29 by a majority of the judges of the court, or by the presiding judge in a two-judge court, to which
 30 the court probation officer is appointed. These positions report directly to the judges of the district
 31 to which they are appointed. Within the jurisdiction of the court and under the direction of the
 32 judges, court probation officers shall exercise all of the powers and perform all of the duties of a
 33 deputy probation officer as prescribed by law.

34 73358. The total number of positions authorized for operation of municipal courts in Contra
 35 Costa County is as follows:

Class Title	Number of Positions
Deputy Clerk--(Deep Class), including Beginning, experienced, senior, and Specialist Levels	230
Deputy Clerk--DEO I or II	26
Deputy Clerk--Courtroom Clerk	18
Court Operations Coordinator II or Court Services Administrator-Exempt-Level A	2
Court Operations Coordinator I or Court Services Administrator-Exempt-Level B	2
Court Probation Officer	4
Municipal Court Division Supervisor or Court Services Coordinator-Exempt	15
Municipal Court Computer Systems Technician	1
Municipal Court Accounting Specialist	1
Municipal Court Collection Agent	1

1	Municipal Court Systems and Facilities Manager	1
2	Municipal Court Fiscal and Administrative Manager	
3	or Fiscal Budget Officer-Exempt	1
4	Executive Officer, Coordinated Trial Courts of Contra Costa County	1

5 73362. Municipal court judicial districts in the County of Contra Costa may have no more than
6 four court commissioners for all districts in total. Commissioners shall be appointed by a majority
7 of the judges of the court or courts, or by the presiding judge in a two-judge court, to which the
8 court commissioner is appointed. Commissioners shall serve at the pleasure of the majority of the
9 judges in the court or courts or at the pleasure of the presiding judge in a two-judge court and may
10 be removed by a majority of the judges at their discretion. Within the jurisdiction of the court or
11 courts and under the direction of the judges, commissioners shall exercise all the powers and
12 perform all of the duties authorized by law to be performed by commissioners of superior courts
13 and any additional powers and duties as may be prescribed by law. At the direction of the judges,
14 commissioners may have the same jurisdiction and exercise the same powers and duties as the
15 judges of the court with respect to any infraction or small claims action. The commissioners shall
16 possess the same qualifications the law requires of a municipal court judge and shall not engage
17 in the private practice of law. They shall be ex officio deputy clerks.

18 73363. (a) Upon the adoption of a resolution by the board of supervisors finding that there are
19 sufficient funds available in the budget for a particular municipal court district and
20 acknowledging that the judges of that district have determined the business of the court requires
21 such occasional service, there shall be one position of temporary court commissioner to serve that
22 municipal court district.

23 (b) A temporary court commissioner shall be appointed by the presiding judge of the court from
24 a list of temporary court commissioners established and approved by a majority of the judges of
25 that court. The presiding judge shall assure that all temporary commissioners maintain current
26 knowledge of the court's personnel and procedures. The court shall periodically review the
27 performance of each temporary commissioner and shall maintain an ongoing training program to
28 maintain their skills. Each temporary commissioner shall possess the same qualifications the law
29 requires of a municipal court judge, and shall have completed an orientation program satisfactory
30 to the presiding judge, including a review of the procedures and practices of the court, together
31 with observation of each particular calendar to which the commissioner may be assigned, and
32 shall not engage in the private practice of law before any court of the municipal court to which he
33 or she is appointed, and is subject to disqualification as provided for judges.

34 (c) A temporary court commissioner shall receive, as sole compensation for that service, an
35 hourly fee for each hour or fraction of an hour of service which is equivalent of the hourly wage
36 of the first step in the salary range for full-time official municipal court commissioners in Contra
37 Costa County, without any other benefit included in the compensation of any other municipal
38 court officer or employee in Contra Costa County.

39 (d) A temporary court commissioner shall perform those functions conferred by law and
40 assigned by the presiding judge. Before any action or proceeding is tried or heard by a temporary
41 court commissioner, any party to, or any attorney appearing in, the action or proceeding shall,
42 however, be entitled to require, by oral or written motion without notice, that the action or
43 proceeding be reassigned or transferred, whereupon the action or proceeding shall be reassigned
44 or transferred as promptly as possible to a judge, court commissioner, or referee of the court. The
45 court shall, prior to the commencement of any such trial or hearing, provide notice to each party
46 or attorney of record in the action or proceeding of this entitlement to require reassignment or
47 transfer.

48 73365. If an increase in the business of the court or any other emergency requires a greater
49 number of employees for the prompt and faithful discharge of the business of the court than the
50 number expressly provided by law or requires the performance of duties of positions in the lowest
51 salary bracket where all those positions have been filled, with the approval of the presiding judge
52 in a two-judge district, and the majority of the judges in a three-or-more-judge district, the

1 Executive Officer, Coordinated Trial Courts of Contra Costa County, may appoint as many
2 additional deputies as are needed. The additional deputies shall be appointed at the entrance level
3 classification and shall be selected in the same manner as those for whom express provision is
4 made, and they shall receive compensation on the basis of the hourly equivalent to the base rate
5 of pay as provided in the salary schedule in the same amount as the lowest salary bracket
6 provided for that class of employee. Employees may continue in those positions not longer than
7 90 days after the adjournment of the next regular session of the Legislature.

8 73366. Except as provided in this article, all persons serving as permanent employees of the
9 municipal courts shall be assigned to the positions authorized in this article in accordance with the
10 duties and responsibilities of their position classifications. The assignments shall be made by the
11 appointing authority in accordance with the rules under the merit system or the exempt system
12 established by court personnel rules.

13 **Gov't Code §§ 73390-73399.7 (repealed). Kings County Municipal Court**

14 SEC. ____ . Article 3 (commencing with Section 73390) of Chapter 10 of Title 8 of the
15 Government Code is repealed.

16 **Comment.** Sections 73390-73399.7 are repealed to reflect:

17 (1) Unification of the municipal and superior courts in Kings County pursuant to Article VI,
18 Section 5(e), of the California Constitution, effective February 8, 2001. See Cal. Const. art. VI, §
19 23 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
20 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
21 Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38
22 (judicial districts), 190 *et seq.* (jury selection); Section 69585.5 (number of judges in Kings
23 County). *Cf.* Section 71042.5 (preservation of judicial districts for purposes of publication);
24 former Section 71264 (municipal court served by marshal).

25 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
26 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
27 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
28 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
29 (employment selection and advancement), 71650-71658 (employment protection system), 71673
30 (authority of court). See also Code Civ. Proc. § 195 (jury commissioners); Sections 69941
31 (appointment of official reporters), 69947 (compensation of official reporter).

32 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
33 management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
34 (state funding of trial court operations). See also Sections 68073 (responsibility for court
35 operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of
36 fees).

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

38 **Article 3. Kings County Municipal Court**

39 73390. This article applies to the municipal court for the County of Kings. The court referred to
40 in this article shall be the successor of the court to be established by the consolidation of the
41 Corcoran, Hanford, and Lemoore Judicial Districts by the Board of Supervisors of the County of
42 Kings, and it shall be known as the Kings County Municipal Court.

43 73391. (a) Upon the consolidation of the Corcoran, Hanford, and Lemoore Judicial Districts,
44 the Kings County Municipal Court District shall consist of the following divisions:

- 45 (1) Corcoran Division.
- 46 (2) Hanford Division.
- 47 (3) Lemoore Division.

1 (b) The boundaries of the divisions of the Kings County Municipal Court District shall be
2 established by the board of supervisors.

3 73391.5. The board of supervisors may, at any time, consolidate the Avenal Municipal Court
4 with the Kings County Municipal Court District. On the effective date of the consolidation and
5 thereafter, the Kings County Municipal Court District will consist of the Avenal, Corcoran,
6 Hanford, and Lemoore Divisions, and all provisions of this article shall apply to the Kings County
7 Municipal Court District as so formed.

8 73392. There are three judges in the Kings County Municipal Court District. However, upon
9 the consolidation of the Avenal Judicial District by the Legislature, pursuant to Section 73391.5,
10 there shall be four judges in the Kings County Municipal Court District. There shall be one judge
11 for each division.

12 Notwithstanding subdivision (c) of Section 77200, these judges shall not be deemed to
13 constitute judgeships authorized on or after January 1, 1990, for purposes of the Brown-Presley
14 Trial Court Funding Act.

15 73393. On the operative date of this article, the Municipal Court Judge of the Hanford
16 Municipal Court District and the Justice Court Judges of the Corcoran and Lemoore Judicial
17 Districts shall assume the positions of Municipal Court Judges of the Hanford, Corcoran, and
18 Lemoore Divisions, respectively. On the operative date of the consolidation of the Avenal
19 Municipal Court within the Kings County Municipal Court District, the Municipal Court Judge of
20 the Avenal Municipal Court shall assume the position of Municipal Court Judge of the Avenal
21 Division of the Kings County Municipal Court District. Judges shall be elected for six-year terms
22 beginning in 2000.

23 73394. For the purposes of election of judges, the “division” referred to in this article is and
24 shall continue to be the “district” referred to in subdivision (b) of Section 16 of Article VI of the
25 California Constitution. The judge of each division shall be elected by only the electors of the
26 division, and not from the Kings County Municipal Court District at large. However, any
27 otherwise qualified candidate is eligible to be elected from any division if he or she resides within
28 the boundaries of the district as a whole.

29 73395.1. The judges of the Kings County Municipal Court District shall formulate rules and
30 regulations not inconsistent with the law or rules and standards adopted and prescribed by the
31 Judicial Council for transfer of cases, assignment of judges, scheduling of vacation of judges, and
32 other administrative matters such as will promote uniformity of procedures and efficiency and
33 economy in the business of the district. Those rules and regulations shall be administered by the
34 court executive officer under the supervision and control of the presiding judge of the district.
35 Any rules and regulations adopted pursuant to Section 72002.1 shall be adopted by a majority
36 vote of the judges of the district.

37 73396. Facilities for the court shall be maintained in the Cities of Hanford, Corcoran, Lemoore,
38 and (if incorporated pursuant to Section 73391.5) Avenal, and in such other locations within the
39 County of Kings as are designated by the board of supervisors. The court shall hold sessions at
40 each facility as business requires. At the direction of the court, arraignment of criminal
41 defendants who are in custody at the Kings County Jail facility shall be held in the court facility
42 located in Hanford.

43  **Note: Comment Requested**

44 Issues involving sessions and facilities are still unsettled, but Government Code Section 73396
45 is proposed for repeal because it falls within a municipal court article. The Commission solicits
46 comments on whether the section should be preserved pending (1) any implementation of
47 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
48 among the interested parties.

1 73397. Notwithstanding any other provision of law, the court may adopt local rules for
2 purposes of selecting trial jurors pursuant to Section 203 of the Code of Civil Procedure.

3 Trial jurors for each session of the courts of the district shall be selected from persons residing
4 within the divisions within which such sessions are held. Upon adoption of a rule pertaining
5 thereto by the judges, any division may use the same jury panel as that summoned for service in
6 the superior court. When selected from the superior court panel, persons so selected for jury duty
7 in the municipal court division need not be residents of the division.

8 73398. There shall be one clerk of the court, known as the court executive officer/clerk of the
9 court, who shall be appointed by and serve at the pleasure of the majority of the judges of both
10 municipal and superior courts. The court executive officer/clerk of the court shall receive a salary
11 as provided by law.

12 73399. (a) The Court Executive Officer/Jury Commissioner may appoint the following
13 positions for both superior and municipal courts in Kings County:

- 14 (1) One Assistant Court Executive Officer who shall have a salary range of 107.0.
- 15 (2) One Research Attorney who shall have a salary range of 99.5.
- 16 (3) One Director of Operations who shall have a salary range of 95.5.
- 17 (4) One Court Financial Officer who shall have a salary range of 89.0.
- 18 (5) One Court Program Manager who shall have a salary range of 87.0.
- 19 (6) One Court Services Coordinator who shall have a salary range of 87.0.
- 20 (7) One Court Interpreter Coordinator who shall have a salary range of 83.0.
- 21 (8) One Court Administrator Assistant who shall have a salary range of 63.5.
- 22 (9) Nine Court Service Clerks III who shall have a salary range of 58.5.
- 23 (10) Thirteen Courtroom Clerks who shall have a salary range of 58.0.
- 24 (11) One Court Janitorial Supervisor who shall have a salary range of 56.5.
- 25 (12) Ten Court Service Clerks II who shall have a salary range of 52.0.
- 26 (13) One Account Clerk III who shall have a salary range of 52.0
- 27 (14) One Court Custodial Janitor who shall have a salary range of 49.0.
- 28 (15) Fourteen Court Service Clerks I who shall have a salary range of 47.0.
- 29 (16) One Office Assistant III who shall have a salary range of 43.5.

30 **Note: Comment Requested**

31 The Commission is researching several issues pertaining to jury commissioners, including
32 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
33 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
34 by that Act. The Commission solicits comments on these points.

35 73399.1. The clerks and other attaches of the justice courts in Kings County shall succeed as
36 authorized by law to the equivalent municipal court positions.

37 73399.2. The sheriff and his or her deputies shall act as ex officio marshal and deputy marshals
38 of the court.

39 73399.3. Notwithstanding any other provision of law, effective July 1, 1996, the position of the
40 Constable of the Avenal Justice Court is abolished. The Legislature also finds and declares that,
41 notwithstanding the provisions of Section 71085, the position of elected marshal of the Avenal
42 Municipal Court was not created upon the adoption of Senate Constitutional Amendment 7 in
43 1994. The Kings County Sheriff shall serve as the ex officio marshal of the Avenal Municipal
44 Court until such time as the board of supervisors consolidates the Avenal Municipal Court with
45 the Kings County Municipal Court District, at which time the sheriff shall serve in the Avenal
46 Division as set forth in Section 73399.2.

47 73399.4. All officers and employees of the Kings County Municipal Court shall be entitled to
48 the same retirement, vacations, and other benefits allowed to employees of the county and be

1 subject to the personnel regulations, memorandum of understanding, management benefit
2 package, and the affirmative action plan of the County of Kings as they exist on January 1, 1990.

3 73399.5. The presiding judge may appoint as many reporters as the business of the court
4 requires, who shall be known as official reporters pro tempore, and who shall hold office at his or
5 her pleasure. The reporter shall serve without salary but shall receive for his or her services in
6 reporting testimony and proceedings in such court, the same compensation as is paid reporters pro
7 tempore of the superior court in Kings County, which in criminal cases shall, upon order of the
8 court, be a charge against the general fund of the county.

9 73399.6. Fees for transcription of testimony and proceedings in the court shall be paid by the
10 litigants to official reporters pro tempore as otherwise provided by law. In all cases where by law
11 the court may direct the payment of transcription fees out of the county treasury, such fees shall,
12 upon order of the court, be paid from the general funds, including fees for transcription of
13 testimony in proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive,
14 which shall be paid from the county treasury.

15 73399.7. This article shall not become operative until the effective date of an ordinance of the
16 board of supervisors approving the consolidation and reorganization of the municipal court.

17 **Gov't Code §§ 73400-73408 (repealed). Hanford Judicial District**

18 SEC. ____ . Article 3.1 (commencing with Section 73400) of Chapter 10 of Title 8 of
19 the Government Code is repealed.

20 **Comment.** Sections 73400-73408 are repealed to reflect:

21 (1) The fact that Article 3.1 was superseded by Article 3 (commencing with Section 73390)
22 establishing the Kings County Municipal Court, effective June 29, 1992.

23 (2) Unification of the municipal and superior courts in Kings County pursuant to Article VI,
24 Section 5(e), of the California Constitution, effective February 8, 2001. See Section 69585.5
25 (number of judges in Kings County).

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

27 **Article 3.1. Kings County Municipal Court**

28 73400. This article applies to the municipal court established in the Hanford Judicial District,
29 County of Kings.

30 73401. There shall be one judge.

31 73402. There shall be one clerk of the court, known as the clerk-administrator, who shall be
32 appointed by the presiding judge of the court. He or she shall receive a salary specified in Range
33 76.5.

34 73404. (a) The clerk-administrator, with the concurrence of the presiding judge, may appoint:

35 (1) One account clerk III who shall receive a salary specified in Range 41.0.

36 (2) Two deputy municipal court clerks III who shall each receive a salary specified in Range
37 44.5.

38 (3) Three courtroom deputy municipal court clerks who shall each receive a salary specified in
39 Range 42.0.

40 (4) Six deputy municipal court clerks I/II who shall each receive a salary specified in Range
41 34.5 or Range 39.5 if promoted to the II level.

42 (b) The clerk-administrator, with the concurrence of the presiding judge and approval of the
43 board of supervisors, may appoint such additional employees as may be necessary, each

1 appointment to remain in effect only until January 1 of the second year following the year in
2 which the appointment was made, unless subsequently ratified by the Legislature.

3 73405. (a) Whenever reference to a numbered salary range is made in any section of this
4 article, the schedule of hourly rates of pay and approximate monthly equivalents found in the
5 Salary Resolution of the County of Kings in effect on October 3, 1988, shall apply.

6 (b) If the board of supervisors adopts a revised salary resolution for county employees or
7 applies new salary range numbers for the purpose of salary adjustment, the new salary rates shall
8 apply equally to the positions named in this article. Any salary adjustment made pursuant to this
9 section shall be effective on the same date as the action applicable to other county permanent
10 classified employees, but shall remain in effect only until January 1 of the second year following
11 the year in which such adjustment in salary is made, unless subsequently ratified by the
12 Legislature.

13 (c) The persons employed in the positions named in this article shall be entitled to all employee
14 benefits and holidays as they are provided and made applicable to positions within the classified
15 service pursuant to personnel ordinances and resolutions adopted by the Board of Supervisors of
16 the County of Kings.

17 (d) All matters affecting administration of salary and benefits, selection, appointment,
18 reclassification, and discipline of such municipal court officers and employees in those positions
19 which they hold shall be governed by the personnel ordinances and resolutions adopted by the
20 Board of Supervisors of the County of Kings, to the extent that such ordinances and resolutions
21 are not contrary to state law.

22 73406. The Sheriff of the County of Kings and his or her deputies specifically designated by
23 him or her shall be the ex officio marshal and deputy marshals, respectively, of the court and shall
24 act as such without additional compensation.

25 73407. (a) The presiding judge may appoint as many court reporters, known as official
26 reporters pro tempore, as the business of the court requires. Each official reporter pro tempore
27 shall perform the duties required of him or her by law. These reporters shall hold office at the
28 pleasure of the presiding judge.

29 (b) Fees for reporting and for transcription of testimony and proceedings in the court shall be
30 paid by the litigants to official reporters pro tempore as provided in Sections 69947 to 69954,
31 inclusive, or as otherwise provided by law as paid to reporters in the Superior Court of the County
32 of Kings. In all cases where by law the court may direct the payment of reporting and transcription
33 fees out of the county treasury, including fees for reporting and transcription of testimony and
34 proceedings in criminal cases as provided in Section 69952, such fees shall, upon order of the
35 court, be paid from the general fund of the county treasury.

36 73408. This article shall only be operative until the operative date of the Article 3 (commencing
37 with Section 73390) added to this Chapter by the act that enacted this article.

38 **Gov't Code §§ 73430-73443 (repealed). Kern County municipal court districts**

39 SEC. ____ . Article 4 (commencing with Section 73430) of Chapter 10 of Title 8 of the
40 Government Code is repealed.

41 **Comment.** Sections 73430-73443 are repealed to reflect:

42 (1) Unification of the municipal and superior courts in Kern County pursuant to Article VI,
43 Section 5(e), of the California Constitution, effective July 1, 2000. See Section 70211 (former
44 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
45 (judicial districts); Section 69585 (number of judges in Kern County). Cf. Section 71042.5
46 (preservation of judicial districts for purposes of publication); former Section 71264 (municipal
47 court served by marshal).

48 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
49 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622

(subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of official reporter).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

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

Article 4. East and West Kern

73430. This article applies to the municipal courts established in judicial districts in Kern County.

73431. Each municipal court district established in Kern County shall have the number of judges set forth opposite the name of the judicial district over which such court has jurisdiction.

Bakersfield Judicial District	9
East Kern Judicial District	2
North Kern Judicial District	3
South Kern Judicial District	3

73432.1. (a) The judges of the Bakersfield Municipal Court may appoint two commissioners. The commissioners shall possess the same qualifications as the law requires of a judge of the court. Within the jurisdiction of the court and under the direction of the judges, the commissioners shall exercise the powers and perform the duties authorized by law to be performed by commissioners of the superior court and any additional powers and duties as may be prescribed by law.

(b) The commissioners shall be paid biweekly, pursuant to the payroll procedures in effect in the County of Kern, in an amount equal to 70 to 85 percent of a municipal court judge’s salary. The court shall recommend to the board of supervisors the level of salary to be received by each commissioner based on his or her qualifications, performance, and other factors deemed relevant by the court, and the board of supervisors shall determine the salary level within the specified range. The biweekly salary rate of each commissioner shall be adjusted at the same time and manner and in the same percentage amount as set forth in Section 68203.

(c) In addition to the compensation provided for in this section, each commissioner shall be entitled to and shall receive on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacation. The commissioners shall observe the same holidays as other court employees.

73433. There shall be one clerk-administrator in each municipal court who shall be appointed by and serve at the pleasure of a majority of the judges of the court to which the clerk-administrator is appointed. In a court with less than three judges, the presiding judge shall appoint the clerk-administrator of the court. The clerk-administrator of the East Kern Municipal Court shall receive the biweekly salary specified in range 56.7 of the salary schedule. The clerk-administrator of the North Kern Municipal Court shall receive the biweekly salary specified in range 56.7 of the salary schedule. The clerk-administrator of the South Kern Municipal Court shall receive the biweekly salary specified in range 56.7 of the salary schedule. The clerk-administrator of the Bakersfield Municipal Court shall receive the biweekly salary specified in range 63.0 of the salary schedule.

73433.1. There shall be one assistant clerk-administrator in the Bakersfield Municipal Court who shall be appointed by and serve at the pleasure of the majority of the judges of the court. The

1 assistant clerk-administrator shall receive the biweekly salary specified in range 56.7 of the salary
2 schedule.

3 73434. There shall be two judicial secretaries in the Bakersfield Municipal Court who shall be
4 appointed by and serve at the pleasure of a majority of the judges of the court. The judicial
5 secretaries shall receive a biweekly salary specified in range 47.3 of the salary schedule.

6 73435. The clerk-administrator of the Bakersfield Municipal Court may appoint:

7 (a) Three chief deputy municipal court clerks who shall act as the supervisors of the civil,
8 criminal, and traffic divisions of the court and each of whom shall receive the biweekly salary
9 specified in range 51.0 of the salary schedule.

10 (b) Seven senior deputy municipal court clerks, each of whom shall receive the biweekly salary
11 specified in range 48.9 of the salary schedule.

12 (c) One supervising courtroom clerk, who shall supervise the deputy municipal courtroom
13 clerks and who shall receive the biweekly salary specified in range 52.0 of the salary schedule.

14 (d) One senior courtroom clerk who shall receive the biweekly salary specified in range 51.0 of
15 the salary schedule.

16 (e) Eighteen deputy municipal courtroom clerks II or deputy municipal courtroom clerks I, each
17 of whom shall receive the biweekly salary specified in ranges 48.8 and 45.2, respectively, of the
18 salary schedule.

19 Deputy municipal courtroom clerk I shall be the entrance position to deputy municipal
20 courtroom clerk II. The clerk-administrator, with the concurrence of the presiding judge, may
21 advance any deputy municipal courtroom clerk I to the position of deputy municipal courtroom
22 clerk II without further examination, if the deputy municipal courtroom clerk I has served for six
23 months and otherwise meets the qualifications for deputy municipal courtroom clerk II and if the
24 presiding judge is satisfied with the deputy municipal courtroom clerk I's performance during the
25 six-month period.

26 (f) Fifty-two full-time deputy municipal court clerks II or I, each of whom shall receive the
27 biweekly salary specified in ranges 45.1 and 42.8, respectively, of the salary schedule.

28 Deputy municipal court clerk I shall be the entrance position to the clerk's staff. The clerk-
29 administrator may advance any deputy municipal court clerk I to the position of deputy municipal
30 court clerk II without further examination if the deputy municipal court clerk I has served for six
31 months and otherwise meets the qualifications for deputy municipal court clerk II.

32 (g) One accountant II or I who shall receive the biweekly salary specified in ranges 52.1 and
33 49.4, respectively, of the salary schedule. Accountant I shall be the entrance position to the
34 accountant series. The clerk-administrator may advance the accountant I to the position of
35 accountant II without further examination if the accountant I has served for one year and
36 otherwise meets the qualifications of accountant II.

37 (h) Two court services technicians, each of whom shall receive the biweekly salary specified in
38 range 45.1 of the salary schedule.

39 (i) Two deputy administrative court clerks, each of whom shall receive the biweekly salary
40 specified in range 44.8 of the salary schedule.

41 (j) One microphotographer who shall receive the biweekly salary specified in range 41.7 of the
42 salary schedule.

43 (k) One administrative services officer who shall receive the biweekly salary specified in range
44 58.6 of the salary schedule.

45 (l) One departmental systems coordinator I who shall receive the biweekly salary specified in
46 range 54.2 of the salary schedule.

47 (m) One court interpreter who shall receive the biweekly salary specified in range 45.1 of the
48 salary schedule.

49 (n) One court interpreter/coordinator who shall receive the biweekly salary specified in range
50 48.9 of the salary schedule.

51 (o) One senior microphotographer who shall receive the biweekly salary specified in range 45.9
52 of the salary schedule.

1 (p) Five court reporters who shall receive the biweekly salary specified in range 56.8 of the
2 salary schedule.

3 (q) One director of collections who shall receive the biweekly salary specified in range 57.8 of
4 the salary schedule.

5 (r) One court technology manager who shall receive the biweekly salary specified in range 58.6
6 of the salary schedule.

7 (s) One departmental systems coordinator II who shall receive the biweekly salary specified in
8 range 56.2 of the salary schedule.

9 (t) One computer telecommunication technician II who shall receive the biweekly salary
10 specified in range 52.3 of the salary schedule.

11 73435.1. (a) The judges of the East Kern Municipal Court may appoint one commissioner. The
12 commissioner shall possess the same qualifications as the law requires of a judge of the court.
13 Within the jurisdiction of the court and under the direction of the judges, the commissioner shall
14 exercise the powers and perform the duties authorized by law to be performed by the
15 commissioners of the superior court and any additional powers and duties as may be prescribed
16 by law.

17 (b) The commissioner shall be paid biweekly, pursuant to the payroll procedures in effect in the
18 County of Kern, in an amount equal to 70 to 85 percent of a municipal court judge's salary. The
19 court shall recommend to the board of supervisors the level of salary to be received by the
20 commissioner based on his or her qualifications, performance, and other factors deemed relevant
21 by the court, and the board of supervisors shall determine the salary level within the specified
22 range. The biweekly salary rate of the commissioner shall be adjusted at the same time and
23 manner and in the same percentage amount as set forth in Section 68203.

24 (c) In addition to the compensation provided for in this section, each commissioner shall be
25 entitled to and shall receive on the same basis as other county employees, the same benefits and
26 privileges with respect to retirement, group insurance, sick leave, and vacation. The
27 commissioner shall observe the same holidays as other court employees.

28 73436. The clerk-administrator of the East Kern Municipal Court may appoint:

29 (a) Two regional chief municipal court clerks who shall act as the supervisors of the branches
30 of the court and each of whom shall receive the biweekly salary specified in range 51.0 of the
31 salary schedule.

32 (b) Six regional senior deputy municipal court clerks, each of whom shall receive the biweekly
33 salary specified in range 48.9 of the salary schedule.

34 (c) Nineteen regional municipal court clerks III, II, or I, each of whom shall receive the
35 biweekly salary specified in ranges 47.2, 45.1, and 42.8, respectively, of the salary schedule.

36 Regional municipal court clerk I shall be the entrance position to the clerk's staff. The clerk-
37 administrator may advance any regional municipal court clerk I to the position of regional
38 municipal court clerk II without further examination if the regional municipal court clerk I has
39 served for six months and otherwise meets the qualifications for regional municipal court clerk II.

40 (d) One account clerk III who shall receive the biweekly salary specified in range 43.0 of the
41 salary schedule.

42 (e) One court reporter who shall receive the biweekly salary specified in range 56.8 of the
43 salary schedule.

44 73436.05. (a) The judges of the North Kern Municipal Court may appoint one commissioner.
45 The commissioner shall possess the same qualifications as the law requires of a judge of the
46 court. Within the jurisdiction of the court and under the direction of the judges, the commissioner
47 shall exercise the powers and perform the duties authorized by law to be performed by the
48 commissioners of the superior court and any additional powers and duties as may be prescribed
49 by law.

50 (b) The commissioner shall be paid biweekly, pursuant to the payroll procedures in effect in the
51 County of Kern, in an amount equal to 70 to 85 percent of a municipal court judge's salary. The
52 court shall recommend to the board of supervisors the level of salary to be received by the

1 commissioner based on his or her qualifications, performance, and other factors deemed relevant
2 by the court, and the board of supervisors shall determine the salary level within the specified
3 range. The biweekly salary rate of the commissioner shall be adjusted at the same time and
4 manner and in the same percentage amount as set forth in Section 68203.

5 (c) In addition to the compensation provided for in this section, each commissioner shall be
6 entitled to and shall receive on the same basis as other county employees, the same benefits and
7 privileges with respect to retirement, group insurance, sick leave, and vacation. The
8 commissioner shall observe the same holidays as other court employees.

9 73436.1. The clerk-administrator of the North Kern Municipal Court may appoint:

10 (a) Two regional chief municipal court clerks who shall act as the supervisors of the branches
11 of the court and each of whom shall receive the biweekly salary specified in range 51.0 of the
12 salary schedule.

13 (b) Two regional senior deputy municipal court clerks, each of whom shall receive the
14 biweekly salary specified in range 48.9 of the salary schedule.

15 (c) Twenty regional municipal court clerks III, II, or I, each of whom shall receive the biweekly
16 salary specified in ranges 47.2, 45.1, and 42.8, respectively, of the salary schedule.

17 The position of regional municipal court clerk I shall be the entrance position to the clerk's
18 staff. The clerk-administrator may advance any regional municipal court clerk I to the position of
19 regional municipal court clerk II without further examination, if the regional municipal court
20 clerk I has served for six months and otherwise meets the qualifications for regional municipal
21 court clerk II.

22 (d) One court reporter who shall receive the biweekly salary specified in range 56.8 of the
23 salary schedule.

24 (e) One regional court financial technician who shall receive the biweekly salary specified in
25 range 48.9 of the salary schedule.

26 73436.2. The clerk-administrator of the South Kern Municipal Court may appoint:

27 (a) Two regional chief municipal court clerk who shall act as the supervisor of the branches of
28 the court and who shall receive the biweekly salary specified in range 51.0 of the salary schedule.

29 (b) Two regional senior deputy municipal court clerks, each of whom shall receive the
30 biweekly salary specified in range 48.9 of the salary schedule.

31 (c) Twenty-two regional municipal court clerks III, II, or I, each of whom shall receive the
32 biweekly salary specified in ranges 47.2, 45.1, and 42.8, respectively, of the salary schedule.

33 The position of regional municipal court clerk I shall be the entrance position to the clerk's
34 staff. The clerk-administrator may advance any regional municipal court clerk I to the position of
35 regional municipal court clerk II without further examination, if the regional municipal court
36 clerk I has served for six months and otherwise meets the qualifications for regional municipal
37 court clerk II.

38 (d) One account clerk IV who shall receive the biweekly salary specified in range 45.8 of the
39 salary schedule.

40 (e) One court interpreter who shall receive the biweekly salary specified in range 45.1 of the
41 salary schedule.

42 (f) One court reporter who shall receive the biweekly salary specified in range 56.8 of the
43 salary schedule.

44 73437. (a) Whenever reference to a numbered salary range of the salary schedule is made in
45 any section of this article, the schedule of salary ranges found in the salary ordinance of the
46 County of Kern in effect on January 1, 1994, shall apply. The employees of the municipal courts
47 shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

48 (b) The minimum salary for each position shall normally be "step A" for the position. If it is
49 difficult to secure qualified personnel at that step or if a person of unusual qualifications is
50 engaged, the court or the clerk-administrator may hire at any step of the salary range applicable to
51 the position.

1 (c) Any employee who is promoted or whose position is reclassified from one class position to
2 a higher class position shall be placed in the step level of the higher class salary range which most
3 closely approximates a one-step increase from the former position, except that such increase shall
4 not exceed an amount equivalent to 1.4 steps in the salary schedule. In the event the "A" step of
5 the higher class position is greater than a 1.4-step increase over the salary of the employee in the
6 lower class position, the employee shall be placed at the "A" step in the salary range of the higher
7 class position.

8 (d) The Board of Supervisors of the County of Kern may adjust the salaries paid to employees
9 of the municipal courts as part of its county employee compensation plan. Such adjustment shall
10 be effective on the same date as the effective date of the action of the board of supervisors to
11 adjust compensation of other county employees. Any adjustment shall be effective only until
12 January 1 of the second year following the year in which the adjustment is made, unless ratified
13 by the Legislature.

14 (e) In addition to the compensation provided in this article, the attaches of the municipal court
15 shall receive, and they shall be entitled to, the same vacations, sick leaves, and similar privileges
16 and benefits as are now or may hereafter be provided for the employees of the County of Kern,
17 including the right to participate in any group, accident, health or life insurance plan adopted by
18 the Board of Supervisors of the County of Kern.

19 73437.5. (a) With the approval of the board of supervisors, a majority of the municipal court
20 judges may establish positions for officers, attaches, and employees in addition to those provided
21 by this article. The order and approval establishing any such position shall designate the position
22 title and salary range.

23 With the approval of the board of supervisors, a majority of the judges may appoint and employ
24 such additional officers, attaches and employees as it deems necessary for the performance of the
25 duties and exercise of the powers conferred by law upon the court and its members.

26 (b) Notwithstanding the provisions of Section 73437, rates of compensation of officers,
27 attaches and employees, except traffic referees, may be adjusted by approval of the board of
28 supervisors.

29 (c) Appointments or changes in compensation made pursuant to this section shall be on an
30 interim basis and shall expire January 1 of the second year following the calendar year in which
31 such appointments or changes in compensation are made, unless ratified by the Legislature.

32 73438. (a) Persons employed in the service on the 91st day after the 1953 Regular Session of
33 the Legislature shall receive credit for prior service in the justice's court, police court, or
34 municipal court of the city and in the sheriff's department or constabulary of the county, and, in
35 addition to the minimum rate, such persons shall receive the annual increments commensurate
36 with such years of prior service up to the maximum rate set. Changes of title created in
37 establishing the municipal court shall not detract from years of prior service.

38 (b) On the 90th day after the adjournment of the 1955 Regular Session of the Legislature, any
39 deputy clerk who has been continuously employed for a period of six months or more under an
40 appointment made pursuant to Sections 72150 and 72151 shall be placed by the clerk in the step
41 level of the salary range which would have been applicable to his position if he had been
42 originally appointed pursuant to this article. For the purpose of determining the right to
43 subsequent annual increments under this article, the anniversary date shall be the date of
44 commencement of such continuous employment.

45 (c) No salary of the clerk or any deputy clerk of the municipal court or any clerk employed in a
46 position in the office of the clerk of the court on the last court day immediately preceding the
47 effective date of the amendments to this article by the 1969 Regular Session of the Legislature
48 shall be reduced except for cause relating to the discipline of such employee or pursuant to the
49 adjustment provisions of this article.

50 73439. The Sheriff of Kern County and his deputies shall be ex officio marshal and deputy
51 marshals of the municipal courts in Kern County.

1 73440. Official reporters in the municipal courts shall be appointed pursuant to Section 72194
2 and in lieu of any other compensation provided by law for their services in reporting testimony
3 and proceedings in that court, shall receive a salary in the same sum as is paid the official
4 reporters of the superior court in Kern County, which shall be the biweekly salary specified in
5 range 54.6 of the salary schedule.

6 Each pro tempore official reporter shall be paid one hundred fifty dollars (\$150) a day for the
7 days he or she is actually on duty under order of the court. Official reporters shall be paid
8 biweekly pursuant to payroll procedures in effect in the County of Kern. Official reporters in the
9 municipal courts shall also be entitled to and shall receive, on the same basis as other county
10 employees, the same benefits and privileges with respect to retirement, group insurance, sick
11 leave, and vacation. Court reporters shall observe the same holidays as other court employees. For
12 the purpose of determining participation in the county retirement system, the salary provided for
13 such reporters in Sections 73435, 73436, 73436.1, and 73436.2 shall be deemed their entire
14 compensation.

15 73441. Fees for transcription of testimony and proceedings in such court shall be paid by the
16 litigants to official reporters as provided by law. In all cases where by law, the court may direct
17 the payment of transcription fees out of the county treasury, such fees shall, upon order of the
18 court, be paid from the general fund including fees for transcription of testimony and proceedings
19 in criminal cases pursuant to Sections 69947 to 69953, inclusive, which shall be paid from the
20 county treasury.

21 73442. A reporter's filing fee of seven dollars and fifty cents (\$7.50) shall be paid in actions
22 and proceedings as specified in Section 68090.5.

23 73443. All fees collected by officers or attaches except those which an attache is entitled to
24 retain pursuant to this article shall be paid into the county treasury.

25 **Note: Comment Requested**

26 The Commission is reviewing whether county treasury provisions remain viable, given the
27 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
28 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
29 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
30 (state funding of trial court operations). These matters are also being examined by a Joint Court-
31 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
32 treatment of Government Code Section 73443.

33 **Gov't Code §§ 73480-73490 (repealed). Lodi Municipal Court District**

34 SEC. ____ . Article 5 (commencing with Section 73480) of Chapter 10 of Title 8 of the
35 Government Code is repealed.

36 **Comment.** Sections 73480-73490 are repealed to reflect:

37 (1) Unification of the municipal and superior courts in San Joaquin County pursuant to Article
38 VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former
39 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
40 (judicial districts); Section 69598 (number of judges in San Joaquin County). Cf. Section 71042.5
41 (preservation of judicial districts for purposes of publication).

42 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
43 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
44 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
45 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
46 (employment selection and advancement), 71650-71658 (employment protection system), 71673
47 (authority of court).

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

Article 5. Lodi

73480. This article applies to the municipal court established in a district embracing the City of Lodi.

73481. There shall be two judges.

73482. There shall be one clerk, who shall be the administrative officer and act as secretary to the judge and who shall receive a salary in accordance with Section 73487.

73483. The clerk may appoint:

- (a) Two municipal courtroom clerks.
- (b) One deputy clerk III.
- (c) Three deputy clerks II.
- (d) Seven deputy clerks I.
- (e) One deputy clerk-administrator.

73486. Whenever a reference is made to a numbered salary range in any section of this article, the schedule of biweekly salaries found in the salary resolution for the County of San Joaquin in effect shall apply.

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction, then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	50.40
(b) Deputy clerk II	52.40
(c) Deputy clerk III	53.90
(d) Municipal courtroom clerk	56.90
(e) Clerk/Administrator	63.20
(f) Deputy clerk-administrator	58.10

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office may receive an annual increase in salary of one step on his or her assigned range, until the employee reaches the maximum step on the range assigned for his or her position. Thereafter no additional step increase shall be granted.

73489. Whenever the salary of a related class or classes of San Joaquin County employees is adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the percentage of adjustment granted to the class or classes deemed by the board of supervisors to be related:

- (a) Deputy clerk I.
- (b) Deputy clerk II.
- (c) Deputy clerk III.
- (d) Municipal courtroom clerk.
- (e) Clerk/Administrator.
- (f) Deputy clerk administrator.

All adjustments to the salaries of the above-named classes shall be effective as of the same date as the adjustment for the class or classes deemed to be related, and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

73490. Notwithstanding any other provision of law, the provisions of the county ordinance relating to civil service and the rules of the civil service commission adopted pursuant thereto,

1 shall be applicable to all employees in the same manner and to the same extent as applicable
2 generally to officers and employees of the County of San Joaquin.

3 Such employees shall be entitled to the same vacation, sick leave, leave of absence, and similar
4 benefits and may be appointed, promoted, demoted, terminated or transferred, or their status
5 otherwise adjusted in the same manner and with the same effect as is or may be provided by the
6 current salary ordinance of the County of San Joaquin, or the civil service ordinance of the
7 county, for employees of the county.

8 **Gov't Code §§ 73520-73530 (repealed). San Mateo County Judicial District**

9 SEC. ____ . Article 6 (commencing with Section 73520) of Chapter 10 of Title 8 of the
10 Government Code is repealed.

11 **Comment.** Sections 73520-73530 are repealed to reflect:

12 (1) Unification of the municipal and superior courts in San Mateo County pursuant to Article
13 VI, Section 5(e), of the California Constitution, effective June 12, 1998. See Section 70211
14 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
15 Proc. § 38 (judicial districts); Section 69599 (number of judges in San Mateo County). Cf.
16 Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
17 71264 (municipal court served by marshal).

18 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
19 71601(l) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job
20 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623
21 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
22 compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-
23 71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658
24 (employment protection system), 71673 (authority of court). See also Sections 68086 (fees for
25 reporting services), 69941 (appointment of official reporters), 69947 (compensation of official
26 reporter).

27 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
28 77200 (state funding of trial court operations). See also Section 68073 (responsibility for court
29 operations and facilities).

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

31 **Article 6. Municipal Court in San Mateo County**

32 73520. This article applies only to the San Mateo County Judicial District.

33 73521. There shall be nine judges of the San Mateo County Judicial District.

34 73522. There shall be three court commissioners for the San Mateo County Judicial District, to
35 be appointed by a majority of the municipal court judges.

36 At the direction of the judges, the commissioners may have the same jurisdiction and exercise
37 the same powers and duties as commissioners of superior courts and as the judges of the
38 municipal courts with respect to all subordinate judicial functions of the courts. The
39 commissioners shall possess the same qualifications required of a municipal court judge and shall
40 hold office during the pleasure of the court appointing them and shall not engage in the private
41 practice of the law. They shall be ex officio deputy clerks.

42 Court commissioners shall receive a salary representing 80 percent of the annual salary for a
43 superior court judge. The commissioners shall be entitled to the same employee benefits which
44 are provided for other attaches and employees of the court, as determined by the board of
45 supervisors.

73523. The consolidated superior and municipal courts judges may, by a majority vote, appoint a court executive officer who shall be the clerk of the superior and municipal courts of San Mateo County. The court executive officer shall serve at the pleasure of a majority of the judges. The court executive officer shall receive a biweekly salary at the rate specified in salary range number 5207 of the salary schedule. However, that salary may be adjusted pursuant to Section 73525. The court executive officer shall be the appointing authority for the positions listed in Section 73524.

The superior and municipal court judges shall prescribe and regulate by majority vote the duties and authority of the court executive officer, among which shall be:

(a) To direct and coordinate the nonjudicial activities of the consolidated superior and municipal courts.

(b) To coordinate the personnel practices in compliance with rules of the consolidated courts, California Rules of Court, or other pertinent rules or statutes.

(c) To prepare and administer the budget of the consolidated courts.

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the consolidated courts.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges relating to the business of the consolidated superior and municipal courts, including, but not limited to, such matters as standardization of forms and procedures, and of classification and compensation of court attaches.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the consolidated superior and municipal courts and to prepare periodic reports and recommendations based on that data.

(g) To provide for and conduct a program of in-service training for the personnel of the consolidated superior and municipal courts.

(h) To prepare procedure guides for the personnel of the consolidated superior and municipal courts.

(i) To make arrangements for and attend all meetings of the judges.

(j) To serve as liaison for the consolidated superior and municipal courts with other persons, committees, boards, groups, and associations as directed by the presiding judge.


73524. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes compensation for each job classification, are as follows, subject to the authority of the board of supervisors to adjust the monthly salary pursuant to Section 73525:

Number	Classification	Salary Range Number
1	Deputy District Attorney III	4498
3	Deputy Court Executive Officer	3885
1	Deputy District Attorney II	3700
1	Financial Services Manager II	3700
1	Family Court Services Manager	3547
1	Information Technology Manager	3523
2	Supervising Research Attorney	3498
3	Court Services Manager II	3355
1	Information Technology Analyst	3139
1	Chief Court Investigator	3044
6	Management Analyst III	2897
2	Senior Accountant	2801
7	Research Attorney	2752
7	Family Court Counselor	2630
3	Court Investigator	2527
2	Information Technology Technician	2488
1	Community Program Specialist III	2365

1	3	Accountant I/II	1954/2284
2	1	Interpreter Services	2271
3	6	Court Services Manager I	2271
4	12	Municipal Court Clerk Supervisor	2271
5	1	Executive Assistant	2131
6	20	Municipal Courtroom Clerk	2096
7	25	Superior Courtroom Clerk II	2096
8	1	Judicial Secretary	1933
9	3	Legal Secretary II	1841
10	8	Jury Office Specialist	1765
11	18	Lead Deputy Court Clerk	1765
12	1	Senior Utility Worker	1764
13	3	Fiscal Office Specialist	1754
14	1	Lead Legal Office Assistant	1751
15	7	Legal Office Specialist	1751
16	2	Administrative Secretary III	1751
17	1	Legal Exhibits Technician	1680
18	1	Lead Data Entry Operator	1668
19	2	Lead Fiscal Office Assistant	1668
20	1	Office Specialist	1627
21	1	Legal Word Processor	1627
22	3	Administrative Secretary II	1668
23	1	Utility Worker II	1601
24	104	Deputy Court Clerk I/II	1470/1593
25	1	Public Service Specialist	1546
26	8	Fiscal Office Assistant II	1531
27	3	Data Entry Operator II	1472
28	5	Office Assistant II	1472

29 73524.1. Whenever reference to a salary other than that of commissioner is made in any section
30 of this article, the schedule of salaries found in the salary and benefits resolution of the County of
31 San Mateo in effect on March 1, 1990, shall apply. However, adjustments to those salaries may
32 be made pursuant to Section 73525.

33 73525. Subject to Section 72001, the compensation for any classification listed in Section
34 73523 or 73524 may be increased pursuant to the San Mateo County Salary Ordinance Resolution
35 and Memoranda of Understanding, if any, with the recognized labor organizations representing
36 court employees. Whenever a reference to a salary range number is made in this article, the
37 following schedule of biweekly salaries shall apply:

38  **Note.** To conserve paper, the schedule of biweekly salaries has not been reproduced.

39 73526. Notwithstanding any other provision of this article, until the 61st day after the final
40 adjournment of the next regular session of the Legislature, whenever a higher compensation is
41 provided for in positions in the classification of staff clerk I in the San Mateo County classified
42 service, each person holding a position in any of the classifications specified in this article shall
43 receive proportionately higher compensation on the salary schedule provided for in Section
44 73525, payable at the same time as that higher compensation provided in the salary ordinance of
45 that county.

46 73527. The sheriff shall be ex officio marshal and his or her designated deputies shall be ex
47 officio deputy marshals of the courts unless otherwise ordered by the judges of the respective
48 judicial districts.

1 73528. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
2 Chapter 8 and the other provisions of this article, and in order to equalize the compensation of
3 employees of the consolidated superior and municipal court with the compensation paid to county
4 employees with commensurate duties and responsibilities, upon recommendation of the clerk of
5 the court with the approval of the judges of the consolidated superior and municipal courts and
6 the Board of Supervisors of the County of San Mateo, an officer or an attache of the court,
7 whether appointed under the provisions of this article or under Article 4 (commencing with
8 Section 72150) of Chapter 8, may be paid any compensation, which is within the ranges and
9 increments set forth in this article in excess of or less than the maximum to which such employee
10 would otherwise be entitled. However, that any such salary adjustment shall not extend longer
11 than 90 days after the adjournment of the next general session of the Legislature.

12 73529. Official reporters shall be appointed by the judges of the consolidated superior and
13 municipal courts pursuant to the provisions of Section 70043 or 72194 and shall serve at the
14 pleasure of the judges.

15 (a) The biweekly salary of each official reporter for the performance of duties required of each
16 reporter by law shall be at the rates specified in salary range number 3007 of the salary schedule.

17 At the time each reporter is hired, the salary of that reporter shall be fixed in the same manner
18 as provided for classified or unclassified employees of the county under the authority of the
19 county charter. A step advancement from step A to step B may be granted on the first day of the
20 pay period following completion of 26 full weeks of service in the position. A person may
21 advance to steps C, D, and E upon completion of successive 52-week periods of service. All merit
22 increases as provided herein shall be made at the determination of the judges of the court.

23 The per diem compensation for pro tempore reporters shall be one-tenth of step E in the
24 biweekly salary range established for official reporters, except that the rate of per diem
25 compensation shall be prorated on the basis of one-half day of compensation if the pro tempore
26 reporter renders only one-half day of service.

27 (b) Vacation allowances and sick leave allowances for official reporters shall be the same as
28 provided for classified or unclassified employees of the county under the authority of the county
29 charter.

30 (c) During the hours which the court is open for the transaction of judicial business, official
31 reporters shall devote full time to the performance of the duties required of them by law and shall
32 not engage in or solicit to engage in any other employment in their professional capacity.

33 Each official reporter shall perform the duties required of him or her by law. In addition, the
34 reporter shall render stenographic or clerical assistance, or both, to the judge or judges of the
35 consolidated superior and municipal courts as the judge or judges may direct.

36 73530. A reporter's filing fee of eleven dollars and fifty cents (\$11.50) shall be paid in actions
37 and proceedings as specified in Section 68090.5.

38 **Gov't Code §§ 73560-73572 (repealed). Monterey County Municipal Court District**

39 SEC. ____ . Article 7 (commencing with Section 73560) of Chapter 10 of Title 8 of the
40 Government Code is repealed.

41 **Comment.** Sections 73560-73572 are repealed to reflect:

42 (1) Unification of the municipal and superior courts in Monterey County pursuant to Article VI,
43 Section 5(e), of the California Constitution, effective December 18, 2000. See Cal. Const. art. VI,
44 § 23 and Section 70212(b) (preexisting court locations retained as superior court locations),
45 Section 70211 (former municipal court judgeships continued as superior court judgeships). See
46 also Code Civ. Proc. §§ 38 (judicial districts), 190 *et seq.* (jury selection); Sections 68073
47 (responsibility for court operations and facilities), 69590 (number of judges in Monterey County).
48 Cf. Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
49 71264 (municipal court served by marshal).

1 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
2 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
3 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
4 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
5 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
6 protection system), 71673 (authority of court). See also Section 69947 (compensation of official
7 reporter).

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

9 Article 7. Monterey County

10 73560. This article applies to the Monterey County Municipal Court District, which
11 encompasses the entire County of Monterey.

12 73561. Facilities for the court shall be maintained in the Cities of Salinas and Monterey and at
13 court facilities provided elsewhere in accordance with law. The court shall determine the nature
14 and frequency of sessions held at court locations.

15 **Note: Comment Requested**

16 Issues involving sessions and facilities are still unsettled, but Government Code Section 73561
17 is proposed for repeal because it falls within a municipal court article. The Commission solicits
18 comments on whether the section should be preserved pending (1) any implementation of
19 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
20 among the interested parties.

21 73562. There shall be 10 judges of the Monterey County Municipal Court District.

22 73564. The judges of the municipal court may appoint one commissioner, who shall hold office
23 at the pleasure of the majority of the judges. The commissioner shall possess the same
24 qualifications as are required by law of a judge of the municipal court, and shall not engage in the
25 private practice of law. Within the jurisdiction of the court and at the direction of the judges, the
26 commissioner shall exercise all of the powers and perform all of the duties which are authorized
27 by law.

28 The commissioner shall receive a salary of 70 to 80 percent of the salary of a judge of the
29 municipal court. The judges shall determine the level of the salary to be received by the
30 commissioner within the range and in accordance with the qualification, performance, and other
31 factors deemed relevant by the judges, and in accordance with any agreement the judges may
32 have with the County of Monterey.

33 The commissioner shall be entitled to the same employee benefits which are provided for other
34 attaches and employees of the court, as determined by the board of supervisors.

35 73565. The municipal court judges may, by a majority vote, appoint a municipal court
36 administrator who shall be the clerk of the municipal court. The municipal court administrator
37 shall serve at the pleasure of a majority of the judges. He or she shall receive a salary of seven
38 thousand and three dollars (\$7,003), provided, however, that the salary may be adjusted pursuant
39 to Section 73568. He or she shall be the appointing authority for those positions listed in Section
40 73566.

41 The municipal court judges shall prescribe and regulate by majority vote the duties and
42 authority of the municipal court administrator among which shall be:

43 (a) To direct and coordinate the nonjudicial activities of the district.

44 (b) To coordinate the personnel practices in compliance with rules of the district and those of
45 the County of Monterey.

46 (c) To prepare and administer the budget of the district.

1 (d) To coordinate with county agencies, the acquisition, utilization, maintenance, and
2 disposition of facilities, equipment, and supplies necessary for the operation of the district.

3 (e) To initiate studies and prepare appropriate recommendations and reports for the presiding
4 judge and judges on matters relating to the business of the district, including, but not limited to,
5 standardization of forms, procedures, and the classification and compensation of court attaches.

6 (f) To collect, compare, and analyze statistical data on a continuing basis concerning the status
7 of judicial and nonjudicial business of the district and to prepare periodic reports and
8 recommendations based on that data.

9 (g) To provide for and conduct a program of in-service training for the personnel of the
10 municipal court.

11 (h) To prepare procedural guides for the personnel of the municipal court.

12 (i) To make arrangements for and attend all meetings of the judges, to assist in the preparation
13 of the agenda, and to prepare minutes of the meetings of the judges.

14 (j) To serve as liaison for the district with other persons, committee boards, groups, and
15 associations as directed by the presiding judge.

16 73566. The number of positions within each job classification which may be filled by
17 appointment by the municipal court administrator, and the salary which constitutes the
18 compensation for each job classification, are as follows; provided, however, that the board of
19 supervisors may adjust the monthly salary pursuant to Section 73568, and may adjust the number
20 and classification of positions pursuant to Section 73569:

21 Number	Classification	Monthly Salary
22 2	Deputy Court Administrator	\$3,908-4,839
23 1	Administrative Services Officer	3,431-4,250
24 2	Municipal Court Division Manager	3,242-4,014
25 2	Court Calendar Coordinator	2,519-3,121
26 1	Supervising Data Processing Coordinator	2,433-3,014
27 2	Accounting Technician	2,257-2,796
28 3	Senior Account Clerk	1,943-2,407
29 5	Account Clerk	1,698-2,104
30 4	Municipal Court Clerk Supervisor	2,303-2,853
31 21	Deputy Court Clerk III	1,914-2,372
32 32.5	Deputy Court Clerk II	1,698-2,104
33 13	Courtroom Clerk	2,191-2,714
34 1	Court Interpreter	2,023-2,506
35 2	Senior Secretary (Confidential)	2,383-2,952
36 .5	Alcohol & Drug Counselor II	2,970-3,679

37 73567. Whenever reference to a salary other than that of commissioner is made in any section
38 of this article, the schedule of salaries found in the salary and benefits resolution of the County of
39 Monterey in effect on January 1, 1999, shall apply; provided, however, that adjustments to the
40 salaries may be made pursuant to Section 73568.

41 73568. Certain classes of positions prescribed in this article are deemed to be equivalent in job
42 and salary level to certain classes of positions of Monterey County. In order to maintain parity of
43 compensation and employee benefits between attaches of the municipal court and county
44 employees having commensurate duties and responsibilities and to provide appropriate salary
45 adjustments and employee benefits for related classes of court positions this section shall govern
46 salary adjustments and employee benefits for attaches of the municipal court in Monterey County.

47 On the effective date of any amendment to a resolution adjusting the salary of a county
48 employee classification, the salary of the equivalent court position shall be adjusted in an
49 equivalent amount.

50 Any adjustments made pursuant to this section shall be effective on the operative date of the
51 county salary and benefits resolution and shall remain in effect only until January 1, of the second

1 year following the year in which the change is made, unless subsequently ratified by the
2 Legislature.

3 Attaches of the municipal court district shall be entitled to all employee benefits that are
4 provided for or made applicable to the equivalent Monterey County employee classification,
5 including, but not limited to, anniversary dates, changes thereto, and step advancements.

6 73569. (a) With the approval of the board of supervisors, a majority of municipal court judges
7 may adjust the number and classification of positions for officers, attaches, and employees
8 provided by this article. The order and approval adjusting any such position shall designate the
9 position title and salary. Nothing in this article shall preclude a majority of the judges from
10 exercising powers in accordance with Sections 68073 and 72150.

11 When any additional positions are established, the municipal court administrator may appoint
12 and employ such additional officers, attaches, and employees as are necessary for the
13 performance of the duties and exercise of the powers conferred by law upon the court and its
14 member.

15 (b) Any adjustment made pursuant to this section shall be effective when established by the
16 board of supervisors and shall remain in effect only until January 1 of the second year following
17 the year in which such change is made, unless subsequently ratified by the Legislature.

18 (c) Notwithstanding any other provision of law, officers, attaches, and employees of the Salinas
19 Judicial District, Monterey Peninsula Judicial District, and North Monterey County Judicial
20 District, on the effective date of this section, shall succeed to equivalent or higher positions in the
21 Monterey County Municipal Court and shall receive prior service credit and maintain employee
22 benefits earned as officers, attaches, and employees of the superseded courts.

23 73570. The sheriff and his deputies shall act ex officio as the marshal and deputy marshals of
24 the court referred to in this article.

25 73571. A majority of the judges of the court may, by order, designate areas surrounding a court
26 location from which jurors for trial held at that location shall be selected.

27 73572. In Monterey County, the board of supervisors shall fix the compensation of official
28 court reporters pro tempore which shall be at the rate of seventy-five dollars (\$75) per diem. The
29 compensation of official court reporters pro tempore may be adjusted by action of the Board of
30 Supervisors of Monterey County.

31 **Gov't Code §§ 73580-73587 (repealed). Lake County Municipal Court**

32 SEC. ____ . Article 7.5 (commencing with Section 73580) of Chapter 10 of Title 8 of
33 the Government Code is repealed.

34 **Comment.** Sections 73580-73587 are repealed to reflect:

35 (1) Unification of the municipal and superior courts in Lake County pursuant to Article VI,
36 Section 5(e), of the California Constitution, effective June 30, 1998. See Section 70211 (former
37 municipal court judgeships continued as superior court judgeships). See also Cal. Const. art. VI, §
38 16 (election of judges); Code Civ. Proc. § 38 (judicial districts); Section 69585.7 (number of
39 judges in Lake County). Cf. Section 71042.5 (preservation of judicial districts for purposes of
40 publication); former Section 71264 (municipal court served by marshal).

41 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
42 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
43 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
44 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
45 (employment selection and advancement), 71650-71658 (employment protection system), 71673
46 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
47 (compensation of official reporter).

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

Article 7.5. Lake County

73580. This article applies to the Lake County Municipal Court, which supersedes the Northlake and Southlake Justice Court Districts and embraces the entire County of Lake.

73581. There are two judges. One judge shall be elected from a division comprising the territory of the superseded Northlake Judicial District and one judge shall be elected from a division comprising the territory of the superseded Southlake Judicial District, and these divisions shall constitute the “districts” referred to in subdivision (b) of Section 16 of Article VI of the California Constitution for the purposes of the qualification and election of judges. However, the initial judges shall be selected pursuant to Sections 71080 and 71084.

73582. There shall be one municipal court executive officer who shall be appointed by a majority of the judges of the court. The municipal court executive officer shall receive a salary in the range of two thousand four hundred three dollars (\$2,403) to two thousand nine hundred twenty dollars (\$2,920) per month.

73583. The municipal court executive officer, with the budgetary approval of the board of supervisors, may fill the following positions, each of which shall receive a biweekly salary in the range specified:

Number	Title	Salary Range
1	Supervising Court Clerk	\$751.16- \$913.05
3	Court clerk III	\$643.36- \$782.02
11	Court clerk I/II	\$558.04- \$744.48

73584. The employees of the Lake County Municipal Court District shall be entitled to the same benefits and privileges as are granted to other employees of the County of Lake, as provided in the county’s salary ordinance and other ordinances, resolutions, and rules applicable to other county employees.

73585. The employees of the Lake County Municipal Court shall be governed by the personnel regulations, memoranda of understanding, management benefit package, and affirmative action plan of the County of Lake.

73586. The salaries, benefits, and privileges of the Lake County Municipal Court may be adjusted, as directed by the board of supervisors as part of the county employee compensation plan. Any adjustment by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the adjustment occurs, unless ratified by the Legislature.

73586.1. The work of the superior and municipal courts in Lake County is to be performed, minimally, by each of the positions herein identified by the trial courts of Lake County (all employees paid biweekly with the exception of the Court Executive Officer and Assistant Court Executive Officer who are paid monthly), as follows:

		Per Court Order
1	Court Executive Officer	\$3,212.59-3,904.97
1	Assistant Court Executive Officer	888.50-1,080.00
1	Court Services Coordinator	1,281.50-1,557.70
3	Court Reporter I	932.90-1,134.00
1	Judicial Secretary II	854.10-1,038.20
1	Judiciary Secretary I	787.20-956.80
1	Deputy Jury Commissioner	888.50-1,080.00
3	Supervising Court Clerk	752.80-915.00
11	Court Clerk II	682.70-829.80
5	Court Clerk I	

Note: Comment Requested

The Commission is researching several issues pertaining to jury commissioners, including whether jury commissioner provisions in the Government and Penal Codes should be relocated to the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded by that Act. The Commission solicits comments on these points.

73587. The Sheriff of the County of Lake and his or her deputies specifically designated by him or her shall be ex officio marshal and deputy marshals, respectively, of the court and shall act as such without additional compensation.

Gov’t Code §§ 73600-73608 (repealed). El Dorado County Municipal Court

SEC. ____ . Article 8 (commencing with Section 73600) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73600-73608 are repealed to reflect:

(1) Unification of the municipal and superior courts in El Dorado County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. *Cf.* former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of official reporter).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

Article 8. El Dorado County Municipal Court

73600. This article applies to the El Dorado County Municipal Court, which supersedes the Ponderosa, Placerville, and Lake Valley Judicial Districts and embraces the entire County of El Dorado.

73601. (a) There is one court administrator for the municipal court, who shall be appointed by the board of supervisors with the concurrence of a majority of the judges of the municipal court of the county, and who shall hold office at the judges’ pleasure. The court administrator shall receive a monthly salary in the range of three thousand nine hundred forty-one dollars and sixty cents (\$3,941.60) to four thousand seven hundred ninety dollars and ninety-three cents (\$4,790.93).

(b) Notwithstanding subdivision (a) or any other provision of law, the board of supervisors may appoint or remove any other county officer as court administrator pursuant to the terms and conditions of an agreement approved by a majority of the judges of El Dorado County.

73602. The court administrator may, in accordance with the El Dorado County Personnel Rules, appoint the following employees, each of whom shall receive a monthly salary in the range specified:

Position	Salary Range
(a) One Administrative Services Officer	\$3,069.73-\$3,733.60
(b) One Executive Secretary	\$1,754.13-\$2,133.73
(c) One-half Accountant II	\$2,419.73-\$2,941.46
(d) Two Court Operation Supervisors	\$1,930.00-\$2,348.00
(e) Six Court Clerk IVs	\$1,790.00-\$2,177.00

1	(f) Seven Court Clerk IIIs	\$1,698.66-\$2,064.40
2	(g) Fifteen Court Clerk I/IIIs	\$1,435.20-\$1,925.73
3	(h) One-half Data Entry Clerk I/II	\$1,334.66-\$1,768.00

4 73603. Subject to Section 72001, the compensation of officers and attaches shall be governed
 5 by the El Dorado County Personnel Rules, Salary Ordinance, and Memoranda of Understanding
 6 with the recognized labor organizations representing court employees.

7 73604. (a) The work of the superior and municipal courts in El Dorado County is to be
 8 performed, minimally, by each of the positions herein identified by the trial courts of El Dorado
 9 County:

10		Position	Salary Range
11	1	Court Executive Officer	\$5,657-6,876
12	1	Court Operations Manager	2,870-3,489
13	2	Deputy County Counsel IV	4,676-5,685
14	2	Court Commissioner	8,172-8,172
15	1	Dispute Resolution Officer	4,676-5,685
16	1	Departmental Systems Coordinator	2,827-3,437
17	4	Court Reporter	3,003-3,652
18	1	Chief Deputy Superior Court Clerk	2,329-2,832
19	1	Administrative Technician	2,366-2,875
20	5	Court Operations Supervisor	2,328-2,851
21	1.5	Family Mediation Counselor	2,769-3,367
22	1	Executive Secretary	1,924-2,338
23	1	Senior Accountant	2,922-3,553
24	.5	Accountant I/II	2,655-3,227
25	1	Fiscal Technician	1,814-2,206
26	3	Court Clerk IV	1,929-2,343
27	12	Court Clerk III	1,830-2,223
28	14	Judicial Assistant	2,026-2,461
29	.5	Secretary	1,599-1,943
30	28	Court Clerk I/II	1,707-2,074
31	.75	Data Entry Operator II	1,579-1,920

32 (b) The officers and attaches of the municipal court shall be entitled to the same vacation, sick
 33 leave, and benefits and privileges as are granted to other comparable employees of similar
 34 classification of El Dorado County under ordinances and resolutions of the board of supervisors.

35 (c) If an increase in the business of the court or any other emergency requires a greater number
 36 of attaches or employees for prompt and faithful discharge of the business of the court other than
 37 the number expressly provided in this article or requires the performance of duties of positions in
 38 a class not expressly provided in this article, with the approval of the presiding judge of the court
 39 and the board of supervisors, the Presiding Judge may appoint in accordance with the El Dorado
 40 County employee allocation schedule as many additional attaches or employees as are needed.
 41 The additional attaches or employees shall be selected and appointed in the same manner as those
 42 for whom express provision is made, and they shall receive salary and compensation as
 43 prescribed in this article or as prescribed by ordinance or resolution of the board of supervisors
 44 for classes not expressly provided in this article.

45 (d) All matters affecting the employment of court officers and attaches which are not
 46 specifically determined by this article or other provisions of state law shall be governed and
 47 regulated by the then current ordinances and resolutions of the Board of Supervisors of El Dorado
 48 County.

49 73605. Commencing January 7, 1991, the El Dorado County Sheriff shall be ex officio
 50 marshal.

1 73606. Any individual serving as an elected constable in any of the three justice court districts
2 previously in existence at the time of the creation of the El Dorado Municipal Court shall, until
3 the expiration of his or her current term in office, be entitled to carry out the duties of the office of
4 marshal or deputy marshal under the same terms and conditions of employment and
5 compensation as were provided prior to creation of the El Dorado County Municipal Court
6 District. Notwithstanding any other provision of law, in the event of a vacancy in the position of
7 marshal or deputy marshal prior to January 7, 1991, an appointment to fill a vacancy shall be
8 made by the court administrator.

9 73607. All matters affecting the employment of officers and attaches of the El Dorado County
10 Municipal Court District which are not specifically determined by this article or other provisions
11 of state law shall be governed and regulated by the then current ordinances and resolutions of the
12 Board of Supervisors of El Dorado County.

13 73608. The number, categories, and compensation of the officers, attaches, and employees
14 provided by this article may be adjusted, as the need is determined, by the board of supervisors
15 and in accordance with established county personnel and budgetary procedures. Any such
16 adjustment shall be on an interim basis and shall remain effective only until January 1 of the
17 second year following the year in which such adjustment is made. Nothing in this section shall
18 preclude the judges of the El Dorado County Municipal Court District from exercising their
19 powers in accordance with Section 72150.

20 **Gov't Code §§ 73640-73650 (repealed). El Cajon Municipal Court District**

21 SEC. ____ . Article 9 (commencing with Section 73640) of Chapter 10 of Title 8 of the
22 Government Code is repealed.

23 **Comment.** Sections 73640-73650 are repealed to reflect:

24 (1) Unification of the municipal and superior courts in San Diego County pursuant to Article
25 VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Cal. Const. art.
26 VI, § 23 and Section 70212(b) (preexisting court locations retained as superior court locations),
27 Section 70211 (former municipal court judgeships continued as superior court judgeships). See
28 also Code Civ. Proc. § 38 (judicial districts); Section 69595 (number of judges in San Diego
29 County). Cf. Section 71042.5 (preservation of judicial districts for purposes of publication).

30 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
31 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
32 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
33 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
34 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
35 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
36 reporters), 69947 (compensation of official reporter).

37 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
38 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations), 77211
39 ("900" telephone numbers). See also Sections 69952 (payment from Trial Court Operations
40 Fund), 69953 (payment of fees).

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

42 **Article 9. El Cajon Judicial District**

43 73640. This article applies to the municipal court established in a district embracing the Judicial
44 District of El Cajon.

45 73641. There shall be 10 judges.

1 73642. (a) In addition to any other compensation and benefits, each judge of the municipal
2 court shall receive the same life insurance, accidental death and dismemberment insurance,
3 comprehensive annual physical examinations, executive flexible benefits plan (except that if
4 deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental
5 and vision insurance as provided by the County of San Diego for the classification of chief
6 administrative officer. Changes in these benefits shall be effective on the same date as those for
7 the classification of chief administrative officer.

8 (b) Subject to approval by the board of supervisors, each judge of the municipal court shall
9 receive one or more of the following benefits: the same long-term disability insurance as provided
10 by the County of San Diego for the classification of chief administrative officer or retiree health
11 benefits whereby each judge of the municipal court serving on or after October 1, 1987, who
12 retires from the municipal court on or after January 1, 1989, shall receive the same amount of
13 insurance premium for retiree health benefits under the Public Employees' Medical and Hospital
14 Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired
15 superior court judges under that act.

16 **Note: Comment Requested**

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

21 73643. There shall be one court administrator who shall serve as clerk of the court, and who
22 shall be appointed by the majority of the judges of the court. The biweekly salary of the court
23 administrator shall be within the biweekly rate range ES-15 indicated in the Compensation
24 Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction
25 within the range, shall be determined in accordance with the provisions set forth under Article 3.5
26 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section
27 74345, except that any reference to "executive compensation committee" or "chief administrative
28 officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be
29 interpreted as "a majority of the judges."

30 73644. The court administrator may appoint the following personnel:

31 (a) One assistant court administrator. The assistant court administrator shall serve as the
32 assistant clerk of the court and shall receive a biweekly salary within the biweekly rate range ES-
33 10 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary,
34 and any advancement or reduction within the range, shall be determined in accordance with the
35 provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego
36 and of subdivision (a) of Section 74345, except that any reference to "executive compensation
37 committee" or "chief administrative officer" in Article 3.5 of the Compensation Ordinance of the
38 County of San Diego shall be interpreted as "the court administrator." A person shall not be
39 appointed to the class of assistant court administrator if any of the three deputy court
40 administrator positions are filled.

41 (b) Three deputy court administrators, who shall serve at the pleasure of the court
42 administrator. The deputy court administrators shall receive a salary within the biweekly range
43 ES-6 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary,
44 and any advancement or reduction within the range, shall be determined in accordance with the
45 provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego
46 and of subdivision (a) of Section 74345, except that any reference to "executive compensation
47 committee" or "the chief administrative officer" in Article 3.5 of the Compensation Ordinance of
48 the County of San Diego shall mean "the court administrator." The deputy court administrator
49 positions shall be filled only upon the equivalent number of corresponding permanent vacancies
50 in the positions denoted in subdivision (c), (d), or (e).

51 (c) One deputy clerk-administrative assistant I, II, or III or deputy clerk-administrative services
52 manager I or II as the case may be. A deputy clerk-administrative assistant I shall receive a

1 biweekly salary at a rate equal to that specified for administrative assistant I in the classified
2 service of the County of San Diego. A deputy clerk-administrative assistant II shall receive a
3 biweekly salary at a rate equal to that specified for administrative assistant II in the classified
4 service of the County of San Diego. A deputy clerk-administrative assistant III shall receive a
5 biweekly salary at a rate equal to that specified for administrative assistant III in the classified
6 service of the County of San Diego. A deputy clerk-administrative services manager I shall
7 receive a biweekly salary at a rate equal to that specified for administrative services manager I in
8 the classified service of the County of San Diego. A deputy clerk-administrative services manager
9 II shall receive a biweekly salary at a rate equal to that specified for administrative services
10 manager II in the classified service of the County of San Diego.

11 (d) Three deputy clerk-division managers III each of whom shall receive a biweekly salary at a
12 rate 24.5 percent higher than that specified for deputy clerk-division manager II of the San Diego
13 Judicial District.

14 (e) Three deputy clerk-division managers I or II, as the case may be. A division manager I shall
15 receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V of the
16 San Diego Judicial District. A division manager II shall receive a biweekly salary at a rate 15.5
17 percent higher than that specified for deputy clerk V of the San Diego Judicial District.

18 (f) One deputy clerk, associate, senior accountant, or accounting manager as the case may be. A
19 deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified
20 for the class of associate accountant in the classified service of the County of San Diego. A
21 deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for
22 the class of senior accountant in the classified service of the County of San Diego. A deputy
23 clerk-accounting manager shall receive a biweekly salary at a rate equal to that specified for the
24 class of deputy clerk-division manager III.

25 (g) One deputy clerk-staff development specialist or deputy clerk-staff development
26 coordinator as the case may be. A deputy clerk-staff development specialist shall receive a
27 biweekly salary at a rate equal to that specified for staff development specialist in the classified
28 service of the County of San Diego. A deputy clerk-staff development coordinator shall receive a
29 biweekly salary at a rate 5 percent higher than that specified for staff development specialist in
30 the classified service of the County of San Diego.

31 (h) Eight deputy clerks V, each of whom shall receive a biweekly salary equal to that specified
32 for deputy clerk V in the San Diego Municipal Court. The duties of the class of deputy clerk V
33 shall include supervisory responsibilities.

34 (i) Sixteen deputy clerks IV. Each of the deputy clerks IV shall receive a biweekly salary at a
35 rate equal to the greater of that specified for superior court clerk in the superior court service of
36 the County of San Diego or 19.95 percent higher than that specified for deputy clerk III. One
37 deputy clerk IV who is assigned to the presiding judge in the master calendar department shall
38 receive a biweekly salary at a rate of 5 percent higher than that specified for the deputy clerk IV.
39 This increased biweekly rate shall apply only during the period of this assignment and shall not
40 apply to paid time off or to terminal payoff.

41 (j) Seventy-three deputy clerks III, II, or I, deputy clerk-intermediate clerk typists, or deputy
42 clerk-junior clerk typists, as the case may be. Each of the deputy clerks III shall receive a
43 biweekly salary at a rate equal to that specified for legal procedures clerk III in the classified
44 service of the County of San Diego. Each of the deputy clerks II shall receive a biweekly salary at
45 a rate equal to that specified for legal procedures clerk II in the classified service of the County of
46 San Diego. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that
47 specified for legal procedures clerk I in the classified service of the County of San Diego. At the
48 discretion of the court administrator, appointments to deputy clerk I or II may be at any step
49 within the salary range. Up to four of these positions may be filled at the level of deputy clerk-
50 intermediate clerk typist, or deputy clerk-junior clerk typist. A deputy clerk-intermediate clerk
51 typist shall receive a biweekly salary at a rate equal to that specified for intermediate clerk typist
52 in the classified service of the County of San Diego. A deputy clerk-junior clerk typist shall
53 receive a biweekly salary at a rate equal to that specified for junior clerk typist in the classified
54 service of the County of San Diego. In the absence of a deputy clerk IV, the court administrator

1 may assign a maximum of seven deputy clerks III to perform courtroom clerk duties, supervisory
2 duties, or training duties for 40 or more hours during a pay period. A deputy clerk III assigned to
3 perform these duties is eligible to receive a biweekly salary at a rate 10 percent higher than that
4 specified for a deputy clerk III. This increased biweekly salary shall apply only during pay
5 periods in which 40 or more hours are spent performing the supervisory, training, or courtroom
6 clerk duties specified above and shall not apply to paid leave or to terminal payoff.

7 (k) Six confidential deputy administrative clerks or, deputy administrative clerks III, II, or I, as
8 the case may be. A confidential deputy administrative clerk III and a deputy administrative clerk
9 III shall receive a biweekly salary at a rate equal to that specified for a deputy clerk IV. A
10 confidential deputy administrative clerk II and a deputy administrative clerk II shall receive a
11 biweekly salary at a rate equal to that specified for deputy clerk III. A confidential deputy
12 administrative clerk I and a deputy administrative clerk I shall receive a biweekly salary at a rate
13 equal to that specified for deputy clerk II.

14 (l) Four deputy clerk-collection officers I, II, or III as the case may be. A deputy clerk-
15 collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and
16 recovery officer I in the classified service of the County of San Diego. A deputy clerk-collection
17 officer II shall receive a biweekly salary at a rate equal to that specified for revenue and recovery
18 officer II in the classified service of the County of San Diego. A deputy clerk-collection officer
19 III shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer
20 III in the classified service of the County of San Diego. Only one (1) position can be filled at the
21 deputy clerk court collection officer III level. Persons appointed to this position on or after
22 January 1, 1999, shall serve at the pleasure of the court administrator.

23 (m) Three deputy clerk-court interpreters who shall receive a biweekly salary at a rate equal to
24 that specified for superior court clerk interpreter in the superior court service of the County of San
25 Diego.

26 (n) Three deputy clerk-data entry operators. No more than two of the deputy clerk-data entry
27 operator positions may be filled at the deputy clerk-senior data entry operator level. Each of the
28 deputy clerk-data entry operators shall receive a biweekly salary at a rate equal to that specified
29 for data entry operator in the classified service of the County of San Diego. Each of the deputy
30 clerk-senior data entry operators shall receive a biweekly salary at a rate equal to that specified
31 for senior data entry operator in the classified service of the County of San Diego.

32 (o) One deputy clerk-municipal court secretary who shall receive a biweekly salary at a rate
33 equal to that specified for confidential legal secretary III in the classified service of the County of
34 San Diego. At the discretion of the court administrator appointment to the deputy clerk-municipal
35 court secretary may be at any step within the salary range.

36 (p) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-
37 administrative secretary III shall receive a biweekly salary at a rate equal to that specified for an
38 administrative secretary III in the classified service of the County of San Diego. A deputy clerk-
39 administrative secretary II shall receive a biweekly salary at a rate equal to that specified for an
40 administrative secretary II in the classified service of the County of San Diego. A deputy clerk-
41 administrative secretary I shall receive a biweekly salary at a rate equal to that specified for an
42 administrative secretary I in the classified service of the County of San Diego.

43 (q) Three deputy clerk-substance abuse assessors I or II, as the case may be. Notwithstanding
44 subdivision (b) of Section 73649, persons appointed to these positions on or after January 1,
45 1990, shall serve at the pleasure of the court administrator. A deputy clerk-substance abuse
46 assessor II shall receive a biweekly salary at a rate equal to that specified for the class of deputy
47 probation officer in the classified service of San Diego County. A deputy clerk-substance abuse
48 assessor I shall receive a biweekly salary at a rate 9 percent below that specified for a deputy
49 clerk-substance abuse assessor II. Appointments to deputy clerk-substance abuse assessor I and II
50 may be at any step within the salary range.

51 (r) One deputy clerk-court referral coordinator who shall receive a biweekly salary at a rate
52 7.25 percent higher than that specified for deputy clerk-court referral officer II. This position shall
53 be filled only upon the equivalent number of corresponding vacancies in the positions denoted in

1 subdivisions (d) and (e) of Section 74359.1. Appointments to the deputy clerk-court referral
2 coordinator may be at any step within the salary range.

3 (s) One deputy clerk-court referral officer II who shall receive a biweekly salary at a rate equal
4 to that specified for deputy probation officer in the classified service of the County of San Diego.
5 This position shall be filled only upon the equivalent number of corresponding vacancies in the
6 positions denoted in subdivisions (d) and (e) of Section 74359.1. Appointments to the deputy
7 clerk-court referral officer II may be at any step within the salary range.

8 (t) One deputy clerk-research attorney III who shall receive a biweekly salary equal to that
9 specified for a deputy county counsel III in the classified service of the County of San Diego.

10 (u) One deputy clerk-research attorney I, deputy clerk-research attorney II, or deputy clerk-law
11 clerk, as the case may be. A deputy clerk-research attorney I shall receive a biweekly salary equal
12 to that specified for a deputy county counsel I in the classified service of the County of San
13 Diego. A deputy clerk-research attorney II shall receive a biweekly salary equal to that specified
14 for a deputy county counsel II in the classified service of the County of San Diego. A deputy
15 clerk-law clerk shall receive a biweekly salary at a rate equal to that specified for a law clerk in
16 the classified service of the County of San Diego.

17 (v) One deputy clerk-legal assistant I or II, as the case may be. A deputy clerk-legal assistant I
18 shall receive a biweekly salary at a rate equal to that specified for legal assistant I in the classified
19 service of the County of San Diego. A deputy clerk-legal assistant II shall receive a biweekly
20 salary at a rate equal to that specified for legal assistant II in the classified service of the County
21 of San Diego.

22 (w) One deputy clerk-small claims advisor or deputy clerk-small claims counsel, as the case
23 may be. The deputy clerk-small claims advisor shall receive a biweekly salary at a rate of 18.63
24 percent less than that specified for small claims counsel in the classified service of the County of
25 San Diego. The deputy clerk-small claims counsel shall receive a biweekly salary at a rate equal
26 to that specified for small claims counsel in the classified service of the County of San Diego.

27 (x) Three deputy clerk-senior systems analyst, associate systems analyst, assistant systems
28 analyst, systems analyst trainee, or systems support analyst II, I, or trainee, as the case may be. A
29 deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified
30 for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-
31 associate systems analyst shall receive a biweekly salary at a rate equal to that specified for
32 associate systems analyst in the classified service of the County of San Diego. A deputy clerk-
33 assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for
34 assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-
35 systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems
36 analyst trainee in the classified service of the County of San Diego. A deputy clerk-systems
37 support analyst II shall receive a biweekly salary at a rate equal to that specified for a systems
38 support analyst II in the classified service of the County of San Diego. A deputy clerk-systems
39 support analyst I shall receive a biweekly salary at a rate equal to that specified for a systems
40 support analyst I in the classified service of the County of San Diego. A deputy clerk-systems
41 support analyst trainee shall receive a salary equal to that specified for a systems support analyst
42 trainee in the classified service of the County of San Diego.

43 (y) Three deputy clerk-municipal court computer specialists I, II, or III, as the case may be. A
44 deputy clerk-municipal court computer specialist I, II, or III shall receive a biweekly salary at a
45 rate equal to that specified for departmental computer specialist I, II, or III, respectively, in the
46 classified service of the County of San Diego.

47 (z) One deputy clerk-LAN systems supervisor or deputy clerk-LAN systems analyst III, II, or I,
48 as the case may be. A deputy clerk-LAN systems supervisor shall receive a biweekly salary at a
49 rate equal to that specified for LAN systems supervisor in the classified service of the County of
50 San Diego. A deputy clerk-LAN systems analyst III shall receive a biweekly salary at a rate equal
51 to that specified for LAN systems analyst III in the classified service of the County of San Diego.
52 A deputy clerk-LAN systems analyst II shall receive a biweekly salary at a rate equal to that
53 specified for LAN systems analyst II in the classified service of the County of San Diego. A

1 deputy clerk-LAN systems analyst I shall receive a biweekly salary at a rate equal to that
2 specified for LAN systems analyst I in the classified service of the County of San Diego.

3 (aa) Notwithstanding subdivision (b) of Section 73649, up to 10 extra help positions (hourly
4 rate) to be appointed by, and serve at the pleasure of, the court administrator in the class and
5 salary level deemed appropriate. These appointments shall be temporary for a period not to
6 exceed six months, plus one additional period of up to six months, at the court administrator's
7 option. Notwithstanding any other provisions of this section, the court administrator may fill these
8 positions with personnel employed for a period not to exceed 120 working days or 960 hours,
9 whichever is greater, during a fiscal year on a part-time basis.

10 (ab) Notwithstanding subdivision (b) of Section 73649, up to 10 deputy clerk-court workers
11 may be appointed by, and serve at the pleasure of, the court administrator. The class of deputy
12 clerk-court worker provides for temporary appointments to positions in classes not listed in
13 Sections 73640 to 73650, inclusive, pending a review and evaluation of the duties of these
14 positions by the court administrator, and the establishment of specific classes as provided in this
15 section. Prior to the establishment of those classes, the county personnel director shall conduct a
16 classification review and make recommendations to the municipal court as to the establishment of
17 those classes. The rate of pay for each individual employed in this class shall be within the range
18 proposed for the class pending establishment, at a rate determined by the court administrator,
19 following consultation with the county personnel director. The rules regarding appointment and
20 compensation as they relate to appointments to deputy clerk-court worker shall be the same as
21 those applicable to the class that is pending establishment. Appointments shall be temporary and
22 shall not exceed 18 months. Employee benefits, if applicable, shall be equal to those granted to
23 the class in the service of the County of San Diego to which the pending class will be tied for
24 benefit purposes. When that appointment is made, the class, compensation (including salary and
25 fringe benefits), and number of the positions may be established by joint action of the majority of
26 the judges and the board of supervisors in accordance with established county personnel and
27 budgetary procedures. In the event that the class pending establishment is tied to a class in the
28 unclassified service of the County of San Diego, the joint action may designate that persons
29 serving in the class pending establishment shall serve at the pleasure of the court administrator.
30 The court administrator may then appoint additional attaches to those classes of positions in the
31 same manner as those for which express provision is made, and they shall receive the
32 compensation so provided. Persons occupying deputy clerk-court worker positions shall have
33 their appointments expire not later than 30 calendar days following promulgation of a list of
34 certified eligibles for the new class. Appointments to the new class shall continue at the stated
35 compensation or as thereafter modified by joint action of the majority of the judges and board of
36 supervisors.

37 (ac) Notwithstanding subdivision (b) of Section 73649, the court administrator may appoint up
38 to 20 temporary extra help deputy clerk-municipal court trainees I, II, III, or V, who shall be paid
39 at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-
40 municipal court trainee I shall receive an hourly salary at a rate equal to that specified for student
41 worker I in the unclassified service of the County of San Diego. A deputy clerk-municipal court
42 trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the
43 unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall
44 receive an hourly salary at a rate equal to that specified for student worker III in the unclassified
45 service of the County of San Diego. A deputy clerk-municipal court trainee V shall receive an
46 hourly salary at a rate equal to that specified for student worker V in the unclassified service of
47 the County of San Diego. Persons who graduate and receive a degree in the field which qualified
48 them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and
49 be employed on a full-time basis for up to six months from the first day of the month following
50 their date of graduation.

51 (ad) Except as provided in this section, Section 74345 shall apply to the attaches appointed
52 pursuant to this section and Section 73643.

53 (ae) Notwithstanding any other provision of law, the number of positions and compensation of
54 positions in classifications authorized under subdivisions (a) to (ac), inclusive, and under Sections

1 73643, 73646, 73649.1, and 73650 may be adjusted as necessary by action of the majority of the
2 judges. The rules regarding appointment of persons to those positions shall be the same as those
3 applicable to the class of those positions. The action of the majority of the judges adjusting those
4 positions shall designate the class title or titles, number of positions, and compensation for each
5 respective class. Any adjustment made pursuant to this subdivision shall be effective upon action
6 of a majority of the judges and shall remain in effect until ratified by the Legislature.

7 73644.5. The El Cajon Municipal Court or any agency supporting the court may establish a
8 "900" telephone number or numbers, for computerized remote access by individuals or
9 organizations to court information. The proceeds from these "900" telephone numbers shall be
10 continuously and solely appropriated to the El Cajon Municipal Court or court support agency for
11 the purposes of ongoing staff information and data processing services.

12 73645. In the event of an increase in the number of judges the court administrator may appoint
13 one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I, for each
14 additional judgeship created.

15 73646. The court administrator may appoint three judicial secretaries, one of whom may be a
16 supervising judicial secretary, who shall serve at the pleasure of the court administrator. Each
17 judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative
18 secretary IV in the classified service of the County of San Diego. Appointments to judicial
19 secretary may be at any step within the salary range.

20 The position of judicial secretary shall be deemed comparable to the position of administrative
21 secretary IV in the classified service of San Diego County. Whenever the salary of the class of
22 administrative secretary IV is adjusted by the Board of Supervisors of San Diego County, the
23 salary of the class of judicial secretaries shall be adjusted a commensurate percentage in the
24 salary schedule on the same date.

25 The supervising judicial secretary shall receive a biweekly salary at a rate equal to that
26 specified for the classification of confidential legal secretary III in the classified service of the
27 County of San Diego. Appointments to supervising judicial secretary may be at any step within
28 the salary range. The position of supervising judicial secretary shall be deemed comparable to the
29 position of confidential legal secretary III in the classified service of San Diego County.
30 Whenever the salary of the class of confidential legal secretary III is adjusted by the Board of
31 Supervisors of San Diego County, the salary of the class of supervising judicial secretary shall be
32 adjusted a commensurate percentage in the salary schedule on the same date.

33 Notwithstanding Section 73649, the classifications of judicial secretary and supervising judicial
34 secretary, respectively, shall receive and be entitled to the same number of holidays, leaves of
35 absence, percentage of retirement offsets, and all other fringe benefits as are now or may hereafter
36 be provided for the classifications of administrative secretary IV and confidential legal secretary
37 III, respectively, in the classified service of the County of San Diego. However, the classifications
38 of judicial secretary and supervising judicial secretary shall be entitled to: (a) earn sick leave
39 credit at the rate of 5.385 percent of each hour of paid service during the pay period; (b) earn
40 vacation credit at the rate of 5.769 percent of each hour of paid service during the pay period and
41 accumulate vacation credit not to exceed 25 working days where the employee has less than 10
42 years of continuous service; and (c) earn vacation credit at the rate of 8.075 percent of each hour
43 of paid service during the pay period and accumulate vacation credit not to exceed 35 working
44 days where the employee has 10 years or more of continuous service. Notwithstanding the sick
45 leave and vacation credits indicated above, persons appointed to the positions of judicial secretary
46 and supervising judicial secretary on or after January 1, 1993, shall be entitled to earn and accrue
47 the same sick leave credit and vacation credit as an administrative secretary IV and confidential
48 legal secretary III, respectively, in the classified service of the County of San Diego.

49 73647. Persons who succeed to positions in the municipal court under provisions of the
50 Municipal and Justice Court Act of 1949 shall receive credit for continuous prior service in
51 superseded courts and in the sheriff's department or constabulary of the county. In determining

1 the rate of compensation to be paid to the officers and employees named in this article, service in
2 any city, municipal, or justice court of the State of California and service in the sheriff's
3 department or constabulary of the County of San Diego shall be deemed to be service in the
4 respective offices and employments in the Municipal Court of the El Cajon Judicial District.

5 73648. The municipal court shall hold sessions at such location, or locations, within the El
6 Cajon Judicial District as the Board of Supervisors of the County of San Diego may designate.

7 **Note: Comment Requested**

8 Issues involving sessions and facilities are still unsettled, but Government Code Section 73648
9 is proposed for repeal because it falls within a municipal court article. The Commission solicits
10 comments on whether the section should be preserved pending (1) any implementation of
11 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
12 among the interested parties.

13 73649. (a) In addition to the salary provided in this article, the classes of attaches of the
14 municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of
15 absence, and all other fringe benefits as are now or may hereafter be provided for the employees
16 of the County of San Diego in the comparable classes specified in Section 74345. The court
17 administrator shall receive the same number of holidays, leaves of absence, and all other fringe
18 benefits as are now or may hereafter be received by the class of chief probation officer of the
19 County of San Diego. The assistant court administrator and deputy court administrators shall
20 receive the same number of holidays, leaves of absence, and all other fringe benefits as are now
21 or may hereafter be received by the class of assistant chief probation officer of the County of San
22 Diego. All persons employed as deputy clerk-division manager I, deputy clerk-division manager
23 II, deputy clerk-division manager III, or deputy clerk-administrative assistant III shall receive the
24 same number of holidays, leaves of absence, and all other fringe benefits as are now or may
25 hereafter be received by the class of administrative assistant III in the classified service of the
26 County of San Diego. However, all officers, employees, and attaches of the municipal court shall
27 be eligible to enroll in the dental and vision group insurance plans sponsored by the County of
28 San Diego. The purpose and intent of this subdivision is to provide all court attaches except
29 judicial secretaries employed, traffic trial commissioners, and court reporters with any and all, but
30 no more than, those fringe benefits which are available to their comparable classes in the service
31 of the County of San Diego as specified in this section or in Section 74345. Whenever action or
32 approval by the chief administrative officer or county personnel director is required for the county
33 benefit, it shall be taken or given, as to municipal court officers and attaches other than those
34 serving at the pleasure of the court, by the court administrator with the approval of the majority of
35 the judges of the municipal court or their designees, or, as to those serving at the pleasure of the
36 court, by the majority of the judges of the municipal court or their designees. Changes in fringe
37 benefits shall be effective on the same date as those for employees of the County of San Diego in
38 the specified comparable classes. The majority of all the municipal court judges may adopt rules
39 for the conduct of and personnel privileges to be afforded the attaches of the court, excluding
40 fringe benefits.

41 (b) All attaches other than court reporters, judicial secretaries, traffic trial commissioners, and
42 other persons serving at the pleasure of their appointing authorities, may be appointed, promoted,
43 removed, suspended, laid off, or discharged for cause by the appointing authority subject in such
44 appointment, promotion, removal, suspension, layoff, or discharge to civil service provisions
45 applicable to the classified personnel of the County of San Diego. Whenever these attaches are
46 appointed or promoted to a position, they shall serve a probationary period of at least six months,
47 and not to exceed 18 months, as specified in the job announcement for the class prior to
48 appointment. If the San Diego County Charter is amended to repeal the Civil Service Rules and
49 the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in
50 this subdivision shall mean the personnel rule provisions.

1 73649.1. (a) By order entered in the minutes of the court, a majority of judges may appoint two
2 commissioners. However, if the board of supervisors finds that there are sufficient funds for one
3 additional commissioner and adopts a resolution to that effect, a majority of judges may appoint
4 an additional commissioner. The commissioners shall serve at the pleasure of the judges and shall
5 receive a salary equal to 80 percent of the salary of a judge of the municipal court.

6 (b) A commissioner shall receive and be entitled to the same number of holidays, leaves of
7 absence, and all other fringe benefits as are now or may hereafter be provided for a chief deputy
8 county counsel in the classified service of the County of San Diego. However, a commissioner
9 shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service
10 during the pay period, and (2) earn vacation credit at the rate of 8.075 percent of each hour of
11 paid service during the pay period until the commissioner has 15 years of county/court service. At
12 that time the commissioner will earn vacation at the same rate as chief deputy county counsel
13 with 15 years of county service.

14 (c) With the approval of a majority of judges of the court and the board of supervisors, a
15 commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar
16 of California membership fee.

17 73650. Official reporters in the Municipal Court of the El Cajon Judicial District appointed
18 pursuant to Section 72194 shall be attaches of the court, and in lieu of any other compensation
19 provided by law for their services in reporting testimony and proceedings in the court shall be
20 paid a biweekly salary equal to that specified for official court reporters for the Superior Court of
21 the County of San Diego. These salaries shall be a charge against the general fund of the county.

22 Notwithstanding Section 72194, by joint action of the majority of the judges and the board of
23 supervisors in accordance with the county personnel and budgetary procedures, the class of chief
24 reporter may be established. The action of the majority of the judges and the resolution of the
25 board of supervisors shall designate that the class of chief reporter is limited to one position and
26 shall receive a biweekly salary at a rate 15 percent higher than that specified for official reporters.
27 The chief reporter shall be appointed by and serve at the pleasure of the judges and shall receive
28 the same number of holidays, leaves of absence, and all other fringe benefits as are now or may
29 hereafter be received by the chief reporter of the Superior Court of the County of San Diego.

30 Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as
31 the business of the court may require, who shall be known as official reporters pro tempore, and
32 who shall serve without salary but shall receive the fees provided by Sections 69947 to 69953,
33 inclusive, except that in lieu of the per diem fees provided in those sections for reporting
34 testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at
35 a rate equal to that paid to official reporters pro tempore for the Superior Court of the County of
36 San Diego, which shall be a charge against the general fund of the County of San Diego.

37 Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to
38 official reporters and official reporters pro tempore as otherwise provided by law. In all cases
39 where by law the court may direct the payment of transcription fees out of the county treasury,
40 those fees shall, upon order of the court, be paid from the general fund, including fees for
41 transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to
42 69953, inclusive.

43 Official reporters of the court shall be members of any retirement system maintained by the
44 county. For the purpose of the retirement system the salary provided in this article for those
45 reporters shall be deemed their entire compensation.

46 Notwithstanding the provisions of Section 73649, official reporters serve at the pleasure of the
47 judges and shall receive and be entitled to the same number of holidays, leaves of absence, and all
48 other fringe benefits as are now or may hereafter be provided for the official reporters of the
49 Superior Court of the County of San Diego.

1 **Gov't Code §§ 73660-73668 (repealed). Humboldt County Municipal Court District**

2 SEC. ____ . Article 9.5 (commencing with Section 73660) of Chapter 10 of Title 8 of
3 the Government Code is repealed.


4 **Comment.** Sections 73660-73668 are repealed to reflect:

5 (1) Unification of the municipal and superior courts in Humboldt County pursuant to Article
6 VI, Section 5(e), of the California Constitution, effective June 10, 1998. See Cal. Const. art. VI, §
7 23 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
8 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
9 Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. § 38
10 (judicial districts); Sections 68073 (responsibility for court operations and facilities), 69508
11 (presiding judge), 69584 (number of judges in Humboldt County). *Cf.* Section 71042.5
12 (preservation of judicial districts for purposes of publication).

13 For provisions relating to the sheriff, see Sections 26603 (superior court attendance), 26608,
14 26609, 26660-26665 (process and notices), 26611 (court crier), 26720-26751 (fees). See also
15 Code Civ. Proc. § 262.4 (conveyances on sale of real estate).

16 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
17 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
18 (salaries), 71629 (trial court employment benefits not affected), 71640-71645 (employment
19 selection and advancement), 71650-71658 (employment protection system), 71673 (authority of
20 court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of
21 official reporter), 69953.5 (daily transcript requiring more than one reporter).

22 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
23 management), 77003 ("court operations" defined), 77200 (state funding of trial court operations).

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

25 **Article 9.5. Humboldt Judicial District**

26 73660. There is in the County of Humboldt a single municipal court district known as the
27 Humboldt County Municipal Court District.

28 73660.5. The Humboldt County Municipal Court District consists of the following divisions
29 embracing that territory which was within the specified judicial districts in the County of
30 Humboldt as they existed on December 31, 1991, and as those divisions are thereafter modified
31 by the board of supervisors after public hearing or by operation of law:

32 (a) The North Humboldt Division, comprising the territory within the former North Humboldt
33 Judicial District.

34 (b) The Eureka Division, comprising the territory within the former Eureka Judicial District.

35 (c) The Eel River Division, comprising the territory within the former Eel River Judicial
36 District.

37 73661. In order that the citizens of the county may have convenient access to the court, the
38 location of permanent court facilities and locations where sessions of the court may be held other
39 than in the county seat shall be as determined by the board of supervisors.

40  **Note: Comment Requested**

41 Issues involving sessions and facilities are still unsettled, but Government Code Section 73661
42 is proposed for repeal because it falls within a municipal court article. The Commission solicits
43 comments on whether the section should be preserved pending (1) any implementation of
44 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
45 among the interested parties.

46 73661.5. The number of judges in each division is as follows:

47 (a) North Humboldt Division--one.

- 1 (b) Eureka Division--two.
- 2 (c) Eel River Division--one.

3 73662. (a) Upon the establishment of the Humboldt County Municipal Court District, judges
4 shall be eligible for office in the district, as follows:

5 (1) In the North Humboldt Division, the judge of the North Humboldt Judicial District shall
6 automatically become the judge of the North Humboldt Division.

7 (2) In the Eureka Division, the two judges of the Eureka Judicial District shall automatically
8 become the two judges of the Eureka Division.

9 (3) In the Eel River Division, the judge of the Eel River Judicial District shall automatically
10 become the judge of the Eel River Division.

11 (b) The time for election and qualification of the successor to any judge who becomes a judge
12 of the district pursuant to this section, shall be that previously fixed by law for the election and
13 qualification of the successors for the court and office superseded, had those courts not been
14 superseded.

15 73662.5. For the purposes of the qualification and election of judges, the “division” referred to
16 in this chapter is and shall continue to be the “district” referred to in subdivision (b) of Section 16
17 of Article VI of the California Constitution.

18 73663. Within each division, even in divisions having only one judge, there shall be a presiding
19 judge.

20 73663.5. The judges of the district shall meet quarterly, and more often if necessary, upon the
21 call in writing of any two judges. At the first meeting of each calendar year, the judges shall do all
22 of the following:

23 (a) Adopt a districtwide bail schedule.

24 (b) Review the business of the district.

25 (c) Formulate rules and regulations, not inconsistent with law or rules and regulations adopted
26 and prescribed by the Judicial Council, for transfer of cases, assignment of judges, scheduling of
27 vacation of judges, and other administrative matters such as will promote uniformity of
28 procedures and efficiency and economy in the business of the districts.

29 (d) Make such recommendations to the board of supervisors and to the Judicial Council as they
30 deem desirable or necessary to promote the administration of justice in the courts of the district.

31 73664. (a) In each division of the municipal court district in Humboldt County, there shall be a
32 clerk who shall be the administrative officer of the division and who shall be appointed by, and
33 shall serve at the pleasure, of the judge or judges of each division with the concurrence of the
34 board of supervisors.

35 (b) Upon the effective date of this article, all of the following shall occur:

36 (1) The clerk of the court of the North Humboldt Judicial District shall become the clerk of the
37 court of the North Humboldt Division.

38 (2) The clerk/municipal court executive officer of the Eureka Judicial District shall become the
39 clerk/municipal court executive officer of the Eureka Division.

40 (3) The clerk of the court of the Eel River Judicial District shall become the clerk of the court
41 of the Eel River Division.

42 73664.5. In addition to any other duties imposed on such officers by law, and as directed by the
43 presiding judges, the administrative officers shall meet quarterly, and more often as necessary, for
44 the following purposes:

45 (a) To direct and coordinate the nonjudicial activities of the district.

46 (b) To prepare, coordinate, and administer the budget of the district.

47 (c) To coordinate with county agencies, the acquisition, utilization, maintenance, and
48 disposition of facilities, equipment, and supplies necessary for the operation of each division.

49 (d) To initiate studies and prepare appropriate recommendations and reports to the presiding
50 judges relating to the business of the district, including, but not limited to, such matters as

1 standardization of forms and procedures and development and coordination of automated
2 accounting and case processing systems.

3 (e) To collect, compare, and analyze statistical data on a continuing basis concerning the status
4 of judicial and nonjudicial business of the district and to prepare periodic reports and
5 recommendations based on such data.

6 73665. (a) Effective January 1, 1999, the Sheriff of Humboldt County shall assume the duties
7 and responsibilities of the Humboldt County Marshal and the office of the marshal shall be
8 consolidated with the office of sheriff.

9 Upon the effective date of the consolidation there shall be established within the Humboldt
10 County Sheriff's Department a unit designated as the Court Security Services Division. The
11 Sheriff of Humboldt County shall be responsible for the management and operation of this
12 division, in accordance with this article. Personnel assigned to the Court Security Services
13 Division shall have all the power and shall perform all the duties of marshals and constables as set
14 forth in Sections 71264 to 71269, inclusive.

15 (b) Neither this article nor any provision hereof, shall be deemed in any manner to limit or
16 otherwise impair the power vested by all other laws, including Section 68073, in the Superior
17 Court of Humboldt County to secure proper provision of court-related services.

18 **Note: Comment Requested**

19 Government Code Section 73665 will likely be preserved, in some form. A proposed
20 amendment to the section was circulated in an earlier mailing and is reproduced below as an
21 added section. The Commission requests input as to whether the section continues to serve a
22 useful purpose, whether the proposed sunset provision is appropriate, and whether further
23 revisions are needed to reflect current practice.

24 73666. (a) Permanent employees of the marshal's office on the effective date of consolidation
25 under this article shall be deemed qualified, and no other qualifications shall be required for
26 employment or retention. Probationary employees of the marshal's office on the effective date of
27 a consolidation under this article shall retain their probationary status and rights, and shall not be
28 deemed to have transferred so as to require serving a new probationary period.

29 (b) County service of employees of the marshal's office on the effective date of the
30 consolidation under this article, shall be counted toward seniority in the consolidated office, and
31 all time spent in the same, equivalent, or higher classification shall be counted toward
32 classification seniority.

33 (c) No provision of this section shall be deemed to restrict the authority of the sheriff to
34 discipline any employee in accordance with county personnel policies, and memoranda of
35 understanding, or rules, regulations, and procedures otherwise applicable, and except as otherwise
36 expressly provided in this section, the discretion of the sheriff to assign, promote, direct, and
37 control employees formerly assigned to the marshal's office shall not be deemed in any manner
38 restricted by virtue of the abolition or consolidation.

39 **Note: Comment Requested**

40 Government Code Section 73666 will likely be preserved, in some form. A proposed
41 amendment to the section was circulated in an earlier mailing and is reproduced below as an
42 added section. The Commission requests input as to whether the section continues to serve a
43 useful purpose, whether the proposed sunset provision is appropriate, and whether further
44 revisions are needed to reflect current practice.

45 73667. (a) Official reporters shall be appointed by the judges of each municipal court district
46 pursuant to the provisions of Section 72194 and shall serve during the pleasure of the judge to
47 whom he or she is assigned. The number of reporters so appointed shall not exceed at any one
48 time the number of judges provided by law for the court.

49 (b) A judge of the municipal court may appoint an official reporter pro tempore to serve as the
50 business of the court may require, when an official reporter is unavailable.

1 (c) The salaries of each regular official reporter and each official reporter pro tempore shall be
2 as provided in Section 70127, except that such changes in compensation made pursuant to this
3 section shall be on an interim basis and shall expire on January 1 of the second calendar year after
4 the calendar year in which the change occurs, unless ratified by the Legislature.

5 (d) (1) In addition to any fee otherwise required in a civil case in which the court orders a daily
6 transcript necessitating the services of two phonographic reporters, the party requesting the daily
7 transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for
8 the services of the second reporter for the first and each successive day.

9 (2) All fees paid under this subdivision shall be taxed as costs.

10 73668. All matters affecting the employment of the officers and attaches which are not
11 specifically determined by this article or other provision of state law, including, but not limited to,
12 the initial hiring rate for each position and the procedure for advancement to a higher step, shall
13 be governed and regulated by the then current salary ordinance of the County of Humboldt and
14 the rules of the Civil Service Commission of the County of Humboldt.

15 **Gov't Code §§ 73665-73666 (added). Humboldt County**

16 SEC. ____ . Article 9.5 (commencing with Section 73665) is added to Chapter 10 of
17 Title 8 of the Government Code, to read:

18 **Article 9.5. Humboldt County**

19 **§ 73665. Consolidation of marshal and sheriff offices**

20 73665. (a) Effective January 1, 1999, the Sheriff of Humboldt County shall assume the
21 duties and responsibilities of the Humboldt County Marshal and the office of the marshal
22 shall be consolidated with the office of sheriff.

23 Upon the effective date of the consolidation there shall be established within the
24 Humboldt County Sheriff's Department a unit designated as the Court Security Services
25 Division. The Sheriff of Humboldt County shall be responsible for the management and
26 operation of this division, in accordance with this article.

27 (b) Neither this article nor any provision hereof, shall be deemed in any manner to limit
28 or otherwise impair the power vested by all other laws in the Superior Court of Humboldt
29 County to secure proper provision of court-related services.

30 (c) This section shall remain in effect only until January 1, 2018, and as of that date is
31 repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or
32 extends that date. The repeal of this section does not affect any right or benefit to which a
33 person was entitled on the date of repeal.

34 **Comment.** Subdivision (a) of Section 73665 continues the first paragraph and the first two
35 sentences of the second paragraph of subdivision (a) of former Section 73665.

36 Subdivision (b) continues subdivision (b) of former Section 73665, omitting the reference to
37 Section 68073.

38 Subdivision (c) is new.

39 For provisions relating to restatements and continuations of existing law, see Section 2. For
40 disposition of the provisions of former Section 73665 that are not continued, see the Comment to
41 former Article 9.5 (commencing with former Section 73660).

42 **§ 73666. Employees of marshal's office**

43 73666. (a) Permanent employees of the marshal's office on the effective date of
44 consolidation under this article shall be deemed qualified, and no other qualifications
45 shall be required for employment or retention. Probationary employees of the marshal's

1 office on the effective date of a consolidation under this article shall retain their
2 probationary status and rights, and shall not be deemed to have transferred so as to
3 require serving a new probationary period.

4 (b) County service of employees of the marshal's office on the effective date of the
5 consolidation under this article, shall be counted toward seniority in the consolidated
6 office, and all time spent in the same, equivalent, or higher classification shall be counted
7 toward classification seniority.

8 (c) No provision of this section shall be deemed to restrict the authority of the sheriff to
9 discipline any employee in accordance with county personnel policies, and memoranda of
10 understanding, or rules, regulations, and procedures otherwise applicable, and except as
11 otherwise expressly provided in this section, the discretion of the sheriff to assign,
12 promote, direct, and control employees formerly assigned to the marshal's office shall not
13 be deemed in any manner restricted by virtue of the abolition or consolidation.

14 (d) This section shall remain in effect only until January 1, 2018, and as of that date is
15 repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or
16 extends that date. The repeal of this section does not affect any right or benefit to which a
17 person was entitled on the date of repeal.

18 **Comment.** Subdivisions (a)-(c) of Section 73666 continue subdivisions (a)-(c) of former
19 Section 73666 without change.

20 Subdivision (d) is new.

21 For provisions relating to restatements and continuations of existing law, see Section 2.

22 **Gov't Code §§ 73671-73679.5 (repealed). Northern Solano Judicial District**

23 SEC. ____ . Article 9.7 (commencing with Section 73671) of Chapter 10 of Title 8 of
24 the Government Code is repealed.

25 **Comment.** Sections 73671-73679.5 are repealed to reflect:

26 (1) Unification of the municipal and superior courts in Solano County pursuant to Article VI,
27 Section 5(e), of the California Constitution, effective August 3, 1998. See Section 70211 (former
28 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
29 (judicial districts); Sections 26603 (superior court attendance by sheriff), 69602 (number of
30 judges in Solano County). *Cf.* Section 71042.5 (preservation of judicial districts for purposes of
31 publication).

32 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
33 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
34 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
35 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
36 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
37 protection system), 71673 (authority of court). See also Code Civ. Proc. § 195 (jury
38 commissioners); Sections 68086 (fees for reporting services in civil cases generally), 69941
39 (appointment of official reporters), 69947 (compensation of official reporter), 69953.5 (daily
40 transcript requiring more than one reporter).

41 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
42 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

44 Article 9.7. Northern Solano Judicial District

45 73671. This article applies to the Northern Solano Judicial District in the County of Solano.

46 73672. There are four judges.

1 73672.1. The district consists of three divisions, as follows:
 2 (a) The western division includes all of the territory within the Fairfield-Suisun Judicial District
 3 on March 7, 1973.

4 (b) The eastern division includes all of the territory within the Vacaville Judicial District on
 5 March 7, 1973.

6 (c) The northern division includes all of the territory within the Dixon Judicial District on
 7 January 1, 1976.

8 73672.2. As public convenience requires, the Board of Supervisors of the County of Solano
 9 may change the division boundaries by ordinance.

10 73672.6. There is one municipal court commissioner, who shall be appointed pursuant to
 11 Article 10 (commencing with Section 72450) of Chapter 9. However, operative July 1, 1992,
 12 there shall be two municipal court commissioners.

13 Any municipal court commissioner appointed pursuant to Article 10 (commencing with Section
 14 72450) of Chapter 9 to serve a municipal court district in the County of Solano shall receive
 15 compensation at a range of 60 to 80 percent of a superior court judge's salary. The presiding
 16 judge of the municipal court has the authority to place individuals in this range.

17 73673. There is one municipal court executive officer, who shall be appointed by the presiding
 18 judge with concurrence of a majority of the judges of the court, and shall hold office at the
 19 pleasure of a majority of the judges. The municipal court executive officer shall administer the
 20 nonjudicial activities of the court and serve as jury commissioner, exercising, insofar as
 21 applicable to the municipal court, the powers of a jury commissioner of a superior court.

22 The municipal court executive officer shall receive a salary at the salary grade specified in
 23 range 65-00400.

24 **Note: Comment Requested**

25 The Commission is researching several issues pertaining to jury commissioners, including
 26 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
 27 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
 28 by that Act. The Commission solicits comments on these points.

29 73674. The municipal court executive officer may appoint the following numbers of staff at the
 30 classifications and salary grades indicated:

31 Number	Classification	Salary Grade
32 1	Assistant Municipal Court Executive Officer	70-00400
33 2	Clerical Operations Manager	75-00800
34 1	Accountant	07-07300
35 1	Research Attorney	55-00075
36 4	Fiscal Clerk	09-02400
37 2	Judicial Secretary	09-03900
38 24	Legal Procedures Clerk	09-01800
39 12	Courtroom Clerk (Muni Court)	09-04100
40 1	Lead Legal Procedures Clerk	09-02800
41 1	Supervising Courtroom Clerk	08-01580
42 4	Supervising Legal Procedures Clerk	08-01200
43 1	Principal Court Clerk	08-01600
44 7	Data Entry Clerk	09-01000
45 2	Clerical Support Specialist	09-02200
46 1	Clerk	09-00600
47 6	Court Reporter (Muni Court)	09-04100
48 2	Interpretive Services Coordinator	07-03550
49 1	Lead Fiscal Clerk	09-03300
50 1	Fiscal Records Supervisor	08-01900

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1	Systems Analyst	07-08600
<p>73674.1. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon them by law, each reporter shall render such assistance as may be required in any other court of the county to which the reporter may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.</p> <p>(b) Each regular official court reporter shall receive a salary at the rate specified in salary grade 09-04100.</p> <p>(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle the appointee to such higher initial step.</p> <p>(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost-of-living or other general pay increases, retirement, vacation, sick leave, and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost-of-living or general pay increases, retirement, vacation, sick leave, and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1993, unless ratified by statute by the Legislature prior to that date.</p> <p>(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided in Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.</p> <p>(f) (1) A reporter's filing fee of sixteen dollars (\$16) shall be paid in actions and proceedings as specified in Section 68090.5.</p> <p>(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.</p> <p>(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.</p> <p>73674.5. So long as Solano County continues to receive block grant funding pursuant to the Brown-Presley Trial Court Funding Act, the municipal court executive officer may appoint the following numbers of staff at the classification and salary grades indicated:</p>		
	Number	Classification
	(a) 2	Data Entry Clerk (LT-P)
	(b) 3	Courtroom Clerk
	(c) 1	Fiscal Clerk
	(d) 4	Legal Procedures Clerk
	(e) 1	Interpretive Services Coordinator
	(f) 1	Systems Analyst
	(g) 2	Clerk
		Salary Grade
		09-01000
		09-03400
		09-02400
		09-01800
		07-03700
		30-01900
		09-00600

1 73675. The Sheriff of Solano County shall serve and assist the municipal court without
2 additional compensation. He may appoint four deputies to likewise serve and assist the court, who
3 shall also receive no additional compensation for such service and assistance.

4 73676. Wherever a reference to a salary grade number is made in this article, the schedules
5 found in the Memoranda of Understanding adopted by the Board of Supervisors of Solano
6 County effective January 1, 1991, shall apply. Any salary grade resulting from an amendment of
7 such schedule and listing shall remain effective only until January 1 of the second year following
8 the calendar year in which such change is made.

9 73677. Persons employed in any of the positions authorized by this article shall be paid the
10 salary assigned to salary grades specified in Sections 73673 and 73674 and subdivision (b) of
11 Section 73674.1.

12 Each person employed on January 1, 1968, shall receive credit for prior continuous service in
13 office including service in departments superseded upon the establishment of the municipal court,
14 and such prior service shall be deemed service in the new position. However, such credit shall be
15 given only when the presiding judge of the court determines that the officer or employee is
16 entitled to receive it. Officers and employees shall be appointed at the first step for the salary
17 grade assigned to their classification, except if it is difficult to secure qualified personnel, or if a
18 person of unusual qualifications is appointed, the judge may appoint that person at the second
19 step of the salary grade assigned to that classification.

20 If the judges are unable to secure a qualified person to fulfill the position of the municipal court
21 executive officer for that salary, the judges, with the concurrence of the board of supervisors, may
22 establish a salary at a rate not to exceed step 5 of the salary grade of the municipal court executive
23 officer that exists on the date of the appointment.

24 73678. (a) All increases in salary shall not be given as a matter of right but only when the
25 presiding judge of the court determines that the officer or employee is properly entitled to receive
26 it. Each person employed by the court shall have a merit increase eligibility date which shall be
27 the first day of the pay period following completion of the number of full pay periods of service
28 indicated on the following chart:

Salary Grade Step Number to Which Eligible	Number of Full Pay Periods of Service Completed Between Steps
2	13
3	13
4	26
5	39

29
30
31
32
33
34
35
36 (b) If any employee begins his or her employment on the first working day of a pay period, it
37 shall be considered for purposes of this section that such employment began on the first calendar
38 day of that pay period. The granting of any leave of absence without pay, other than military
39 leave of absence, exceeding seven consecutive calendar days in a pay period shall cause the merit
40 increase eligibility date to be extended to the first of the pay period following completion of the
41 leave of absence without pay.

42 However, an officer or employee who is promoted or reclassified to a position in a class with a
43 higher salary grade shall receive the recruiting salary for the higher class if it is greater than his or
44 her salary prior to promotion or reclassification, or such higher amount as would constitute at
45 least a one-step increase (approximately 5 percent) on the salary grade over the salary received
46 prior to the promotion or reclassification, not to exceed the top step of the new salary grade.

47 (c) The effective date of all promotions shall coincide with the first working date of a pay
48 period. A new merit increase eligibility date shall be established, which shall be the first day of
49 the pay period following completion of the number of full pay periods of service which
50 corresponds with the required period of service pursuant to subdivision (b).

1 73679. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
2 Chapter 8 of Title 8 or any other provision of this article, in order to equalize the compensation of
3 employees of the municipal court with compensation paid to county employees with
4 commensurate duties and responsibilities, upon recommendation of the judges of the court and
5 with the approval of the Board of Supervisors of the County of Solano, an officer or an employee
6 of the court, whether appointed under the provisions of this article or under Article 4
7 (commencing with Section 72150) of Chapter 8 of Title 8, may be paid any compensation which
8 is within the salary grades and increments set forth in this article in excess of or less than the
9 maximum to which such officer or employee would otherwise be entitled under the salary grade
10 established for his or her classification as set forth in Section 73676. Any such salary adjustment
11 shall not extend longer than 60 days after the final adjournment of the next succeeding regular
12 session of the Legislature after such salary adjustment.

13 73679.5. Employees of the court shall have the benefits and privileges, not including
14 compensation, provided for employees of the County of Solano in that county's salary ordinance
15 and other ordinances and rules applicable to county employees. Employees of the court, except
16 the municipal court executive officer, shall be members of the County Civil Service System of the
17 County of Solano to the extent that such membership is not contrary to the provisions of Section 5
18 of Article VI of the California Constitution, or any other provisions of state law.

19 **Gov't Code §§ 73680-73697 (repealed). Consolidated Fresno Municipal Court District**

20 SEC. ____ . Article 10 (commencing with Section 73680) of Chapter 10 of Title 8 of the
21 Government Code is repealed.

22 **Comment.** Sections 73680-73697 are repealed to reflect:

23 (1) Unification of the municipal and superior courts in Fresno County pursuant to Article VI,
24 Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former
25 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
26 (judicial districts); Section 69583 (number of judges in Fresno County). Cf. Section 71042.5
27 (preservation of judicial districts for purposes of publication); former Section 71264 (municipal
28 court served by marshal).

29 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
30 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
31 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
32 benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment
33 selection and advancement), 71650-71658 (employment protection system), 71673 (authority of
34 court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of
35 official reporter).

36 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
37 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

38 For provisions governing the deposit of fees collected by marshals and sheriffs, see Sections
39 24350 (fees collected by salaried county or court officer paid into county treasury), 24353 (money
40 collected by county or court officer paid into county treasury), 71266 (marshals' fees paid into
41 county treasury).

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

43 **Article 10. Fresno**

44 73680. This article applies to the municipal court established in the Consolidated Fresno
45 Judicial District, County of Fresno.

46 73681. There shall be 10 judges.

1 73681.1. The judges of the Fresno County courts may appoint eight court commissioners who
2 shall possess the same qualifications as the law requires of a judge of a superior court. He or she
3 shall hold office at the pleasure of the judges and shall receive a salary of 85 percent of the salary
4 of a judge of the superior court.

5 73682. There shall be one court executive officer to be appointed by the judges of the Fresno
6 County courts who shall be the clerk, administrator, and secretary of the court, pursuant to
7 Section 69898. He or she shall hold office at the pleasure of the judges and shall receive a salary
8 as fixed by the judges of the court.

9 73683. (a) The work of the superior and municipal courts in Fresno County is to be performed,
10 minimally, by each of the positions herein identified by the trial courts of Fresno County.

11 (b) The executive officer may appoint the following court personnel who shall receive a salary
12 at the range indicated in the Fresno County Salary Resolution:

- 13 (1) One Associate Court Executive Officer-Downtown Operations, at salary within Band "C."
- 14 (2) One Assistant Court Executive Officer, at salary within Band "E."
- 15 (3) One Superior Court Program Coordinator, at salary within Band "G."
- 16 (4) Two Superior Court Program Managers, at salary within Band "G."
- 17 (5) Four Municipal Court Division Managers, at salary within Band "G."
- 18 (6) Three County Clerk Program Coordinators/County Clerk Program Coordinator-A, at salary
19 range 1435.
- 20 (7) One Juvenile Court Manager, at salary within Band "F."
- 21 (8) One Administrative Services Assistant, at salary within Band "H."
- 22 (9) One Court Personnel Analyst I or II, at salary range 1260 or 1456, respectively.
- 23 (10) One Senior Research Attorney, at salary range 2305.
- 24 (11) Eight Research Attorneys I, II, or III, at salary range 1302, 1667, or 2005, respectively.
- 25 (12) One Senior Superior Court Investigator, at salary range 1518.
- 26 (13) Three Superior Court Investigators I or II, at salary range 1231 or 1378, respectively.
- 27 (14) Seven Superior Court Examiners I or II, at salary range 1026 or 1140, respectively.
- 28 (15) One Senior Accountant/Senior Accountant-A, at salary range 1476.
- 29 (16) One Jury Services Program Supervisor, at salary range 1045.
- 30 (17) One Court Interpreter Service Coordinator, at salary range 1186.
- 31 (18) One Senior Court Interpreter, at salary range 1007.
- 32 (19) Four Court Interpreters, at salary range 980.
- 33 (20) Three Systems and Procedures Analysts I, II, or III/Systems and Procedures Analysts I-A,
34 II-A, or III-A, at salary range 1086, 1342, or 1555, respectively.
- 35 (21) Three Court Administrative Secretary-A, at salary range 1065.
- 36 (22) Eight Court Secretary I, II, or III, at salary range 714, 786, or 913, respectively.
- 37 (23) One Arbitration Clerk, at salary range 960.
- 38 (24) Two Supervising Court Clerk-A, at salary range 1338.
- 39 (25) Ten Senior Court Clerk/Senior Court Clerk-A, at salary range 1194.
- 40 (26) Forty-six Court Clerks I or II/Court Clerk I-A or II-A, at salary range 934 or 1045,
41 respectively.
- 42 (27) Five Supervising Legal Process Clerks/Supervising Legal Process Clerk-A, at salary range
43 1338.
- 44 (28) Five Senior Legal Process Clerks/Senior Legal Process Clerks-A, at salary range 1194.
- 45 (29) Fifty-one Legal Process Clerks I or II/Legal Process Clerks-A or II-A, at salary range 934
46 or 1045, respectively.
- 47 (30) One Accountant Clerk I, II, or III/Accountant Clerk I-A, II-A, or III-A, at salary range
48 625, 692, or 778, respectively.
- 49 (31) One Supervising Office Assistant II/Supervising Office Assistant II-A, at salary range 974.
- 50 (32) Sixty-five Office Assistants I, II, or III/Office Assistant I-A, II-A, III-A, at salary range
51 540, 656, or 729, respectively.

1 (c) Salary ranges indicated in paragraphs (1) to (31), inclusive, of subdivision (a), are effective
2 October 20, 1997.

3 (d) The executive officer may appoint any combination of the specified number of court clerks,
4 legal process clerks, office assistants, secretaries, research attorneys, investigators, examiners, or
5 systems and procedures analysts, not to exceed the total number of those positions described in
6 paragraphs (1) to (32), inclusive, of subdivision (b).

7 73684. Except as specifically provided in this article to the contrary, all benefits, privileges, and
8 other provisions affecting the employment of county employees shall apply to all officers and
9 attaches of the municipal court.

10 73685. The sheriff shall be ex officio marshal and the sheriff's designated deputies shall be ex
11 officio deputy marshals of the court. The sheriff shall charge and collect for the sheriff's services
12 rendered in the capacity of marshal of the court the fees allowed by law to sheriffs and shall pay
13 the same into the county treasury for the use and benefit of the county.

14 73686. Any officer or attache of the court who receives a promotion to a position having an
15 overlapping salary range shall be placed upon the step of the new salary range consistent with the
16 Fresno County Salary Resolution.

17 73687. The minimum salary for each position shall normally be the initial hiring rate for the
18 position. If it is difficult to secure qualified personnel at that rate or if a person of unusual
19 qualifications is engaged, the court or the clerk, as the case may be, may request to hire at a
20 higher step consistent with the Fresno County Salary Resolution.

21 73690. All matters affecting the employment of such officers and attaches and not specifically
22 determined by this article or other provision of state law shall be governed and regulated by the
23 then current salary ordinance of the County of Fresno.

24 73691. A majority of the judges may appoint 33 full-time court reporters to serve at the
25 pleasure of the judges and to be paid an annual salary established according to the following
26 salary schedule:

- 27 Step 1. \$45,366
- 28 Step 2. \$47,640
- 29 Step 3. \$49,997
- 30 Step 4. \$52,498

31 Reporters shall initially be placed at step 1 of the salary schedule except reporters may be
32 placed at a higher step with the approval of the county administrative officer, and shall be
33 advanced one step annually upon the anniversary date of that employment. If, because of
34 recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule
35 which is above the step at which any court reporters are currently employed, all court reporters
36 below that step will move to the higher step at the discretion of the judges of the court. Each
37 reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of
38 sick leave with pay for each pay period or major fraction thereof, served up to an accumulative
39 total of 156 working days. Each reporter shall accrue and receive vacation at the same rate as
40 judges of that court not to exceed 21 working days a year which may be accrued not to exceed 42
41 days to be taken when the judge to which he or she has been assigned consents.

42 73692. Pursuant to Section 72194, the judges of the court may appoint as many additional
43 reporters as the business of the court requires, who shall be known as official reporters pro
44 tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to
45 69953, inclusive, except that in lieu of the per diem fees provided in the section for reporting
46 testimony and proceedings the official reporters pro tempore shall be paid in accord with the
47 following:

1 Each pro tempore reporter shall be paid one hundred seventy-four dollars and forty-eight cents
2 (\$174.48) for a full day on duty under order of the court. For purposes of receiving the above
3 compensation, one or more of the following shall apply:

4 (a) The court has indicated in advance that the pro tempore assignment is for a full day.

5 (b) The pro tempore reporter was on duty for more than four hours.

6 Each pro tempore reporter shall be paid one hundred sixteen dollars and thirty-two cents
7 (\$116.32) for one-half day of duty under order of the court when (a) the court has indicated in
8 advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty
9 for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in
10 advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty
11 for four hours or less and consents to being released for the balance of the day.

12 Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make
13 every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than
14 four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In
15 the latter case, the full-day pro tempore rate of one hundred seventy-four dollars and forty-eight
16 cents (\$174.48) shall apply.

17 Nothing herein shall be construed to limit the court's authority to in all instances pay a pro
18 tempore reporter at the rate of one hundred seventy-four dollars and forty-eight cents (\$174.48)
19 when, in the court's judgment, that rate is necessary to obtain pro tempore reporter services for
20 the court.

21 The above payments shall upon order of the court be a charge against the general fund of the
22 county.

23 73693. Notwithstanding Section 69945, the official reporters and official reporters pro tempore
24 shall report to the court when ordered to do so by any judge of said court. When not so ordered to
25 report, such reporters may be employed in their professional capacity elsewhere.

26 73694. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
27 Chapter 8 of this title and the provisions of this article, and in order to equalize the compensation
28 of employees of the municipal court with the compensation paid to county employees with
29 commensurate duties and responsibilities, upon the recommendation of the judges as to the clerk
30 and the clerk as to all other officers and attaches of the court, and with the approval of the Board
31 of Supervisors of the County of Fresno, the officers and attaches of the court may be paid a
32 compensation not exceeding 25 percent of the amounts provided for the position by Sections
33 73682 and 73684. Such increases may be made operative at the same time as the higher
34 compensation becomes operative for the similar positions within the County of Fresno. Any pay
35 increase authorized by this section shall only be effective until January 1 of the second calendar
36 year after the calendar year in which the change occurs, unless ratified by the Legislature.

37 73695. Interpreters appointed by the court pursuant to Section 68092 shall be allowed for each
38 day's actual attendance upon the court when legally required, a fee as may be allowed by the
39 court not to exceed one hundred fourteen dollars and ninety-six cents (\$114.96) per day or sixty-
40 three dollars and eighty cents (\$63.80) per half day. Where an interpreter has worked beyond 5
41 p.m., the interpreter will be paid at an additional rate of ten dollars (\$10) per hour for all hours or
42 portions thereof worked after 5 p.m. An interpreter employed in a permanent or extra help
43 position shall be paid at an additional rate of one and one-half times the regular hourly rate of pay
44 for all hours or portions thereof worked beyond eight hours in a day.

45 **Note: Comment Requested**

46 We anticipate relocating court interpreter provisions to integrate them with trial court
47 employment and trial court funding provisions. This material is not yet drafted, and will be
48 circulated for comment separately.

49 In this connection, it should be noted that existing law requires certain court interpreter fees to
50 be deposited into the county treasury. The Commission is reviewing whether the county treasury
51 provisions remain viable, given the enactment of the Trial Court Funding Act, the Trial Court

1 Employment Protection and Governance Act, and other changes to the structure of the trial
2 courts. The Commission solicits comments on these points.

3 73696. In order to equalize the compensation of court reporters of the municipal and superior
4 court with compensation paid to other county employees, upon recommendation of the judges of
5 either the municipal or superior courts, and with approval of the Board of Supervisors of the
6 County of Fresno, the court reporters of such courts may be paid additional compensation not
7 exceeding 25 percent of the amounts provided for in Sections 70046.2, 73691 and 73692. Such
8 increases may be made operative at the same time as the higher compensation becomes operative
9 for other positions within the County of Fresno. Any pay increase authorized by this section shall
10 only be effective until January 1 of the second calendar year after the calendar year in which the
11 change occurs, unless ratified by the Legislature.

12 73697. Notwithstanding the provisions of Article 4 (commencing with Section 72150) and the
13 provisions of this article, whenever the business of the court or other emergency requires a greater
14 number of employees or a reclassification of employees in order to effectively carry out the duties
15 and functions of the court, the clerk may, with the approval of the board of supervisors, establish
16 new positions or reclassify existing positions for officers, attaches, and employees in addition to
17 those provided by this article. The order and approval establishing the position shall designate the
18 position title and salary range.

19 The employees so appointed or reclassified shall be appointed or classified to positions and
20 salary ranges as provided in the then current Fresno County salary and classification structure.
21 Appointments made pursuant to this section shall be effective only until January 1 of the second
22 calendar year after the calendar year in which the appointments are made, unless ratified by the
23 Legislature.

24 **Gov't Code §§ 73698-73699.6 (repealed). Central Valley Municipal Court District**

25 SEC. ____ . Article 10.5 (commencing with Section 73698) of Chapter 10 of Title 8 of
26 the Government Code is repealed.

27 **Comment.** Sections 73698-73699.6 are repealed to reflect:

28 (1) Unification of the municipal and superior courts in Fresno County pursuant to Article VI,
29 Section 5(e), of the California Constitution, effective July 1, 1998. See Cal. Const. art. VI, § 23
30 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
31 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
32 Const. art. VI, § 16 (election of judges); Code Civ. Proc. §§ 38 (judicial districts), 190 *et seq.*
33 (jury selection); Sections 69508 (presiding judge), 69583 (number of judges in Fresno County).
34 *Cf.* Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
35 71264 (municipal court served by marshal).

36 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
37 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
38 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71629 (trial court
39 employment benefits not affected), 71640-71645 (employment selection and advancement),
40 71650-71658 (employment protection system), 71673 (authority of court). See also Sections
41 69941 (appointment of official reporters), 69947 (compensation of official reporter).

42 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
43 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
44 Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial
45 Court Operations Fund), 69953 (payment of fees).

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

1 Article 10.5. Central Valley Municipal Court of Fresno County

2 73698. This article applies to the Central Valley Municipal Court District of Fresno County.
3 The court referred to in this article shall become operative upon the consolidation of the Coalinga,
4 Firebaugh, Fowler-Caruthers, Kerman, Kingsburg-Riverdale, Parlier-Selma, Reedley-Dunlap, and
5 Sanger Judicial Districts by the Board of Supervisors of the County of Fresno.

6 73698.1. (a) On the operative date of this article, the Central Valley Municipal Court District
7 shall consist of the following divisions:

- 8 (1) Coalinga Division.
- 9 (2) Firebaugh Division.
- 10 (3) Fowler-Caruthers Division.
- 11 (4) Kerman Division.
- 12 (5) Kingsburg-Riverdale Division.
- 13 (6) Parlier-Selma Division.
- 14 (7) Reedley-Dunlap Division.
- 15 (8) Sanger Division.

16 (b) The boundaries of the divisions of the Central Valley Municipal Court District shall be
17 established by the Board of Supervisors of the County of Fresno.

18 73698.2. There are eight judges in the Central Valley Municipal Court District. There shall be
19 one judge for each division.

20 73698.3. On the operative date of this article, the justice court judges of the Coalinga,
21 Firebaugh, Fowler-Caruthers, Kerman, Kingsburg-Riverdale, Parlier-Selma, Reedley-Dunlap, and
22 Sanger Judicial Districts shall assume the positions of Municipal Court Judges of the Coalinga,
23 Firebaugh, Fowler-Caruthers, Kerman, Kingsburg-Riverdale, Parlier-Selma, Reedley-Dunlap, and
24 Sanger Divisions, respectively, pursuant to Section 71084.

25 73698.4. For the purposes of qualification and election of judges, the “division” referred to in
26 this article is and shall continue to be the “district” referred to in subdivision (b) of Section 16 of
27 Article VI of the California Constitution. The judge of each division shall be elected from the
28 division and only by the electors of the division, and not from the Central Valley Municipal Court
29 District at large.

30 73698.5. The judges of the Central Valley Municipal Court District shall, pursuant to local rule,
31 select one of the judges of the district to serve as presiding judge of the district and shall
32 formulate rules and regulations not inconsistent with law or rules and regulations adopted and
33 prescribed by the Judicial Council for transfer of cases, assignment of judges, scheduling of
34 vacation of judges, and other administrative matters such as will promote uniformity of
35 procedures and efficiency and economy in the business of the district. These rules and regulations
36 shall be administered by the court administrator under the supervision and control of the presiding
37 judge of the district. Any rules and regulations adopted pursuant to Section 72002.1 shall be
38 adopted by a majority vote of the judges of the district.

39 73698.6. Facilities for the court shall be maintained in the Cities of Coalinga, Firebaugh,
40 Fowler, Kerman, Kingsburg, Parlier, Selma, Reedley, and Sanger, and the communities of
41 Caruthers and Riverdale; and in such other locations within the County of Fresno as are
42 designated by the board of supervisors. The court shall hold sessions at each facility as business
43 requires. At the direction of the court, arraignment of criminal defendants who are in custody at
44 the Fresno County Detention Facility shall be held at the court facility located at the Fresno
45 County Detention Facility.

46  **Note: Comment Requested**

47 Issues involving sessions and facilities are still unsettled, but Government Code Section
48 73698.6 is proposed for repeal because it falls within a municipal court article. The Commission

1 solicits comments on whether the section should be preserved pending (1) any implementation of
2 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
3 among the interested parties.

4 73698.7. Notwithstanding any other provision of law, the court may adopt local rules for
5 purposes of selecting trial jurors pursuant to Section 203 of the Code of Civil Procedure.

6 Trial jurors for each session of the courts of the district shall be selected from persons residing
7 within the divisions within which sessions are held.

8 73699. There shall be one associate court executive officer-branch court operations to be
9 appointed by the Court Executive Officer of the Fresno County Courts, who shall receive a salary
10 specified in Band "D" of the Fresno County Salary Resolution in effect on the effective date of
11 this article. The provisions of Section 71183 shall not apply to this position.

12 73699.1. (a) The work of the superior and municipal courts in Fresno County is to be
13 performed, minimally, by each of the positions herein identified by the trial courts of Fresno
14 County.

15 (b) The Court Executive Officer of the Fresno County Courts may, in consultation with the
16 judges of the court, appoint the following personnel who shall be compensated pursuant to
17 Sections 73683, 73684, 73685, 73686, and 73687:

18 (1) Forty-two Office Assistants I, II, or III/Office Assistants I-A, II-A, or III-A.

19 (2) Forty-two Legal Process Clerks I or II/Legal Process Clerks I-A, or II-A.

20 (3) Eight Supervising Legal Process Clerks.

21 (c) The executive officer may appoint any combination of the specified number of legal process
22 clerks and office assistants not to exceed the total number of those positions described in
23 paragraphs (1) to (32), inclusive, of subdivision (b).

24 73699.2. The court administrator, clerks, and other attaches of the justice courts in Fresno
25 County shall succeed as authorized by law to the equivalent municipal court position.

26 73699.3. The sheriff and his or her deputies shall act as ex officio marshal and deputy marshals
27 of the court.

28 73699.4. Except as specifically provided in this article to the contrary, all benefits and
29 privileges and other provisions affecting the employment of county employees shall apply to all
30 officers and attaches of the court. All officers and employees of the Central Valley Municipal
31 Court District shall be entitled to the same retirement, vacations, and other benefits allowed to
32 employees of the county and be subject to the personnel regulations, memoranda of
33 understanding, management benefits, and the affirmative action plan of the County of Fresno as
34 they exist on the effective date of this article.

35 73699.5. (a) A majority of the judges may appoint two full-time official reporters, to serve at
36 the pleasure of the judges, who shall be compensated pursuant to Section 73691.

37 (b) Pursuant to Section 72194, the judges of the court may appoint as many additional reporters
38 as the business of the court requires, who shall be known as official reporters pro tempore and
39 shall be compensated pursuant to Section 73692.

40 (c) Fees for transcription of testimony and proceedings in court shall be paid by the litigants to
41 official reporters and official reporters pro tempore as otherwise provided by law. In all cases
42 where by law the court may direct the payment of transcription fees out of the county treasury,
43 such fees shall, upon order of the court, be paid from general funds, including fees for
44 transcription of testimony in proceedings in criminal cases as provided in Sections 69947 to
45 69953, inclusive, which shall be paid from the county treasury.

46 73699.6. Interpreters appointed by the court pursuant to Section 68092 shall be allowed for
47 each day's or one-half day's actual attendance upon the court when legally required, such fee as

1 may be allowed by the court in accordance with Section 73695, unless the court finds good cause
2 for payment of such different amounts as may be necessary to carry out the business of the court.

3 **Note: Comment Requested**

4 We anticipate relocating court interpreter provisions to integrate them with trial court
5 employment and trial court funding provisions. This material is not yet drafted, and will be
6 circulated for comment separately.

7 In this connection, it should be noted that existing law requires certain court interpreter fees to
8 be deposited into the county treasury. The Commission is reviewing whether the county treasury
9 provisions remain viable, given the enactment of the Trial Court Funding Act, the Trial Court
10 Employment Protection and Governance Act, and other changes to the structure of the trial
11 courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial
12 Court Operations Fund), 77200 (state funding of trial court operations). These matters are also
13 being examined by a Joint Court-County Working Group on Trial Court Funding. The
14 Commission solicits comment on the proper treatment of these provisions.

15 **Gov't Code §§ 73701-73714 (repealed). Manteca-Ripon-Escalon-Tracy Municipal Court**
16 **District**

17 SEC. ____ . Article 11 (commencing with Section 73701) of Chapter 10 of Title 8 of the
18 Government Code is repealed.

19 **Comment.** Sections 73701-73714 are repealed to reflect:

20 (1) Unification of the municipal and superior courts in San Joaquin County pursuant to Article
21 VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former
22 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
23 (judicial districts); Section 69598 (number of judges in San Joaquin County). *Cf.* Section 71042.5
24 (preservation of judicial districts for purposes of publication).

25 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
26 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
27 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
28 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
29 (employment selection and advancement), 71650-71658 (employment protection system), 71673
30 (authority of court).

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

32 **Article 11. Manteca-Ripon-Escalon-Tracy**

33 73701. This article applies to the municipal court established in the judicial district embracing
34 the Cities of Manteca, Ripon, Escalon, and Tracy. The court referred to in this article is the
35 successor of the court established by the consolidation of the Manteca-Ripon-Escalon Judicial
36 District and the Tracy Judicial District by the Board of Supervisors of San Joaquin County.

37 73702. There shall be three judges.

38 73704. There shall be one clerk who shall be the administrative officer of the court and receive
39 the salary specified in Section 73710. The clerk shall serve at the pleasure of the judges.

40 73705. The clerk may appoint:

- 41 (a) Two junior administrative assistants.
- 42 (b) Seven deputy clerks II.
- 43 (c) Thirteen deputy clerks I.
- 44 (d) Four municipal courtroom clerks.

1 73709. Whenever a reference is made to a numbered salary range in any section of this article,
2 the schedule of biweekly salaries found in the salary resolution for the County of San Joaquin in
3 effect shall apply.

4 73710. Persons employed in any of the positions authorized by this article shall be paid the
5 salary assigned to the following ranges as set forth in the biweekly salary schedule contained in
6 Section 73709, except that if the range shown opposite the title of the position includes a fraction
7 then the person employed in such position shall be paid a salary equal to that opposite that
8 fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	50.40
(b) Deputy clerk II	52.40
(c) Clerk Administrator	66.40
(d) Junior administrative assistant	57.60
(e) Municipal courtroom clerk	56.90

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15 Subject to the provisions of the salary ordinance of the County of San Joaquin, each person
16 employed in the clerk's office may receive an annual increase in salary of one step on his or her
17 assigned range, until the employee reaches the maximum step on the range assigned for his or her
18 position. Thereafter, no additional step increase shall be granted.

19 73713. Whenever the salary of a related class or classes of San Joaquin County employees is
20 adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the
21 percentage of adjustment granted to the class or classes deemed by the board of supervisors to be
22 related:

- 23 (a) Deputy clerk I.
- 24 (b) Deputy clerk II.
- 25 (c) Clerk Administrator.
- 26 (d) Deputy clerk III.
- 27 (e) Junior Administrative assistant.
- 28 (f) Municipal courtroom clerk.

29 All adjustments to the salaries of the above-named classes shall be effective as of the same date
30 as the adjustment for the class, or classes, deemed to be related, and shall be effective only until
31 January 1 of the second year following the year in which the adjustment is made, unless ratified
32 by the Legislature.

33 73714. Notwithstanding any other provision of law, the provisions of the county ordinance
34 relating to civil service and the rules of the county civil service commission adopted pursuant
35 thereto, shall apply to all employees in the same manner and to the extent as applicable generally
36 to officers and employees of the County of San Joaquin.

37 Such employees shall be entitled to the same vacation, sick leave, and other employee benefits
38 and may be appointed, promoted, demoted, terminated, or transferred, or their status otherwise
39 adjusted in the same manner and with the same effect as is or may be provided by the current
40 salary ordinance of the County of San Joaquin, or the civil service ordinance of the County of San
41 Joaquin for the employees of the county.

42 **Gov't Code §§ 73730-73743 (repealed). Imperial County Municipal Court**

43 SEC. ____ . Article 11.5 (commencing with Section 73730) of Chapter 10 of Title 8 of
44 the Government Code is repealed.

45 **Comment.** Sections 73730-73743 are repealed to reflect:

46 (1) Unification of the municipal and superior courts in Imperial County pursuant to Article VI,
47 Section 5(e), of the California Constitution, effective June 22, 1998. See Cal. Const. art. VI, § 23
48 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
49 70211 (former municipal court judgeships continued as superior court judgeships). See also Code

1 Civ. Proc. § 38 (judicial districts); Section 69584.5 (number of judges in Imperial County). Cf.
2 Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
3 71264 (municipal court served by marshal).

4 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
5 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
6 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
7 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
8 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
9 protection system), 71673 (authority of court). See also Code Civ. Proc. § 195 (jury
10 commissioners); Sections 69941 (appointment of official reporters), 69947 (compensation of
11 official reporter).

12 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
13 management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
14 (state funding of trial court operations). See also Sections 68073 (responsibility for court
15 operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of
16 fees).

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

18 Article 11.5. Imperial County

19 73730. There is hereby created a municipal court district which embraces the entire County of
20 Imperial. This article applies to the municipal court established within the district, which shall be
21 known as the Imperial County Municipal Court.

22 73731. (a) There shall be five judges.

23 (b) The persons appointed to or succeeding to the three judgeships created January 1, 1976, and
24 the one judgeship created January 10, 1977, shall serve until their successors are elected at the
25 November, 1978 general election and qualify to take office for full terms in January, 1979.

26 73732. Facilities for the court shall be maintained, at or near the county seat and at court
27 facilities provided elsewhere as determined by ordinance adopted by the board of supervisors.
28 The court shall determine the nature and frequency of sessions held at additional court locations
29 designated by the board of supervisors.

30 **Note: Comment Requested**

31 Issues involving sessions and facilities are still unsettled, but Government Code Section 73732
32 is proposed for repeal because it falls within a municipal court article. The Commission solicits
33 comments on whether the section should be preserved pending (1) any implementation of
34 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
35 among the interested parties.

36 73733. There shall be one clerk of the court known as the clerk-administrator who shall be
37 appointed by the judges of the municipal court and who shall hold office at their pleasure. He
38 shall receive a monthly salary at a rate specified in range 71.

39 73734. Notwithstanding Section 72400, the judges may appoint a part-time traffic referee to
40 serve at the pleasure of the court. The salary of any such officer shall be that as set forth in
41 Section 72404 except that such compensation shall be prorated as the number of hours actually
42 served relates to a 40-hour workweek. Notwithstanding Section 72403, the part-time traffic
43 referee shall be eligible for membership in the county's retirement system subject to the same
44 rules which apply to part-time county employees.

45 73735. The sheriff and his deputies shall act as ex officio marshal and deputy marshals of the
46 court.

1 73736. The clerk-administrator may appoint:

2 (a) One deputy municipal court administrator who shall receive a monthly salary at a rate
3 specified in range 272.

4 (b) Five municipal court clerks III, each of whom shall receive a monthly salary at a rate
5 specified in range 170.

6 (c) Ten municipal court clerks II, each of whom shall receive a monthly salary at a rate
7 specified in range 155.

8 (d) Seven municipal court clerks I, each of whom shall receive a monthly salary at a rate
9 specified in range 137.

10 (e) One court reporter, who shall receive a monthly salary rate specified in range 282.

11 (f) Two interpreters, each of whom shall receive a monthly salary at a rate specified in range
12 179.

13 (g) One accounting supervisor, who shall receive a monthly salary at a rate specified in range
14 202.

15 (h) Six municipal court clerk supervisors, each of whom shall receive a monthly salary at a rate
16 specified in range 197.

17 (i) One account clerk III, who shall receive a monthly salary at a rate specified in range 151.

18 (j) One account clerk II, who shall receive a monthly salary at a rate specified in range 133.

19 (k) One legal office assistant II, who shall receive a monthly salary at a rate specified in range
20 165.

21 (l) One court computer coordinator, who shall receive a monthly salary at a rate specified in
22 range 239.

23 73737. The judges of the municipal court shall appoint a jury commissioner of the municipal
24 court who shall hold office at their pleasure and who shall exercise the power and duties provided
25 for in Section 72191. The jury commissioner shall receive a monthly salary at a rate specified in
26 range 55. The jury commissioner, may appoint two assistant jury commissioners, each of whom
27 shall receive a monthly salary at a rate specified in range 49.

28 Notwithstanding the above provisions of this section, the board of supervisors may direct the
29 superior court jury commissioner to serve as jury commissioner for municipal court pursuant to
30 Section 204a of the Code of Civil Procedure and transfer or terminate the positions provided for
31 in this section, provided that such direction and transfer or termination shall remain in effect only
32 until January 1, 1980, unless the Legislature ratifies such direction by amendment of this section.

33 **Note: Comment Requested**

34 The Commission is researching several issues pertaining to jury commissioners, including
35 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
36 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
37 by that Act. The Commission solicits comments on these points.

38 73738. Whenever reference to a numbered salary range is made in any section of this article,
39 the schedule of monthly salaries found in the standard salary schedule in the salary resolution of
40 the County of Imperial in effect on July 19, 1977, shall apply.

41 73739. All employees of the Imperial County Municipal Court shall be entitled to the same
42 provisions with respect to retirement, vacations and other benefits allowed to employees of the
43 county.

44 73740. Certain positions in the municipal court are deemed to be comparable in job and salary
45 level to certain positions in the classified service of Imperial County. The following table sets
46 forth the court classifications with the comparable county classifications shown opposite thereto.

Court Classification	County Classification
Municipal court clerk III	Superior court clerk III
Municipal court clerk II	Superior court clerk II
Municipal court clerk I	Superior court clerk I

1 Legal stenographer I
2 Interpreter

 Legal stenographer I
 Interpreter

3 In the event that the salary for any classification which is shown above is increased by the
4 board of supervisors, a commensurate increase shall be made in the salary for the comparable
5 court classification. Any salary adjustment made pursuant to this section shall be effective the
6 same date as the effective date of the action applicable to the respective and comparable county
7 classifications, but shall remain in effect only until January 1 of the second year following the
8 year in which such an adjustment in salary is made, unless subsequently ratified by the
9 Legislature.

10 73741. The position of clerk-administrator shall be allocated to a salary level which is 14
11 ranges on the standard schedule above the salary range occupied by the chief deputy clerk. The
12 salary level of clerk-administrator may be increased beyond the level herein provided by the joint
13 action of a majority of judges of the municipal court and the board of supervisors, provided, such
14 increases shall be effective the same date as the effective date of the action applicable to the
15 respective and comparable county classifications, but shall remain in effect only until January 1st
16 of the second year following the year in which such an adjustment in salary is made, unless
17 subsequently ratified by the Legislature. The position of chief deputy clerk shall be allocated at a
18 salary level which is eight salary ranges on the regular schedule above that of municipal court
19 clerk III.

20 Whenever the salary of chief deputy clerk is adjusted by the board, the salary range of clerk-
21 administrator shall be adjusted to maintain the range separation as specified. Whenever the salary
22 of municipal court clerk III is adjusted by the board of supervisors, the salary range of chief
23 deputy clerk shall be adjusted to maintain the range number separation as specified. Except as
24 hereinafter provided, any salary adjustment made pursuant to this section shall be effective the
25 same date as the effective date of the action applicable to the respective county classification and
26 shall remain in effect only until January 1 of the second year following the year in which such an
27 adjustment in salary is made, unless subsequently ratified by the Legislature. The effective date of
28 initial salary adjustments for the positions of clerk-administrator and chief deputy clerk shall be
29 January 1, 1978.

30 73742. The presiding judge may appoint as many regular official reporters and as many official
31 reporters pro tempore as the business of the court requires. The reporters shall hold office during
32 the pleasure of the presiding judge.

33 73743. The regular official reporters shall receive the salary compensation and other benefits as
34 are paid regular official reporters of the Superior Court of Imperial County pursuant to the
35 provisions of Section 70045.5. Each official reporter shall perform the duties required of him by
36 law. Reporters pro tempore shall be paid a per diem and other fees and expenses in the same
37 manner as paid to reporters pro tempore of the Superior Court of Imperial County pursuant to the
38 provisions of Section 70045.5.

39 Fees for reporting and for transcription of testimony and proceedings in the court shall be paid
40 by the parties to official reporters and official reporters pro tempore as otherwise provided by
41 law. In all cases where by law the court may direct the payment of reporting and transcription
42 fees out of the county treasury including fees for reporting and for transcription of testimony and
43 proceedings in criminal cases as provided in Sections 69947 to 69952, inclusive, such fees shall,
44 upon order of the court, be paid from the county treasury.

45 **Gov't Code §§ 73750-73767 (repealed). Madera County Municipal Court District**

46 SEC. ____ . Article 11.6 (commencing with Section 73750) of Chapter 10 of Title 8 of
47 the Government Code is repealed.

48 **Comment.** Sections 73750-73767 are repealed to reflect:

1 (1) Unification of the municipal and superior courts in Madera County pursuant to Article VI,
2 Section 5(e), of the California Constitution, effective July 1, 1998. See Cal. Const. art. VI, § 23
3 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
4 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
5 Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38
6 (judicial districts), 190 *et seq.* (jury selection); Sections 69508 (presiding judge), 69587 (number
7 of judges in Madera County). *Cf.* Section 71042.5 (preservation of judicial districts for purposes
8 of publication).

9 (2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in
10 Madera County, effective January 1, 2000.

11 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
12 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
13 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
14 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
15 (employment selection and advancement), 71650-71658 (employment protection system), 71673
16 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
17 (compensation of official reporter).

18 (4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
19 management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
20 (state funding of trial court operations). See also Section 68073 (responsibility for court
21 operations and facilities).

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

23 Article 11.6. Madera County

24 73750. There is in the County of Madera, on and after the effective date of this section, a single
25 municipal court district known as the Madera County Municipal Court District.

26 73751. The Madera County Municipal Court District shall consist of the following divisions,
27 embracing the territory that is within the following judicial districts in the County of Madera on
28 the effective date of this section, as those districts may later be modified by the board of
29 supervisors or by operation of law:

- 30 (a) Madera Division, that territory within the Madera Judicial District.
31 (b) Borden Division, that territory within the Borden Judicial District.
32 (c) Chowchilla Division, that territory within the Chowchilla Judicial District.
33 (d) Sierra Division, that territory within the Sierra Judicial District.

34 73752. (a) There shall be one judge for each division. Upon the effective date of this article the
35 judges of the former Madera, Borden, Chowchilla, and Sierra Judicial Districts automatically
36 shall become the judges of the Madera, Borden, Chowchilla, and Sierra Divisions, respectively,
37 of the Madera County Municipal Court District.

38 (b) The time for election and qualification of the successor to any judge who becomes a judge
39 of the district pursuant to this article shall be that previously fixed by law for election and
40 qualification of the successors for the courts and offices superseded, had those courts not been
41 superseded.

42 (c) The judge of each division shall be elected by the electors resident within that division, and
43 not from the district at large. However, any otherwise qualified candidate is eligible to be elected
44 to any division if he or she resides within the district as a whole.

45 73753. The board may by ordinance modify or enlarge the divisions created by this chapter.
46 This section shall not be construed to limit or be limited by existing provisions of law conferring
47 authority upon the board to revise district boundaries or to consolidate districts.

48 73754. As used in this article:

1 (a) Except as otherwise provided, for purposes of qualification and election of judges,
2 “division” as used in this chapter means the “District” referred to in subdivision (b) of Section 16
3 of Article VI of the California Constitution.

4 (b) “Board” means the Board of Supervisors of the County of Madera.

5 (c) “County” means the County of Madera.

6 (d) “District” means the Madera County Municipal Court District.

7 73755. The judges of the district shall, by majority vote, elect one of their members to serve as
8 presiding judge and shall formulate rules and regulations consistent with those of the Judicial
9 Council for transfer of cases, assignment of judges, scheduling of vacation of judges, and other
10 administrative matters to promote uniformity of procedures, efficiency, and economy in the
11 business of the district.

12 73756. (a) Facilities for the district shall be maintained at the court facilities provided within
13 each division. The presiding judge shall determine the nature and frequency of sessions held at
14 the court facilities within each division.

15 (b) Trial jurors for each session of the courts of the district shall be selected from persons
16 residing within the divisions in which those sessions are held.

17  **Note: Comment Requested**

18 Issues involving sessions and facilities are still unsettled, but Government Code Section 73756
19 is proposed for repeal because it falls within a municipal court article. The Commission solicits
20 comments on whether the section should be preserved pending (1) any implementation of
21 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
22 among the interested parties.

23 73757. (a) In Madera County the majority of the judges of the superior court have voted to
24 consolidate court services and security functions in the office of the Sheriff of Madera County.

25 (b) The sheriff’s functions shall include, but not be limited to, providing all bailiff functions for
26 the unified superior court in Madera County, and all other duties imposed by law upon deputy
27 sheriffs and peace officers generally.

28 (c) The sheriff shall be responsible for the service of all writs, notices, and other processes
29 issued by any court or other competent authority. Nothing in this section shall be construed as
30 limiting the responsibility or authority of a private person or registered process server from
31 serving process or notices in the manner prescribed by law, nor shall it limit the authority of the
32 sheriff or any other peace officer to serve warrants of arrest or other process specifically directed
33 by any court to the sheriff or any other peace officer.

34 (d) Each elected marshal holding office in Madera County as of January 1, 2000, shall become
35 an employee of the Madera County Sheriff’s Department in the position of Sheriff’s Bailiff, as of
36 that date and each elective position of Marshal of the Madera County Municipal Court District is
37 abolished as of that date. Each marshal transferring to the sheriff’s department pursuant to this
38 section shall be compensated at not less than the EL-10 step of Salary Range 43 (table B). No
39 transferring marshal shall lose peace officer status or be demoted or otherwise be adversely
40 affected by the consolidation of court-related services accomplished by this section. Each
41 transferring marshal employed in the position of Sheriff’s Bailiff shall be deemed duly qualified
42 for that position and no other qualifications shall be required for that employment or retention in
43 that position. Any transferring marshal wishing to transfer to another position shall meet the
44 qualifications of a peace officer as required by subdivision (a) of Section 832 of the Penal Code
45 and any other requirements of the Madera County civil service system. For purposes of
46 establishing seniority within the class of Sheriff’s Bailiff, each transferring marshal shall be
47 credited with the marshal’s total years of services to Madera County as a constable and marshal.

48  **Note: Comment Requested**

49 Government Code Section 73757 will likely be preserved, in some form. A proposed
50 amendment to Section 73757 providing for its automatic repeal in fifteen years was circulated in

1 an earlier mailing and is reproduced below as an added section. The Commission requests input
2 as to whether the section continues to serve a useful purpose, whether the proposed sunset
3 provision is appropriate, and whether further revisions are needed to reflect current practice.

4 73758. The Sheriff of Madera County shall be responsible for the transportation of prisoners
5 held in the county's adult correctional facility to and from necessary court appearances, medical
6 and dental trips, and transfers to or from local, state, or federal correctional facilities. To meet this
7 responsibility, the Sheriff of Madera County shall contract with the county department of
8 corrections, pursuant to Section 831.6 of the Penal Code, to provide these transportation services
9 by qualified personnel of the county department of corrections.

10 **Note: Comment Requested**

11 Government Code Section 73758 will likely be preserved. The Commission requests input as to
12 whether the section continues to serve a useful purpose.

13 73759. (a) Clerical employees of the district may be appointed, as follows:

14 (1) Borden Division:

15 (A) One municipal court supervisor who shall receive the salary specified in range 18 to
16 increase to range 41 effective February 1, 1999.

17 (B) Two municipal court clerks III who shall receive the salary specified in range 33 in Table
18 B.

19 (C) Two and one-half municipal court clerks II who shall receive the salary specified in range
20 31 in Table B.

21 (2) Chowchilla Division:

22 (A) One municipal court supervisor who shall receive the salary specified in range 18 to
23 increase to range 41 effective December 1, 1998.

24 (B) Two municipal court clerks III's who shall receive the salary specified in range 33 in Table
25 B.

26 (C) One municipal court clerk II who shall receive the salary specified in range 31 in Table B.

27 (3) Madera Division:

28 (A) One municipal court supervisor who shall receive the salary specified in range 18, to
29 increase to range 41 effective February 1, 1999.

30 (B) One senior municipal court clerk who shall receive the salary specified in range 35 in Table
31 B.

32 (C) Ten and one-quarter municipal court clerks I or II. Municipal court clerks I shall receive the
33 salary specified in range 25 in Table B. Municipal court clerks II shall receive the salary specified
34 in range 31 in Table B.

35 (D) One court interpreter who shall receive the salary specified in range 34 (Table B).

36 (4) Sierra Division:

37 (A) One municipal court supervisor who shall receive the salary specified in range 18, to
38 increase to range 41 effective February 1, 1999.

39 (B) Two municipal court clerks III who shall receive the salary specified in range 33 in Table
40 B.

41 (C) Two municipal court clerks II who shall receive the salary specified in range 31 in Table B.

42 (D) One municipal court clerk I who shall receive the salary specified in range 25 in Table B.

43 (b) Notwithstanding the provisions of Article 4 (commencing with Section 72150), and the
44 provisions of this article, whenever the business of the district requires a greater number of
45 employees in order to effectively carry out the duties and functions of the respective divisions, a
46 majority of the judges of the district may, with the approval of the board, establish new positions
47 for officers, attaches, and employees in addition to those provided by this article. The order and
48 approval establishing such positions shall designate the position, title, and salary range for each
49 such position.

50 (c) At the request of the judges of the district, the county personnel department shall assist in
51 the recruitment and examination of court personnel. Personnel hired or appointed as official
52 reporters, official interpreters, staff attorneys, administrators, or other nonclerical positions on or

1 after the effective date of this article shall serve at, and may terminated at, the pleasure of the
2 majority of the judges of the district. Other provisions of the county civil service or personnel
3 rules or procedures shall not be applicable to such court employees unless made applicable by
4 local court rule. Benefits other than salary shall, for all court personnel, be the same as are now or
5 may be hereafter be provided to equivalent county classifications, as such equivalency is
6 determined by agreement of the majority of the judges of the district and the board, but shall not
7 exceed those provided for equivalent county classifications. To the extent necessary, and for the
8 sole purpose of implementing the intent of this subdivision, court employees shall be deemed
9 county employees for inclusion in those benefit programs provided to county employees as a
10 group or groups. All court employees, except pro tempore court reporters shall, if otherwise
11 eligible under statutory and retirement system membership requirements, be included in the
12 county's retirement system.

13 73760. (a) Whenever a reference is made to a numbered salary range in any section of this
14 article, the schedule of monthly salaries found in the salary resolution for the county in effect on
15 the effective date of this article shall apply.

16 (b) In the event the board amends the county salary resolution or adopts a new resolution to
17 provide for a change in compensation for the ranges or steps, those changes shall be effective for
18 the municipal court employees under this article on the effective date of the act of the board or the
19 effective date of this section, whichever is earlier, and shall remain effective only until January 1
20 of the second year following the year in which the change is made, unless ratified by the
21 Legislature.

22 73761. The officers, employees, and attaches of the municipal court district shall be entitled to
23 the same vacation, sick leave, and similar benefits and privileges as those granted to other county
24 employees under the ordinances and resolutions of the board.

25 73762. Official reporters shall be appointed by and serve at the pleasure of the majority of the
26 judges of the municipal court district pursuant to Section 72194. The salary of each official
27 reporter shall be at the rates provided by Section 70045.12, which shall be charged against the
28 general fund of the county.

29 73763. All matters affecting the employment, appointment, promotion, demotion, termination,
30 transfer, layoff, or discipline of municipal court officers, employees, or attaches that are not
31 specifically determined by this article shall be governed and regulated by the then-current
32 ordinances and resolutions of the county civil service commission and the board.

33 73764. Except as otherwise provided by resolution of the board, all officers, employees, and
34 attaches of the municipal court district shall devote their full time to the performance of their
35 duties.

36 73765. Notwithstanding the provisions of this article and Article 4 (commencing with Section
37 72150) of Chapter 8, the officers, employees, and attaches of the municipal court district may be
38 paid increased compensation, not to exceed 25 percent of the amounts specified in this article, in
39 order to equalize their compensation with that paid to county employees with commensurate
40 duties and responsibilities. These increases may be made upon the recommendation of a majority
41 of the judges of the municipal court district with the approval of the board and may be made
42 operative at the same time as the higher compensation becomes operative for similar county
43 positions. Any pay increase authorized by this section shall only be effective until January 1 of
44 the second calendar year after the calendar year in which the change occurs, unless ratified by the
45 Legislature.

46 73766. Except as otherwise provided by resolution of the board or by this article, all fees
47 collected by court officers and attaches shall be deposited in the county treasury.

Note: Comment Requested

The Commission is reviewing whether county treasury provisions remain viable, given the enactment of the Trial Court Funding Act, the Trial Court Employment Protection and Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). These matters are also being examined by a Joint Court-County Working Group on Trial Court Funding. The Commission solicits comment on the proper treatment of Government Code Section 73766.

73767. For purposes of this article, the terms "officers," "employees," and "attaches" of the municipal court district include the officers and employees of the marshal's office created herein.

Gov't Code § 73757 (added). Madera County

SEC. ____ . Article 11.6 (commencing with Section 73757) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 11.6. Madera County

§ 73757. Consolidation of court-related services

73757. (a) In Madera County the majority of the judges of the superior court have voted to consolidate court services and security functions in the office of the Sheriff of Madera County.

(b) The sheriff's functions shall include, but not be limited to, providing all bailiff functions for the unified superior court in Madera County, and all other duties imposed by law upon deputy sheriffs and peace officers generally.

(c) The sheriff shall be responsible for the service of all writs, notices, and other processes issued by any court or other competent authority. Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process or notices in the manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace officer to serve warrants of arrest or other process specifically directed by any court to the sheriff or any other peace officer.

(d) Each elected marshal holding office in Madera County as of January 1, 2000, shall become an employee of the Madera County Sheriff's Department in the position of Sheriff's Bailiff, as of that date and each elective position of Marshal of the Madera County Municipal Court District is abolished as of that date. Each marshal transferring to the sheriff's department pursuant to this section shall be compensated at not less than the EL-10 step of Salary Range 43 (table B). No transferring marshal shall lose peace officer status or be demoted or otherwise be adversely affected by the consolidation of court-related services accomplished by this section. Each transferring marshal employed in the position of Sheriff's Bailiff shall be deemed duly qualified for that position and no other qualifications shall be required for that employment or retention in that position. Any transferring marshal wishing to transfer to another position shall meet the qualifications of a peace officer as required by subdivision (a) of Section 832 of the Penal Code and any other requirements of the Madera County civil service system. For purposes of establishing seniority within the class of Sheriff's Bailiff, each transferring marshal shall be credited with the marshal's total years of services to Madera County as a constable and marshal.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or

1 extends that date. The repeal of this section does not affect any right or benefit to which a
2 person was entitled on the date of repeal.

3 **Comment.** Subdivisions (a)-(d) of Section 73757 continue subdivisions (a)-(d) of former
4 Section 73757 without change.

5 Subdivision (e) is new.

6 For provisions relating to restatements and continuations of existing law, see Section 2.

7 **Gov't Code §§ 73770-73783 (repealed). Marin County Municipal Court**

8 SEC. ____ . Article 12 (commencing with Section 73770) of Chapter 10 of Title 8 of the
9 Government Code is repealed.

10 **Comment.** Sections 73770-73783 are repealed to reflect:

11 (1) Unification of the municipal and superior courts in Marin County pursuant to Article VI,
12 Section 5(e), of the California Constitution, effective June 11, 1998. See Cal. Const. art. VI, § 23
13 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
14 70211 (former municipal court judgeships continued as superior court judgeships). See also Code
15 Civ. Proc. § 38 (judicial districts); Section 69588 (number of judges in Marin County). *Cf.*
16 Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
17 71264 (municipal court served by marshal).

18 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
19 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
20 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
21 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
22 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
23 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
24 reporters), 69947 (compensation of official reporter), 72190 (court commissioners).

25 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
26 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
27 Sections 68086 (fees for reporting services in civil cases generally), 69952 (payment from Trial
28 Court Operations Fund), 69953 (payment of fees).

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

30 **Article 12. Marin County**

31 73770. This article applies to the judicial district of the Marin County Municipal Court.

32 73771. There shall be four judges. A branch court shall be maintained at an appropriate location
33 in the former Western Judicial District.

34  **Note: Comment Requested**

35 Issues involving sessions and facilities are still unsettled, but Government Code Section 73771
36 is proposed for repeal because it falls within a municipal court article. The Commission solicits
37 comments on whether the section should be preserved pending (1) any implementation of
38 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
39 among the interested parties.

40 73771.1. The judges of the Municipal Court, Judicial District of Marin County, shall appoint
41 one commissioner. The commissioner shall possess the same qualifications as the law requires of
42 the judge of the court. Such appointment shall be made pursuant to Section 72190 of the
43 Government Code.

44 73772. There shall be one clerk, who shall be the Court Executive Officer and receive an
45 annual salary recommended by the courts and approved by the board of supervisors.

1 73773. (a) Whereas the Marin County Courts are judicially and administratively consolidated
 2 with joint job classifications, the work of the Superior and Municipal Courts in Marin County is
 3 to be performed, minimally, by each of the positions herein identified by the trial courts of Marin
 4 County. The Court Executive Officer, with the approval of the judges, may appoint the following
 5 authorized titles, number of positions, and compensation rates for employees of the Marin County
 6 Courts:

Title	No. of Positions	Biweekly Salary Scales
Assistant Court Executive Officer	1	\$3,002.40
Administrative Services Officer I	1	1,777.50 to 2,146.50
Administrative Services Assistant II	1	1,582.50 to 1,913.25
Attorney IV	1	2,564.00 to 2,843.20
Attorney III	2	2,368.80 to 2,494.40
Department Fiscal Manager	1	2,094.40 to 2,534.40
Systems Support Analyst II	1	2,151.00 to 2,604.00
Computer Technician I	1	1,097.25 to 1,332.75
Family Law Facilitator	.5	2,099.20 to 2,209.60
Legal Secretary II	1	1,206.75 to 1,374.75
Senior Secretary	1	1,302.75 to 1,557.75
Probate Examiner	1	1,459.50 to 1,745.25
Judicial Support Specialist	6	1,407.00 to 1,687.50
Legal Process Clerk	10	936.75 to 1,107.75
Court Division Manager	2	2,164.00 to 2,387.20
Legal Process Supervisor	4	1,407.00 to 1,687.50
Family Law Examiner	.8	1,459.50 to 1,745.25
Senior Accounting Assistant	1	1,166.25 to 1,385.25
Accounting Assistant	4	1,010.25 to 1,196.25
Legal Process Assistant II	25.6	1,040.25 to 1,231.50
Legal Process Specialist	18	1,206.75 to 1,438.50
Senior Legal Process Assistant	4	1,206.75 to 1,438.50
Courtroom Clerk	21	1,356.75 to 1,620.75
Supervising Courtroom Clerk	2	1,392.75 to 1,670.25

33 (b) Other employees as the board of supervisors may approve upon the recommendation of the
 34 courts, each of whom shall receive a salary recommended by the courts and approved by the
 35 board of supervisors.

36 Any appointee shall be compensated in the first step and advanced to each higher step upon
 37 completion of the probationary period and each successive 12 months of service thereafter. Upon
 38 the recommendation of the courts and approval of the board of supervisors, these employees may
 39 be employed at, or may be granted, a special step increase to any step within the salary range on
 40 the basis of experience and qualifications.

41 73774. The sheriff and his deputies shall act ex officio as the marshal and deputy marshals of
 42 the court.

43 73776. Persons who succeed to positions in the municipal court under the provisions of the
 44 Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, shall
 45 receive credit for continuous prior service in superseded courts and shall receive, in addition to
 46 the minimum rate, the annual increments commensurate with such years of prior service up to the
 47 maximum rate set forth in this article.

48 73777. The judges may appoint one part-time traffic referee, who shall serve at the pleasure of
 49 the judges. The part-time traffic referee shall satisfy the minimum eligibility standards provided
 50 in Section 72400.

1 73779. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
2 Chapter 8 of this title and the provisions of this article, and in order to equalize the compensation
3 of employees of the municipal court with the compensation paid to county employees with
4 commensurate duties and responsibilities, upon recommendation of the clerk of the court with the
5 approval of the judges of the court and the Board of Supervisors of the County of Marin, an
6 officer or an attache of the court, whether appointed under the provisions of this article or under
7 Article 4 (commencing with Section 72150) of Chapter 8 of this title, may be paid any
8 compensation in excess of or less than the maximum to which such employee would otherwise be
9 entitled; provided, that any such salary adjustment shall expire on January 1 of the second
10 calendar year after the calendar year in which the adjustment is made.

11 73781. (a) Full-time official reporters appointed by the majority of the judges of the municipal
12 court pursuant to the provisions of Section 72194 and so designated, shall be attaches of the court
13 and shall receive a salary recommended by the municipal court and approved by the board of
14 supervisors.

15 Any appointee shall be compensated at the first step and advance to each higher step upon
16 completion of each year of service. Upon the recommendation of the municipal court and
17 approval of the board of supervisors, official reporters may be employed at or may be granted a
18 special step increase to any step within the salary range on the basis of experience or
19 qualifications.

20 (b) In addition to the compensation provided in this article, each full-time reporter of the
21 municipal court shall be entitled to, and shall receive, the same vacations, sick leave, and similar
22 privileges and benefits as are now, or may hereafter be provided for the employees of the County
23 of Marin, including the right to participate in any group, accident, health or life insurance plan
24 adopted by the board of supervisors of the county.

25 (c) The judges of the court may appoint as many part-time additional reporters as the business
26 of the court requires. The additional reporters shall be known as official reporters pro tempore,
27 and they shall serve without salary but shall receive, for reporting, fees at a per diem rate as fixed
28 by Sections 69948 and 69949 or as fixed by any special act governing the compensation of
29 official superior court reporters in the County of Marin, whichever is the greater. In criminal
30 cases such fees upon order of the court shall be a charge against the general fund of the county.

31 (d) Until such time as the salaries of full-time official reporters are approved by the board of
32 supervisors pursuant to subdivision (a), such reporters shall receive the salaries in effect
33 immediately prior to the effective date of the amendments to this section enacted by the
34 Legislature at its 1975-76 Regular Session.

35 (e) Any change in the salaries in effect immediately prior to the effective date of the
36 amendments to this section enacted by the Legislature at its 1975-76 Regular Session shall be on
37 an interim basis and shall expire on January 1 of the second calendar year after the calendar year
38 in which the change occurs, unless ratified by the Legislature.

39 73781.5. A designated full-time official reporter of the court shall be a member of any
40 retirement system maintained by the county in which he is employed, and while he holds office as
41 provided in Section 72194 shall be entitled to the same vacation, sick leave, and similar privileges
42 and benefits as are now or may hereafter be provided for the employees of the County of Marin,
43 including the right to participate in any group accident, health or life insurance plan adopted by
44 the board of supervisors of said county. For the purpose of such retirement system the salary
45 provided for in this article for such reporter shall be deemed his entire compensation. Such
46 reporter shall be eligible for the benefits provided by Section 31641.5 of this code, and for the
47 purpose of the application of said section the "county service" rendered by such reporter shall be
48 deemed to have commenced from the time of his appointment as an official reporter of said
49 municipal court, and the "aggregate compensation" received shall be deemed to be those sums
50 actually paid to said reporter for reporting only by said county during the period of said service.

1 73781.6. The official reporters of the court shall not use county equipment or county premises
2 or county working hours for the purpose of doing work not in the service of the county, or the
3 court.

4 73782. Except as otherwise provided by this article, fees for transcribing of testimony and
5 proceedings in the court shall be paid by the litigants to official reporters and official reporters
6 pro tempore and shall be retained by such reporters as their compensation for such services. In all
7 cases where by law the court may direct the payment of transcription fees out of the county
8 treasury and where such payment would not be in conflict with any provision in this article, such
9 fees shall, upon order of the court, be paid from the general fund, including fees for transcribing
10 of testimony and proceedings in criminal cases as provided in Sections 69948 to 69953, inclusive,
11 which shall be paid from the county treasury.

12 73783. In addition to the compensation provided in this article, the clerk, deputy clerks and
13 other attaches of the municipal court shall receive, and they shall be entitled to, the same
14 vacations, sick leaves, and similar privileges and benefits as are now, or may hereafter be
15 provided for the employees of the County of Marin, including the right to participate in any group
16 accident, health or life insurance plan adopted by the board of supervisors of said county and
17 including all rights afforded county employees by the Marin County Merit System Ordinance.
18 Such clerks, deputy clerks and other attaches shall be bound by the same or similar restrictions as
19 are applicable to other employees of the County of Marin.

20 **Gov't Code §§ 73783.1-73783.9 (repealed). Mariposa County Municipal Court District**

21 SEC. ____ . Article 12.2 (commencing with Section 73783.1) of Chapter 10 of Title 8 of
22 the Government Code is repealed.

23 **Comment.** Sections 73783.1-73783.9 are repealed to reflect:

24 (1) Unification of the municipal and superior courts in Mariposa County pursuant to Article VI,
25 Section 5(e), of the California Constitution, effective June 3, 1998. See Cal. Const. art. VI, § 23
26 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
27 70211 (former municipal court judgeships continued as superior court judgeships). See also Code
28 Civ. Proc. §§ 38 (judicial districts), 190 *et seq.* (jury selection); Sections 68073 (responsibility for
29 court operations and facilities), 69588.3 (number of judges in Mariposa County). *Cf.* Section
30 71042.5 (preservation of judicial districts for purposes of publication); former Section 71264
31 (municipal court served by marshal).

32 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
33 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
34 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
35 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
36 (employment selection and advancement), 71650-71658 (employment protection system), 71673
37 (authority of court).

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

39 **Article 12.2. Mariposa County Municipal Court District**

40 73783.1. This article applies to the municipal court established in a judicial district embracing
41 the County of Mariposa.

42 73783.2. There shall be one judge.

43 73783.3. Facilities for the court shall be maintained at the county seat and at court facilities
44 provided elsewhere as determined by ordinance adopted by the board of supervisors. The court
45 shall determine the nature and frequency of sessions held at additional court locations designated
46 by the board of supervisors. Jurors shall be drawn from the entire county.

Note: Comment Requested

Issues involving sessions and facilities are still unsettled, but Government Code Section 73783.3 is proposed for repeal because it falls within a municipal court article. The Commission solicits comments on whether the section should be preserved pending (1) any implementation of recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations among the interested parties.

73783.4. There shall be one municipal court clerk who shall receive the salary specified in the Mariposa County schedule of salary ranges. The municipal court judge may, in accordance with the Mariposa County employee allocation schedule, appoint the following at the salary specified in the Mariposa County schedule of salary ranges:

Three court clerks II who shall be deputy clerks.

One part-time office assistant I.

One part-time court clerk I.

73783.5. The sheriff shall be ex officio marshal and shall act in that capacity without additional compensation. The sheriff's designated deputies shall be ex officio deputy marshals of the court.

73783.6. Whenever a reference is made to the Mariposa County schedule of salary ranges, that schedule, as it was in effect on October 1, 1996, shall apply.

In the event the board of supervisors of the County of Mariposa amends the schedule of salary ranges or adopts a new schedule which provides a change in compensation, those changes shall be effective for the municipal court employees under the article on the effective date of the action of the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which the change is made.

73783.7. The officers and attaches of the municipal court shall be entitled to the same vacation, sick leave, and similar benefits and privileges as are granted to other employees of similar classifications of the County of Mariposa under ordinances and resolutions of the board of supervisors.

73783.8. If an increase in the business of the court or any other emergency requires a greater number of attaches or employees for prompt and faithful discharge of the business of the court other than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, with the approval of the presiding judge of the court and the board of supervisors, the municipal judge may appoint in accordance with the Mariposa County employee allocation schedule as many additional attaches or employees as are needed. The additional attaches or employees shall be selected and appointed in the same manner as those for whom express provision is made, and they shall receive salary and compensation as prescribed in this article or as prescribed by ordinance or resolution of the board of supervisors for classes not expressly provided in this article.

73783.9. All matters affecting the employment of municipal court officers and attaches which are not specifically determined by this article or other provisions of state law shall be governed and regulated by the then current ordinances and resolutions of the board of supervisors of the County of Mariposa.

Gov't Code §§ 73784-73785 (repealed). Mendocino County Municipal Court District

SEC. ____ . Article 12.3 (commencing with Section 73784) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73784-73785 are repealed to reflect:

(1) Unification of the municipal and superior courts in Mendocino County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 1, 1998. See Cal. Const. art. VI, § 23 and Section 70212(b) (preexisting court locations retained as superior court locations),

1 Section 70211 (former municipal court judgeships continued as superior court judgeships). See
2 also Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc.
3 §§ 38 (judicial districts), 190 *et seq.* (jury selection); Sections 26603 (superior court attendance
4 by sheriff), 68073 (responsibility for court operations and facilities), 69588.7 (number of judges
5 in Mendocino County). *Cf.* Section 71042.5 (preservation of judicial districts for purposes of
6 publication).

7 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
8 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
9 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment
10 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
11 reporters), 69947 (compensation of official reporter).

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

13 Article 12.3. Mendocino County

14 73784. This article applies to and establishes the Mendocino County Municipal Court District,
15 which shall embrace the entire County of Mendocino, and shall supersede the Anderson, Arena,
16 Long Valley, Round Valley, and Ten Mile Judicial Districts and the Mount San Hedrin Municipal
17 Court District.

18 73784.1. There is in the County of Mendocino one municipal court judicial district, known as
19 the Mendocino County Municipal Court District which shall have five judges.

20 73784.2. The Mendocino County Municipal Court District shall consist of two divisions as
21 follows:

22 The Coastal Division encompassing the territory of the former Ten Mile, Arena, and Anderson
23 Municipal Court Districts; and the Inland Division encompassing the territory of the former
24 Mount San Hedrin, Round Valley, and Long Valley Municipal Court Districts.

25 73784.3. The Coastal Division shall have two judges. The Inland Division shall have three
26 judges.

27 73784.4. The current judge of each judicial district superseded by this section shall
28 automatically become a judge of the newly formed judicial division encompassing the district in
29 existence upon the effective date of this section.

30 73784.5. The time for election and qualifications of the successor to any judge who becomes a
31 judge of a division pursuant to this section shall be that previously fixed by law for the election
32 and qualification of the successors for the court and office superseded, had those courts not been
33 superseded. When the current terms of the former Arena and Anderson Districts expire in the year
34 2000, only one judge shall be elected, and when the current terms of the former Mount San
35 Hedrin District expire in 1998, only one judge shall be elected. The judge of each division shall
36 be elected by the electors resident within that judicial division.

37 For the purposes of the qualification and election of judges, the "division" referred to in this
38 article is and shall continue to be the "district" referred to in subdivision (b) of Section 16 of
39 Article VI of the California Constitution.

40 73784.6. Each judge who was a judge of the part-time municipal court before the effective date
41 of this section shall be available for the balance of time necessary to comprise a full-time
42 workload.

43 73784.7. The sheriff shall provide bailiff and security services to the municipal court as
44 requested by the municipal court.

73784.8. Except as provided in Section 73784.9, there shall be one marshal, who shall serve at the pleasure of the judges of the Mendocino County Municipal Court District. Upon the effective date of this section, the marshal of the superseded Mount San Hedrin Municipal Court District shall become the Marshal of the Mendocino County Municipal Court. The marshal shall be responsible for service of civil and criminal process, and for municipal court bailiff and security services as requested by judges.

73784.9. The elected constables of the former Anderson and Round Valley Judicial Districts shall continue in office as assistant marshals until the expiration of their then-current terms, at which time they may serve as assistant marshals under the direction and pleasure of the Marshal of the Mendocino County Municipal Court. Each office of constable shall be abolished upon expiration of the term in effect on the effective date of this section, or any vacancy, whichever shall first occur, and the Marshal of the Mendocino County Municipal Court shall then succeed to the duties of the offices so abolished.

73784.10. The location of permanent court facilities and locations where sessions of the court may be held other than in the county seat shall be as determined by the board of supervisors.

Note: Comment Requested

Issues involving sessions and facilities are still unsettled, but Government Code Section 73784.10 is proposed for repeal because it falls within a municipal court article. The Commission solicits comments on whether the section should be preserved pending (1) any implementation of recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations among the interested parties.

73784.11. Trial jurors for each session of the courts of the district shall be selected from persons residing within the divisions within which those sessions are held. Upon adoption of a rule pertaining thereto by the judges, a division may use the same jury panel as that summoned for services in the superior court. When selected from the superior court panel, persons so selected for jury duty in a municipal court division need not be residents of the division.

73785. Effective July 1, 1997, the work of the superior and municipal courts in Mendocino County is to be performed, minimally, by each of the positions herein identified by the trial courts of Mendocino County.

Number	Classification	Schedule
1	Court Executive Officer	5338 F
1	Assistant Court Executive Officer	4537 F
1	Marshal	941 F
2	Deputy Marshal	242 F
2	Court Reporter	3551 F
1	Interpreter/Coordinator	3380 F
3	Court Services Manager	2610-3172
3	Court Services Supervisor	2182-2652
10	Court Services Representative IV	1932-2352
15	Court Services Representative III	1764-2144
15	Court Services Representative II	1601-1948
4	Court Services Representative I	1417-1723
1	Judicial Secretary	2048-2489
1	Court Fiscal Manager	2899-3525
1	Court Accountant	2634-3203
1	Court Financial Hearing Officer	2128-2586
1	Account Clerk II	1568-1906
1	Account Clerk I	1417-1722
1	Research Attorney II	3416-4154
1	Court Computer System Coordinator	2516-3059

1	1	Drug Court Coordinator	3125-3797
2	1	Drug Court Case Manager	2657-3232

3 **Gov’t Code §§ 73790-73802 (repealed). Merced County Municipal Court**


4 SEC. ____ . Article 12.5 (commencing with Section 73790) of Chapter 10 of Title 8 of
5 the Government Code is repealed.

6 **Comment.** Sections 73790-73802 are repealed to reflect:

7 (1) Unification of the municipal and superior courts in Merced County pursuant to Article VI,
8 Section 5(e), of the California Constitution, effective August 3, 1998. See Cal. Const. art. VI, §
9 23 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
10 70211 (former municipal court judgeships continued as superior court judgeships). See also Code
11 Civ. Proc. §§ 38 (judicial districts), 190 *et seq.* (jury selection); Section 69589 (number of judges
12 in Merced County). *Cf.* Sections 71042.5 (preservation of judicial districts for purposes of
13 publication), 71265 (marshals’ powers, duties and liabilities).

14 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
15 71601(l) (“trial court employee” defined), 71615(c)(1) (preservation of employees’ job
16 classifications), 71615(c)(5) (trial court as employer of all trial court employees), 71620 (trial
17 court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans),
18 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court
19 employment benefits not affected), 71640-71645 (employment selection and advancement),
20 71650-71658 (employment protection system), 71673 (authority of court). For provisions
21 governing the employment and compensation of county employees, see Cal. Const. art. XI, §§
22 1(b) and 4 (county governing board shall provide for the number, compensation, tenure, and
23 appointment of employees) and Section 25300 (board of supervisors shall provide for the number,
24 compensation, tenure and appointment of county employees). See also Sections 69941
25 (appointment of official reporters), 69947 (compensation of official reporter).

26 (3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
27 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
28 Section 68073 (responsibility for court operations and facilities).

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

30 **Article 12.5. Merced County**

31 73790. There is hereby created a municipal court district which embraces the entire County of
32 Merced. This article applies to the municipal court established within the district, which shall be
33 known as the Merced County Municipal Court.

34 73791. There shall be three judges of the Merced County Municipal Court.

35 73792. (a) Facilities for the court shall be maintained at or near the county seat and at court
36 facilities provided elsewhere as determined by ordinance adopted by the board of supervisors.
37 The court shall determine the nature and frequency of sessions held at additional court locations
38 designated by the board of supervisors.

39 (b) The judges of the court may, by rule, establish an area surrounding a court location from
40 which jurors for trials held at that location shall be selected.

41  **Note: Comment Requested**

42 Issues involving sessions and facilities are still unsettled, but Government Code Section 73792
43 is proposed for repeal because it falls within a municipal court article. The Commission solicits
44 comments on whether the section should be preserved pending (1) any implementation of
45 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
46 among the interested parties.

1 73793. There shall be one administrative officer of the court known as the municipal court
2 clerk-administrator, who shall be appointed by a majority of the judges of the court. The court
3 clerk-administrator shall receive a biweekly salary on range 69.5.

4 73794. There shall be two traffic trial commissioners who shall be appointed by a majority of
5 the judges of the court.

6 73795.5. Official reporters in the Municipal Court in Merced County appointed pursuant to
7 Section 72194, in lieu of any other compensation provided by law for their services in reporting
8 testimony and proceedings in such court, shall receive an annual salary in the sum of fifteen
9 thousand nine hundred thirty-nine dollars and four cents (\$15,939.04), which shall be a charge
10 against the general fund of the county.

11 Any official reporter regularly assigned to a municipal court within the city limits of the City of
12 Merced who is temporarily assigned to a municipal court situated outside the city limits of
13 Merced shall receive mileage both ways from the court to which he is regularly assigned to the
14 municipal court to which he has been temporarily assigned. The rate for such mileage shall be
15 that fixed and paid to other county employees.

16 73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall
17 receive a salary on range 68.5.

18 When a vacancy occurs in the office, a majority of the superior and municipal court judges
19 shall appoint the marshal and the marshal shall serve at their pleasure.

20 **Note.** Government Section 73796 will be preserved, in some form. A proposed amendment to
21 the section is reproduced below as an added section.

22 73797. (a) The marshal may appoint:

23 (1) One assistant marshal on range 65.5.

24 (2) Two marshal's sergeants on range 61.2.

25 (3) Fourteen deputy marshals on range 57.9.

26 (4) Three civil assistants on range 50.7.

27 (5) One supervising civil assistant on range 53.8.

28 (b) The initial appointments to the positions of assistant marshal and deputy marshal shall be
29 made from persons who have served as constables in a justice court in Merced County during the
30 year of 1976. Such appointees shall become deputy marshals and receive the salary provided at
31 the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed
32 shall receive the salary provided at the fifth step of the range designated for assistant marshal.

33 73798. There shall be in the municipal courts of Merced County the following positions, at a
34 minimum:

35 (a) One assistant municipal court administrator on range 63.6.

36 (b) One automation systems analyst on range 59.4.

37 (c) Five supervising municipal court clerks I on range 54.8.

38 (d) Twelve courtroom clerks I/II on range 51.7.

39 (e) Thirty-four court processing clerks on range 50.7.

40 (f) One secretary III on range 54.3.

41 73800. (a) Whenever reference to a numbered salary range is made in any section of this
42 article, the schedule of biweekly salaries found in the salary and personnel ordinance of the
43 County of Merced in effect on July 1, 1977, shall apply.

44 (b) Subject to the provisions of the salary ordinance of the County of Merced, each person
45 employed in the clerk's office or marshal's office may receive an annual increase in salary of one
46 step on his assigned range until the employee reaches the maximum step on the range assigned
47 for his position.

48 (c) Notwithstanding any other provision in this article, the salaries of municipal court
49 employees may, upon approval by the board of supervisors, be increased in the same manner and

1 at the same rate as a salary increase is effective for other permanent county salaried employees. It
2 is the purpose of this section to provide compensation for municipal court employees which is
3 comparable to that paid to county employees of similar qualifications and experience holding
4 equal or comparable positions in the Merced County classified service, as such comparability is
5 determined by the Merced County Board of Supervisors.

6 Any adjustment of salaries made pursuant to this subdivision shall remain in effect only until
7 January 1 of the second year following the year in which such adjustment is made.

8 (d) Employees of the municipal court shall be entitled to all employee benefits that are provided
9 for or made applicable to employees within the classified service pursuant to Merced County
10 ordinances or resolutions, to the extent that the benefits are not contrary to state law.

11 All matters affecting the employment of such municipal court employees which are not
12 specifically determined by other provisions of state law, shall be governed and regulated by the
13 personnel ordinances and resolutions of the Board of Supervisors of the County of Merced in
14 effect on July 1, 1977. If any such personnel ordinance or resolution is amended or a new
15 personnel ordinance or resolution is adopted, such amendment or new ordinance or resolution
16 shall be applicable to municipal court employees only until January 1 of the second year
17 following the year such amendment or new ordinance or resolution is enacted.

18 73801. With the approval of the board of supervisors, a majority of the judges of the court may
19 establish positions for officers, attaches, and employees in addition to those provided by this
20 article. The order and approval establishing any such position shall designate the position title and
21 pay rate and whether the provisions of Section 73800 are applicable to the position.

22 With the approval of the board of supervisors, a majority of the judges may appoint and employ
23 such additional officers, attaches, and employees as it deems necessary for the performance of the
24 duties and exercise of the powers conferred by law upon the court and its members.

25 Appointments made pursuant to this section shall be on an interim basis and shall expire
26 January 1 of the second year following the year in which such appointments are made.

27 73802. All fees collected by court officers and attaches for official duties shall be deposited in
28 the county treasury.

29 **Note: Comment Requested**

30 The Commission is reviewing whether county treasury provisions remain viable, given the
31 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
32 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
33 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
34 (state funding of trial court operations). These matters are also being examined by a Joint Court-
35 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
36 treatment of Government Code Section 73802.

37 **Gov't Code § 73796 (added). Merced County**

38 SEC. ____ . Article 12.5 (commencing with Section 73796) is added to Chapter 10 of
39 Title 8 of the Government Code, to read:

40 **Article 12.5. Merced County**

41 **§ 73796. Marshal**

42 73796. There shall be one marshal of the Merced County Superior Court. When a
43 vacancy occurs in the office, a majority of the superior court judges shall appoint the
44 marshal and the marshal shall serve at their pleasure.

Comment. The first sentence of Section 73796 continues the first sentence of the first paragraph of former Section 73796, replacing a reference to the municipal court with a reference to the superior court.

The second sentence continues the second paragraph of former Section 73796, omitting a reference to the municipal court as obsolete.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 73796 that are not continued, see the Comment to former Article 12.5 (commencing with former Section 73790).

Gov’t Code §§ 73820-73828 (repealed). Nevada County Municipal Court

SEC. ____ . Article 13 (commencing with Section 73820) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 73820-73828 are repealed to reflect:

(1) Unification of the municipal and superior courts in Nevada County pursuant to Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Section 69590.7 (number of judges in Nevada County). Cf. former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of official reporter).

(3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

Article 13. Nevada County Municipal Court

73820. This article applies to the Nevada County Municipal Court, which supersedes the Grass Valley, Nevada, and Truckee Judicial Districts and embraces the entire County of Nevada.

73821. There shall be three judges.

73822. There is one court executive officer for the Nevada County Consolidated Courts, who shall be appointed by the judges of the court, and who shall hold office at the judges’ pleasure. The court executive officer shall receive a monthly salary in the range of four thousand five hundred twenty-one dollars and thirty-one cents (\$4,521.31) to five thousand four hundred ninety-five dollars and sixty-seven cents (\$5,495.67).

73823. The court executive officer may, in accordance with the Nevada County Personnel Rules, appoint the following employees, each of whom shall receive a monthly salary in the range specified:

	Position	Salary Range
3	Court Services Supervisors	\$2,372.10 to \$2,883.20
15	Court Services Assistants III or II	\$1,624.01 to \$2,270.00
16	Court Services Assistants I and II	\$1,412.58 to \$1,974.00
1	Court Accountant II or III	\$2,706.43 to \$3,783.13
1	Programmer Analyst I or II or III	\$2,120.56 to \$3,556.14
3	Judicial Secretaries	\$1,867.53 to \$2,270.00

1	2	Court Reporters	\$2,582.82 to \$3,141.70
2	1	Research Attorney II or III	\$3,558.31 to \$4,918.80

3 73824. Subject to Section 72001, the compensation of officers and attaches shall be governed
4 by Nevada County Personnel Rules, Salary Ordinance, and Memoranda of Understanding with
5 the recognized labor organizations representing court employees.

6 73825. The officers and attaches of the municipal court shall be entitled to the same vacation,
7 sick leave, and benefits and privileges as are granted to other comparable employees of Nevada
8 County.

9 73826. Commencing with the effective date of this legislation, the Nevada County Sheriff shall
10 be ex officio marshal and shall act as such without additional compensation. The sheriff's
11 designated employees shall be ex officio marshals of the court.

12 73827. All matters affecting the employment of officers and attaches of the Nevada County
13 Municipal Court District which are not specifically determined by this article or other provisions
14 of state law shall be governed and regulated by the then current ordinances and resolutions of the
15 Board of Supervisors of Nevada County.

16 73828. The number, categories, and compensation of the officers, attaches, and employees
17 provided by this article may be adjusted, as the need is determined, by the board of supervisors
18 and in accordance with established county personnel and budgetary procedures. Any such
19 adjustment shall be on an interim basis and shall remain effective only until January 1 of the
20 second year following the year in which such adjustment is made. The provisions of this section
21 are not intended to affect the application of Section 72150.

22 **Gov't Code §§ 73870-73877 (repealed). North Sacramento Municipal Court District**

23 SEC. ____ . Article 14 (commencing with Section 73870) of Chapter 10 of Title 8 of the
24 Government Code is repealed.

25 **Comment.** Sections 73870-73877 are repealed to reflect:

26 (1) Unification of the municipal and superior courts in Sacramento County pursuant to Article
27 VI, Section 5(e), of the California Constitution, effective June 17, 1998. See Section 70211
28 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
29 Proc. § 38 (judicial districts); Section 69593 (number of judges in Sacramento County). Cf.
30 Section 71042.5 (preservation of judicial districts for purposes of publication).

31 (2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in
32 Sacramento County, effective January 1, 1986.

33 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
34 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
35 (salaries), 71640-71645 (employment selection and advancement), 71650-71658 (employment
36 protection system), 71673 (authority of court).

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

38 **Article 14. North Sacramento**

39 73870. This article applies to the municipal court established in a district embracing the City of
40 North Sacramento.

41 73871. There shall be two judges.

1 73872. There shall be one clerk who shall be appointed by the judges of the court and who shall
2 be secretary of the court. The clerk shall receive a monthly salary at a rate specified in Schedule
3 28 of Section 73876.

4 73873. The clerk may appoint:

5 (a) Three deputy clerks, grade III, each of whom shall receive a monthly salary at a rate
6 specified in Schedule 21 of Section 73876.

7 (b) Four deputy clerks, grade II, each of whom shall receive a monthly salary at a rate specified
8 in Schedule 18 of Section 73876.

9 (c) Seven deputy clerks, grade I, each of whom shall receive a monthly salary at a rate specified
10 in Schedule 15 of Section 73876.

11 73874. There shall be one marshal who shall receive a monthly salary at a rate specified in
12 Schedule 28 of Section 73876. The marshal may appoint:

13 (a) Two deputy marshals, who shall be sergeants, each of whom shall receive a monthly salary
14 at a rate specified in Schedule 25 of Section 73876.

15 (b) Three deputy marshals, each of whom shall receive a monthly salary at a rate specified in
16 Schedule 23 of Section 73876.

17 (c) One deputy marshal clerk, grade III, who shall be a stenographer, and who shall receive a
18 monthly salary at a rate specified in Schedule 21 of Section 73876.

19 (d) One deputy marshal clerk, grade I, who shall receive a monthly salary at a rate specified in
20 Schedule 15 of Section 73876.

21 73875. On the effective date of this section, the present employees shall be paid at that step in
22 the five-step range which is the nearest to equaling the present rate of pay of each employee plus
23 a five percent (5%) increase over his present rate and such date shall determine his anniversary
24 date for future salary increases.

25 After determination of these initial rates of pay within the five-step ranges, each employee shall
26 serve one year in a step before qualifying for advancement to the next higher step in the pay
27 range.

28 On and after the effective date of this section, all new employees shall be hired at the first step
29 of the appropriate pay range.

30 For purposes of this article "anniversary date" means the effective date of the 1957 amendment
31 to these sections for those officers and employees whose compensation is increased on said
32 effective date and means the date of first employment or date of last salary increase whichever is
33 later for all other officers and employees.

34 73876. Whenever reference to a numbered salary schedule is made in any section of this article
35 the following schedule of monthly salaries shall apply:

Schedule number	Step 1	Step 2	Step 3	Step 4	Step 5
15	\$341	\$358	\$376	\$395	\$415
16	358	376	395	415	436
17	376	395	415	436	458
18	395	415	436	458	481
19	415	436	458	481	505
20	436	458	481	505	530
21	458	481	505	530	556
22	481	505	530	556	584
23	505	530	556	584	613
24	530	556	584	613	644
25	556	584	613	644	676
26	584	613	644	676	710
27	613	644	676	710	745
28	644	676	710	745	782

1	29	676	710	745	782	821
2	30	710	745	782	821	862
3	31	745	782	821	862	905
4	32	862	905	950		
5	33	905	950	1,000		
6	34	950	1,000	1,050		
7	35	1,000	1,050	1,100		
8	36	1,050	1,100	1,150		
9	37	1,100	1,150	1,200		
10	38	1,150	1,200	1,250		
11	39	1,200	1,250	1,300		
12	40	1,250	1,300	1,350		

13 (a) Unless otherwise specifically provided each person appointed to a position, the
 14 compensation of which is fixed by reference to the salary schedule set forth in this article, shall,
 15 for the first 12 months of service, receive monthly the rate of compensation specified in the first
 16 step of the salary schedule for the position to which he is appointed. Upon the first day of the
 17 month following 12 months' continuous service in a class, the initial rate of compensation of such
 18 person shall be increased to the next higher step of the salary schedule for the position occupied.
 19 On and after the first day of the month following each ensuing 12 months of such service such
 20 compensation shall be increased to the rate specified in the next higher step of the salary schedule
 21 for the position occupied until such compensation equals the sum specified in the highest step of
 22 the schedule pertaining to such position.

23 (b) When any person in the service of the court is appointed or promoted to another office or
 24 position in such service compensated at a higher numbered schedule, he shall receive step 1 of
 25 such schedule if step 1 is at least one step higher than the salary received in the office or position
 26 relinquished; but if not, he shall receive initially that step of the schedule pertaining to such office
 27 or position which will provide a one-step of the schedule pertaining to such position.

28 (c) When any person in the service of the court is demoted to another office or position he shall
 29 receive compensation at the highest step of the salary schedule applicable to the position to which
 30 he is demoted which provides a salary not higher than that previously received by such person,
 31 except that if such demotion is due to disciplinary action, the appointing power may specify any
 32 step rate of such schedule which provides compensation not higher than that last previously
 33 received by such person.

34 73877. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
 35 Chapter 8 of Title 8 and the provisions of this article, and in order to equalize the compensation of
 36 employees of the municipal court with the compensation paid to county employees with
 37 commensurate duties and responsibilities, upon recommendation of the judges of the court and
 38 with the approval of the Board of Supervisors of the County of Sacramento, an officer or an
 39 attache of the court, whether appointed under the provisions of this article or under Article 4 of
 40 Chapter 8 of Title 8, may be paid any compensation, in excess of or less than the maximum to
 41 which such employee would otherwise be entitled under the schedules set forth in this article.
 42 Any such salary adjustment shall not extend longer than ninety (90) days after the adjournment of
 43 the next general session of the Legislature.

44 **Gov't Code §§ 73950-73960 (repealed). North County Municipal Court District**

45 SEC. ____ . Article 16 (commencing with Section 73950) of Chapter 10 of Title 8 of the
 46 Government Code is repealed.

47 **Comment.** Sections 73950-73960 are repealed to reflect:

48 (1) Unification of the municipal and superior courts in San Diego County pursuant to Article
 49 VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Cal. Const. art.
 50 VI, § 23 and Section 70212(b) (preexisting court locations retained as superior court locations),
 51 Section 70211 (former municipal court judgeships continued as superior court judgeships). See

1 also Code Civ. Proc. § 38 (judicial districts); Section 69595 (number of judges in San Diego
2 County). Cf. Section 71042.5 (preservation of judicial districts for purposes of publication).

3 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
4 71601(l)-(m) (“trial court employee” defined), 71615(c)(1) (preservation of employees’ job
5 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623
6 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
7 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
8 (employment selection and advancement), 71650-71658 (employment protection system), 71673
9 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
10 (compensation of official reporter).

11 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
12 management), 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
13 (state funding of trial court operations), 77211 (“900” telephone numbers). See also Sections
14 68073 (responsibility for court operations and facilities), 69952 (payment from Trial Court
15 Operations Fund), 69953 (payment of fees).

16 (4) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in
17 San Diego County, effective January 1, 2000.

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

19 **Article 16. North County**

20 73950. This article applies to the Municipal Court of the North County Judicial District.

21 73951. There are 11 judges.

22 73952. (a) In addition to any other compensation and benefits, each judge of the municipal
23 court shall receive the same life insurance, accidental death and dismemberment insurance,
24 comprehensive annual physical examinations, executive flexible benefits plan (except that if
25 deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental
26 and vision insurance as provided by the County of San Diego for the classification of chief
27 administrative officer. Changes in these benefits shall be effective on the same date as for those
28 for the classification of chief administrative officer.

29 (b) Subject to approval by the board of supervisors, each judge of the municipal court shall
30 receive one or more of the following benefits: the same long-term disability insurance as provided
31 by the County of San Diego for the classification of chief administrative officer or retiree health
32 benefits whereby each judge of the municipal court serving on or after October 1, 1987, who
33 retires from the municipal court on or after January 1, 1989, shall receive the same amount of
34 insurance premium for retiree health benefits under the Public Employees’ Medical and Hospital
35 Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired
36 superior court judges under that act.

37  **Note: Comment Requested**

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

42 73953. There shall be one court administrator who shall serve as clerk of the court, who shall
43 be appointed by, and serve at the pleasure of the majority of the judges of the court. The biweekly
44 salary of the court administrator shall be within the biweekly rate range ES-15 indicated in the
45 Compensation Ordinance of the County of San Diego. The biweekly salary, and any advancement
46 or reduction within the range, shall be determined in accordance with provisions set forth under
47 Article 3.5 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of
48 Section 74345, except that any reference to “executive compensation committee” or “chief

1 administrative officer” in Article 3.5 of the Compensation Ordinance of the County of San Diego
2 shall be interpreted as “a majority of the judges.”

3 73954. The court administrator may appoint:

4 (a) One assistant court administrator at the direction of a majority of the judges of the court
5 who shall serve at the pleasure of the majority of the judges. The biweekly salary of the assistant
6 court administrator shall be within the biweekly rate range ES-10 indicated in the Compensation
7 Ordinance of the County of San Diego. The biweekly salary and any advancement or reduction
8 within the range shall be determined in accordance with the provisions set forth under Article 3.5
9 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section
10 74345, except that any reference to “executive compensation committee” or “chief administrative
11 officer” in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be
12 interpreted as “the court administrator.” A person shall not be appointed to the class of assistant
13 court administrator if all three deputy court administrator positions are filled.

14 (b) Three deputy court administrators, who shall serve at the pleasure of the court
15 administrator. The deputy court administrators shall receive a salary within the biweekly range
16 ES-6 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary,
17 and any advancement or reduction within the range, shall be determined in accordance with
18 Article 3.5 of the Compensation Ordinance of the County of San Diego and subdivision (a) of
19 Section 74345, except that any reference to “executive compensation committee” or “the chief
20 administrative officer” in Article 3.5 of the Compensation Ordinance of the County of San Diego
21 shall mean “the court administrator.” The deputy court administrator positions shall be filled only
22 upon the equivalent number of corresponding vacancies in the positions denoted in subdivision
23 (c), (d), or (l).

24 (c) Two deputy clerk-division managers III who shall receive a biweekly salary at a rate 24.5
25 percent higher than that specified for deputy clerk-division managers II.

26 (d) Four deputy clerk-division managers I or II, as the case may be. A division manager I shall
27 receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V in the
28 San Diego Judicial District. A division manager II shall receive a biweekly salary at a rate 15.5
29 percent higher than that specified for deputy clerk V of the San Diego Judicial District.

30 (e) Ten deputy clerks V, who shall receive a salary at a rate equal to that specified for deputy
31 clerk V in the San Diego Municipal Court. The duties of the class of deputy clerk V shall include
32 supervisory responsibilities.

33 (f) Twenty-five deputy clerks IV, or senior deputy clerks, as the case may be. Each deputy clerk
34 IV shall receive a biweekly salary at a rate equal to the greater of that specified for superior court
35 clerk in the superior court service of the County of San Diego or 19.95 percent higher than that
36 specified for deputy clerk III. The class of senior deputy clerk shall not exceed three positions.
37 Each of the senior deputy clerks shall receive a biweekly salary at a rate 5 percent higher than that
38 specified for a deputy clerk IV. The duties of the class of senior deputy clerk shall be those of a
39 courtroom clerk and shall include supervisory responsibilities. One deputy clerk IV who is
40 assigned to the presiding judge in the master calendar department may receive a biweekly salary
41 at a rate of 5 percent higher than that specified for the deputy clerk IV. This increased biweekly
42 rate shall apply only during the period of this assignment and shall not apply to paid time off or to
43 terminal payoff.

44 (g) One hundred deputy clerks III, II, or I, or deputy clerk-intermediate clerk typists as the case
45 may be. Each of the deputy clerks III shall receive a biweekly salary at a rate equal to that
46 specified for legal procedures clerk III in the classified service of the County of San Diego. Each
47 deputy clerk II shall receive a biweekly salary at a rate equal to that specified for legal procedures
48 clerk II in the classified service of the County of San Diego. Each of the deputy clerks I shall
49 receive a biweekly salary at a rate equal to that specified for legal procedures clerk I in the
50 classified service of the County of San Diego. At the discretion of the court administrator,
51 appointments to the deputy clerk I or II classes may be at any step within the salary range. Up to
52 four of these positions may be filled at the level of deputy clerk-intermediate clerk typist. A

1 deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that
2 specified for intermediate clerk typist in the classified service of the County of San Diego. In the
3 absence of a deputy clerk IV, the court administrator may assign a maximum of eight deputy
4 clerks III to perform courtroom clerk duties, supervisory duties, or training duties for 40 or more
5 hours during a pay period. A deputy clerk III assigned to perform these duties is eligible to
6 receive a biweekly salary at a rate 10 percent higher than that specified for a deputy clerk III. This
7 increased biweekly salary shall apply only during pay periods in which 40 or more hours are
8 spent performing the supervisory, training, or courtroom clerk duties specified above and shall
9 not apply to paid leave or to terminal payoff.

10 (h) One deputy clerk-municipal court secretary. A deputy clerk-municipal court secretary shall
11 receive a biweekly salary at a rate equal to that specified for confidential legal secretary III in the
12 classified service of the County of San Diego. Appointments to the class of deputy-clerk
13 municipal court secretary may be at any step within the salary range at the discretion of the court
14 administrator.

15 (i) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-
16 administrative secretary III shall receive a biweekly salary at a rate equal to that specified for
17 administrative secretary III in the classified service of the County of San Diego. A deputy clerk-
18 administrative secretary II shall receive a biweekly salary at a rate equal to that specified for
19 administrative secretary II in the classified service of the County of San Diego. A deputy clerk-
20 administrative secretary I shall receive a biweekly salary at a rate equal to that specified for
21 administrative secretary I in the classified service of the County of San Diego.

22 (j) Five deputy clerk-court interpreters who shall receive a biweekly salary at a rate equal to
23 that specified for superior court clerk interpreter in the superior court service of the County of San
24 Diego.

25 (k) One deputy clerk-interpreter coordinator, or deputy clerk-interpreter supervisor, as the case
26 may be. A deputy clerk-interpreter coordinator shall receive a biweekly salary at a rate equal to
27 that specified for deputy clerk V. A deputy clerk-interpreter supervisor shall receive a biweekly
28 salary at a rate equal to that specified for deputy clerk IV. Appointments to deputy clerk
29 interpreter-coordinator or deputy clerk-interpreter supervisor may be at any step within the salary
30 range at the discretion of the court administrator.

31 (l) One deputy clerk-administrative assistant I, II, or III, or deputy clerk-administrative services
32 manager I or II, as the case may be. The deputy clerk-administrative assistant I, II, or III shall
33 receive a biweekly salary at a rate equal to that specified for administrative assistant I, II, or III,
34 respectively, in the classified service of the County of San Diego. The deputy clerk-administrative
35 services manager I shall receive a biweekly salary at a rate equal to that specified for
36 administrative services manager I in the classified service of the County of San Diego. The
37 deputy clerk-administrative services manager II shall receive a biweekly salary at a rate equal to
38 that specified for administrative services manager II in the classified service of the County of San
39 Diego.

40 (m) Five confidential deputy administrative clerks III, II, or I or deputy administrative clerks
41 III, II, or I, as the case may be. A confidential deputy administrative clerk III shall receive a
42 biweekly salary at a rate equal to that specified for a deputy clerk IV. A confidential deputy
43 administrative clerk II shall receive a biweekly salary at a rate equal to that specified for a deputy
44 clerk III. A confidential deputy administrative clerk I shall receive a biweekly salary at a rate
45 equal to that specified for a deputy clerk II. Each deputy administrative clerk III shall receive a
46 biweekly salary at a rate equal to that specified for a deputy clerk IV. Each deputy administrative
47 clerk II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. Each
48 deputy administrative clerk I shall receive a biweekly salary at a rate equal to that specified for
49 deputy clerk II.

50 (n) One deputy clerk associate, senior, or deputy clerk-accounting manager, as the case may be.
51 A deputy clerk-accounting manager shall receive a biweekly salary equal to that of a deputy
52 clerk-division manager III. A deputy clerk-senior accountant shall receive a biweekly salary at a
53 rate equal to that specified for senior accountant in the classified service of the County of San

1 Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that
2 specified for associate accountant in the classified service in the County of San Diego. A deputy
3 clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for
4 assistant accountant in the classified service of the County of San Diego.

5 (o) One deputy clerk-assistant, or junior accountant, as the case may be. The deputy clerk-
6 assistant accountant shall receive a biweekly salary at a rate equal to that specified for an assistant
7 accountant in the classified service of the County of San Diego. The deputy clerk-junior
8 accountant shall receive a biweekly salary at a rate equal to that specified for a junior accountant
9 in the classified service of the County of San Diego.

10 (p) Two deputy clerk-research attorney I, deputy clerk-research attorney II, or deputy clerk-law
11 clerk, as the case may be. Persons appointed to either of these positions on or after January 1,
12 1991, shall serve at the pleasure of the court administrator. A deputy clerk-research attorney I
13 shall receive a biweekly salary at a rate equal to that specified for deputy county counsel I in the
14 classified service of the County of San Diego. A deputy clerk-research attorney II shall receive a
15 biweekly salary at a rate equal to that specified for deputy county counsel II in the classified
16 service of the County of San Diego. A deputy clerk-law clerk shall receive a biweekly salary at a
17 rate equal to that specified for law clerk in the classified service of the County of San Diego.

18 (q) One deputy clerk-staff development specialist or deputy clerk-staff development
19 coordinator as the case may be. A deputy clerk-staff development specialist shall receive a
20 biweekly salary at a rate equal to that specified for staff development specialist in the classified
21 service of the County of San Diego. A deputy clerk-staff development coordinator shall receive a
22 biweekly salary at a rate 5 percent higher than that specified for staff development specialist in
23 the classified service of the County of San Diego.

24 (r) Three deputy clerk-senior systems analyst, associate systems analyst, assistant systems
25 analyst, or systems analyst trainee as the case may be. A deputy clerk-senior systems analyst shall
26 receive a biweekly salary at a rate equal to that specified for senior systems analyst in the
27 classified service of the County of San Diego. A deputy clerk-associate systems analyst shall
28 receive a biweekly salary at a rate equal to that specified for associate systems analyst in the
29 classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall
30 receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the
31 classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall
32 receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the
33 classified service of the County of San Diego.

34 (s) Two deputy clerk-systems support analyst II or I as the case may be. A deputy clerk-systems
35 support analyst II shall receive a biweekly salary at a rate equal to that specified for systems
36 support analyst II in the classified service of the County of San Diego. A deputy clerk-systems
37 support analyst I shall receive a biweekly salary at a rate equal to that specified for systems
38 support analyst I in the classified service of the County of San Diego.

39 (t) Seven deputy clerk-court referral coordinators, deputy clerk referral officers II or I, as the
40 case may be. Notwithstanding subdivision (b) of Section 73957, persons appointed to these
41 positions shall serve at the pleasure of the court administrator. A deputy clerk-court referral
42 coordinator shall receive a biweekly salary at a rate 7.25 percent higher to that specified for the
43 class of deputy clerk-court referral officer II. The deputy clerk-court referral officer II shall
44 receive a biweekly salary at a rate equal to that specified for the class of deputy probation officer
45 in the classified service of the County of San Diego. A deputy clerk-court referral officer I shall
46 receive a biweekly salary at a rate of 9 percent below that specified for a deputy clerk-court
47 referral officer II. Two of the above positions shall be filled only upon the equivalent number of
48 corresponding vacancies in the positions denoted in subdivisions (d) and (e) of Section 74359.1.
49 Appointments to deputy clerk-court referral officer I and deputy clerk-court referral officer II may
50 be at any step within the salary range.

51 (u) Two deputy clerk-municipal court computer specialist I, II, or III, as the case may be. A
52 deputy clerk-municipal court computer specialist I, II, or III shall receive a biweekly salary at a
53 rate equal to that specified for departmental computer specialist I, II, or III, respectively, in the
54 classified service of the County of San Diego.

1 (v) One deputy clerk-data entry supervisor. A deputy clerk-data entry supervisor shall receive a
2 biweekly salary at a rate equal to that specified for data entry supervisor in the classified service
3 of the County of San Diego.

4 (w) Nine deputy clerk-data entry operators, or deputy clerk-senior data entry operators, as the
5 case may be. A deputy clerk-data entry operator shall receive a biweekly salary at the rate equal
6 to that specified for data entry operator in the classified service of the County of San Diego.

7 A deputy clerk-senior data entry operator shall receive a biweekly salary at a rate equal to that
8 specified for senior data entry operator in the classified service of the County of San Diego. No
9 more than five of these positions may be filled at the deputy clerk-senior data entry operator level.

10 (x) Five deputy clerk-collection officers I, II, or III, as the case may be. Each deputy clerk-
11 collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and
12 recovery officer I in the classified service of the County of San Diego. Each deputy clerk-
13 collection officers II shall receive a biweekly salary at a rate equal to that specified for revenue
14 and recovery officer II in the classified service of the County of San Diego. Each deputy clerk-
15 collection officer III shall receive a biweekly salary at a rate equal to that specified for revenue
16 and recovery officer III in the classified service of the County of San Diego. Persons appointed to
17 this position on or after January 1, 1999, shall serve at the pleasure of the court administrator.

18 (y) One deputy clerk-small claims advisor or deputy clerk-small claims counsel, as the case
19 may be. The deputy clerk-small claims advisor shall receive a biweekly salary at a rate equal to
20 that specified for small claims advisor in the classified service of the County of San Diego. The
21 deputy clerk-small claims counsel shall receive a biweekly salary at a rate equal to that specified
22 for small claims counsel in the classified service of the County of San Diego.

23 (z) Notwithstanding subdivision (b) of Section 73957, up to 10 extra help positions (hourly
24 rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary
25 level deemed appropriate. These appointments shall be temporary for a period not to exceed six
26 months, plus one additional period of up to six months, at the court administrator's option.
27 Notwithstanding any other provisions of this section, the court administrator may fill these
28 positions with persons employed for a period not to exceed 120 working days or 960 hours,
29 whichever is greater, during a fiscal year on a part-time basis.

30 (aa) Notwithstanding subdivision (b) of Section 73957, up to 10 deputy clerk-court workers
31 may be appointed by and serve at the pleasure of the court administrator. The class of deputy
32 clerk-court worker provides for temporary appointments to positions in classes not listed in
33 Sections 73950 to 73960, inclusive, pending a review and evaluation of the duties of these
34 positions by the court administrator, and the establishment of specific classes as provided in this
35 section. Prior to the establishment of these classes, the county personnel director shall conduct a
36 classification review and make recommendations to the court administrator as to the
37 establishment of these classes. The rate of pay for each individual employed in this class of
38 deputy clerk-court worker shall be within the range proposed for the class pending establishment
39 at a rate determined by the court administrator following consultation with the county personnel
40 director. The rules regarding appointment and compensation as they relate to appointments to
41 deputy clerk-court worker shall be the same as those applicable to the class that is pending
42 establishment. Appointments shall be temporary and shall not exceed 18 months in duration.
43 Employee benefits, if applicable, shall be equal to those granted to the class in the service of the
44 County of San Diego to which the pending class will be tied for benefit purposes. When such an
45 appointment is made, the class, compensation (including salary and fringe benefits), and number
46 of these positions may be established by joint action of a majority of the judges and the board of
47 supervisors in accordance with established county personnel and budgetary procedures. In the
48 event that the class pending establishment is tied to a class in the unclassified service of the
49 County of San Diego, the joint action may designate that persons serving in the class pending
50 establishment shall serve at the pleasure of the court administrator. The court administrator may
51 then appoint additional attaches to such classes of positions in the same manner as those for
52 which express provision is made, and they shall receive the compensation so provided. Persons
53 occupying deputy clerk-court worker positions shall have their appointments expire not later than
54 30 calendar days following promulgation of a list of certified eligibles for the new class.

1 Appointments to the new class shall continue at the stated compensation or as thereafter modified
2 by joint action of a majority of the judges and the board of supervisors.

3 (ab) Notwithstanding subdivision (b) of Section 73957, the court administrator may appoint up
4 to 20 temporary extra help deputy clerk-municipal court trainees I, II, III, or V who shall be paid
5 at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-
6 municipal court trainee I shall receive an hourly salary at a rate equal to that specified for student
7 worker I in the unclassified service of the County of San Diego. A deputy clerk-municipal court
8 trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the
9 unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall
10 receive an hourly salary at a rate equal to that specified for student worker III in the unclassified
11 service of the County of San Diego. A deputy clerk-municipal court trainee V shall receive an
12 hourly salary at a rate equal to that specified for student worker V in the unclassified service of
13 the County of San Diego. Persons who graduate and receive a degree in the field which qualified
14 them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and
15 be employed on a full-time basis for up to six months from the first day of the month following
16 their date of graduation.

17 (ac) Except as provided herein, the provisions of Section 74345 shall apply to the attaches
18 appointed pursuant to this section and Section 73953.

19 (ad) Notwithstanding any other provision of law, the number of positions in classifications and
20 compensation of positions authorized under subdivisions (b) to (y), inclusive, (aa), (ab), and (ac)
21 and under Sections 73953, 73958, 73959, 73960, and 73960.1 may be adjusted as necessary by
22 action of the majority of the judges. The rules regarding appointment of persons to those positions
23 shall be the same as those applicable to the class of those positions. The action of the majority of
24 the judges adjusting those positions shall designate the class title or titles, number of positions,
25 and compensation for each respective class. Any adjustment made pursuant to this subdivision
26 shall be effective upon action of a majority of the judges and shall remain in effect until ratified
27 by the Legislature.

28 73954.5. The North County Municipal Court or any agency supporting this court may establish
29 a “900” telephone number or numbers for computerized remote access by individuals or
30 organizations to court information. The proceeds from those “900” telephone numbers shall be
31 continuously and solely appropriated to the use of the court or court support agency for the
32 purposes of staff and information data processing services.

33 73955. In the event that there shall be an increase in the number of judges, the clerk-
34 administrative officer may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II,
35 and one deputy clerk I for each respective additional judge. Such additional deputy clerks shall
36 receive a biweekly salary at a rate specified in Section 73954.

37 73956. The headquarters of the municipal court and the clerk and marshal of the North County
38 Judicial District shall be located within the City of Vista or such other place as shall be designated
39 by the Board of Supervisors of the County of San Diego. The municipal court shall hold sessions
40 at its headquarters and at a department at a location within the City of Escondido and at such
41 other location or locations within the North County Judicial District as shall be designated by the
42 board of supervisors. The clerk and marshal of the North County Judicial District shall maintain
43 branch offices at a location within the City of Escondido as shall be designated by the board of
44 supervisors. The Escondido branch office shall maintain the same office hours as the headquarters
45 offices and shall provide facilities for complete municipal court services, including the filing of
46 original complaints and other documents and the posting of bail, and the board of supervisors
47 shall provide facilities within the City of Escondido for the complete transaction of business of
48 the court including the holding of jury trials.

49  **Note: Comment Requested**

50 Issues involving sessions and facilities are still unsettled, but Government Code Section 73956
51 is proposed for repeal because it falls within a municipal court article. The Commission solicits

1 comments on whether the section should be preserved pending (1) any implementation of
2 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
3 among the interested parties.

4 73957. (a) In addition to the salary provided in this article, the classes of attaches of the
5 municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of
6 absence, and all other fringe benefits as are now or may hereafter be provided for the employees
7 of the County of San Diego in the comparable classes specified in Section 74345. The court
8 administrator shall receive the same number of holidays, leaves of absence, and all other fringe
9 benefits as are now or may hereafter be received by the classification of chief probation officer of
10 the County of San Diego. The assistant court administrator and deputy court administrators shall
11 receive the same number of holidays, leaves of absence, and other fringe benefits as are now or
12 hereafter received by the classification of assistant chief probation officer of the County of San
13 Diego. All persons employed as a deputy director shall receive the same number of holidays,
14 leaves of absence, and other fringe benefits as are now or hereafter received by the classification
15 of probation director of the County of San Diego. All persons employed as deputy clerk-division
16 managers III, II, and I, shall receive the same number of holidays, leaves of absence, and other
17 fringe benefits as are now or hereafter received by the classification of administrative assistant III
18 of the County of San Diego. However, all officers, employees, and attaches of the municipal court
19 shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County
20 of San Diego. The purpose and intent of this subdivision is to provide all court attaches, except
21 commissioners, court reporters, and judicial secretaries, with any and all fringe benefits but not
22 more than those which are available to comparable classes in the classified service of the County
23 of San Diego as specified in this section or Section 74345. Whenever action or approval by the
24 chief administrative officer or the county personnel director is required for the county benefit, it
25 shall be taken or given, as to comparable municipal court officers and attaches other than those
26 serving at the pleasure of the court, by the court administrator with the approval of the majority of
27 the judges of the municipal court or their designees, or as to the court administrator and others
28 serving at the pleasure of the court, by a majority of the judges or their designees. Changes in
29 fringe benefits shall be effective on the same date as those for employees of the County of San
30 Diego in the specified comparable classes. The majority of all the municipal court judges may
31 adopt rules for the conduct of and personnel privileges to be afforded the attaches of the court,
32 excluding fringe benefits.

33 (b) All attaches, other than the court administrator, the assistant court administrator,
34 commissioners, court reporters, judicial secretaries, and other persons serving at the pleasure of
35 their appointing authorities, may be appointed, promoted, removed, suspended, laid off, or
36 discharged for cause by the appointing authority subject to such appointment, promotion,
37 removal, suspension, layoff, or discharge to civil service provisions applicable to the classified
38 personnel of the County of San Diego. Whenever such attaches are appointed or promoted to a
39 position, they shall serve a probationary period of at least six months and not to exceed 18
40 months, as specified in the job announcement for the class prior to the appointment.

41 73957.5. Any positions authorized by Section 73954 may be filled by independent contractors
42 on a contractual basis at the discretion of the court administrator. The provisions of Section 73957
43 shall not apply to any of the positions authorized by Section 73954 that are filled by independent
44 contractors on a contractual basis.

45 73958. Official reporters in the Municipal Court of the North County Judicial District
46 appointed pursuant to Section 72194 shall be attaches of such court, and in lieu of any other
47 compensation provided by law for their services in reporting testimony and proceedings in such
48 court shall be paid a biweekly salary equal to that specified for official court reporters for the
49 Superior Court of the County of San Diego. These salaries shall be a charge against the general
50 fund of the county.

51 Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as
52 the business of the court may require, who shall be known as official reporters pro tempore, and

1 who shall serve without salary but shall receive the fees provided by Sections 69947 to 69953,
2 inclusive, except that in lieu of the per diem fees provided in the sections for reporting testimony
3 and proceedings, the official reporters pro tempore shall in all cases be compensated at a rate
4 equal to that paid to official reporters pro tempore for the Superior Court of the County of San
5 Diego, which shall be a charge against the general fund of the County of San Diego.

6 Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to
7 official reporters and official reporters pro tempore as otherwise provided by law. In all cases
8 where by law the court may direct the payment of transcription fees out of the county treasury,
9 such fees shall, upon order of the court, be paid from the general fund, including fees for
10 transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to
11 69953, inclusive.

12 Official reporters of such court shall be members of any retirement system maintained by the
13 county. For the purpose of such retirement system the salary provided in this article for such
14 reporters shall be deemed their entire compensation.

15 Notwithstanding the provisions of Section 73957, official reporters serve at the pleasure of the
16 judges and shall receive and be entitled to the same number of holidays, leaves of absence, and all
17 other fringe benefits as are now or may hereafter be provided for the official reporters of the
18 Superior Court of the County of San Diego.

19 73959. By order entered in the minutes of the court, a majority of judges may appoint three
20 judicial secretaries or supervising judicial secretaries, as the case may be, who shall serve at the
21 pleasure of the judges. The classification of supervising judicial secretary shall be limited to one
22 position and this one position only may be authorized by joint action of a majority of the judges
23 and the board of supervisors. The supervising judicial secretary shall receive a biweekly salary at
24 a rate equal to that specified for the classification of confidential legal secretary III in the
25 classified service of the County of San Diego, commencing at step 4 at initial employment and
26 advancing to step 5 at the end of one year of continuous service. The position of supervising
27 judicial secretary shall be deemed comparable to the position of confidential legal secretary III in
28 the classified service of the County of San Diego commencing at step 4 at initial employment and
29 advancing to step 5 at the end of one year of continuous service. The position of supervising
30 judicial secretary shall be deemed comparable to the position of confidential legal secretary III in
31 the classified service of San Diego County. Whenever the salary of the class of confidential legal
32 secretary III is adjusted by the Board of Supervisors of San Diego County, the salary of the class
33 of supervising judicial secretary shall be adjusted a commensurate percentage in the salary
34 schedule on the same date. Each judicial secretary shall receive a biweekly salary at a rate equal
35 to that specified for administrative secretary IV in the classified service of the County of San
36 Diego. Appointments in the class of judicial secretary may be at any step within the salary range
37 at the discretion of the judges. The position of judicial secretary shall be deemed comparable to
38 the position of administrative secretary IV in the classified service of San Diego County.
39 Whenever the salary of the class of administrative secretary IV is adjusted by the Board of
40 Supervisors of San Diego County, the salary of the class of judicial secretaries shall be adjusted a
41 commensurate percentage in the salary schedule on the same date. Notwithstanding the provisions
42 of subdivision (a) of Section 73957, the classifications of supervising judicial secretary and
43 judicial secretary respectively, shall receive and be entitled to the same number of holidays,
44 leaves of absence, retirement, and all other fringe benefits as are now or may hereafter be
45 provided for the classifications of confidential legal secretary III and administrative secretary IV,
46 respectively, in the classified service of the County of San Diego. However, the classifications of
47 supervising judicial secretary and judicial secretary shall be entitled to: (a) earn sick leave credit
48 at the rate of 5.385 percent of each hour of paid service during the pay period; (b) earn vacation
49 credit at the rate of 5.769 percent of each hour of paid service during the pay period and
50 accumulate vacation credit not to exceed 25 working days where the employee has less than 10
51 years of continuous service; and (c) earn vacation credit at the rate of 8.075 percent of each hour
52 of paid service during the pay period and accumulate vacation credit not to exceed 35 working

1 days where the employee has 10 years or more of continuous service. Notwithstanding the sick
2 leave and vacation credits indicated above, persons appointed to the positions of judicial secretary
3 and supervising judicial secretary on or after January 1, 1993, shall be entitled to earn and accrue
4 the same sick leave credit and vacation credit as an administrative secretary IV and confidential
5 legal secretary III, respectively, in the classified service of the County of San Diego.

6 73960. (a) By order entered in the minutes of the court, a majority of judges may appoint three
7 commissioners. However, if the board of supervisors finds that there are sufficient funds for up to
8 two additional commissioners and adopts a resolution or resolutions to that effect, a majority of
9 judges may appoint up to two additional commissioners. A commissioner shall serve at the
10 pleasure of the judges and shall receive a biweekly salary equal to 80 percent of the salary of a
11 judge of a municipal court.

12 (b) A commissioner shall receive and be entitled to the same number of holidays, leaves of
13 absence, and all other fringe benefits as are now or may hereafter be provided for a chief deputy
14 county counsel in the classified service of the County of San Diego. However, a commissioner
15 shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service
16 during the pay period, and (2) earn vacation credit at the rate of 8.075 percent of each hour of
17 paid service during the pay period until a commissioner has 15 years of county/court service. At
18 that time, the commissioner will earn vacation at the same rate as chief deputy counsel with 15
19 years of county service.

20 (c) With the approval of a majority of judges of the court and the board of supervisors, each
21 commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar
22 of California membership fee.

23 **Gov't Code §§ 74010-74014 (repealed). Marshal of Orange County**

24 SEC. ____ . Article 17.1 (commencing with Section 74010) of Chapter 10 of Title 8 of
25 the Government Code is repealed.

26 **Comment.** Sections 74010-74014 are repealed to reflect elimination of the marshal's office as
27 a result of consolidation with the sheriff's office in Orange County, effective July 1, 2000. See
28 Section 69915 (Article 17.1 inoperative upon effective date of consolidation).

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

30 **Article 17.1. Marshal of Orange County**

31 74010. (a) There shall be one marshal, designated as the Marshal of Orange County, for the
32 superior and municipal courts established in Orange County. The marshal shall serve at the
33 pleasure of a majority of the judges of the superior and municipal courts in the county.

34 The salary range of the marshal shall be 10 percent higher than the salary range of the assistant
35 marshal, and the marshal's salary shall be determined by the Joint Marshal Personnel Committee
36 within that range.

37 (b) The marshal shall possess the rights and powers and perform the duties imposed upon
38 marshals of courts generally and, when so authorized by the board of supervisors pursuant to
39 Section 74007, within Orange County, shall exercise all powers and perform all duties imposed
40 upon sheriffs with respect to proceedings in the superior court.

41 (c) Whenever a vacancy occurs in the position of Marshal of Orange County, the judges of the
42 superior court and all the municipal courts in Orange County by a majority vote of their aggregate
43 number, shall select and appoint the marshal under such organization, rules, and procedures as
44 they adopt or ratify therefor. Discharge of the marshal shall be by majority vote of the judges of
45 the municipal courts and the superior court.

46 (d) There shall be one assistant marshal, appointed by and serving at the pleasure of the
47 marshal. This appointment shall require the concurrence of a majority of the members of the Joint

1 Marshal Personnel Committee. Discharge of the assistant marshal shall be at the direction of the
2 marshal and shall require the concurrence of a majority of the members of the Joint Marshal
3 Personnel Committee. Upon discharge from the position of assistant marshal the employee has
4 the right to return to a non-executive management position in a lower class (or its equivalent) in
5 which the employee passed probation prior to becoming the assistant marshal. An individual who
6 enters the position of assistant marshal from outside the Marshal's Department of Orange County
7 shall have no right to a lower level position. The right to return to a lower class position shall not
8 be applicable if the discharge is for a reason or reasons which would otherwise preclude an
9 individual from being a peace officer.

10 (e) The salary range of the assistant marshal shall be 20 percent higher than the range of captain
11 in the marshal's department. The salary of the assistant marshal may be adjusted annually, within
12 its range, by the marshal with concurrence of the Joint Marshal Personnel Committee.

13 (f) The establishment of any range higher than provided above for the marshal and assistant
14 marshal shall be effective only until January 1 of the second year following the year in which the
15 establishment or change is made.

16 (g) A branch office of the Marshal of Orange County shall be maintained in each superior and
17 municipal court district facility, except where those facilities are shared, in which case one office
18 may serve the needs of both courts.

19 74011. (a) The Legislature finds and declares that the matter of appointing, promoting,
20 demoting, and dismissing persons in positions in the marshal's department and all other aspects of
21 the personnel management of the Marshal of Orange County is one of local concern. It further
22 finds and declares that, wherever possible, personnel management may grant to persons in
23 positions with the marshal's department similar treatment with persons in positions with the
24 County of Orange who are performing similar duties and who possess similar qualifications.

25 (b) To achieve this legislative intent, the courts of Orange County shall create a personnel
26 committee consisting of five judges, who will comprise the Joint Marshal Personnel Committee.
27 There shall be two judges representing the municipal courts selected by a majority vote of the
28 judges on the Municipal Court Judges Personnel Committee. There shall be two judges
29 representing the superior court selected by a majority vote of the members of the Superior Court
30 Marshal's Personnel Committee. The fifth member of the committee shall be selected by a
31 majority vote of the aforementioned four members and may be selected from judges of either the
32 municipal or superior court. If the four members cannot agree upon a fifth member, then the fifth
33 member shall be selected by the judges of the superior court and the judges of the municipal
34 courts in Orange County by a majority vote of their aggregate number. The five members shall,
35 by majority vote, select one member to act as the committee's chair. The selection of the
36 members of the Joint Marshal Personnel Committee shall occur no later than the 31st of January
37 of each year with the term of office to be one year. Vacancies that occur within the term of
38 appointment shall be filled by the original appointing body.

39 (c) The Joint Marshal Personnel Committee may adopt rules and regulations for a personnel
40 system for employees of the marshal's department. The Joint Marshal Personnel Committee shall
41 hear all grievances referred to step 3 of a grievable action. The Joint Marshal Personnel
42 Committee may adopt all or any part of the personnel and salary resolution or appropriate
43 memoranda of understanding of the County of Orange. The Joint Marshal Personnel Committee
44 may, by majority vote, make policies and adopt procedures pertaining to the operations of the
45 marshal's department. Except as provided in this section, provisions relating to compensation or
46 benefits shall require the concurrence of the board of supervisors.

47 (d) The first one year served by a deputy marshal, court services officer, administrative
48 manager, lieutenant or captain appointee, and the first six months served by any other appointee,
49 shall be considered a probationary period, except for appointment to classes of positions serving
50 at the pleasure of the appointing authority. The marshal shall have the power to dismiss without
51 cause, in the case of a new employee, or to demote without cause, in the case of a promoted
52 employee, during that probationary period.

1 (e) With the approval of the board of supervisors, the personnel system adopted by the Joint
2 Marshal Personnel Committee may be administered by the County of Orange through its
3 personnel department.

4 74012. The marshal may make the following appointments at the designated salary ranges:

5 **Note.** To conserve paper, the appointment schedule has not been reproduced.

6 74013. (a) It is the intent of the county to maintain parity in salary and benefits between those
7 employees in the marshal's department and employees in the same or comparable classes for
8 other departments. When the salary of a class in the service of Orange County is adjusted by the
9 board of supervisors, the salary of the equivalent class in the marshal's department shall be
10 adjusted in the same amount and at the same time. Salaries for classes not considered equivalent
11 shall be adjusted based on internal relationships and other criteria customarily used in setting
12 salaries in other county classes. In the event that a system of merit pay increases is established by
13 the County of Orange for employees, merit increases, if justified, may be authorized by the Joint
14 Marshal Personnel Committee for employees with similar qualifications and experience in
15 equivalent classifications. Designation of certain classes as equivalent positions shall be as
16 follows, except that their designation as equivalent positions may be changed or deleted at any
17 time following a classification study and an agreement between the county and the Joint Marshal
18 Personnel Committee:

19 **Note.** To conserve paper, the equivalent classification table has not been reproduced.

20 Positions in these classes within the marshal's department shall not be paid less salary than
21 positions in equivalent county classifications.

22 (b) If an increase in the business of the court or any other business necessity requires a greater
23 number of attaches or employees for the prompt and faithful discharge of the business of the court
24 than the number expressly provided in this article, or requires the performance of duties of
25 positions in a class not expressly provided in this article, the Joint Marshal Personnel Committee,
26 with the approval of the board of supervisors, may establish additional titles, pay rates, and
27 positions as they deem necessary for the performance of the duties and exercise of the powers
28 conferred by law upon the court. Rates of compensation of these officers, attaches, and employees
29 may be set by joint action and approval of the board of supervisors and the Joint Marshal
30 Personnel Committee. The establishment of additional titles, positions, and pay rates and changes
31 in compensation pursuant to this subdivision shall be effective only until January 1 of the second
32 year following the year in which the establishment or change is made. This section shall not affect
33 the appointment of additional deputy marshals pursuant to Section 72150.

34 74014. The assignment of persons holding the positions of deputy marshal I or court services
35 officer to individual courtrooms shall be made by the marshal with the concurrence of the
36 individual judge in whose courtrooms the assignment is to be made and shall be consistent with
37 local rules and procedures. Each deputy or officer shall serve in that assignment at the pleasure
38 and under the direction of that judge.

39 **Gov't Code §§ 74020-74030 (repealed). Placer County Municipal Court**

40 SEC. ____ . Article 18 (commencing with Section 74020) of Chapter 10 of Title 8 of the
41 Government Code is repealed.

42 **Comment.** Sections 74020-74030 are repealed to reflect:

43 (1) Unification of the municipal and superior courts in Placer County pursuant to Article VI,
44 Section 5(e), of the California Constitution, effective June 30, 1998. See Cal. Const. art. VI, § 23
45 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
46 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
47 Const. art. VI, § 16(b) (election of superior court judges); Code Civ. Proc. §§ 198.5 (superior
48 court venires), 199.2 (Placer County venires); Sections 68073 (responsibility for court operations

1 and facilities), 69591.3 (number of judges in Placer County). Cf. former Section 71264
2 (municipal court served by marshal).

3 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
4 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
5 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
6 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
7 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
8 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
9 reporters), 69947 (compensation of official reporter).

10 (3) Enactment of the Trial Court Funding Act. See Section 77001 (local trial court
11 management).

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

13 **Article 18. Placer County**

14 74020. This article shall be applicable to the municipal court hereby established for the
15 geographical area encompassing the entire County of Placer, which shall hereby be known as the
16 Placer County Municipal Court.

17 74020.5. (a) For the purposes of the qualification and election of a judge for the Tahoe
18 Division, the Tahoe Division shall constitute a district for purposes of subdivision (b) of Section
19 16 of Article VI of the California Constitution.

20 (b) The territory comprising the former Tahoe Judicial District shall constitute the Tahoe
21 Division of the Placer County Municipal Court.

22 (c) Trial jurors for each session of the Tahoe Division shall be selected from persons residing
23 within the division. Trial jurors for each session of all other courts of the Placer County
24 Municipal Court shall be selected from persons residing within the county, excluding those
25 persons residing within the division.

26 74021. There shall be four judges and one commissioner. The salary of the commissioner shall
27 be 75 percent of that of a municipal court judge. The judge of the Tahoe Judicial District shall
28 succeed to office as municipal court judge for the Tahoe Division for the remainder of the term to
29 which he or she was elected or appointed. The court shall provide circuit judge services to all
30 branch courts established by the board of supervisors. The frequency and extent of such services
31 shall be dependent upon the needs of the community and shall lie within the sound discretion of
32 the court.

33 74022. The judges shall appoint, in accordance with Placer County civil service rules, one
34 clerk/administrator who shall be secretary of the court.

35 74023. The municipal court administrator shall appoint, in accordance with Placer County civil
36 service rules, all of the following:

37 (a) Two supervising municipal court clerks II for the court, who shall perform such duties as
38 may be required by the court or the judges.

39 (b) Six deputy clerks, who shall be senior municipal court clerks.

40 (c) Twenty-one full-time and two half-time deputy clerks, who shall be municipal court clerks I
41 or II.

42 (d) One deputy clerk, who shall be a master calendar clerk.

43 (e) One supervising municipal court clerk I.

44 (f) One administrative secretary.

45 (g) Three court reporters.

46 74024. The Placer County sheriff shall be ex officio marshal.

1 74025. The designated deputies of the sheriff of Placer County shall act as ex officio deputy
2 marshals of the Placer County Municipal Court.

3 74026. Upon recommendation of the judges of the court and with approval of the board of
4 supervisors, the court may appoint such additional employees as it deems necessary for the
5 performance of the duties and exercise of the powers conferred by law upon the court and its
6 members. Any appointment made pursuant to this section shall be on an interim basis and shall
7 expire January 1st of the second calendar year following the year in which such appointment is
8 made unless ratified by the Legislature. This section shall not affect the application of Section
9 72150.

10 74030. (a) The positions enumerated in Sections 74022 to 74026, inclusive, shall receive a
11 biweekly salary at step A of the range set forth below, as provided in Chapter 14 of the Placer
12 County Code.

13 Step increases may be awarded at 5 percent at the end of the first six months and thereafter 5
14 percent annually for the next 48 months to a maximum of 20 percent over the amount specified as
15 step A:

Position	Salary Range
Municipal court administrator	49.0
Supervising municipal court clerk I	37.5
Supervising municipal court clerk II	39.5
Deputy clerk, municipal court clerk I	31.5
Deputy clerk, municipal court clerk II	33.5
Deputy clerk, master calendar clerk	36.5
Senior municipal court clerk	35.5
Administrative secretary	36.5
Court reporter	44.5

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27 (b) If the board of supervisors adopts a revised salary schedule for county employees, the new
28 schedule shall apply equally to employees of municipal courts and conversion of the new
29 schedule shall be made for such employees in the same manner on the same date as for such other
30 county employees. Also, employees and officers of the municipal court shall be entitled to all
31 employee benefits as they are now provided and made applicable to positions within county
32 service. All matters affecting the administration of salary and benefits, the selection, appointment,
33 and reclassification of such municipal court officers and employees in those positions which they
34 hold which are not specifically determined by the provisions of state law shall be governed by the
35 personnel provisions of the Placer County Code. Any changes in compensation made pursuant to
36 this subdivision shall be on an interim basis and shall expire January 1, of the second calendar
37 year following such changes unless ratified by the Legislature.

38 **Gov't Code §§ 74130-74145 (repealed). Riverside County municipal court districts**

39 SEC. ____ . Article 20 (commencing with Section 74130) of Chapter 10 of Title 8 of the
40 Government Code is repealed.

41 **Comment.** Sections 74130-74145 are repealed to reflect:

42 (1) Unification of the municipal and superior courts in Riverside County pursuant to Article VI,
43 Section 5(e), of the California Constitution, effective July 29, 1998. See Section 70211 (former
44 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
45 (judicial districts); Section 69592 (number of judges in Riverside County). Cf. Section 71042.5
46 (preservation of judicial districts for purposes of publication).

47 (2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in
48 Riverside County, effective April 19, 1990.

49 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
50 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622

1 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
2 benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment
3 selection and advancement), 71650-71658 (employment protection system), 71673 (authority of
4 court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of
5 official reporter).

6 (4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
7 management), 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
8 (state funding of trial court operations).

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

10 Article 20. Riverside County

11 74130. This article applies to the municipal courts established in Riverside County.

12 74131. (a) There are nine judges in the Western Riverside County Judicial District, which shall
13 include the City of Riverside and the Cities of Corona, Norco, and Moreno Valley.

14 (b) There are seven judges in the Desert Judicial District, which shall include the Cities of Palm
15 Springs, Indio, and Blythe.

16 (c) There are three judges in the Mt. San Jacinto Judicial District, which shall include the Cities
17 of Hemet, San Jacinto, Beaumont, and Banning. However, if the Riverside County Board of
18 Supervisors finds there are sufficient funds for an additional judge for the Mt. San Jacinto
19 District and adopts a resolution to that effect, there shall be four judges in the Mt. San Jacinto
20 Judicial District.

21 (d) There are two judges in the Three Lakes Judicial District.

22 74131.1. Notwithstanding the provisions of Section 72400, an incumbent judge of a superseded
23 justice court who had been elected to that office more than five years before the court was
24 superseded by a municipal court, had served continuously since taking office and succeeds to the
25 position of clerk, assistant clerk or deputy clerk in the municipal court that supersedes his court,
26 shall be authorized to exercise the same authority as a traffic referee and shall serve as a traffic
27 referee at the direction of the municipal court for which he is a clerk, assistant clerk or deputy
28 clerk. He shall receive as clerk and referee a salary that is no lower than the salary that was last
29 set for his position as a justice court judge.

30 74132. The provisions of this section shall apply to the clerks, marshals and their respective
31 assistants, deputies and other employees of each clerk and marshal of each judicial district.

32 (a) Each employee shall receive a salary computed upon a biweekly rate in accordance with the
33 range and step for his position specified in or pursuant to this article, as determined by the salary
34 schedule in the salary ordinance of Riverside County, in effect July 1, 1981.

35 (b) Except as otherwise provided in this article, each new employee shall for the first 1,040
36 hours of continuous service receive a salary at the rate specified for step 1 of the applicable range;
37 on the first day of the next biweekly period thereafter, his salary may increase to the rate for step
38 3; after 2,080, 4,160, and 6,240 additional hours of continuous service, his salary may increase to
39 the rates for steps 5, 7 and 9, respectively.

40 (c) Notwithstanding any other provisions of law, the salary of any employee may, upon
41 approval by the board of supervisors, be increased or decreased within the limits of the applicable
42 range and 22 percent above or below said limits, in order to provide compensation that is
43 comparable to that of county employees of similar qualifications and experience, holding equal or
44 comparable positions in the Riverside County classified service, as the comparability is
45 determined by the board; or the board of supervisors may increase or decrease the salary of any
46 marshal set pursuant to Section 74135 or Section 74137 to an amount equal to 22 percent greater
47 or lesser than the amount stated in such sections. The board of supervisors, with the concurrence
48 of the municipal court, may also allow or delete any such appointive positions as are necessary to

1 perform the work of the offices of each clerk and marshal. Any salary adjustment made or
2 additional appointive position established pursuant to this subdivision shall be effective only until
3 January 1 following the adjournment of the next regular session of the Legislature unless ratified
4 by the Legislature.

5 (d) Such employees shall be entitled to the same vacation, sick leave, leave of absence, and
6 similar benefits, and may be appointed, promoted, demoted, terminated or transferred, or their
7 status otherwise adjusted, in the same manner and with the same effect as is or may be provided
8 by the current salary ordinances of Riverside County for other employees of the county, and they
9 shall be subject to such employment qualifications as may be fixed by or pursuant to said
10 ordinance for their positions, in the same manner as for other positions in the employment of said
11 county.

12 74133. There shall be one clerk of each judicial district who shall be appointed by and hold
13 office at the pleasure of the judge or a majority of the judges of the judicial district. The clerk
14 shall serve as the court administrator.

15 74134. In the Western Riverside County Judicial District, the salary of the clerk/administrator
16 shall be on range 417 and the clerk/administrator may appoint:

- 17 (a) One accounting technician on range 245.
- 18 (b) One assistant clerk/administrator on range 358.
- 19 (c) One assistant clerk/administrator on range 323.
- 20 (d) One administrative services officer on range 342.
- 21 (e) Forty-seven judicial office assistants on range 212.
- 22 (f) Seven judicial services supervisors on range 272.
- 23 (g) Twenty-two judicial courtroom assistants on range 253.
- 24 (h) One judicial information systems administrator on range 350.
- 25 (i) One executive secretary I on range 265.
- 26 (j) Five senior accounting clerks on range 215.
- 27 (k) One senior accounting technician on range 280.
- 28 (l) Nine senior judicial office assistants on range 233.
- 29 (m) One stock clerk on range 189.
- 30 (n) One judicial secretary on range 265.
- 31 (o) One municipal court operations manager on range 335.
- 32 (p) One senior court reporter on range 366.
- 33 (q) One computer operator II on range 221.
- 34 (r) Five court reporters at one thousand nine hundred fifty-nine dollars and twenty cents
35 (\$1,959.20) biweekly.
- 36 (s) One departmental aide on range 129.
- 37 (t) One programmer/analyst IV on range 342.
- 38 (u) One senior judicial courtroom assistant on range 268.
- 39 (v) One staff analyst I on range 277.

40 74135. The board of supervisors may provide that municipal court commissioners shall receive
41 the same compensation as superior court commissioners while serving on assignment with the
42 superior court.

43 74135.1. By majority vote, the judges may appoint three court commissioners for the Western
44 Riverside County Judicial District. However, when the board of supervisors finds there are
45 sufficient funds for a fourth commissioner and adopts a resolution to that effect, there shall be
46 four court commissioners; provided, that if the Legislature authorizes one additional judge for the
47 district and the board of supervisors finds there are sufficient funds for that additional judge and
48 adopts a resolution to that effect, following the appointment or election of the additional judge,
49 there shall be no more than three court commissioners in the Western Riverside County Judicial
50 District.

1 The court commissioners shall meet the qualifications and have powers and duties specified in
2 Sections 72190 and 72190.1 of this code, and Section 259 of the Code of Civil Procedure. Any
3 commissioner so appointed shall also have the power and duties of a traffic referee, as provided in
4 Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The salary of a commissioner
5 for all duties performed pursuant to this section shall be equal to 75, 80, or 85 percent of the
6 salary of a judge of the municipal court, as determined by the court.

7 The additional commissioner position authorized by amendments to this section enacted during
8 the 1990 portion of the 1989-90 Regular Session shall not be counted in the calculation of trial
9 court funding pursuant to Section 77202, and the salary for this position shall not be considered as
10 a part of court operations for Riverside County for purposes of Sections 77003 and 77204.

11 74135.5. The traffic referee shall receive a salary equal to 60 percent of the salary of a judge of
12 the municipal court. He shall, after each year of service, receive an increase of 5 percent of the
13 salary of a judge of the municipal court but in no event shall he receive more than 65 percent of
14 the salary of a judge of the municipal court.

15 74135.6. By majority vote, the municipal court judges of Riverside County may appoint a court
16 commissioner who shall meet the qualifications and have the powers and duties specified in
17 Sections 72190, 72190.1, and 72190.2 of this code, and Section 259 of the Code of Civil
18 Procedure. Notwithstanding those powers and duties, the commissioner shall be primarily
19 assigned to hear and determine actions filed for enforcement of county and municipal ordinances.

20 The commissioner may sit in any judicial district in Riverside County, as need arises. The
21 salary of the commissioner for all duties performed pursuant to this section shall be equal to 75
22 percent of the salary of a judge of the municipal court. The commissioner shall be entitled to the
23 same benefits as are or shall be provided to a commissioner of the superior court in Riverside
24 County.

25 74136. In the Desert Judicial District, the salary of the clerk/administrator--Desert Judicial
26 District shall be on range 407 and the clerk/administrator may appoint:

- 27 (a) One accounting clerk on range 184.
- 28 (b) One accounting technician on range 245.
- 29 (c) One assistant clerk/administrator--Desert Judicial District on range 358.
- 30 (d) Six court reporters at one thousand nine hundred fifty-nine dollars and twenty cents
31 (\$1,959.20) biweekly.
- 32 (e) Three municipal court branch administrators I on range 288.
- 33 (f) Forty-seven judicial office assistants on range 212.
- 34 (g) Seven judicial services supervisors on range 272.
- 35 (h) Ten judicial courtroom assistants on range 253.
- 36 (i) One executive secretary I on range 265.
- 37 (j) Two senior accounting clerks on range 215.
- 38 (k) Eight senior judicial office assistants on range 233.
- 39 (l) One administrative services officer on range 342.

40 74136.1. At such time as the board of supervisors finds that there are sufficient funds for a
41 second court commissioner for the Desert Judicial District and adopts a resolution to that effect,
42 there shall be two court commissioners for the Desert Judicial District. However, if the
43 Legislature authorizes one additional judge for the district and the board of supervisors finds there
44 are sufficient funds for that additional judge and adopts a resolution to that effect, following the
45 appointment or election of the additional judge, there shall be one court commissioner in the
46 Desert Judicial District. The court commissioner shall have the same powers and receive the same
47 salary specified in Section 74135.1.

48 The commissioner position shall not be counted in the calculation of trial court funding
49 pursuant to Section 77202, and the salary for this position shall not be considered as a part of
50 court operations for Riverside County for purposes of Sections 77003 and 77204.

1 74137.5. Notwithstanding Section 74132, the assistant marshal shall serve at the pleasure of the
2 marshal; and upon removal by the marshal for any reason other than that which would be cause
3 for the discharge of any other assistant marshal, he or she shall revert to the rank held prior to
4 appointment as assistant marshal pursuant to this section.

5 74138. In the Corona Judicial District, the Riverside clerk/administrator may appoint:

- 6 (a) One assistant clerk/administrator on range 323.
- 7 (b) Twelve judicial office assistants on range 212.
- 8 (c) Three judicial services supervisors on range 272.
- 9 (d) Five judicial courtroom assistants on range 253.
- 10 (e) One senior accounting clerk on range 215.
- 11 (f) Four senior judicial office assistants on range 233.

12 74139. In the Corona Judicial District the marshal may appoint:

- 13 (a) One accounting clerk on range 138.
- 14 (b) Two deputy marshals I B on range 238.
- 15 (c) Two deputy marshals II B on range 269.
- 16 (d) One investigative assistant on range 161.
- 17 (e) One marshal's sergeant B on range 300.
- 18 (f) One typist clerk II on range 129.

19 74140. In each municipal court district, each regular official reporter of the municipal court
20 shall receive an annual salary of eighteen thousand eight hundred dollars (\$18,800). Each official
21 reporter pro tempore of the municipal court shall receive compensation at the rate of seventy
22 dollars (\$70) per day, for reporting in shorthand all proceedings in the municipal court as required
23 by law or the order of the municipal court.

24 74141. In the Mt. San Jacinto Judicial District the salary of the clerk/administrator--Mt. San
25 Jacinto Judicial District shall be on range 412, and the clerk/administrator may appoint:

- 26 (a) One staff analyst I on range 277.
- 27 (b) One assistant clerk/administrator--Mt. San Jacinto on range 348.
- 28 (c) Two municipal court branch administrators II on range 323.
- 29 (d) Twenty-one judicial office assistants on range 212.
- 30 (e) Three judicial services supervisors on range 272.
- 31 (f) Six judicial courtroom assistants on range 253.
- 32 (g) One senior accounting clerk on range 215.
- 33 (h) Two senior judicial office assistants on range 233.
- 34 (i) One executive secretary I on range 265.
- 35 (j) One administrative services officer on range 342.
- 36 (k) One judicial secretary on range 265.
- 37 (l) One municipal court branch administrator I on range 288.
- 38 (m) Two programmer/analysts IV on range 342.
- 39 (n) Two senior judicial courtroom assistants on range 268.
- 40 (o) One senior programmer/analyst on range 358.

41 74143. In the Three Lakes Judicial District, the salary of the clerk/administrator--Three Lakes
42 Judicial District shall be on range 412, and the clerk/administrator may appoint:

- 43 (a) Two municipal court branch administrators II on range 323.
- 44 (b) Fifteen judicial office assistants on range 212.
- 45 (c) Four judicial services supervisors on range 272.
- 46 (d) Six judicial courtroom assistants on range 253.
- 47 (e) Three senior judicial office assistants on range 233.
- 48 (f) One senior judicial courtroom assistant on range 268.
- 49 (g) One executive secretary I on range 265.
- 50 (h) One judicial secretary on range 265.

1 74143.1. In the Three Lakes Judicial District the clerk may appoint the traffic referee-assistant
2 clerk appointed pursuant to Section 74141 to also serve as the traffic referee-assistant clerk in the
3 Three Lakes Judicial District. Upon such appointment, one-fifth of the traffic referee-assistant
4 clerk's salary and benefits shall be apportioned to the Three Lakes Judicial District and four-fifths
5 of such salary and benefits to the Mt. San Jacinto Judicial District.

6 74143.2. When the board of supervisors finds that there are sufficient funds for a second court
7 commissioner for the Three Lakes Judicial District and adopts a resolution to that effect, there
8 shall be two court commissioners for the Three Lakes Judicial District. However, if the
9 Legislature subsequently authorizes one additional judge for the district and the board of
10 supervisors finds there are sufficient funds for the additional judge, the board of supervisors may
11 eliminate the second commissioner position for the Three Lakes Judicial District at any time after
12 the additional judge is sworn into office. The second court commissioner shall have the same
13 powers and receive the same salary specified in Section 74135.1.

14 The second commissioner position shall not be counted in the calculation of trial court funding
15 pursuant to Section 77202, and the salary for this position shall not be considered as part of court
16 operations for Riverside County for purposes of Sections 77003 and 77204.

17 74145. (a) In addition to any other compensation and benefits, each judge of the municipal
18 court shall receive the county flexible benefits plan.

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

22  **Note: Comment Requested**

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

27 **Gov't Code §§ 74190-74201 (repealed). Sacramento Municipal Court District**

28 SEC. ____ . Article 21.5 (commencing with Section 74190) of Chapter 10 of Title 8 of
29 the Government Code is repealed.

30 **Comment.** Sections 74190-74201 are repealed to reflect:

31 (1) Unification of the municipal and superior courts in Sacramento County pursuant to Article
32 VI, Section 5(e), of the California Constitution, effective June 17, 1998. See Section 70211
33 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
34 Proc. § 38 (judicial districts); Section 69593 (number of judges in Sacramento County). Cf.
35 Section 71042.5 (preservation of judicial districts for purposes of publication).

36 (2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in
37 Sacramento County, effective January 1, 1986. See Section 26638.2 (Sections 74194-74195
38 inoperative upon effective date of consolidation).

39 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
40 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
41 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
42 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
43 not affected), 71630-71639.3 (labor relations), 71640-71645 (employment selection and
44 advancement), 71650-71658 (employment protection system), 71673 (authority of court).

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

Article 21.5. Sacramento

74190. This article applies to the municipal court established in a district embracing the Cities of Sacramento and North Sacramento, formed by an ordinance, adopted pursuant to Section 71040 of this code, changing the boundaries of the municipal court district embracing the City of Sacramento to include the municipal court district embracing the City of North Sacramento, hereinafter referred to as a “consolidation.” The consolidated court district shall be known as the Sacramento Municipal Court District.

74191. There shall be 16 judges.

74191.7. (a) The judges of the Sacramento Municipal Court District shall appoint four and one-half commissioners as the business of the court requires. The commissioners shall possess the same qualifications as the law requires of a judge of the court. These appointments shall be pursuant to Section 72190 and the commissioners shall receive a salary equal to 85 percent of the annual salary for a court judge.

(b) Notwithstanding any other provision of law, commissioners shall earn vacation credit at the rate of 6.5 hours for each biweekly pay period of full-time service, except as follows: (1) any commissioner appointed by the court prior to July 16, 1979, shall be entitled to earn vacation credit at the rate of 7.7 hours for each biweekly pay period of full-time service and (2) any commissioner appointed by the court after July 16, 1979, and prior to February 12, 1981, shall be entitled to earn vacation credit for each biweekly pay period of full-time service, and commencing January 22, 1995, this rate shall increase to 7.4 hours for each biweekly pay period of full-time service.

(c) The presiding judge of the superior and municipal courts may authorize a court commissioner to exercise all the powers and perform all the duties authorized by law to be performed by a commissioner of the superior court and a referee of the juvenile court appointed pursuant to Section 247 of the Welfare and Institutions Code.

74192. (a) There shall be one clerk/administrator who shall be appointed by the judges of the court and who shall be clerk of the court. The clerk/administrator shall receive a biweekly salary at a rate specified in range 3011. The position of clerk/administrator shall not be deemed a civil service position. The clerk/administrator shall be the appointing authority for the positions set forth in this section. Each person appointed shall serve at the pleasure of the clerk/administrator.

(b) There shall be two assistant clerk/administrators. The assistant clerk/administrators for the court shall receive a biweekly salary at a rate specified in range 2602. The positions of assistant clerk/administrator for the court shall not be deemed a civil service position.

(c) There shall be one director of administrative services. The director of administrative services for the court shall receive a biweekly salary at a rate specified in range 2245. The position of director of administrative services shall not be deemed a civil service position.

(d) There shall be one departmental systems manager. The departmental systems manager for the court shall receive a biweekly salary at a rate specified in range 2301. The position of departmental systems manager shall not be deemed a civil service position.

(e) There shall be six court process managers. Each court process manager for the court shall receive a salary at a rate specified in range 1856. The positions of court process manager for the court shall not be deemed civil service positions.

(f) There shall be one system manager coordinator. The system manager coordinator shall receive a biweekly salary at a rate specified in range 2015. The position of system manager coordinator shall not be deemed a civil service position.

(g) There shall be one court interpreter. The court interpreter shall receive a biweekly salary at a rate specified in range 1188. The position of court interpreter shall not be deemed a civil service position.

(h) There shall be one senior court interpreter. The senior court interpreter shall receive a biweekly salary at a rate specified in range 1253. The position of senior court interpreter shall not be deemed a civil service position.

1 (i) There shall be 14 court process supervisors. The court process supervisors shall receive a
2 biweekly salary at a rate specified in range 1348. The positions of the court process supervisor for
3 the court shall not be deemed civil service positions.

4 (j) There shall be three administrative service officers II. The administrative service officers II
5 for the court shall receive a biweekly salary at a rate specified in range 1845. The positions of
6 administrative service officers II shall not be deemed civil service positions.

7 (k) There shall be one administrative services officer I. The administrative services officer I for
8 the court shall receive a biweekly salary at a rate specified in range 1530. The position of
9 administrative services officer I shall not be deemed a civil service position.

10 (l) There shall be one associate administrative analyst II. The associate administrative analyst II
11 shall receive a biweekly salary at a rate specified in range 1845. The position of associate
12 administrative analyst II shall not be deemed a civil service position.

13 (m) There shall be one accountant IV. The accountant IV shall receive a biweekly salary at a
14 rate specified in range 2087. The position of accountant IV shall not be deemed a civil service
15 position.

16 (n) There shall be one court process supervisor, confidential. The court process supervisor,
17 confidential, shall receive a biweekly salary at a rate specified in range 1368. The position of
18 court process supervisor, confidential, shall not be deemed a civil service position.

19 (o) There shall be one accountant II. The accountant II shall receive a biweekly salary at a rate
20 specified in range 1530. The position of accountant II shall not be deemed a civil service position.

21 (p) There shall be two departmental systems analyst/programmers. The departmental systems
22 analyst/programmers shall receive a biweekly salary at a rate specified in range 2091. The
23 positions of departmental systems analyst/programmer shall not be deemed civil service
24 positions.

25 (q) There shall be one accounting technician. The accounting technician shall receive a
26 biweekly salary at a rate specified in range 1347. The position of accounting technician shall not
27 be deemed a civil service position.

28 (r) There shall be one department secretary. The department secretary shall receive a biweekly
29 salary at a rate specified in range 1349. The position of department secretary shall not be deemed
30 a civil service position.

31 (s) There shall be four supervising municipal courtroom clerks. The supervising municipal
32 courtroom clerks shall receive a biweekly salary at a rate specified in range 1680. The positions
33 of supervising municipal courtroom clerk shall not be deemed civil service positions.

34 (t) There shall be eight pretrial release interviewers. The pretrial release interviewers shall
35 receive a biweekly salary at a rate specified in range 1125. The position of pretrial release
36 interviewer shall not be deemed a civil service position.

37 (u) There shall be one departmental data processing technician III. The departmental data
38 processing technician III shall receive a biweekly salary at a rate specified in range 1378. The
39 position of departmental data processing technician III shall not be deemed a civil service
40 position.

41 (v) There shall be one municipal court branch manager. The municipal court branch manager
42 shall receive a biweekly salary at a rate specified in range 2245. The position of municipal court
43 branch manager shall not be deemed a civil service position.

44 74192.5. A traffic referee in the Sacramento Municipal Court District shall receive annual
45 compensation:

46 (a) Equal to 50 percent of the salary of a judge of the municipal court during the first year of
47 service;

48 (b) Equal to 60 percent of the salary of a judge of the municipal court during the second year of
49 service;

50 (c) Equal to 65 percent of the salary of a judge of the municipal court during the third year of
51 service;

1 (d) Equal to 70 percent of the salary of a judge of the municipal court during the fourth year of
2 service; and

3 (e) Equal to 75 percent of the salary of a judge of the municipal court after the fourth year of
4 service.

5 74193. The administrator shall appoint:

6 (a) One hundred twenty-six deputy clerks, who shall be associate court process clerks, and who
7 shall each receive a biweekly salary at a rate specified in range 953 for level II and in range 919
8 for level I.

9 (b) Thirty deputy clerks, who shall be senior court process clerks and who shall each receive a
10 biweekly salary at a rate specified in range 1070.

11 (c) Six half-time deputy clerks, who shall be associate court process clerks and who shall
12 receive a biweekly salary at a rate specified in range 953 for level II and in range 919 for level I.

13 (d) Thirty deputy clerks, who shall be courtroom clerks and who shall each receive a biweekly
14 salary at a rate specified in range 1365 for level II and in range 1216 for level I.

15 (e) One half-time deputy clerk, who shall be a courtroom clerk and who shall receive a
16 biweekly salary at a rate specified in range 1365 for level II and in range 1216 for level I.

17 (f) Four deputy clerks who shall be court process specialists and who shall each receive a
18 biweekly salary at a rate specified in range 1128.

19 (g) Two deputy clerks, who shall be departmental data-processing technicians II and who shall
20 each receive a biweekly salary at a rate specified in range 1212.

21 (h) Eight deputy clerks, who shall be account clerks II and who shall each receive a biweekly
22 salary at a rate specified in range 1044.

23 (i) Two deputy clerks, who shall be account clerks III and who shall each receive a biweekly
24 salary at a rate specified in range 1128.

25 (j) One deputy clerk, who shall be a legal secretary II and who shall receive a biweekly salary
26 at a rate specified in range 1128.

27 (k) Two deputy clerks, who shall be legal secretaries II, confidential, and who shall receive a
28 biweekly salary at a rate specified in range 1203.

29 (l) One deputy clerk, who shall be a senior personnel clerk and who shall receive a biweekly
30 salary at a rate specified in range 1110.

31 74194. There shall be one marshal, Sacramento County, who shall be appointed by the judges
32 of the court, and who shall receive a biweekly salary at a rate specified in range 1767. The
33 position of marshal shall not be deemed to be a civil service position.

34 74195. The marshal shall appoint:

35 (a) One deputy marshal who shall be marshal's captain, who shall receive a biweekly salary at a
36 rate specified in range 1440.

37 (b) Two deputy marshals, who shall be marshal's lieutenants, each of whom shall receive a
38 biweekly salary at a rate specified in range 1306.

39 (c) Two deputy marshals, who shall be marshal's sergeants, each of whom shall receive a
40 biweekly salary at a rate specified in range 1227.

41 (d) Thirty-one deputy marshals, who shall be deputy marshals, each of whom shall receive a
42 biweekly salary at a rate specified in range 1059.

43 (e) One deputy marshal, who shall be a principal deputy clerk, who shall receive a biweekly
44 salary at a rate specified in range 1088.

45 (f) One typist-clerk III, confidential, who shall receive a biweekly salary at a rate specified in
46 range 732.

47 (g) Three deputy marshals, who shall be senior deputy clerks, each of whom shall receive a
48 biweekly salary at a rate specified in range 724.

49 (h) Five deputy marshals, who shall be associate deputy clerks, each of whom shall receive a
50 biweekly salary at a rate specified in range 612.

1 All deputy marshals listed in subdivisions (a) to (d), inclusive, are authorized incentive pay in
2 addition to the above rates as follows:

- 3 2 1/2 % of base pay (1) Intermediate POST Certificate
- 4 5 % of base pay (1) AA Degree
- 5 7 1/2 % of base pay (1) AA Degree + Intermediate or Advance POST Certificate
- 6 10 % of base pay (1) BS Degree
- 7 12 1/2 % of base pay (1) AA Degree + Advance POST Certificate
- 8 15 % of base pay (1) BS Degree + Intermediate POST Certificate
- 9 17 1/2 % of base pay (1) BS Degree + Advance POST Certificate

10 74195.5. Upon recommendation of the judges of the court and with approval of the board of
11 supervisors, the court may appoint such additional employees as it deems necessary for the
12 performance of the duties and exercise of the powers conferred by law upon the court and its
13 members. Any appointment made pursuant to this section shall be on an interim basis and shall
14 expire January 1st of the second calendar year following the year in which such appointment is
15 made unless ratified by the Legislature. This section shall not affect the application of Section
16 72150.

17 74196. (a) All attaches and employees of the Sacramento Municipal Court District shall be
18 entitled to anniversary dates and salary step increases and shall receive the same vacation, sick
19 leave, leave of absence, overtime, reinstatement, and similar privileges and benefits provided for
20 the officers and employees of the County of Sacramento in the manner provided in the
21 Sacramento County Personnel Ordinance or applicable agreements with recognized employee
22 organizations. Rights provided by the county to return to formerly held employment in county
23 civil service shall be applicable only to the positions of administrator and marshal.

24 (b) Except as otherwise provided in this article, the provisions of the Sacramento County
25 Charter relating to the civil service system of the county and the rules of the Civil Service
26 Commission adopted pursuant thereto shall be applicable to all attaches and employees of the
27 Sacramento Municipal Court District in the same manner and to the same extent as applicable
28 generally to the officers and employees of Sacramento County. The Sacramento County Civil
29 Service Commission shall exercise the same jurisdiction over the attaches and employees of the
30 Sacramento Municipal Court District as it exercises over the officers and employees of the
31 county.

32 (c) The provisions of subdivision (b) shall not apply to any officer or employee in a position
33 which this article expressly provides is not to be deemed a part of county civil service.

34 (d) Whenever reference to a numbered salary range is made in any section of this article, the
35 range referred to is one of the ranges provided for in Section 2. 78.410(d) of the Sacramento
36 County Personnel Ordinance.

37 74197. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
38 Chapter 8 of Title 8 and the provisions of this article, and in order to equalize the compensation
39 of, and the classification of, employees of the municipal court with the compensation paid to, and
40 the classification of, county employees with commensurate duties and responsibilities, upon
41 recommendation of the judges of the court and with the approval of the Board of Supervisors of
42 the County of Sacramento, an officer or an attache of the court, whether appointed under the
43 provisions of this article or under Article 4 of Chapter 8 of Title 8, may be paid any compensation
44 in excess of or less than the maximum to which such employee would otherwise be entitled under
45 the schedules set forth in this article and there may also be a reclassification of the position of the
46 employee. Any such salary adjustment or reclassification shall not extend longer than ninety (90)
47 days after the adjournment of the next succeeding regular session of the Legislature after such
48 salary adjustment.

49 74201. (a) There shall be one pretrial release program manager. The appointing authority for
50 the position shall be the judges of the Sacramento Municipal Court. The position shall not be

1 deemed to be a civil service position and the incumbent shall serve at the pleasure of the judges of
2 the Sacramento Municipal Court. The salary range for the position shall be 1948.

3 (b) There shall be one attorney IV civil, range B. The appointing authority for the position shall
4 be the judges of the Sacramento Municipal Court. The position shall not be deemed a civil service
5 position and the incumbent shall serve at the pleasure of the judges of the Sacramento Municipal
6 Court. The salary range for the position shall be 2998.

7 (c) There shall be one attorney II. The appointing authority for the position shall be the judges
8 of the Sacramento Municipal Court. The position shall not be deemed a civil service position and
9 the incumbent shall serve at the pleasure of the judges of the Sacramento Municipal Court. The
10 salary range for the position shall be 1936.

11 **Gov't Code §§ 74205-74212 (repealed). South Sacramento County Municipal Court District**
12 **SEC. ____ .** Article 21.6 (commencing with Section 74205) of Chapter 10 of Title 8 of
13 the Government Code is repealed.

14 **Comment.** Sections 74205-74212 are repealed to reflect:

15 (1) Unification of the municipal and superior courts in Sacramento County pursuant to Article
16 VI, Section 5(e), of the California Constitution, effective June 17, 1998. See Section 70211
17 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
18 Proc. § 38 (judicial districts); Section 69593 (number of judges in Sacramento County). *Cf.*
19 Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
20 71264 (municipal court served by marshal).

21 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
22 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
23 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
24 compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-
25 71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658
26 (employment protection system), 71673 (authority of court).

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

28 Article 21.6. South Sacramento

29 74205. This article applies to the municipal court established in a district formed by ordinance
30 adopted pursuant to Section 71040 known as the South Sacramento County Judicial District. The
31 district shall also be known as the South Sacramento County Municipal Court District.

32 74206. There shall be one judge.

33 74207. There shall be one clerk/administrator who shall be appointed by the judge of the court
34 and who shall be clerk of the court. The clerk/administrator shall receive a biweekly salary at a
35 rate specified in range 2056. The position of clerk/administrator shall not be deemed to be a civil
36 service position.

37 74208. There shall be the following positions for which the appointing authority shall be the
38 clerk/administrator:

39 (a) Two court process specialists who shall receive a biweekly salary at a rate specified in range
40 1179.

41 (b) One senior court process clerk who shall receive a biweekly salary at a rate specified in
42 range 1118.

43 (c) Three associate court process clerks II who shall receive a biweekly salary at a rate
44 specified in range 996.

45 (d) One municipal courtroom clerk II who shall receive a biweekly salary at a rate specified in
46 range 1426.

1 (e) One half court process specialist who shall receive a biweekly salary at a rate specified in
2 range 1179.

3 (f) One accounting technician who shall receive a biweekly salary at a rate specified in range
4 1347. The position of accounting technician shall not be deemed a civil service position.

5 74209. The sheriff and the sheriff's deputies shall be ex officio the marshal and deputy
6 marshals of the court and shall perform all the duties imposed and exercise all the powers
7 conferred upon the marshal and deputy marshals of a municipal court.

8 74210. (a) All attaches and employees of the court shall be entitled to anniversary dates and
9 salary step increases and shall receive the same vacation, sick leave, leave of absence, overtime,
10 reinstatement, and similar privileges and benefits provided for the officers and employees of the
11 County of Sacramento in the manner provided in the Sacramento County Personnel Ordinance or
12 applicable agreements with recognized employee organizations. Rights provided by the county to
13 return to formerly held employment in county civil service shall be applicable only to the position
14 of clerk/administrator.

15 (b) Except as otherwise provided in this article, the provisions of the Sacramento County
16 Charter relating to the civil service system of the county and the rules of the Sacramento County
17 Civil Service Commission adopted pursuant thereto shall be applicable to all attaches and
18 employees of the court in the same manner and to the same extent as applicable generally to the
19 officers and employees of Sacramento County. The Sacramento County Civil Service
20 Commission shall exercise the same jurisdiction over the attaches and employees of the court as it
21 exercises over the officers and employees of the county.

22 (c) The provisions of subdivision (b) shall not apply to any officer or employee in a position
23 which this article expressly provides is not to be deemed a part of county civil service.

24 (d) Whenever reference to a numbered salary range is made in any section of this article, the
25 range referred to is one of the ranges provided for in Section 2. 78.410(d) of the Sacramento
26 County Personnel Ordinance.

27 74211. Upon recommendation of the judge of the court, and with approval of the board of
28 supervisors, the clerk/administrator may appoint additional employees as he or she deems
29 necessary for the performance of the duties and exercise of the powers conferred by law upon the
30 court and its members. Any appointment made pursuant to this section shall be on an interim
31 basis and shall expire January 1st of the second calendar year following the year in which the
32 appointment is made unless ratified by the Legislature. This section shall not affect the
33 application of Section 72150.

34 74212. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
35 Chapter 8 of Title 8, and the provisions of this article, and in order to equalize the compensation
36 of, and the classification of, employees of the court with the compensation paid to, and the
37 classification of, county employees with commensurate duties and responsibilities, upon
38 recommendation of the judge of the court and with the approval of the Board of Supervisors of
39 the County of Sacramento, an officer or an attache of the court, whether appointed under the
40 provisions of this article or under Article 4 (commencing with Section 72150) of Chapter 8 of
41 Title 8, may be paid any compensation in excess of or less than the maximum to which the
42 employee would otherwise be entitled under the schedules set forth in this article and there may
43 also be a reclassification of the position of the employee. Any such salary adjustment or
44 reclassification shall not extend longer than 90 days after the adjournment of the next succeeding
45 regular session of the Legislature after the salary adjustment.

46 **Gov't Code §§ 74340-74353 (repealed). San Diego Municipal Court District**

47 SEC. ____ . Article 25 (commencing with Section 74340) of Chapter 10 of Title 8 of the
48 Government Code is repealed.

1 **Comment.** Sections 74340-74353 are repealed to reflect:

2 (1) Unification of the municipal and superior courts in San Diego County pursuant to Article
3 VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Section 70211
4 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
5 Proc. § 38 (judicial districts); Section 69595 (number of judges in San Diego County); Veh. Code
6 § 40508.6 (administrative assessments). *Cf.* Section 71042.5 (preservation of judicial districts for
7 purposes of publication).

8 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
9 71601(l)-(m) (“trial court employee” defined), 71615(c)(1) (preservation of employees’ job
10 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623
11 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
12 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
13 (employment selection and advancement), 71650-71658 (employment protection system), 71673
14 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
15 (compensation of official reporter).

16 (3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
17 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
18 Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

19 (4) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in
20 San Diego County, effective January 1, 2000.

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

22 **Article 25. San Diego**

23 74340. This article applies to the municipal court established in a district embracing that
24 portion of the City of San Diego not included within the South Bay Municipal Court District.

25 74341. There are 28 judges.

26 74342. (a) In addition to any other compensation and benefits, each judge of the municipal
27 court shall receive the same life insurance, accidental death and dismemberment insurance,
28 comprehensive annual physical examinations, executive flexible benefits plan (except that if
29 deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental
30 and vision insurance as provided by the County of San Diego for the classification of chief
31 administrative officer. Changes in these benefits shall be effective on the same date as for those
32 for the classification of chief administrative officer.

33 (b) Subject to approval by the board of supervisors, each judge of the municipal court shall
34 receive one or more of the following benefits: the same long-term disability insurance as provided
35 by the County of San Diego for the classification of chief administrative officer or retiree health
36 benefits whereby each judge of the municipal court serving on or after October 1, 1987, who
37 retires from the municipal court on or after January 1, 1989, shall receive the same amount of
38 insurance premium for retiree health benefits under the Public Employees’ Medical and Hospital
39 Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired
40 superior court judges under that act.

41  **Note: Comment Requested**

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

46 74343. There shall be one court administrator who shall serve as clerk of the court.
47 Notwithstanding the provisions of Section 74348, the court administrator shall be appointed by
48 and serve at the pleasure of the majority of the judges. The biweekly salary of the court

1 administrator shall be within the biweekly rate range ES-15 indicated in the Compensation
2 Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction
3 within the range, shall be determined in accordance with the provisions set forth under Article 3.5
4 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section
5 74345, except that any reference to “executive compensation committee” or “chief administrative
6 officer” in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be
7 interpreted as “a majority of the judges.”

8 74344. The court administrator may appoint:

9 (a) One assistant court administrator, with the consent of a majority of the judges of the court,
10 who shall be empowered to act in the place and stead of the court administrator in the event that
11 the court administrator is absent or unavailable for any reason. Persons appointed to this position
12 on or after January 1, 1991, shall serve at the pleasure of the court administrator. The assistant
13 court administrator shall receive a biweekly salary within the biweekly rate range ES-12 indicated
14 in the Compensation Ordinance of the County of San Diego. The biweekly salary, and any
15 advancement or reduction within the range, shall be determined in accordance with the provisions
16 set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego and of
17 subdivision (a) of Section 74345, except that any reference to “executive compensation
18 committee” or “chief administrative officer” in Article 3.5 of the Compensation Ordinance of the
19 County of San Diego shall be interpreted as “the court administrator.”

20 (b) Four deputy court administrators, with the consent of a majority of the judges of the court,
21 one of whom shall be empowered to act in the place and stead of the assistant court administrator
22 in the event that the assistant court administrator is absent or unavailable for any reason. Persons
23 appointed to these positions on or after January 1, 1991, shall serve at the pleasure of the court
24 administrator. A deputy court administrator shall receive a salary within the biweekly rate range
25 ES-10 indicated in the Compensation Ordinance of the County of San Diego. The biweekly
26 salary, and any advancement or reduction within the range, shall be determined in accordance
27 with the provisions set forth under Article 3.5 of the Compensation Ordinance of the County of
28 San Diego and of subdivision (a) of Section 74345, except that any reference to “executive
29 compensation committee” or “the chief administrative officer” in Article 3.5 of the Compensation
30 Ordinance of the County of San Diego shall be interpreted as “the court administrator.”

31 (c) Four deputy clerk-division managers III who shall receive a biweekly salary at a rate 24.5
32 percent higher than that specified for deputy clerk-division manager II. Two of these positions
33 may be designated as principal managers. When a position is designated principal manager, the
34 incumbent shall receive a bonus of 10 percent.

35 (d) Six deputy clerk-division managers II or deputy clerk-division managers I as the case may
36 be. A deputy clerk-division manager II shall receive a biweekly salary at a rate 15.5 percent
37 higher than that specified for deputy clerk V. A deputy clerk-manager I shall receive a biweekly
38 salary at a rate 10 percent higher than that specified for deputy clerk V.

39 (e) Thirteen deputy clerks V each of whom shall receive a biweekly salary at a rate 32.6 percent
40 higher than that specified for deputy clerk III.

41 (f) One deputy clerk V or deputy clerk-division manager I may be designated as calendar
42 coordinator by the court administrator and shall receive a bonus of 10 percent or 5 percent,
43 respectively.

44 (g) Sixty-seven deputy clerk-senior deputy clerks or deputy clerks IV, as the case may be. A
45 deputy clerk IV shall receive a biweekly salary at a rate equal to the greater of that specified for
46 superior court clerks in the superior court service of the County of San Diego or 19.95 percent
47 higher than that specified for deputy clerk III. The class of senior deputy clerk shall not exceed 20
48 positions. A senior deputy clerk shall receive a biweekly salary at a rate 5 percent higher than that
49 specified for deputy clerk IV. The duties of the class of senior deputy clerk shall include
50 supervisory responsibilities or special assignments.

51 (h) Two hundred twenty-three deputy clerks III, II, or I, deputy clerk-intermediate clerk typists,
52 or deputy clerk-junior typist as the case may be. Each deputy clerk III shall receive a biweekly
53 salary at a rate equal to that specified for legal procedures clerk III in the classified service of the

1 County of San Diego. Each deputy clerk II shall receive a biweekly salary at a rate equal to that
2 specified for legal procedures clerk II in the classified service of the County of San Diego. Each
3 deputy clerk I shall receive a biweekly salary at a rate equal to that specified for legal procedures
4 clerk I in the classified service of the County of San Diego. Appointments to deputy clerks I and
5 II may be at any step within the salary range at the discretion of the court administrator. A deputy
6 clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that specified for
7 intermediate clerk typist in the classified service of the County of San Diego. A deputy clerk-
8 junior clerk typist shall receive a biweekly salary at a rate equal to that specified for junior clerk
9 typist in the classified service of the County of San Diego. In the absence of a deputy clerk IV,
10 the court administrator may assign a maximum of 15 deputy clerks III to perform courtroom clerk
11 duties, supervisory duties, or training duties for 40 or more hours during a pay period. A deputy
12 clerk III assigned to perform these duties is eligible to receive a biweekly salary at a rate 10
13 percent higher than that specified for a deputy clerk III. This increased biweekly salary shall
14 apply only during pay periods in which 40 or more hours are spent performing the supervisory,
15 training, or courtroom clerk duties specified above and shall not apply to paid leave or to terminal
16 payoff.

17 (i) One deputy clerk-accounting manager or senior accountant, as the case may be. A deputy
18 clerk-accounting manager shall receive a biweekly salary at a rate equal to that specified for the
19 class of deputy clerk-division manager III. A deputy clerk-senior accountant shall receive a
20 biweekly salary at a rate equal to that specified for senior accountant in the classified service of
21 the County of San Diego.

22 (j) Eleven deputy clerk-court interpreters, each of whom shall receive a biweekly salary at a
23 rate equal to that specified for superior court clerk interpreter in the superior court service of the
24 County of San Diego.

25 (k) One deputy clerk-senior staff interpreter who shall receive a biweekly salary at a rate equal
26 to that specified for deputy clerk V.

27 (l) One deputy clerk-municipal court secretary who shall receive a biweekly salary at a rate
28 equal to that specified for confidential legal secretary III in the classified service of the County of
29 San Diego. At the discretion of the court administrator appointment to the deputy clerk-municipal
30 court secretary may be at any step within the salary range.

31 (m) Two deputy clerk-administrative secretary IV, III, II, or I, as the case may be. A deputy
32 clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified
33 for administrative secretary IV in the classified service of the County of San Diego. A deputy
34 clerk-administrative secretary III shall receive a biweekly salary at a rate equal to that specified
35 for administrative secretary III in the classified service of the County of San Diego. A deputy
36 clerk-administrative secretary II shall receive a biweekly salary at a rate equal to that specified for
37 administrative secretary II in the classified service of the County of San Diego. A deputy clerk-
38 administrative secretary I shall receive a biweekly salary at a rate equal to that specified for
39 administrative secretary I in the classified service of the County of San Diego.

40 (n) One deputy clerk-administrative services manager II or I, as the case may be. A deputy
41 clerk-administrative services manager II shall receive a biweekly salary at a rate equal to that
42 specified for administrative services manager II in the classified service of the County of San
43 Diego. A deputy clerk-administrative services manager I shall receive a biweekly salary at a rate
44 equal to that specified for administrative services manager I in the classified service of the County
45 of San Diego.

46 (o) One deputy clerk-principal administrative analyst who shall receive a biweekly salary at a
47 rate equal to that specified for the class of principal administrative analyst in the classified service
48 of the County of San Diego.

49 (p) Seven deputy clerk-principal systems analysts, senior systems analysts, associate systems
50 analysts, assistant systems analysts, or systems analyst trainees, as the case may be. A deputy
51 clerk-principal systems analyst shall receive a biweekly salary at a rate equal to that specified for
52 principal systems analyst in the classified service of the County of San Diego. A deputy clerk-
53 senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior
54 systems analyst in the classified service of the County of San Diego. A deputy clerk-associate

1 systems analyst shall receive a biweekly salary at a rate equal to that specified for associate
2 systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant
3 systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant
4 systems analyst in the classified service of the County of San Diego. A deputy clerk-systems
5 analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst
6 trainee in the classified service of the County of San Diego.

7 (q) Three deputy clerk-LAN systems supervisors or deputy clerk-LAN systems analysts III, II,
8 or I, as the case may be. A deputy clerk-LAN systems supervisor shall receive a biweekly salary
9 at a rate equal to that specified for DIS LAN systems supervisor in the classified service of the
10 County of San Diego. A deputy clerk-LAN systems analyst III shall receive a biweekly salary at a
11 rate equal to that specified for DIS LAN systems analyst III in the classified service of the County
12 of San Diego. A deputy clerk-LAN systems analyst II shall receive a biweekly salary at a rate
13 equal to that specified for DIS LAN systems analyst II in the classified service of the County of
14 San Diego. A deputy clerk-LAN systems analyst I shall receive a biweekly salary at a rate equal
15 to that specified for DIS LAN systems analyst I in the classified service of the County of San
16 Diego.

17 (r) Two deputy clerk-research attorneys IV, or III, as the case may be. A deputy clerk-research
18 attorney IV shall receive a biweekly salary at a rate equal to that specified for deputy county
19 counsel IV in the classified service of the County of San Diego. A deputy clerk-research attorney
20 III shall receive a biweekly salary at a rate equal to that specified for deputy county counsel III in
21 the classified service of the County of San Diego. Notwithstanding subdivision (b) of Section
22 74348, persons appointed to these positions on or after January 1, 1991, shall serve at the pleasure
23 of the court administrator.

24 (s) Five deputy clerk-research attorneys II or I or deputy clerk-law clerk, as the case may be. A
25 deputy clerk-research attorney II shall receive a biweekly salary at a rate equal to that specified
26 for deputy county counsel II in the classified service of the County of San Diego. A deputy clerk-
27 research attorney I shall receive a biweekly salary at a rate equal to that specified for deputy
28 county counsel I in the classified service of the County of San Diego. A deputy clerk-law clerk
29 shall receive a biweekly salary at a rate equal to that specified for law clerk in the classified
30 service of the County of San Diego. Notwithstanding subdivision (b) of Section 74348, persons
31 appointed to these positions on or after January 1, 1990, shall serve at the pleasure of the court
32 administrator.

33 (t) Three deputy clerk-legal assistants II or I, as the case may be. A deputy clerk-legal assistant
34 II shall receive a biweekly salary at a rate equal to that specified for legal assistant II in the
35 classified service of the County of San Diego. A deputy clerk-legal assistant I shall receive a
36 biweekly salary at a rate equal to that specified for legal assistant I in the classified service of the
37 County of San Diego.

38 (u) Notwithstanding subdivision (b) of Section 74348, up to 10 deputy clerk-court workers may
39 be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-
40 court worker provides for temporary appointments to positions in classes not listed in Section
41 74345 pending a review and evaluation of the duties of these positions by the court administrator,
42 and the establishment of specific classes as provided in this section. Prior to the establishment of
43 these classes, the county personnel director shall conduct a classification review and make
44 recommendations to the court administrator as to the establishment of these classes. The rate of
45 pay for each individual employed in this class of deputy clerk-court worker shall be within the
46 designated range at a rate determined by the court administrator following consultation with the
47 county personnel director. The rules regarding appointment and compensation as they relate to
48 appointments to deputy clerk-court worker shall be the same as those applicable to the class that
49 is pending establishment. Appointments shall be temporary and shall not exceed 18 months in
50 duration. Employee benefits, if applicable, shall be equal to those granted to the class in the
51 service of the County of San Diego to which the pending class will be tied for benefit purposes.
52 When an appointment is made, the class, compensation (including salary and fringe benefits), and
53 number of these positions may be established by joint action of a majority of the judges and the
54 board of supervisors in accordance with established county personnel and budgetary procedures.

1 In the event that the class pending establishment is tied to a class in the unclassified service of the
2 County of San Diego, the joint action may designate that a person serving in the class pending
3 establishment shall serve at the pleasure of the court administrator. The court administrator may
4 then appoint additional attaches to such classes of positions in the same manner as those for
5 which express provision is made, and they shall receive the compensation so provided. Persons
6 occupying deputy clerk-court worker positions shall have their appointments expire no later than
7 30 calendar days following promulgation of a list of certified eligibles for the new class.
8 Appointments to the new class shall continue at the stated compensation or as thereafter modified
9 by joint action of a majority of the judges and the board of supervisors.

10 (v) Notwithstanding subdivision (b) of Section 74348, up to 10 extra help deputy clerk-junior
11 clerk positions (hourly rate) at the junior clerk-typist level, may be appointed by and serve at the
12 pleasure of the court administrator. These appointments shall be temporary for a period not to
13 exceed six months, plus one additional period not to exceed six months, at the court
14 administrator's option.

15 (w) Notwithstanding subdivision (b) of Section 74348, up to 22 extra help positions (hourly
16 rate) may be appointed by and serve at the pleasure of the court administrator in the class and at
17 the salary level deemed appropriate. These appointments shall be temporary for a period not to
18 exceed six months, plus one additional period not to exceed six months, at the court
19 administrator's option. Notwithstanding any other provisions of this section, the court
20 administrator may fill these positions with persons employed for a period not to exceed 120
21 working days or 960 hours, whichever is greater, during a fiscal year on a part-time basis.

22 (x) Notwithstanding subdivision (b) of Section 74348, the court administrator may appoint up
23 to 38 temporary extra help deputy clerk-municipal court trainees V, III, II, or I who shall be paid
24 at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-
25 municipal court trainee V shall receive an hourly salary at a rate equal to that specified for student
26 worker V in the service of the County of San Diego. A deputy clerk-municipal court trainee III
27 shall receive an hourly salary at a rate equal to that specified for student worker III in the service
28 of the County of San Diego. A deputy clerk-municipal court trainee II shall receive an hourly
29 salary at a rate equal to that specified for student worker II in the service of the County of San
30 Diego. A deputy clerk-municipal court trainee I shall receive a biweekly salary at a rate equal to
31 that specified for student worker I in the service of the County of San Diego. Persons who
32 graduate and receive a degree in the field which qualified them for appointment to a deputy clerk-
33 municipal court trainee class, may remain in the class and be employed on a full-time basis for a
34 period not to exceed six months from the first day of the month following their date of
35 graduation.

36 (y) Twelve confidential deputy administrative clerks III, II, I or deputy administrative clerks
37 III, II, or I, as the case may be. A confidential deputy administrative clerk III shall receive a
38 biweekly salary at a rate equal to that specified for deputy clerk IV. A confidential deputy
39 administrative clerk II shall receive a biweekly salary at a rate equal to that specified for deputy
40 clerk III. A confidential deputy administrative clerk I shall receive a biweekly salary at a rate
41 equal to that specified for deputy clerk II. A deputy administrative clerk III shall receive a
42 biweekly salary at a rate equal to that specified for deputy clerk IV. A deputy administrative clerk
43 II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. A deputy
44 administrative clerk I shall receive a biweekly salary at a rate equal to that specified for deputy
45 clerk II.

46 (z) One deputy clerk-municipal court personnel officer or personnel officer II or I, as the case
47 may be. A deputy clerk-municipal court personnel officer shall receive a biweekly salary at a rate
48 equal to that specified for departmental personnel officer III in the classified service of the
49 County of San Diego. A deputy clerk-personnel officer II shall receive a biweekly salary at a rate
50 equal to that specified for departmental personnel officer II in the classified service of the County
51 of San Diego. A deputy clerk-personnel officer I shall receive a biweekly salary at a rate equal to
52 that specified for departmental personnel officer I in the classified service of the County of San
53 Diego.

1 (aa) Ten deputy clerk-analysts III, II, I, or trainee, administrative assistant III, II, or I, as the
2 case may be. A deputy clerk-analyst III shall receive a biweekly salary at a rate equal to that
3 specified for analyst III in the classified service of the County of San Diego. A deputy clerk-
4 analyst II shall receive a biweekly salary at a rate equal to that specified for analyst II in the
5 classified service of the County of San Diego. A deputy clerk-analyst I shall receive a biweekly
6 salary at a rate equal to that specified for analyst I in the classified service of the County of San
7 Diego. A deputy clerk-analyst trainee shall receive a biweekly salary at a rate equal to that
8 specified for analyst trainee in the classified service of the County of San Diego. A deputy clerk-
9 administrative assistant III shall receive a biweekly salary at a rate equal to that specified for an
10 analyst III in the classified service of the County of San Diego. A deputy clerk-administrative
11 assistant II shall receive a biweekly salary at a rate equal to that specified for an analyst II in the
12 classified service of the County of San Diego. A deputy clerk-administrative assistant I shall
13 receive a biweekly salary at a rate equal to that specified for an analyst I in the classified service
14 of the County of San Diego.

15 (ab) Two deputy clerk-staff development coordinators or staff development specialists, as the
16 case may be. A deputy clerk-staff development coordinator shall receive a biweekly salary at a
17 rate 5 percent higher than that specified for staff development specialist in the classified service
18 of the County of San Diego. A deputy clerk-staff development specialist shall receive a biweekly
19 salary at a rate equal to that specified for staff development specialist in the classified service of
20 the County of San Diego.

21 (ac) One deputy clerk-court collection officer III who shall receive a biweekly salary at a rate
22 equal to that specified for revenue and recovery officer III in the classified service of the County
23 of San Diego. Persons appointed to these positions on or after January 1, 1999, shall serve at the
24 pleasure of the court administrator. Appointments to deputy clerk-court collection officers III may
25 be at any step within the salary range.

26 (ad) Five deputy clerk-court collection officers II or I, as the case may be. A deputy clerk-court
27 collection officer II shall receive a biweekly salary at a rate equal to that specified for revenue and
28 recovery officer II in the classified service of the County of San Diego. A deputy clerk-court
29 collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and
30 recovery officer I in the classified service of the County of San Diego. Persons appointed to these
31 positions on or after January 1, 1999, shall serve at the pleasure of the court administrator.
32 Appointments to deputy clerk-court collection officers II or I may be at any step within the salary
33 range.

34 (ae) Eleven deputy clerk-court referral coordinators, deputy clerk-court referral officers II or I,
35 as the case may be. A deputy clerk-court referral coordinator shall receive a biweekly salary at a
36 rate 7.25 percent higher to that specified for the class of deputy clerk-court referral officer II. A
37 deputy clerk-court referral officer II shall receive a biweekly salary at a rate equal to that
38 specified for the class of deputy probation officer in the classified service of San Diego County. A
39 deputy clerk-court referral officer I shall receive a biweekly salary at a rate 9 percent below that
40 specified for the class of deputy probation officer in the classified service of San Diego County.
41 Persons appointed to these positions on or after January 1, 1999, shall serve at the pleasure of the
42 court administrator. Three of the above positions shall be filled only upon the equivalent number
43 of corresponding vacancies in the positions denoted in Section 74359.1, subdivisions (d) and (e).
44 Appointments to deputy clerk-court referral coordinator, deputy clerk-court referral officer II or I
45 may be at any step within the salary range.


46 (af) Three deputy clerk-associate, assistant, or junior accountants, as the case may be. A deputy
47 clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for
48 associate accountant in the classified service of the County of San Diego. A deputy clerk-assistant
49 accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant
50 in the classified service of the County of San Diego. A deputy clerk-junior accountant shall
51 receive a biweekly salary at a rate equal to that specified for junior accountant in the classified
52 service of the County of San Diego.

1 (ag) Notwithstanding any other provision of law, the number of positions and compensation of
2 positions in classifications authorized under subdivisions (a) to (v), inclusive, and (x) to (af),
3 inclusive, of this section and Sections 74343, 74346, 74349, 74352, and 74359.1 may be adjusted
4 as necessary by action of a majority of the judges. The rules regarding appointment of persons to
5 the positions shall be the same as those applicable to the class of those positions. The action of a
6 majority of the judges adjusting those positions shall designate the class title or titles, number of
7 positions, and compensation for each respective class. Any adjustment made pursuant to this
8 subdivision shall be effective upon action of a majority of the judges and shall remain in effect
9 until ratified by the Legislature.

10 (ah) Positions authorized under Section 74344 may be filled by independent contractors on a
11 contractual basis with the approval of the court administrator. Should any of the positions be
12 filled by independent contractors on a contractual basis, Section 74345 or 74348 shall not apply
13 for these positions only.

14 74345. (a) All matters affecting the employment and compensation (including salary and fringe
15 benefits) of municipal court officers and attaches not specifically provided for in this article or
16 other provisions of state law shall be governed by the then current ordinances and resolutions of
17 the Board of Supervisors of the County of San Diego in the same manner as these employment
18 and compensation provisions may now or hereafter affect employees of the County of San Diego
19 in the comparable classes specified in this section or in Sections 73649, 73957, 74348, and 74749
20 if other comparable classes are specified in these sections. Whenever in the ordinances or
21 resolutions action or approval is required to be taken or given by the chief administrative officer
22 or the county personnel director, it shall be taken or given as to municipal court officers and
23 attaches, other than those serving at the pleasure of the court, by the court administrator with the
24 approval of a majority of the judges or their designees, or as to persons serving at the pleasure of
25 the court, by a majority of the judges or their designees.

26 (b) The hereinafter specified court classes are deemed to be comparable in job level to the
27 specified comparable classes in the service of the County of San Diego. Whenever the salaries of
28 such classes in the service of the County of San Diego are adjusted by the board of supervisors,
29 the salaries of the comparable classes in the office of the court administrator shall be adjusted a
30 commensurate amount effective on the same date. In no event shall the salary of the clerk, or any
31 deputy clerk who occupied his or her position on the day prior to the effective date of this section,
32 be less than his or her salary on that day. Any person whose title is changed as a result of the
33 enactment of or of any amendments to this article shall receive credit for continued service to
34 which he or she would be entitled under his or her previous position and shall receive
35 compensation at the step covering such length of service. Thereafter, any increments earned by
36 additional service in grade shall take effect upon the first day of the pay period following
37 completion of that required service. The comparable classes are as follows:

38  **Note.** To conserve resources, the table of comparable classes has not been reproduced.

39 Notwithstanding the comparable classes set forth above, if pursuant to subdivision (e) of
40 Section 73644, subdivision (g) of Section 74344, subdivision (e) of Section 73954, and
41 subdivision (g) of Section 74745, the class of deputy clerk IV is entitled to receive a biweekly
42 salary at a rate equal to that specified for superior court clerks in the superior court service of the
43 County of San Diego, the comparable county class for deputy clerk IV and senior deputy clerk
44 shall be the superior court clerk in the superior court service of the County of San Diego, except
45 with respect to benefits in which case the comparable county class shall be legal procedures clerk
46 III. Further, notwithstanding the comparable classes set forth above, the comparable class for the
47 class of deputy clerk-court interpreter for purposes of salary shall be the class of superior court
48 clerk interpreter in the superior court service of the County of San Diego and the comparable
49 class with respect to benefits shall be the class of legal procedures clerk III.

50 (c) Persons employed on or after January 1, 1975, in a class eligible for advancement in range
51 shall receive the same step increases applicable to persons so employed in the County of San
52 Diego on or after July 1, 1974. Persons employed prior to January 1, 1975, in a class eligible for

1 advancement in range shall receive the same step increases applicable to persons so employed in
2 the County of San Diego prior to July 1, 1975.

3 (d) Officers and attaches may be appointed to a class and position in the service of a court in
4 one judicial district from the service of a court in another judicial district within the County of
5 San Diego, from the service of the County of San Diego, from the service of the Superior Court
6 of the County of San Diego, or from the service of the marshal, in the same manner that
7 employees of the County of San Diego may be appointed in departments of the county. In
8 determining the step of the salary range at which such employee shall be paid, the employee shall
9 be given credit for the immediately preceding continuous prior service to a court, the marshal, or
10 the County of San Diego.

11 (e) A promotion is an appointment to a class compensated at a higher base salary, at any like-
12 numbered step, than the class relinquished. Upon promotion, an employee shall be placed at the
13 lowest step which provides at least a 5-percent increase over the base salary of the step occupied
14 in the former class, but in no event higher than the top step of the class to which promoted.

15 (f) A demotion is an appointment to a class compensated at a lower base salary, at any like-
16 numbered step, than the class relinquished. Upon demotion, an employee shall be placed at the
17 same numbered step in the class to which he or she was demoted as in the former class, except
18 that the step shall not be set lower than the normal entry step. If the demotion is to the class in
19 which the employee served immediately prior to being promoted, the employee's step shall be
20 that held immediately prior to the promotion.

21 74346. (a) There shall be eight commissioners who shall hold office at the pleasure of the
22 judges. A commissioner shall receive a salary equal to 80 percent of the salary of a judge of the
23 municipal court.

24 (b) A commissioner shall receive and be entitled to the same number of holidays, leaves of
25 absence, and all other fringe benefits as are now or may hereafter be provided for a chief deputy
26 county counsel in the classified service of the County of San Diego. However, a commissioner
27 shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service
28 during the pay period; and (2) earn vacation credit at the rate of 8.075 percent of each hour of
29 paid service during the pay period.

30 (c) With the approval of a majority of the judges of the court and the board of supervisors, each
31 commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar
32 of California membership fee.

33 74347. For the purposes of this article, the appointing authority means the person having the
34 power in the first instance to select the employee from an eligible list provided for that purpose.

35 74348. (a) In addition to the salary provided in this article, the classes of attaches of the
36 municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of
37 absence, and all other fringe benefits as are now or may hereafter be provided for the employees
38 of the County of San Diego in the comparable classes specified in Section 74345. The court
39 administrator shall receive the same number of holidays, leaves of absence, and all other fringe
40 benefits as are now or may hereafter be received by the classification of chief probation officer of
41 the County of San Diego. The assistant court administrator and deputy court administrators shall
42 receive the same number of holidays, leaves of absence, and all other fringe benefits as are now
43 or may hereafter be received by the classification of assistant chief probation officer of the
44 County of San Diego. All persons employed as a deputy clerk-accounting manager or deputy
45 clerk-division managers III, II, or I shall receive the same number of holidays, leaves of absence,
46 and all other fringe benefits as are now or may hereafter be received by the classification of
47 administrative assistant III of the classified service of the County of San Diego. However, all
48 officers, employees, and attaches of the municipal court shall be eligible to enroll in the dental
49 and vision group insurance plans sponsored by the County of San Diego. The purpose and intent
50 of this subdivision is to provide all court attaches except judicial secretaries, commissioners,
51 traffic trial commissioners, court reporters, and the traffic referee with any and all fringe benefits,

1 but no more than those which are available to their comparable classes in the service of the
2 County of San Diego as specified in this section or in Section 74345. Whenever action or
3 approval by the chief administrative officer or the county personnel director is required for the
4 county benefit, it shall be taken or given as to comparable municipal court officers and attaches
5 other than those serving at the pleasure of the court, by the court administrator with the approval
6 of a majority of the judges or their designees, or as to the court administrator and others serving at
7 the pleasure of the court, by a majority of the judges or their designees. Changes in fringe benefits
8 shall be effective on the same date as for employees of the County of San Diego in comparable
9 classes. A majority of the judges may adopt rules for the conduct of and personnel privileges to
10 be afforded the attaches of the court, excluding fringe benefits.

11 (b) All attaches other than the traffic referee, commissioners, traffic trial commissioners, court
12 administrator, court reporters, judicial secretaries, and other persons serving at the pleasure of
13 their appointing authority, may be appointed, promoted, removed, suspended, laid off, or
14 discharged for cause by the appointing authority subject in such appointment, promotion,
15 removal, suspension, layoff, or discharge to civil service provisions applicable to the classified
16 personnel of the County of San Diego. Whenever such attaches are appointed or promoted to a
17 position, they must serve a probationary period of at least one year, but not to exceed 18 months,
18 as specified in the job announcement for the class prior to appointment. If the San Diego County
19 Charter is amended to repeal the Civil Service Rules and the board of supervisors adopts new
20 Personnel Rules, the reference to civil service provisions in this subdivision shall mean the
21 personnel rule provisions.

22 74349. Official reporters in the Municipal Court of the San Diego Judicial District appointed
23 pursuant to Section 72194 shall be attaches of such court and, in lieu of any other compensation
24 provided by law for their services in reporting testimony and proceedings in such court, shall be
25 paid a biweekly salary equal to that paid to regular official reporters for the Superior Court of the
26 County of San Diego. There shall also be one official reporter appointed by the court as chief
27 reporter, such appointment to be entered upon the minutes of the court, who shall receive
28 compensation in the sum of 15 percent in addition to any sum otherwise provided by this section.
29 These salaries shall be a charge against the general fund of the county. All persons employed in
30 the class of chief reporter shall receive the same number of holidays, leaves of absence, and all
31 other fringe benefits as are now or may hereafter be received by the chief reporter of the Superior
32 Court of the County of San Diego.

33 Pursuant to Section 72194, the judges of such court may appoint as many additional reporters
34 as the business of the court may require, who shall be known as official reporters pro tempore,
35 and who shall serve without salary but shall receive the fees provided by Sections 69947 to
36 69953, inclusive, except that in lieu of the per diem fees provided in those sections for reporting
37 testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at
38 a rate equal to that paid to official reporters pro tempore for the Superior Court of the County of
39 San Diego, which shall be a charge against the general fund of the County of San Diego.

40 Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to
41 official reporters and official reporters pro tempore as otherwise provided by law. In all cases
42 where by law the court may direct the payment of transcription fees out of the county treasury,
43 those fees shall, upon order of the court, be paid from the general fund including fees for
44 transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to
45 69953, inclusive.

46 Official reporters of the court shall be members of any retirement system maintained by the
47 county. For the purpose of the retirement system the salary provided in this article for such
48 reporters shall be deemed their entire compensation.

49 Notwithstanding Section 74348, official reporters serve at the pleasure of the judges and shall
50 receive and be entitled to the same number of holidays, leaves of absence, and all other fringe
51 benefits as are now or may hereafter be provided for the official reporters of the Superior Court of
52 the County of San Diego.

1 74351. The Municipal Courts of the County of San Diego shall establish administrative
2 assessments not to exceed ten dollars (\$10) for clerical and administrative costs incurred for the
3 following activities:

4 (a) An assessment for the cost of recording and maintaining a record of the defendant's prior
5 convictions for violations of the Vehicle Code. The assessment shall be payable at the time of
6 payment of a fine or when bail is forfeited for any subsequent violations of the Vehicle Code
7 other than parking, pedestrian, or bicycle violations.

8 (b) An assessment for all defendants whose driver's license or automobile registration is
9 attached or restricted pursuant to Section 40509 or 40509.5 of the Vehicle Code to cover the cost
10 of notifying the Department of Motor Vehicles of the attachment or restriction.

11 74352. By order entered upon the minutes of the court, a majority of the judges of the
12 municipal court of the San Diego Judicial District may direct the court administrator to appoint as
13 many competent judicial secretaries as the business of the court requires, not to exceed eight, who
14 shall serve at the pleasure of the court administrator. One of these secretaries may be appointed
15 by the court administrator as the chief judicial secretary and, while serving in that capacity, shall
16 receive a biweekly salary of one thousand five hundred eighty-seven dollars and twenty cents
17 (\$1,587.20). An appointment after January 1, 1997, to such position shall receive a biweekly
18 salary at a rate equal to that specified for the classification of confidential legal secretary III in the
19 classified service of the County of San Diego and may be at any step within the salary range.

20 A judicial secretary other than the chief judicial secretary shall receive a biweekly salary at a
21 rate equal to that specified for administrative secretary IV in the classified service of the County
22 of San Diego. Appointments to judicial secretary may be at any step within the salary range.

23 Whenever the salary of administrative secretary IV or confidential legal secretary III of the
24 classified service of the County of San Diego is adjusted by the Board of Supervisors of the
25 County of San Diego, the salaries of a chief judicial secretary appointed after January 1, 1997,
26 and judicial secretaries shall be adjusted a commensurate percentage on the same date, such
27 adjustments to take effect on the effective date of any amendments to this article. The salary of a
28 chief judicial secretary appointed before January 1, 1997, shall not be adjusted until such time as
29 the salary of a judicial secretary equals or surpasses that of the chief judicial secretary whereby it
30 then shall be adjusted the same commensurate percentage to equal the biweekly salary of judicial
31 secretary.

32 Notwithstanding Section 74348, judicial secretaries shall receive and be entitled to the same
33 number of holidays, leaves of absence and all other fringe benefits as are now or may hereafter be
34 provided for administrative secretary IV or confidential legal secretary III in the classified service
35 of the County of San Diego. However, the chief judicial secretary and judicial secretaries shall be
36 entitled to: (a) earn sick leave credit at the rate of 5.385 percent of each hour of paid service
37 during the pay period; (b) earn vacation credit at the rate of 5.769 percent of each hour of paid
38 service during the pay period and accumulate vacation credit not to exceed 25 working days
39 where the employee has less than 10 years of continuous service; and (c) earn vacation credit at
40 the rate of 8.075 percent of each hour of paid service during the pay period and accumulate
41 vacation credit not to exceed 35 working days where the employee has 10 years or more of
42 continuous service.

43 74353. In the event that there shall be an increase in the number of judges as provided in
44 Section 74341, the clerk of the court may appoint one deputy clerk IV, one deputy clerk III, one
45 deputy clerk II, and one deputy clerk I for each respective additional judge so appointed. Such
46 additional deputy clerks shall receive a biweekly salary at a rate specified in the appropriate
47 schedule incorporated by Section 74745.

48 **Gov't Code §§ 74355-74359.2 (repealed). San Diego County Pretrial Services Unit personnel**

49 SEC. ____ . Article 25.1 (commencing with Section 74355) of Chapter 10 of Title 8 of
50 the Government Code is repealed.

1 **Comment.** Sections 74355-74359.2 are repealed to reflect:

2 (1) Unification of the municipal and superior courts in San Diego County pursuant to Article
3 VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Code Civ. Proc.
4 § 38 (judicial districts). Cf. Section 71042.5 (preservation of judicial districts for purposes of
5 publication).

6 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
7 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
8 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
9 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
10 (employment selection and advancement), 71650-71658 (employment protection system), 71673
11 (authority of court).

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

13 **Article 25.1. Municipal Courts of San Diego County**

14 74355. This article applies jointly to the four municipal courts established in this chapter as the
15 El Cajon Judicial District, North County Judicial District, San Diego Judicial District, and South
16 Bay Judicial District for purposes of establishing positions, and compensation for these positions,
17 for the San Diego County Pretrial Services Unit.

18 74359.1. A majority of the Court Administrators of the Municipal Courts of San Diego County
19 may make appointments to the San Diego County Pretrial Services Unit, as follows:

20 (a) Six deputy clerks III, II, or I or deputy clerk-intermediate clerk typists, as the case may be.
21 Each deputy clerk III shall receive a biweekly salary at a rate equal to that specified for legal
22 procedures clerk III in the classified service of the County of San Diego. Each deputy clerk II
23 shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk II in the
24 classified service of the County of San Diego. Each deputy clerk I shall receive a biweekly salary
25 at a rate equal to that specified for legal procedures clerk I in the classified service of the County
26 of San Diego. Appointments to deputy clerk I may be at any step within the salary range at the
27 discretion of a majority of the Court Administrators of the Municipal Courts of San Diego
28 County. A deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to
29 that specified for intermediate clerk typist in the classified service of the County of San Diego.
30 One of these positions may be filled at the level of deputy clerk-intermediate clerk typist.

31 (b) Notwithstanding subdivision (b) of Section 74359.2, up to 20 temporary extra help deputy
32 clerk-municipal court trainees V, III, II, or I, as the case may be, who shall be paid at an hourly
33 rate and shall serve at the pleasure of a majority of the Court Administrators of the Municipal
34 Courts of San Diego County. A deputy clerk-municipal court trainee V shall receive a biweekly
35 salary at a rate equal to that specified for student worker V in the unclassified service of the
36 County of San Diego. A deputy clerk-municipal court trainee III shall receive a biweekly salary at
37 a rate equal to that specified for student worker III in the unclassified service of the County of
38 San Diego. A deputy clerk-municipal court trainee II shall receive a biweekly salary at a rate
39 equal to that specified for student worker II in the unclassified service of the County of San
40 Diego. A deputy clerk-municipal court trainee I shall receive a biweekly salary at a rate equal to
41 that specified for student worker I in the unclassified service of the County of San Diego. Persons
42 who graduate and receive a degree in the field which qualified them for appointment to a deputy
43 clerk-municipal court trainee class, may remain in the class and be employed on a full-time basis
44 for a period not to exceed six months from the first day of the month following their date of
45 graduation.

46 (c) One deputy clerk-pretrial services manager who shall receive a biweekly salary at a rate
47 22.46 percent higher than that specified for deputy clerk-supervising pretrial services officer.

48 (d) Four deputy clerk-supervising pretrial services officers who shall receive a biweekly salary
49 at a rate 7.25 percent higher than that specified for deputy clerk-pretrial services officer.

1 (e) Eight deputy clerk-pretrial services officers who shall receive a biweekly salary at a rate
2 equal to that specified for deputy probation officer in the classified service of the County of San
3 Diego.

4 (f) Notwithstanding subdivision (b) of Section 74359.2, up to three extra help positions (hourly
5 rate) to be appointed by and serve at the pleasure of a majority of the Court Administrators of the
6 Municipal Courts of San Diego County in the class and salary level deemed appropriate. These
7 appointments shall be temporary for a period not to exceed six months, plus one additional period
8 of up to six months, at the option of a majority of the Court Administrators of the Municipal
9 Courts of San Diego County. Notwithstanding any other provisions of this section, a majority of
10 the Court Administrators of the Municipal Courts of San Diego County may fill these positions
11 with persons employed for a period not to exceed 120 working days or 960 hours, whichever is
12 greater, during a fiscal year on a part-time basis.

13 (g) Notwithstanding subdivision (b) of Section 74359.2, up to two deputy clerk-court workers
14 may be appointed by and serve at the pleasure of a majority of the Court Administrators of the
15 Municipal Courts of San Diego County. The class of deputy clerk-court worker provides for
16 temporary appointments to positions in classes not listed in Section 74345 pending a review and
17 evaluation of the duties of these positions by the Court Administrators of the Municipal Courts of
18 San Diego County, and the establishment of specific classes as provided in this section. Prior to
19 the establishment of these classes, the county personnel director shall conduct a classification
20 review and make recommendations to the Court Administrators of the Municipal Courts of San
21 Diego County as to the establishment of these classes. The rate of pay for each individual
22 employed in this class shall be within the designated range at a rate determined by a majority of
23 the Court Administrators of the Municipal Courts of San Diego County following consultation
24 with the county personnel director. The rules regarding appointment and compensation as they
25 relate to appointments of deputy clerk-court worker shall be the same as those applicable to the
26 class that is pending establishment. Appointments shall be temporary and shall not exceed six
27 months in duration. Employee benefits, if applicable, shall be equal to those granted to the class
28 in the service of the County of San Diego to which the pending class will be tied for benefit
29 purposes. When an appointment is made, the class, compensation (including salary and fringe
30 benefits), and number of these positions may be established by joint action of a majority of the
31 Judges of the Municipal Courts of San Diego County and the board of supervisors in accordance
32 with established county personnel and budgetary procedures. In the event that the class pending
33 establishment is tied to a class in the unclassified service of the County of San Diego, the joint
34 action may designate that the person serving in the class pending establishment shall serve at the
35 pleasure of the Court Administrators of the Municipal Courts of San Diego County. A majority of
36 the Court Administrators of the Municipal Courts of San Diego County may then appoint
37 additional attaches to such classes of positions in the same manner as those for which express
38 provision is made, and they shall receive the compensation so provided. Persons occupying
39 deputy clerk-court worker positions shall have their appointments expire not later than 30
40 calendar days following promulgation of a list of certified eligibles for the new class.
41 Appointments to the new class shall continue at the stated compensation or as thereafter modified
42 by joint action of the majority of the Judges of the Municipal Courts of San Diego County and the
43 board of supervisors.

44 (h) The positions identified in subdivisions (a) to (g), inclusive, shall be administered by one
45 Court Administrator, selected by a majority of the Court Administrators of the Municipal Courts
46 of San Diego County, subject to policy direction of a majority of the Court Administrators of the
47 Municipal Courts of San Diego County. The purpose and intent of this subdivision is to allow the
48 Court Administrators of the Municipal Courts of San Diego County to determine the work
49 assignments of pretrial services personnel.

50 (i) Except as provided herein, Section 74345 shall apply to the attaches appointed pursuant to
51 this section.

52 (j) Notwithstanding any other provision of law, the number of positions in classifications
53 authorized under subdivisions (a) to (g), inclusive, may be increased by up to four additional
54 positions by joint action of a majority of the Judges of the Municipal Courts of San Diego County

1 and the board of supervisors in accordance with established county personnel and budgetary
2 procedures. The rules regarding appointments of persons to these positions shall be the same as
3 those applicable to the class of such positions. The action of a majority of the Judges of the
4 Municipal Courts of San Diego County and the resolution of the board of supervisors adjusting
5 these positions shall designate the class title or titles and number of positions to be added to each
6 respective class. Any adjustment made pursuant to this subdivision shall be effective upon the
7 adoption of a resolution by the board of supervisors and shall remain in effect only until January 1
8 of the second year following the year in which a resolution becomes effective, unless earlier
9 ratified by the Legislature.

10 74359.2. (a) In addition to the salary provided in this article, the classes of attaches of the San
11 Diego County Pretrial Services Unit shall receive, and they shall be entitled to, the same number
12 of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be
13 provided for the employees of the County of San Diego in the comparable classes specified in
14 Section 74345. The deputy clerk-pretrial services manager shall receive the same number of
15 holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received
16 by the classification of administrative assistant III of the classified service of the County of San
17 Diego. The deputy clerk-supervising pretrial services officer and deputy clerk-pretrial services
18 officer shall receive the same number of holidays, leaves of absence, and all other fringe benefits
19 as are now or may hereafter be received by the classification of legal procedures clerk III of the
20 classified service of the County of San Diego. However, all employees of the San Diego County
21 Pretrial Services Unit shall be eligible to enroll in the dental and vision group insurance plans
22 sponsored by the County of San Diego. The purpose and intent of this subdivision is to provide
23 all San Diego County Pretrial Services Unit employees with any and all fringe benefits, but no
24 more than those which are available to their comparable classes in the service of the County of
25 San Diego as specified in this section or in Section 74345. Whenever action or approval by the
26 chief administrative officer or the county personnel director is required for the county benefit, it
27 shall be taken or given as to comparable San Diego County Pretrial Services Unit employees, by a
28 majority of the Court Administrators of the Municipal Courts of San Diego County. Changes in
29 fringe benefits shall be effective on the same date as those for employees of the County of San
30 Diego in comparable classes. A majority of the Court Administrators of the Municipal Courts of
31 San Diego County may adopt rules for the conduct of and personnel privileges afforded the
32 attaches of the court, excluding fringe benefits.

33 (b) All employees, other than those persons serving at the pleasure of the Court Administrators
34 of the Municipal Courts of San Diego County, may be appointed, promoted, removed, suspended,
35 laid off, or discharged for cause by a majority of the Court Administrators of the Municipal
36 Courts of San Diego County subject in that appointment, promotion, removal, suspension, layoff,
37 or discharge to civil service provisions applicable to the classified personnel of the County of San
38 Diego. Whenever these employees are appointed or promoted to a position, they must serve a
39 probationary period of one year. If the San Diego County Charter is amended to repeal the Civil
40 Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil
41 service provisions in this subdivision shall mean the personnel rule provisions.

42 **Gov't Code §§ 74500-74521 (repealed). City and County of San Francisco Municipal Court**
43 **SEC. ____ .** Article 26 (commencing with Section 74500) of Chapter 10 of Title 8 of the
44 Government Code is repealed.

45 **Comment.** Sections 74500-74521 are repealed to reflect:

46 (1) Unification of the municipal and superior courts in the City and County of San Francisco
47 pursuant to Article VI, Section 5(e), of the California Constitution, effective December 31, 1998.
48 See Section 70211 (former municipal court judgeships continued as superior court judgeships).
49 See also 69596 (number of judges in City and County of San Francisco).

50 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
51 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622

1 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
2 benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment
3 selection and advancement), 71650-71658 (employment protection system), 71673 (authority of
4 court). See also Code Civ. Proc. § 195 (jury commissioners); Sections 69941 (appointment of
5 official reporters), 69947 (compensation of official reporter).

6 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
7 management), 77003 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
8 (state funding of trial court operations). See also Sections 68086 (fees for reporting services in
9 civil cases generally), 69952 (payment from Trial Court Operations Fund), 69953 (payment of
10 fees).

11 **Note: Comment Requested**

12 The Commission is reviewing whether provisions requiring the deposit of certain court reporter
13 fees into the county treasury remain viable, given the enactment of the Trial Court Funding Act,
14 the Trial Court Employment Protection and Governance Act, and other changes to the structure of
15 the trial courts. See, e.g., Gov’t Code §§ 74513 (per diem fee payable to official reporter), 74521
16 (transmittal of funds to city and county treasurer). See also Gov’t Code §§ 77003 and Cal. R. Ct.
17 810 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200 (state funding of
18 trial court operations). These matters are also being examined by a Joint Court-County Working
19 Group on Trial Court Funding. The Commission solicits comment on the proper treatment of
20 these provisions.

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

22 **Article 26. San Francisco**

23 74500. This article applies to the municipal court in the City and County of San Francisco.

24 74501. There shall be 19 judges; provided that there shall be 20 judges at such time as the
25 Board of Supervisors of San Francisco finds there are sufficient funds for an additional judge of
26 the municipal court, and adopts a resolution to that effect.

27 **Note.** Government Sections 74501.1 & 74501.2 are not reproduced here, because they were
28 repealed by AB 1700 (Steinberg & Frommer), 2001 Cal. Stat. ch. 824, §§ 30-31.

29 74502. (a) Notwithstanding any other provision of this code, the municipal court positions
30 specified in this section shall be paid at a minimum the monthly equivalent amount specified.

31 Notwithstanding any other provision of this code, whenever any vacancy occurs in a position
32 specified in this section, the judges, or a majority of the judges of the court, shall appoint a person
33 to the vacancy, who shall hold office at their pleasure, and who shall receive the salary specified
34 in this section. The appointing authority, in its discretion, may appoint two part-time appointees
35 to a class number, who shall each receive a salary equal to the pro rata share of the salary
36 specified in this section.

37 The salary at initial appointment to a class number shall be at step one during the first year of
38 service in that class number, except the appointing authority, in its discretion and excluding
39 positions specified in subdivision (c), when the appointee is qualified may start an appointee at a
40 step level other than step one. After the first year of permanent certification and commencing on
41 the first day of the month following the next anniversary of the appointment, the appointee shall
42 advance to the next step of the class number until the top step in the class is reached.

43 (b) There shall be one clerk-administrator who shall serve as clerk of the court and secretary to
44 the judges, perform duties specified in the law and those assigned by the judges, and who shall be
45 paid a salary, as clerk class number 0210, of six thousand nine hundred thirty-three dollars
46 (\$6,933) for step one, of seven thousand three hundred thirteen dollars (\$7,313) for step two, and
47 of seven thousand four hundred eighty-one dollars (\$7,481) for step three.

48 (c) Notwithstanding the provisions of Section 72400, there shall be three court commissioners
49 who shall have the powers and duties specified in Sections 72401, 72402, and 72403, who shall

1 perform such duties as assigned by the presiding judge and who shall be paid a salary, as class
2 number 0250, equal to 50 percent of the salary of a judge of the municipal court during the first
3 year of service; subject to approval of the judges, or a majority of them, a salary equal to 65
4 percent of the salary of a judge of the municipal court after the first year of permanent
5 certification, commencing on the first day of the month following the first anniversary of
6 appointment; and subject to the approval of the judges, or a majority of them, a maximum salary
7 equal to 80 percent of the salary of a judge of the municipal court after the second year of
8 permanent certification, commencing on the first day of the month following the second
9 anniversary of appointment.

10 (d) There shall be two chief deputies, one with overall responsibility for the civil small claims
11 and administrative divisions, and one with overall responsibility for the criminal and traffic
12 divisions, each of whom shall also serve as jury commissioner and who shall exercise insofar as
13 applicable to the municipal court, the powers of a jury commissioner of a superior court and who
14 shall be paid a salary, as deputy clerk class number 0220, of five thousand nine hundred thirty-
15 three dollars (\$5,933) for step one, of six thousand two hundred fifty-nine dollars (\$6,259) for
16 step two, and of six thousand six hundred four dollars (\$6,604) for step three.

17 (e) There shall be one executive assistant to the presiding judge who shall be paid a salary, as
18 deputy clerk class number 0221, of five thousand six hundred twenty-nine dollars (\$5,629) for
19 step one, of five thousand nine hundred thirty-three dollars (\$5,933) for step two, and of six
20 thousand two hundred fifty-nine dollars (\$6,259) for step three, and who shall perform such
21 duties as assigned by the presiding judge, or as assigned by the clerk-administrator after the
22 approval of the presiding judge. When the executive assistant to the presiding judge is a member
23 of the State Bar, the executive assistant may perform duties for the court in the field of law at the
24 direction of the presiding judge with the concurrence of the administrative committee and be paid
25 in addition to the salary provided by this article, the additional sum of four hundred dollars (\$400)
26 monthly.

27 (f) There shall be one executive secretary to the presiding judge who shall serve as confidential
28 executive secretary to the presiding judge and executive assistant, who shall perform such duties
29 as are assigned by the presiding judge, the executive assistant, or the clerk-administrator after the
30 approval of the presiding judge, and who shall be paid the salary, as deputy class number 0285, of
31 three thousand seven hundred thirty-seven dollars (\$3,737) for step one, of three thousand nine
32 hundred fifty-nine dollars (\$3,959) for step two, and of four thousand one hundred ninety-eight
33 dollars (\$4,198) for step three.

34 (g) There shall be one small claims legal adviser who shall be paid a salary, as deputy clerk
35 class number 0260, of four thousand six hundred fifty-two dollars (\$4,652) for step one, of four
36 thousand eight hundred thirty-three dollars (\$4,833) for step two, of five thousand one hundred
37 twenty dollars (\$5,120) for step three, of five thousand three hundred sixty-eight dollars (\$5,368)
38 for step four, and of five thousand six hundred twenty-eight dollars (\$5,628) for step five, and
39 who shall perform such duties pursuant to Section 116.260 of the Code of Civil Procedure.

40 (h) There shall be one deputy clerk who shall be appointed criminal courts calendar coordinator
41 who shall be paid a salary, as deputy clerk class number 0225, of five thousand seventy-six
42 dollars (\$5,076) for step one, of five thousand three hundred fifty-five dollars (\$5,355) for step
43 two, and of five thousand six hundred fifty dollars (\$5,650) for step three, and perform such
44 duties as are assigned by the judges of the court.

45 **Note: Comment Requested**

46 The Commission is researching several issues pertaining to jury commissioners, including
47 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
48 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
49 by that Act. The Commission solicits comments on these points.

50 74503. (a) Notwithstanding any other provision of this code, the municipal court positions
51 specified in this section shall be paid at a minimum the monthly equivalent amount specified.

1 Whenever any vacancy occurs in a position specified in this section, the clerk-administrator
2 shall appoint, upon consent of a majority of the judges, or a majority of the judges of the court
3 may appoint a person to the vacancy who shall hold office at the pleasure of the appointing
4 authority, and who shall receive the salary specified in this section. The appointing authority, in
5 its discretion, may appoint two part-time appointees to a class number, who shall each receive a
6 salary equal to the pro rata share of the salary specified in this section.

7 The salary at initial appointment to a class number shall be at step one during the first year of
8 service in that class number, except the appointing authority, in its discretion and when the
9 appointee is so qualified may start an appointee at a step level other than step one. After the first
10 year of permanent certification and commencing on the first day of the month following the next
11 anniversary of the appointment, the appointee shall advance to the next step of the class number
12 until the top step in the class is reached.

13 (b) There shall be one court training coordinator who shall be paid a salary, as deputy clerk
14 class number 0222, of five thousand seventy-six dollars (\$5,076) for step one, of five thousand
15 three hundred fifty-five dollars (\$5,355) for step two, and of five thousand six hundred fifty
16 dollars (\$5,650) for step three, and who shall perform such duties as are assigned by the clerk-
17 administrator.

18 (c) There shall be one deputy clerk who shall be appointed court systems coordinator, who shall
19 be paid a salary, as deputy clerk class number 0222, of five thousand seventy-six dollars (\$5,076)
20 for step one, of five thousand three hundred fifty-five dollars (\$5,355) for step two, and of five
21 thousand six hundred fifty dollars (\$5,650) for step three, and who shall perform such duties as
22 are assigned by the clerk-administrator.

23 (d) There shall be one deputy clerk who shall be appointed assistant court systems coordinator
24 who shall be paid a salary, as deputy clerk class number 0273, of four thousand three hundred
25 forty-three dollars (\$4,343) for step one, of four thousand five hundred eighty-three dollars
26 (\$4,583) for step two, and of four thousand eight hundred thirty-five dollars (\$4,835) for step
27 three, and who shall perform such duties as are assigned by the clerk-administrator.

28 (e) There shall be one court fiscal officer who shall be paid a salary, as deputy clerk class
29 number 0223, of five thousand nine hundred thirty-three dollars (\$5,933) for step one, of six
30 thousand two hundred fifty-nine dollars (\$6,259) for step two, and of six thousand six hundred
31 four dollars (\$6,604) for step three and who shall perform such duties as are assigned by the
32 clerk-administrator.

33 (f) There shall be one court computer system director who shall be paid a salary, as deputy
34 clerk class number 0242, of seven thousand two hundred thirty-seven dollars (\$7,237) for step
35 one, of seven thousand five hundred ninety-eight dollars (\$7,598) for step two, of seven thousand
36 nine hundred seventy-eight dollars (\$7,978) for step three, of eight thousand three hundred
37 seventy-two dollars (\$8,372) for step four, and of eight thousand seven hundred ninety-seven
38 dollars (\$8,797) for step five, and who shall perform such duties as are assigned by the clerk-
39 administrator.

40 (g) There shall be one court traffic system programmer who shall be paid a salary, as deputy
41 clerk class number 0243, of five thousand nine hundred fifty-three dollars (\$5,953) for step one,
42 of six thousand two hundred fifty-three dollars (\$6,253) for step two, of six thousand five hundred
43 sixty-four dollars (\$6,564) for step three, of six thousand eight hundred ninety-two dollars
44 (\$6,892) for step four, and of seven thousand two hundred seventy-three dollars (\$7,273) for step
45 five, and who shall perform such duties as are assigned by the clerk-administrator.

46 (h) There shall be one court traffic senior application programmer who shall be paid a salary as
47 deputy clerk class number 0244, of five thousand nine hundred fifty-three dollars (\$5,953) for
48 step one, of six thousand two hundred fifty-three dollars (\$6,253) for step two, of six thousand
49 five hundred sixty-four dollars (\$6,564) for step three, of six thousand eight hundred ninety-two
50 dollars (\$6,892) for step four, and of seven thousand two hundred seventy-three dollars (\$7,273)
51 for step five, and who shall perform such duties as are assigned by the clerk-administrator.

52 (i) There shall be one court application programmer who shall be paid a salary as deputy clerk
53 class number 0246, of five thousand one hundred fifty-two dollars (\$5,152) for step one, of five
54 thousand four hundred eight dollars (\$5,408) for step two, of five thousand six hundred sixty-nine

1 dollars (\$5,669) for step three, of five thousand nine hundred fifty-three dollars (\$5,953) for step
2 four, and of six thousand two hundred fifty-three dollars (\$6,253) for step five, and who shall
3 perform such duties as are assigned by the clerk-administrator.

4 (j) There shall be one court technical writer who shall be paid a salary as deputy clerk class
5 number 0248, of three thousand six hundred sixty dollars (\$3,660) for step one, of three thousand
6 eight hundred forty-three dollars (\$3,843) for step two, of four thousand thirty-three dollars
7 (\$4,033) for step three, of four thousand two hundred thirty-six dollars (\$4,236) for step four, and
8 of four thousand four hundred forty-seven dollars (\$4,447) for step five, and who shall perform
9 such duties as are assigned by the clerk-administrator.

10 (k) There shall be one court technical programmer who shall be paid a salary, as deputy clerk
11 class number 0248, of three thousand six hundred sixty dollars (\$3,660) for step one, of three
12 thousand eight hundred forty-three dollars (\$3,843) for step two, of four thousand thirty-three
13 dollars (\$4,033) for step three, of four thousand two hundred thirty-six dollars (\$4,236) for step
14 four, and of four thousand four hundred forty-seven dollars (\$4,447) for step five, and who shall
15 perform such duties as are assigned by the clerk-administrator.

16 (l) There shall be one court program analyst manager who shall be paid a salary, as deputy
17 clerk class number 0240, of four thousand six hundred thirty-nine dollars (\$4,639) for step one, of
18 four thousand eight hundred seventy-nine dollars (\$4,879) for step two, of five thousand one
19 hundred twenty-eight dollars (\$5,128) for step three, of five thousand three hundred eighty-three
20 dollars (\$5,383) for step four, and of five thousand six hundred fifty-two dollars (\$5,652) for step
21 five, and who shall perform such duties as are assigned by the clerk-administrator.

22 (m) There shall be one deputy clerk who shall be appointed assistant fiscal officer who shall be
23 paid a salary, as deputy clerk class number 0275, of four thousand three hundred forty-three
24 dollars (\$4,343) for step one, of four thousand five hundred eighty-three dollars (\$4,583) for step
25 two, and of four thousand eight hundred thirty-five dollars (\$4,835) for step three, and who shall
26 perform such duties as are assigned by the clerk-administrator.

27 (n) There shall be one assistant court program analyst manager who shall be paid a salary, as
28 deputy clerk class number 0278, of three thousand five hundred thirty-nine dollars (\$3,539) for
29 step one, of three thousand nine hundred eight dollars (\$3,908) for step two, of four thousand one
30 hundred dollars (\$4,100) for step three, of four thousand three hundred six dollars (\$4,306) for
31 step four, and of four thousand five hundred twenty-five dollars (\$4,525) for step five, and who
32 shall perform such duties as are assigned by the clerk-administrator.

33 (o) There shall be one confidential administrative legal stenographer who shall be paid a salary,
34 as deputy clerk class number 0287, of three thousand seven hundred thirteen dollars (\$3,713) for
35 step one, of three thousand nine hundred thirty-five dollars (\$3,935) for step two, and of four
36 thousand one hundred seventy-two dollars (\$4,172) for step three, and who shall perform such
37 duties as are assigned by the clerk-administrator.

38 (p) There shall be one personnel-payroll clerk who shall be paid a salary, as deputy clerk class
39 number 0289, of three thousand seven hundred thirteen dollars (\$3,713) for step one, of three
40 thousand nine hundred thirty-five dollars (\$3,935) for step two, and of four thousand one hundred
41 seventy-two dollars (\$4,172) for step three, and who shall perform such duties as are assigned by
42 the clerk-administrator.

43 (q) There shall be one interpreter coordinator, who shall be paid a salary, as deputy clerk class
44 number 0293, of three thousand two hundred sixteen dollars (\$3,216) for step one, of three
45 thousand four hundred ten dollars (\$3,410) for step two, and of three thousand six hundred
46 thirteen dollars (\$3,613) for step three, and who shall perform such duties as are assigned by the
47 clerk-administrator.

48 (r) There shall be four information clerks who shall be paid a salary, as deputy clerk class
49 number 0340, of two thousand four hundred sixty-six dollars (\$2,466) for step one, of two
50 thousand eight hundred two dollars (\$2,802) for step two, of three thousand one hundred forty-
51 seven dollars (\$3,147) for step three, and of three thousand two hundred fifty-five dollars
52 (\$3,255) for step four, and who shall perform such duties as are assigned by the clerk-
53 administrator.

1 (s) There shall be one information clerk-supervisor who shall be paid a salary, as deputy clerk
2 class number 0342, of three thousand one hundred forty-seven dollars (\$3,147) for step one, of
3 three thousand two hundred fifty-five dollars (\$3,255) for step two, of three thousand three
4 hundred sixty-five dollars (\$3,365) for step three, and of three thousand four hundred eighty
5 dollars (\$3,480) for step four, and who shall perform such duties as are assigned by the clerk-
6 administrator.

7 (t) There shall be three legal research attorneys who shall be paid a salary, as deputy clerk class
8 number 0360, of four thousand fifty-two dollars (\$4,052) for step one, of four thousand two
9 hundred seventy-five dollars (\$4,275) for step two, and of four thousand five hundred eleven
10 dollars (\$4,511) for step three, and who shall perform such duties as are assigned by the clerk-
11 administrator.

12 (u) There shall be one assistant training coordinator, who shall be paid a salary, as deputy clerk
13 class number 0297, of three thousand two hundred sixteen dollars (\$3,216) for step one, of three
14 thousand four hundred ten dollars (\$3,410) for step two, and of three thousand six hundred
15 thirteen dollars (\$3,613) for step three, and who shall perform such duties as are assigned by the
16 clerk-administrator.

17 74504. Notwithstanding any other provision of this code, the municipal court positions
18 specified in this section shall be paid at a minimum the monthly equivalent amount specified.

19 The salary at initial appointment to a class number shall be at step one during the first year of
20 service in that class number, except when the appointee is qualified by current civil service
21 classification for other than step one. After the first year of permanent certification and
22 commencing on the first day of the month following the next anniversary of the appointment, the
23 appointee shall advance to the next step of the class number until the top step in the class is
24 reached. The appointing authority, in its discretion, may appoint two part-time appointees to a
25 class number, who shall each receive a salary equal to the pro rata share of the salary specified in
26 this section.

27 The clerk-administrator shall appoint and assign the duties and responsibilities for the
28 following:

29 (a) Three deputy clerks who shall be the division chiefs in the civil, criminal and traffic
30 divisions of the court who shall be paid a salary, as deputy clerk class number 0230, of five
31 thousand seventy-six dollars (\$5,076) for step one, of five thousand three hundred fifty-five
32 dollars (\$5,355) for step two, and of five thousand six hundred fifty dollars (\$5,650) for step
33 three.

34 (b) Seven deputy clerks who shall be assistant division chiefs and who shall be paid a salary, as
35 deputy clerk class number 0270, of four thousand three hundred forty-three dollars (\$4,343) for
36 step one, of four thousand five hundred eighty-three dollars (\$4,583) for step two, and of four
37 thousand eight hundred thirty-five dollars (\$4,835) for step three.

38 (c) Thirty-four deputy clerks who shall be paid a salary, as deputy clerk class number 0280, of
39 three thousand seven hundred thirteen dollars (\$3,713) for step one, of three thousand nine
40 hundred thirty-five dollars (\$3,935) for step two, and of four thousand one hundred seventy-two
41 dollars (\$4,172) for step three, and who shall perform such duties as are assigned by the clerk-
42 administrator.

43 (d) Twenty-five deputy clerks who shall be paid a salary, as deputy clerk class number 0290, of
44 three thousand two hundred sixteen dollars (\$3,216) for step one, of three thousand four hundred
45 ten dollars (\$3,410) for step two, and of three thousand six hundred thirteen dollars (\$3,613) for
46 step three.

47 (e) Thirty-eight deputy clerks who shall be paid a salary, as deputy clerk class number 0320, of
48 two thousand six hundred ninety-nine dollars (\$2,699) for step one, of two thousand eight
49 hundred sixty-two dollars (\$2,862) for step two, and of three thousand thirty dollars (\$3,030) for
50 step three.

51 (f) Eighty-two deputy clerks who shall be paid a salary, as deputy clerk class number 0330, of
52 two thousand two hundred sixty-eight dollars (\$2,268) for step one, of two thousand four hundred

1 five dollars (\$2,405) for step two, and of two thousand five hundred forty-seven dollars (\$2,547)
2 for step three.

3 (g) Eight half-time deputy clerks who shall be paid a salary, as deputy clerk class number 0331,
4 of one thousand one hundred thirty-four dollars (\$1,134) for step one, of one thousand two
5 hundred two dollars (\$1,202) for step two, and of one thousand two hundred seventy-three dollars
6 (\$1,273) for step three.

7 (h) Two accountants who shall be paid a salary, as civil service class number 1650, of two
8 thousand five hundred forty-three dollars (\$2,543) for step one, of two thousand six hundred
9 sixty-seven dollars (\$2,667) for step two, of two thousand seven hundred ninety-five dollars
10 (\$2,795) for step three, of two thousand nine hundred thirty-four dollars (\$2,934) for step four,
11 and of three thousand seventy-five dollars (\$3,075) for step five.

12 (i) One senior account clerk who shall be paid a salary, as civil service class number 1632, of
13 two thousand four hundred seventy-one dollars (\$2,471) for step one, of two thousand five
14 hundred ninety dollars (\$2,590) for step two, of two thousand seven hundred seventeen dollars
15 (\$2,717) for step three, of two thousand eight hundred forty-nine dollars (\$2,849) for step four,
16 and of two thousand nine hundred ninety-one dollars (\$2,991) for step five.

17 (j) Two account clerks who shall be paid a salary, as civil service class number 1630, of two
18 thousand one hundred fifty-one dollars (\$2,151) for step one, of two thousand two hundred fifty-
19 five dollars (\$2,255) for step two, of two thousand three hundred sixty-six dollars (\$2,366) for
20 step three, of two thousand four hundred eighty-two dollars (\$2,482) for step four, and of two
21 thousand six hundred three dollars (\$2,603) for step five.

22 (k) Eleven data entry operators who shall be paid a salary, as civil service class number 1720,
23 of one thousand eight hundred ninety-two dollars (\$1,892) for step one, of one thousand nine
24 hundred eighty-four dollars (\$1,984) for step two, of two thousand seventy-nine dollars (\$2,079)
25 for step three, of two thousand two hundred thirty-five dollars (\$2,235) for step four, and of two
26 thousand two hundred eighty-eight dollars (\$2,288) for step five.

27 (l) One deputy clerk, and while assigned by the clerk-administrator as assistant personnel-
28 payroll deputy, shall be paid, in addition to the salary provided by this article, the additional sum
29 of one hundred dollars (\$100) monthly.

30 (m) One deputy clerk, and while assigned by the clerk-administrator as budget-purchasing
31 deputy to the court fiscal officer, shall be paid, in addition to the salary provided by this article,
32 the additional sum of fifty dollars (\$50) monthly.

33 (n) Two deputy clerks who shall serve as master calendar clerk, civil, and master calendar
34 clerk, criminal, and while assigned to such position by the clerk-administrator, shall be paid, in
35 addition to the salary provided by this article, the additional sum of one hundred dollars (\$100)
36 monthly.

37 (o) Six deputy clerks and while assigned by the clerk-administrator and where specific duties
38 merit may be paid at the discretion of the appointing authority, in addition to the salary provided
39 by this article, the additional sum of fifty dollars (\$50) monthly.

40 (p) Two deputy clerks who shall serve as master jury calendar clerk, civil, and master jury
41 calendar clerk, criminal, and while assigned to such position by the clerk-administrator shall be
42 paid, in addition to the salary provided by this article, the additional sum of one hundred dollars
43 (\$100) monthly.

44 (q) One deputy clerk, while assigned by the clerk-administrator as principal courtroom clerk
45 serving in the criminal law and motion court, shall be paid, in addition to the salary provided by
46 this article, the additional sum of one hundred dollars (\$100) monthly.

47 (r) Deputy clerks who are required and authorized to work more than 40 hours in a week shall
48 be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-
49 half times the amount to which they are otherwise entitled.

50 74504.5. (a) With the approval of the board of supervisors, a majority of municipal court judges
51 may establish positions for officers, attaches, and employees in addition to those provided by this
52 article. The order and approval establishing any such position shall designate the position title and
53 pay rate and whether the provisions of Section 74507 are applicable to the position.

1 With the approval of the board of supervisors, a majority of the judges may appoint and employ
2 such additional officers, attaches, and employees as it deems necessary for the performance of the
3 duties and exercise of the powers conferred by law upon the court and its members.

4 (b) Rates of compensation of all court personnel provided by this article may be adjusted by
5 joint action and approval of the board of supervisors and a majority of the judges of the court.

6 (c) Appointments or changes in compensation made pursuant to this section shall be on an
7 interim basis and shall expire January 1 of the second calendar year following such appointments
8 or changes in compensation, unless ratified by the Legislature.

9 74505. A night shift is a tour of duty which commences after 2 p.m. and prior to 6 a.m.
10 Attaches who are required to work a night shift or any shift on Saturdays, Sundays or holidays
11 shall be paid six and one-quarter (6 1/4) percent more than the amount to which they are
12 otherwise entitled.

13 74506. Any incumbent permanently appointed on September 19, 1947, to the position of clerk
14 of the municipal court established pursuant to the Municipal Court Act of 1925 or any of the
15 positions of such court for which the clerk made appointments pursuant to Section 6a of the
16 Municipal Court Act of 1925 are deemed to have been appointed to the position in such court as
17 of the date of their permanent appointment to the position.

18 74507. Whenever a position described in Section 74504 becomes vacant, the appointing officer
19 shall request the civil service commission to certify to the appointing officer for appointment the
20 highest person on the list of eligibles of male or female sex as indicated in the request of the
21 appointing authority. Lists of eligibles for such promotive positions, subsequent to those lists in
22 existence on September 19, 1947, shall be composed only of persons holding the next lower rank
23 or ranks of deputy clerks in such municipal courts. Monthly compensation shall determine that
24 such deputy clerks are of the next lower rank or ranks. Temporary appointees shall receive the
25 salary set up opposite the title of their respective positions. Temporary appointments to promotive
26 positions shall be made from the next lower rank or ranks.

27 74508. All attaches appointed to positions in the court are entitled to the benefits of the civil
28 service provisions of the charter of the City and County of San Francisco, and are entitled to and
29 are subject to any retirement and health service provisions in the charter.

30 74509. Any attache of the municipal court shall be granted indefinite leave of absence by the
31 appointing authority to accept other appointive position or positions in the municipal court. While
32 on such indefinite leave and while employed in any other appointive position or positions in the
33 municipal court, such attache shall continue to participate in the retirement and health service
34 provisions of the charter in the same manner as heretofore provided, and there shall accrue to all
35 such attaches all the benefits derived from seniority in the same manner and to the same extent as
36 though such attaches were continuing in the position such attaches held prior to appointment to
37 such other appointive position or positions in the municipal court.

38 74510. Nothing in this article shall affect any rights or benefits which may have accrued to any
39 deputy clerk of the municipal court by reason of military leave of absence or war effort leave.

40 74511. Official reporters in the Municipal Court in the City and County of San Francisco
41 appointed pursuant to Section 72194, in lieu of any other compensation provided by law for their
42 services in reporting testimony and proceedings in such court, shall receive a salary in the same
43 sum monthly or per diem as is paid the official reporters of the Superior Court in the City and
44 County of San Francisco, which shall be a charge against the general fund of the city and county.

45 Such reporters shall be entitled to vacation and sick leave in the same amount as provided
46 official reporters of the superior court in the city and county and shall be entitled and subject to
47 any retirement and health service provisions of the charter of the city and county.

1 74512. Pursuant to Section 72194, the judges of such court may appoint as many additional
2 reporters as the business of the court may require, who shall be known as official reporters pro
3 tempore, and who shall serve without salary but shall receive the fees provided by Section 69947
4 to 69953, inclusive, except that in lieu of the per diem fees provided in said sections for reporting
5 testimony and proceedings, the official reporters pro tempore shall in all cases receive the same
6 per diem as is paid the official reporters pro tempore of the superior court in the City and County
7 of San Francisco which shall be a charge against the general fund of the city and county.

8 74513. All per diem fees otherwise payable by law by the parties to proceedings in the court to
9 official reporters or official reporters pro tempore shall be paid to the clerk of the court. All fees
10 shall be deposited in the treasury of the city and county to the credit of the general fund.

11 74514. Fees for transcription of testimony and proceedings in such court shall be paid by the
12 litigants to official reporters and official reporters pro tempore as otherwise provided by law. In
13 all cases where by law, the court may direct the payment of transcription fees out of the city and
14 county treasury, such fees shall, upon order of the court, be paid from the general fund including
15 fees for transcription of testimony and proceedings in criminal cases as provided in Sections
16 69947 to 69953, inclusive, which shall be paid from the city and county treasury.

17 74515. Official reporters of such court shall be members of any retirement system maintained
18 by the city and county. For the purpose of such retirement system the salary provided in this
19 article for such reporters shall be deemed their entire compensation.

20 74516. Section 72194 does not apply to phonographic reporters of the criminal division of the
21 municipal court of or the City and County of San Francisco who were acting in that capacity on
22 September 19, 1947 in the municipal court established pursuant to the Municipal Court Act of
23 1925 and who were certified by the civil service commission of the city and county, or were
24 appointed to the court superseded by such municipal court established pursuant to the Municipal
25 Court Act of 1925. All such reporters shall be deemed the duly appointed, qualified, and acting
26 phonographic reporters of the criminal division of the municipal court and shall be entitled to all
27 the benefits of the civil service and retirement provisions of the charter of the city and county and
28 of the rules of the civil service commission having jurisdiction respecting suspensions and
29 dismissals of employees.

30 74517. Each official phonographic reporter appointed pursuant to the provisions of Section
31 72494 or 74516 shall retain his appointment and status as such phonographic reporter pursuant to
32 such sections, subject to the compulsory age of retirement under such retirement system.

33 74518. In the municipal court no further fee shall be collected from, or assessed against, any
34 party to any proceeding for the services of a phonographic reporter in taking down in shorthand
35 the testimony and other proceedings in the trial or hearing of any matter as required by law or by
36 order of the court. Such phonographic reporter shall be allowed and shall receive, unless waived
37 by him, the fees allowed by law for transcribing his shorthand notes of the testimony and
38 proceedings reported by him, and such fees for transcriptions shall be paid as provided by
39 Sections 69947 to 69953, inclusive, and by any other law pertinent to the case.

40 74520. The fee required by Section 74519 shall be taxed as costs in favor of any party paying it
41 and to whom costs are awarded by the judgment of the court. It is not subject to Section 6103.

42 74521. On or before the first day of each calendar month the clerk of the municipal court shall
43 transmit to the city and county treasurer all money paid to him pursuant to Section 74519 during
44 the preceding calendar month, or up to the day immediately preceding the day in which he
45 transmits such money. The money shall be deposited in the general fund of the city and county.

1 **Gov't Code §§ 74600-74613 (repealed). San Luis Obispo County Municipal Court**

2 SEC. ____ . Article 27 (commencing with Section 74600) of Chapter 10 of Title 8 of the
3 Government Code is repealed.

4 **Comment.** Sections 74600-74613 are repealed to reflect:

5 (1) Unification of the municipal and superior courts in San Luis Obispo County pursuant to
6 Article VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Cal. Const. art.
7 VI, § 23 and Section 70212 (preexisting court locations retained as superior court locations),
8 Section 70211 (former municipal court judgeships continued as superior court judgeships). See
9 also Code Civ. Proc. § 38 (judicial districts); Sections 69508 (presiding judge), 69598.5 (number
10 of judges in San Luis Obispo County). Cf. Section 71042.5 (preservation of judicial districts for
11 purposes of publication); former Section 71264 (municipal court served by marshal).

12 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
13 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
14 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
15 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
16 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
17 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
18 reporters), 69947 (compensation of official reporter).

19 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
20 employees).

21 (4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
22 management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
23 (state funding of trial court operations). See also Sections 68073 (responsibility for court
24 operations and facilities), 69952 (payment from Trial Court Operations Fund), 69953 (payment of
25 fees).

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

27 **Article 27. San Luis Obispo County**

28 74600. There is hereby created a municipal court district which embraces the entire County of
29 San Luis Obispo. This article applies to the municipal court established within the district, which
30 shall be known as the San Luis Obispo County Municipal Court.

31 74601. There shall be four judges; provided, that at such time as the San Luis Obispo County
32 Board of Supervisors finds there are sufficient funds for five judges and adopts a resolution to
33 that effect, there shall be four judges. The judges shall select one of them to be presiding judge of
34 the court. Thereafter, the duties of the presiding judge of the court shall alternate annually among
35 the judges.

36 74602. (a) Facilities for the court shall be maintained in the City of San Luis Obispo, and may
37 be maintained at any other location within the county. The court may hold sessions at each
38 facility, as business requires. At the direction of the presiding judge, any traffic referee or juvenile
39 court hearing officer appointed pursuant to Section 74605 may perform his or her duties at any
40 court location. At the direction of the court, arraignment of criminal defendants who are in
41 custody at the San Luis Obispo County Jail facility shall be held at that facility.

42 (b) The judges of the court shall be reimbursed for traveling expenses at the rate provided for
43 employees of the county in accordance with the county travel policy.

44  **Note: Comment Requested**

45 Issues involving sessions and facilities are still unsettled, but Government Code Section 74602
46 is proposed for repeal because it falls within a municipal court article. The Commission solicits
47 comments on whether the section should be preserved pending (1) any implementation of

1 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
2 among the interested parties.

3 74603. There shall be one commissioner of the San Luis Obispo County Municipal Court, who
4 shall be appointed by the presiding judge with the concurrence of a majority of the judges of the
5 court, and shall hold office at the pleasure of a majority of the judges. The commissioner shall
6 possess the same qualifications as the law requires of a judge of the municipal court. The
7 appointment shall be pursuant to Section 72190 and the commissioner shall receive a salary
8 which equals 85 percent of the annual salary of a superior court judge. The commissioner is a
9 court employee within the meaning of Section 74609. The duties of the commissioner shall be as
10 prescribed by law.

11 74604. There shall be one clerk of the court known as the court executive officer, who shall be
12 appointed by the presiding judge with the concurrence of a majority of the judges of the court,
13 and shall hold office at the pleasure of the majority of the judges of the court. The monthly
14 compensation to be paid to the court executive officer shall be range 3283 of the San Luis Obispo
15 County Salary Table. In addition to any other duties imposed on such officer by law, the court
16 executive officer shall have the following duties:

- 17 (a) To direct and coordinate the nonjudicial activities of the court.
- 18 (b) To coordinate the personnel practices in compliance with rules of the court.
- 19 (c) To prepare and administer the budget of the court.
- 20 (d) To coordinate with other county agencies the acquisition, utilization, maintenance and
21 disposition of county facilities, equipment and supplies necessary for operation of the court.
- 22 (e) To initiate studies and prepare appropriate recommendations and reports to the presiding
23 judge relating to the business of the court, including, but not limited to, standardization of forms,
24 procedures, and classification and compensation of officers and employees.
- 25 (f) To collect, compare, and analyze statistical data on a continuing basis concerning the status
26 of judicial and nonjudicial business of the court and to prepare periodic reports and
27 recommendations based on that data.
- 28 (g) To serve as liaison for the court with other persons, committees, boards, groups, and
29 associations as directed by the presiding judge.
- 30 (h) To provide for and conduct a program of in-service training for the personnel of the
31 municipal court.

32 74605. (a) Notwithstanding Section 72400, the presiding judge of the court may also appoint
33 the court executive officer to serve as traffic referee without additional compensation, provided
34 such officer has been a member of the State Bar of California for at least five years.

35 (b) Notwithstanding any other provision of law, the court executive officer may be appointed
36 by the juvenile court judge of the superior court, with the approval of the presiding judge of the
37 municipal court, to serve as a juvenile court hearing officer without additional compensation.

38 74606. The county sheriff shall be ex officio marshal of the court and shall act as such without
39 additional compensation. The sheriff may appoint up to six deputies, or more if the business of
40 the court requires, to be ex officio deputy marshals.

41 74607. The presiding judge may make appointments to the following authorized positions:

42 Number	Classification	Salary Range
43 1	Director of Criminal Court Operations	2813
44 1	Calendar Coordinator	1390
45 12	Municipal Court Clerk Trainee, or	1056
46	Municipal Court Clerk I, or	1155
47	Municipal Court Clerk II	1241
48 2	Municipal Court Account Technician	1186
49 1	Municipal Court Senior Account Clerk	1085
50 2	Municipal Court Account Clerk	0929

1	1	Accountant I, or	1480
2		Accountant II, or	1693
3		Accountant III	2042
4	28	Municipal Court Legal Process Clerk, or	0881
5		Municipal Court Legal Process Clerk I, or	1056
6		Municipal Court Legal Process Clerk II, or	1155
7		Municipal Court Legal Process Clerk III	1223
8	2	Municipal Court Legal Process Clerk III-- 1/2 time	1223
9	4	Supervising Municipal Court Clerk	1390
10	1	Supervising Municipal Court Legal Process Clerk	1358
11	1	Administrative Services Officer I, or	1480
12		Administrative Services Officer II	1693
13	1	Court Data Manager	2380
14	1	Court Automation Analyst	2380
15	1	Mail Clerk	0881

16 74608. The clerks, the constables, their deputies and attaches, and all other officers or
 17 employees of the superseded justice courts in San Luis Obispo County, shall become the deputy
 18 clerks, deputy sheriffs and ex officio deputy marshals, and officers or employees of the municipal
 19 court upon its organization so far as such equivalent positions are provided in Sections 74606 and
 20 74607.

21 If it appears that two or more clerks, constables, deputies and other officers or attaches of the
 22 superseded justice courts are equally entitled by virtue of the office held in any such court, to any
 23 office in the municipal court, the presiding judge of the municipal court shall determine which
 24 person is entitled to the office over which the conflict exists.

25 74609. All employees of the San Luis Obispo County Municipal Court shall be entitled to the
 26 same vacation, sick leave, leave of absence, right to participate in the county retirement system,
 27 and similar benefits.

28 74610. (a) The positions enumerated in Sections 74604, 74607, and 74608 are deemed to be
 29 comparable in job and salary level to certain positions in the service of San Luis Obispo County.
 30 The following table sets forth the court classifications with the comparable county classifications
 31 shown opposite thereto:

32 Court Classification	County Classification
33 Court Executive Officer/Traffic Referee	Deputy County Counsel IV (Confidential)
34 Director of Criminal Court Operations	Chief Pharmacist
35 Calendar Coordinator	Supervising Superior Court Clerk
36 Municipal Court Clerk I, II	Superior Court Clerk I, II
37 Municipal Court Clerk Trainee	Legal Process Clerk I
38 Municipal Court Accounting Technician	Accounting Technician
39 Municipal Court Senior Account Clerk	Senior Account Clerk
40 Municipal Court Account Clerk	
41 Accountant I, II, III	Account Clerk Accountant I, II, III
42 Municipal Court Legal Process Clerk	Legal Process Clerk Trainee
43 Municipal Court Legal Process Clerk I, II, III	Legal Process Clerk I, II, III
44 Municipal Court Legal Process	
45 Clerk III--1/2 time	Legal Process Clerk III
46 Supervising Municipal Court Clerk	Supervising Superior Court Clerk
47 Supervising Municipal Court Legal	
48 Process Clerk	Supervising Legal Process Clerk
49 Administrative Services Officer I, II	Administrative Services Officer I, II
50 Court Data Manager	Programmer Analyst II plus 10 percent
51 Court Automation Analyst	Senior Programmer Analyst

1 Mail Clerk

Mail Clerk

2 In the event that the salary for any classification which is shown above is increased by the
3 board of supervisors, a commensurate increase shall be made in the salary for the comparable
4 court classification. Salary adjustments made pursuant to this section shall be effective the same
5 date as the effective date of actions of the board of supervisors applicable to the respective and
6 comparable county classifications, but shall remain effective only until January 1 of the second
7 year following the year in which such an adjustment is made.

8 (b) Upon recommendation of the judges of the court, and with the approval of the board of
9 supervisors, the court may appoint additional employees as it deems necessary for the
10 performance of the duties and exercise of the powers conferred by law upon the court and its
11 members. Any appointment made pursuant to this section shall be on an interim basis and shall
12 expire January 1 of the second calendar year following the year in which the appointment is made
13 unless ratified by the Legislature. This section shall not affect the application of Section 72150.

14 74611. Whenever reference to a numbered salary range is made in any section of this article,
15 the range number is the hourly rate at the beginning of the assigned range with each range having
16 five steps each step within the range being 5 percent greater than the previous step.

17 In the event the board of supervisors amends the resolution establishing salary ranges and
18 monthly salary rates for the personnel of the County of San Luis Obispo effective on the date of
19 this act, or passes a new resolution which provides for a change in compensation for ranges or
20 steps, such changes shall be effective for court employees on the effective date of the action of the
21 board of supervisors and shall remain effective only until January 1 of the second year following
22 the year in which such a change is made.

23 74612. The presiding judge may appoint as many reporters as the business of the court requires,
24 who shall be known as official reporters pro tempore, and who shall hold office at his pleasure.
25 The reporters shall serve without salary but shall receive for their services in reporting testimony
26 and proceedings in such court, the same compensation as is paid reporters pro tempore of the
27 superior court of San Luis Obispo County, which, in criminal cases, shall upon order of the court
28 be a charge against the general fund of the county.

29 74613. Fees for transcription of testimony and proceedings in the court shall be paid by the
30 litigants to official reporters pro tempore as otherwise provided by law. In all cases where by law
31 the court may direct the payment of transcription fees out of the county treasury, such fees shall,
32 upon order of the court, be paid from the general funds, including fees for transcription of
33 testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive,
34 which shall be paid from the county treasury.

35 **Gov't Code § 74602 (added). San Luis Obispo County**

36 SEC. ____ . Article 27 (commencing with Section 74602) is added to Chapter 10 of Title
37 8 of the Government Code, to read:

38 **Article 27. San Luis Obispo County**

39 **§ 74602. Superior court sessions and facilities in San Luis Obispo County**

40 74602. Facilities for the San Luis Obispo County Superior Court shall be maintained in
41 the City of San Luis Obispo, and may be maintained at any other location within the
42 county. The court may hold sessions at each facility, as business requires. At the direction
43 of the presiding judge, any subordinate judicial officer may perform his or her duties at
44 any court location. At the direction of the court, arraignment of criminal defendants who
45 are in custody at the San Luis Obispo County Jail facility shall be held at that facility.

1 **Comment.** Section 74602 continues the substance of subdivision (a) of former Section 74602,
2 replacing references to “any traffic referee or juvenile court hearing officer” with a reference to
3 “any subordinate judicial officer.”

4 For provisions relating to restatements and continuations of existing law, see Section 2. For
5 disposition of the provisions of former Section 74602 that are not continued, see the Comment to
6 former Article 27 (commencing with former Section 74600).

7 **Note: Comment Requested**

8 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
9 further work on Government Code Section 74602 pending (1) any implementation of
10 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
11 among the interested parties. The Commission solicits comments on these issues.

12 **Gov’t Code §§ 74640-74649 (repealed). Santa Barbara County municipal court districts**

13 SEC. ____ . Article 28 (commencing with Section 74640) of Chapter 10 of Title 8 of the
14 Government Code is repealed.

15 **Comment.** Sections 74640-74649 are repealed to reflect:

16 (1) Unification of the municipal and superior courts in Santa Barbara County pursuant to
17 Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See Cal. Const.
18 art. VI, § 23 and Section 70212(b) (preexisting court locations retained as superior court
19 locations), Section 70211 (former municipal court judgeships continued as superior court
20 judgeships). See also Cal. Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges);
21 Code Civ. Proc. §§ 38 (judicial districts), 190 *et seq.* (jury selection); Section 69599.5 (number of
22 judges in Santa Barbara County). *Cf.* Section 71042.5 (preservation of judicial districts for
23 purposes of publication); former Section 71264 (municipal court served by marshal).

24 (2) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in
25 Santa Barbara County, effective January 1, 1997.

26 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
27 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71622
28 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
29 benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment
30 selection and advancement), 71650-71658 (employment protection system), 71673 (authority of
31 court). See also Sections 69941 (appointment of official reporters), 69947 (compensation of
32 official reporter), 72190 (court commissioners).

33 (4) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
34 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
35 Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial
36 Court Operations Fund),

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

38 **Article 28. Santa Barbara County**

39 74640. There are in the County of Santa Barbara two municipal court districts, known as the
40 Santa Barbara Municipal Court and the North Santa Barbara County Municipal Court.

41 74640.1. The North Santa Barbara County Municipal Court is comprised of three divisions,
42 embracing that territory in the county which was specified to be within the Santa Maria Municipal
43 Court District, the Lompoc Municipal Court District, and the Solvang Justice Court District as
44 they existed on December 31, 1994; and with such modifications to division boundaries as may
45 thereafter be made by the board of supervisors, after public hearing, or by operation of law.

1 74640.2. In order that the citizens residing in each division of the North Santa Barbara County
2 Municipal Court may have convenient access to the court, sufficient court facilities, including
3 staff and other necessary personnel, shall be maintained in each division at the following sites or
4 as otherwise designated by the board of supervisors:

- 5 (a) In the Santa Maria Division, in the City of Santa Maria.
- 6 (b) In the Lompoc Division, in the City of Lompoc.
- 7 (c) In the Solvang Division, in the City of Solvang.

8 **Note: Comment Requested**

9 Issues involving sessions and facilities are still unsettled, but Government Code Section
10 74640.2 is proposed for repeal because it falls within a municipal court article. The Commission
11 solicits comments on whether the section should be preserved pending (1) any implementation of
12 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
13 among the interested parties.

14 74641. Each of the municipal court districts in the County of Santa Barbara shall have the
15 following number of judges and commissioners:

- 16 (a) Santa Barbara 4 judges and two commissioners
- 17 (b) Northern Santa Barbara:
 - 18 (1) Santa Maria Division 3 judges and 1 commissioner
 - 19 (2) Lompoc Division 1 judge
 - 20 (3) Solvang Division 1 judge

21 74641.1. The judges of the Santa Barbara-Goleta Municipal Court District shall appoint a
22 commissioner as the business of the court requires. The commissioner shall possess the same
23 qualifications as the law requires of a judge of the municipal court. Such appointment shall be
24 pursuant to Section 72190 and such commissioner shall receive a salary which equals 85 percent
25 of the annual salary of a municipal court judge.

26 74641.2. (a) In the North Santa Barbara Judicial District, judges shall be eligible for offices in
27 the district as follows:

- 28 (1) In the Santa Maria Division, the two judges of the Santa Maria Judicial District shall
29 automatically become the two judges of the Santa Maria Division.
- 30 (2) In the Lompoc Division, the judge of the Lompoc Judicial District shall automatically
31 become the judge of the Lompoc Division.
- 32 (3) In the Solvang Division, the judge of the Solvang Judicial District shall automatically
33 become the judge of the Solvang Division.

34 (b) The time for election and qualification of the successor to any judge who becomes the judge
35 of a division pursuant to this section shall be that previously fixed by law for the election and
36 qualification of the successors for the court and office superseded, had those courts not been
37 superseded. The judge of each division shall be elected by the electors resident within that
38 division, and not from the North Santa Barbara Judicial District at large. However, any otherwise
39 qualified candidate is eligible to be elected to any division if he or she resides within the
40 boundaries of the district as a whole.

41 74641.3. Trial jurors for each session of the courts of the district shall be selected from persons
42 residing within the divisions in which the sessions are held. Upon adoption of a rule pertaining
43 thereto by the judges, any division may use the same jury panel as that summoned for service in
44 the North County Division of the Superior Court. When selected from the superior court panel,
45 persons selected for jury duty in a municipal court division need not be residents of that division.
46 Nothing in this article shall be interpreted to in any way limit the authority of the court to adopt
47 local rules for purposes of selecting trial jurors pursuant to Section 203 of the Code of Civil
48 Procedure.

1 74642. Within the Santa Barbara Judicial District there shall be the following officers, attaches,
2 and employees:

3 Santa Barbara Municipal Court		Salary Range
4 2	Account Clerk III-Ct.	413
5 1	Account Technician-Ct.	441
6 1	Business Manager II-Ct.	563
7 1	Assistant Clerk-Admin. Officer (SB)	564
8 1	Clerk-Administrative Officer (SB)	614
9 2	Collections Rep.-Ct.	439
10 2	Commissioner, Municipal Court	3,266.89/BI-WKLY
11 1	Judicial Services Manager	560
12 2	Court Interpreter	452
13 1	Department Analyst-Ct.	518
14 1	Department DP Spec.-Ct.	497
15 1	EDP Sys. & Prog. Anlst. I/II-Ct.	537/554
16 1	EDP System & Prog. Analyst-I Ct. D	537
17	OR EDP System & Prog. Analyst II- Ct. D	554
18 1	Exec. Secretary-Ct.	459
19 31	Judicial Asst. I-Ct. OR	407
20	Judicial Asst. II-Ct.	428
21 2	Judicial Asst. I-Ct. D OR	407
22	Judicial Asst. II-Ct. D	428
23 14	Judicial Asst. III-Ct.	462
24 1	Judicial Asst. III-Ct. D	462
25 1	Judicial Cal. Coord.-Ct.	495
26 5	Judicial Services Supv.-Ct.	481
27 2	Official Court Reporter-Municipal Court D	546
28 1	Official Court Reporter-Municipal Court	546
29 4	Own Recognizance Officer	494
30 1	Own Recognizance Supervisor	514

31 74643. Within the North Santa Barbara County Municipal Court there shall be the following
32 officers, attaches, and employees:

33 North Santa Barbara County Municipal Court		Salary Range
34 1	Account Tech.--Ct.	441
35 2	Own Recognizance Officer	494
36 1	Own Recognizance Supervisor	514
37 1	Court Clerk Chief--Ct.	515
38 3	Court Interpreter	452
39 2	Department DP Specialist--Ct.	497
40 1	Executive Secretary--Ct.	459
41 27	Judicial Asst. I/II--Ct.	407/428
42 13	Judicial Asst. III--Ct.	462
43 3	Judicial Services Supv.--Ct.	481
44 2	Judicial Services Manager	560
45 1	Judicial Services Manager Senior	580
46 1	Legal Research Asst. or Legal Research Asst.--Sr.	621/650
47 1	Traffic Referee	\$2,828/BI-WKLY

48 74644.1. (a) There shall be one marshal, designated as the Marshal of Santa Barbara County,
49 for the municipal courts established in Santa Barbara County. The marshal shall be deemed the
50 head of the department denominated as the Santa Barbara County Marshal's Office. That
51 department shall be responsible for all court services for the municipal courts, including bailiff
52 duties in the courts, all service of process and other civil papers, and service of all criminal

1 warrants issued by the municipal courts of Santa Barbara County. The jurisdiction of the
2 marshal's office over criminal warrants shall be concurrent to the jurisdiction existing in the
3 Santa Barbara County Sheriff's Department over these warrants.

4 The marshal shall serve at the pleasure of a combined majority of the Santa Barbara Municipal
5 Court judges, and the Northern Santa Barbara Municipal Court judges, hereafter referred to as the
6 judges of the Santa Barbara County courts. The marshal shall possess the rights, duties, and
7 powers imposed upon marshals generally.

8 The salary range of the marshal shall be at level 560. The marshal shall receive the elected
9 official management benefits for the balance of the term to which he or she was previously
10 elected, after which the marshal shall receive management benefits set at the appropriate level for
11 appointed department heads. Any salary adjustment for this position within that range shall be
12 made by the Marshal's Oversight Committee.

13 (b) The marshal positions existing in the Santa Barbara, Santa Maria, and Lompoc municipal
14 courts, and the constable position in the Solvang Justice Court, are abolished. In no event shall the
15 marshal of the Santa Maria Municipal Court be employed at a lesser pay range or with fewer
16 benefits than that to which he or she was entitled on the operative date of this section, for the term
17 to which he or she was elected.

18 (c) Whenever a vacancy occurs in the position of Marshal of Santa Barbara County, the judges
19 of the Santa Barbara County municipal courts, by a majority vote of their aggregate number, shall
20 select and appoint the marshal under any organization, rules, and procedures they adopt or ratify.
21 Discharge of the marshal shall be by majority vote of the judges of the municipal courts of Santa
22 Barbara County. The judges of the Santa Barbara County municipal and justice courts may, by
23 two-thirds vote, delegate any function under this section to the Marshal's Oversight Committee.

24 (d) The judges of the Santa Barbara County municipal courts shall create a Marshal's Oversight
25 Committee consisting of three judges. The three judges shall be selected to sit on the committee
26 on an annual basis. The committee shall consist of one judge from the South County selected by
27 the Santa Barbara Municipal Court judges, and one judge from the North County selected by the
28 Santa Maria Municipal Court judges, the Lompoc Municipal Court judge, and the Solvang Justice
29 Court judge. The third judge shall be appointed by the two selected judges and shall rotate
30 between the North County and the South County courts. The Marshal's Oversight Committee
31 may, by majority vote, make policies and adopt procedures pertaining to the operations and
32 personnel administration of the marshal's department.

33 (e) There shall be two assistant marshals, one primarily assigned to the North County courts
34 and one primarily assigned to the South County courts. Each assistant marshal shall be appointed
35 by and serve at the pleasure of the marshal. This appointment shall require the concurrence of a
36 majority of the members of the Marshal's Oversight Committee. Discharge of an assistant
37 marshal shall be at the direction of the marshal and shall require the concurrence of a majority of
38 the members of the Marshal's Oversight Committee.

39 (f) The salary range of an assistant marshal shall be at level 530. The salary of the assistant
40 marshal may be adjusted annually, within its range, by the marshal with concurrence of the
41 Marshal's Oversight Committee.

42 (g) A branch office of the Marshal of Santa Barbara County shall be maintained in each
43 municipal court facility.

44 74644.2. (a) All personnel of the Santa Barbara Marshal's Office, the Santa Maria Marshal's
45 Office, and the Lompoc Marshal's Office on the effective date of this section shall automatically
46 become members of the consolidated Santa Barbara County Marshal's Office at their existing or
47 equivalent classifications, salaries, and benefits.

48 (b) Permanent employees described in subdivision (a) shall be deemed qualified, and no other
49 qualifications shall be required for employment or retention.

50 (c) No employee of any marshal's office affected by this section shall lose peace officer status,
51 or be demoted or otherwise adversely affected by the consolidation of court services
52 accomplished by this section.

1 (d) The assignment of persons holding the position of deputy marshal to individual courtrooms
2 shall be made by the marshal with the concurrence of the individual judge in whose courtroom
3 the assignment is to be made and shall be consistent with local rules and procedures. Each deputy
4 or officer shall serve in that assignment at the pleasure and under the direction of that judge.

5 (e) A salary comparison study shall be conducted by the Santa Barbara County Personnel
6 Department, to be completed by April 15, 1994, to identify the appropriate salary level of the
7 marshal and the assistant marshals under the consolidation required by Section 74644.1. These
8 salaries shall be adjusted in accordance with the findings of the salary study and with the
9 concurrence of the Marshal's Oversight Committee.

10 74645. (a) It is the purpose of this section to provide compensation for municipal court
11 employees and officers which is comparable to that paid to county employees holding equal or
12 comparable positions in the Santa Barbara classified service as that comparability is determined
13 by the Santa Barbara County Board of Supervisors.

14 (b) Whenever reference to a numbered salary range is made in any section of this article, the
15 schedule and the salary ordinance of the County of Santa Barbara in effect on January 1 of the
16 preceeding year, shall apply.

17 (c) If the board of supervisors adopts a revised salary schedule for county employees, the new
18 schedule shall apply equally to employees of municipal courts and marshals' offices and
19 conversion to the new schedule shall be made for the employees in the same manner on the same
20 date as for the classified service.

21 (d) Notwithstanding any of the provisions of this article, the salary and benefits of municipal
22 court employees and officers shall be changed in the same manner and at the same rate as a salary
23 and benefit change is effective for other permanent county classified positions. Employees and
24 officers of the municipal court shall be entitled to all employee benefits as they are provided and
25 made applicable to positions within the classified service pursuant to Santa Barbara County
26 ordinances or resolutions, to the extent that the benefits are not contrary to state law.

27 (e) All matters affecting the administration of salary and benefits, the selection, appointment,
28 and reclassification of municipal court officers and employees in those positions which they hold
29 which are not specifically determined by the provision of state law shall be governed by the
30 personnel ordinances and resolutions of the Board of Supervisors of the County of Santa Barbara.

31 (f) Nothing in this article shall be construed to place marshals' or clerks' offices, their
32 employees and attaches under the civil service system of Santa Barbara County but those
33 employees and attaches may be placed under that civil service system by court rule adopted by
34 the judges of their respective courts.

35 (g) Any changes in compensation made pursuant to this section shall be on an interim basis and
36 shall expire January 1 of the second calendar year following the changes unless ratified by the
37 Legislature.

38 74646. With the approval of the board of supervisors, a majority of municipal court judges of a
39 municipal court district in the county may adjust the number and classification of positions for
40 officers, attaches, and employees provided by this article. The order and approval adjusting any
41 such position shall designate the position title and salary.

42 When any additional or redesignated positions are so established, the court may appoint and
43 employ such additional or redesignated officers, attaches, and employees as are necessary for the
44 performance of the duties and exercise of the powers conferred by law upon the court and its
45 members.

46 Any adjustment made pursuant to this section shall be effective when established by the board
47 of supervisors and shall remain in effect only until January 1 of the second year following the
48 year in which such change is made unless subsequently ratified by the Legislature.

49 74647. (a) The judges of the Santa Barbara District may appoint two court commissioners. The
50 judges of the Santa Maria Division of the Northern Santa Barbara Municipal Court may appoint
51 one court commissioner.

1 (b) Commissioners shall be appointed by a majority of the judges of the court or courts, or by
2 the senior judge of a two-judge court, to which the court commissioner is appointed.
3 Commissioners shall serve at the pleasure of the majority of the judges in the court or courts or at
4 the pleasure of the presiding judges in the court or courts or at the pleasure of the senior judge in
5 a two-judge court and may be removed by a majority of the judges at their discretion. Within the
6 jurisdiction of the court or courts and under the direction of the judges, commissioners shall
7 exercise all the powers and perform all of the duties authorized by law to be performed by
8 commissioners of superior courts and any additional powers and duties as may be prescribed by
9 law. At the direction of the judges, commissioners may have the same jurisdiction and exercise
10 the same powers and duties as the judges of the court with respect to any infraction or small
11 claims action. The commissioners shall possess the same qualifications the law requires of a
12 municipal court judge and shall not engage in the private practice of law. They shall be ex officio
13 deputy clerks. Commissioners shall receive a salary equal to 85 percent of the salary paid to
14 municipal court judges in Santa Barbara County.

15 (c) Full-time official reporters appointed by the majority of the judges of the municipal court
16 pursuant to the provisions of Section 72194 and so designated, shall be attaches of the court and
17 shall receive a biweekly salary in accordance with the provisions of Section 70059.7. That salary
18 shall be paid at the same times and according to the same procedures as salaries of employees of
19 the County of Santa Barbara. During the hours when the court is open for the transaction of
20 judicial business, official reporters shall devote full time to the performance of the duties required
21 of them by law and shall not engage in or solicit to engage in any other employment in their
22 professional capacity.

23 (d) The judges of the court may appoint as many part-time additional reporters as the business
24 of the court requires. The additional reporters shall be known as official reporters pro tempore,
25 and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed
26 by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro
27 tempore may be adjusted by joint action and approval of the board of supervisors and a majority
28 of the judges of the court, provided, however, that any changes in compensation which are made
29 pursuant to this section shall be on an interim basis and shall remain in effect only until January 1,
30 1991, unless ratified by statute by the Legislature prior to that date. In criminal cases such fees
31 upon order of the court shall be a charge against the general fund of the county.

32 (e) An official reporter when not engaged in the performance of duties of the municipal court,
33 may be appointed to serve as such reporter for the Santa Barbara County Grand Jury or in any
34 other court in the County of Santa Barbara.

35 74648. All fees collected by court officers and attaches for official duties shall be deposited in
36 the county treasury.

37 **Note: Comment Requested**

38 The Commission is reviewing whether county treasury provisions remain viable, given the
39 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
40 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
41 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
42 (state funding of trial court operations). These matters are also being examined by a Joint Court-
43 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
44 treatment of Government Code Section 74648.

45 74649. In order to help defray the costs of reporting services, in addition to fees required by
46 other laws for the filing of the first paper in a civil action, there shall be an additional charge of
47 ten dollars (\$10) in each court with designated full-time reporters.

48 **Note: Comment Requested**

49 Issues involving filing fees are still unsettled. Government Code Section 74649 may need to be
50 preserved pending resolution of these issues. The Commission solicits comments on these issues.

1 **Gov't Code §§ 74660-74673 (repealed). Santa Clara County Municipal Court**

2 SEC. ____ . Article 28.5 (commencing with Section 74660) of Chapter 10 of Title 8 of
3 the Government Code is repealed.

4 **Comment.** Sections 74660-74673 are repealed to reflect:

5 (1) Unification of the municipal and superior courts in Santa Clara County pursuant to Article
6 VI, Section 5(e), of the California Constitution, effective July 30, 1998. See Section 70211
7 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
8 Proc. § 38 (judicial districts); Section 69600 (number of judges in Santa Clara County). Cf.
9 Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
10 71264 (municipal court served by marshal).

11 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
12 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
13 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
14 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
15 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
16 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
17 reporters), 69947 (compensation of official reporter), 72190 (court commissioners).

18 (3) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
19 management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
20 (state funding of trial court operations). See also Sections 68086 (fees for reporting services in
21 civil cases generally), 69952 (payment from Trial Court Operations Fund), 69953 (payment of
22 fees).

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


24 **Article 28.5. Municipal Courts in the County of Santa Clara**

25 74660. This article applies only to the municipal court in the Santa Clara County Judicial
26 District.

27 74661. There are 26 judges for the Santa Clara County Judicial District. However, at such time
28 as the Santa Clara County Board of Supervisors finds that there are sufficient funds to provide for
29 up to nine additional judges and adopts a resolution or resolutions to that effect. There shall be up
30 to 35 judges.

31 74662. The judges of the Santa Clara County Judicial District may appoint one commissioner
32 in addition to any traffic trial commissioners appointed pursuant to Article 10 (commencing with
33 Section 72450) of Chapter 9. The duties of each commissioner shall be as prescribed by law.
34 Each commissioner shall possess the same qualifications as the law requires of a judge of the
35 court. Each commissioner shall hold office at the pleasure of the judges and shall receive a salary
36 equal to 86.9 percent of the salary of a judge of the municipal court. Each commissioner shall be
37 an ex officio deputy clerk of the court. Each commissioner shall be a member of the same
38 retirement system and shall receive the same fringe benefits as the board of supervisors
39 determines from time to time shall apply to regular coded attaches appointed by the clerk-
40 administrative officer of the court.

41 74662.5. Any traffic referee appointed pursuant to Section 72400 in Santa Cruz County shall
42 receive a salary equal to 60 percent of a salary of a judge of the municipal court.

43  **Note.** It is unclear whether Government Section 74662.5 applies to Santa Cruz County or
44 Santa Clara County. Although the statute specifically refers to Santa Cruz County, the section
45 falls within Article 28.5 (commencing with Section 74660) — Municipal Courts in Santa Clara
46 County.

1 74663. (a) In the Santa Clara County Judicial District there shall be one chief administrative
2 officer/clerk who shall receive a base salary of three thousand five hundred ninety-eight dollars
3 and twenty-four cents (\$3,598.24) biweekly, plus or minus 12 1/2 percent, and shall,
4 notwithstanding Section 74666, be appointed by and serve at the pleasure of a majority of the
5 judges of the municipal court. In addition, there will be one legal aide (unclassified) and one staff
6 attorney (unclassified) who shall be appointed by and serve at the pleasure of a majority of the
7 judges. The legal aide shall serve one-year terms. The legal aide shall be appointed by and serve
8 at the pleasure of a majority of the judges and shall receive a salary as specified in range 45.0B,
9 and the staff attorney shall receive a salary as specified in range 40.0A. The Santa Clara County
10 Salary Ordinance No. NS-5.97 and NS.20.97, as amended, for the fiscal year July 1, 1997,
11 through June 30, 1998, are the sources for all salaries.

12 (b) The chief-administrative officer/clerk may appoint all of the following:

13 (1) One assistant chief administrative officer/clerk who shall receive a base salary of two
14 thousand nine hundred two dollars and eighty-eight cents (\$2,902.88), biweekly, plus or minus 12
15 1/2 percent.

16 (2) One deputy administrator/court operations who shall receive a salary as specified in range
17 40.7A.

18 (3) One deputy administrator/court services who shall receive a salary as specified in range
19 40.7A.

20 (4) One administrative services manager II who shall receive a salary as specified in range
21 42.4A.

22 (5) One departmental systems specialist II who shall receive a salary as specified in range
23 42.6A, or one departmental systems specialist I who shall receive a salary as specified in range
24 40.6A.

25 (6) One municipal court department information systems specialist who shall receive a salary as
26 specified in range 26.0Y.

27 (7) Two management analysts who shall receive a salary as specified in range 37.9A, or
28 associate management analyst B who shall receive a salary as specified in range 34.1A, or
29 associate management analyst A who shall receive a salary as specified in range 31.0A.

30 (8) Two accountants III who shall receive a salary as specified in range 37.4A, or accountants
31 II who shall receive a salary as specified in range 46.8B, or accountant/auditor appraiser who
32 shall receive a salary as specified in range 44.0B.

33 (9) One accountant II who shall receive a salary as specified in range 46.8B, or
34 accountant/auditor appraiser who shall receive a salary as specified in range 44.0B.

35 (10) One administrative support officer I who shall receive a salary as specified in range 35.0A.

36 (11) Two secretaries III who shall receive a salary as specified in range 43.4B, or secretaries II
37 who shall receive a salary as specified in range 41.4B, or secretaries I who shall receive a salary
38 as specified in range 39.2B.

39 (12) One secretaries II who shall receive a salary as specified in range 41.4B, or secretaries I
40 who shall receive a salary as specified in range 39.2B, or office clerk who shall receive a salary as
41 specified in range 35.2B.

42 (13) One account clerk II who shall receive a salary as specified in range 38.6B.

43 (14) One municipal court division manager III who shall receive a base salary of two thousand
44 five hundred thirty-one dollars and fifty-two cents (\$2,531.52) biweekly, plus or minus 12 1/2
45 percent.

46 (15) Two municipal court division managers II who shall receive a base salary of two thousand
47 three hundred thirty dollars and fifty-six cents (\$2,330.56) biweekly, plus or minus 12 1/2
48 percent.

49 (16) Three municipal court division managers I who shall receive a base salary of two thousand
50 one hundred eighty-seven dollars and four cents (\$2,187.04) biweekly, plus or minus 12 1/2
51 percent.

52 (17) Three and one-half chief deputy court clerks I who shall receive a salary as specified in
53 range 36.5A.

1 (18) Thirteen supervising deputy court clerks II who shall receive a salary as specified in range
2 34.5A.

3 (19) Four supervising deputy court clerks I who shall receive a salary as specified in range
4 32.7A.

5 (20) Ten assistant supervising deputy court clerks who shall receive a salary as specified in
6 range 31.7A.

7 (21) Sixty-two municipal courtroom clerks who shall receive a salary as specified in range
8 44.8B.

9 (22) Two hundred nine and one-half deputy court clerks II who shall receive a salary as
10 specified in range 42.1B or deputy court clerks I who shall receive a salary as specified in range
11 35.9B.

12 (23) Two court services coordinators who shall receive a salary as specified in range 33.6A.

13 (24) Seven accountant assistants who shall receive a salary as specified in range 40.5B.

14 (25) One security guard who shall receive a salary as specified in range 39.1B.

15 (26) One storekeeper who shall receive a salary as specified in range 37.9B.

16 (27) One messenger-driver who shall receive a salary as specified in range 36.8B.

17 (28) Thirty-four municipal court court reporters (unclassified) who shall receive a salary as
18 specified in range 51.5K.

19 74665. In the Santa Clara County Judicial District the judges of these courts, pursuant to
20 Section 72194, may appoint as many additional reporters as the business of the courts may
21 require, who shall be known as official reporters pro tempore, and who shall serve without salary
22 but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of
23 the per diem fees provided in those sections for reporting testimony and proceedings, the official
24 reporters pro tempore shall in all cases receive one hundred fourteen dollars and eighty-five cents
25 (\$114.85) per half day and two hundred twenty-nine dollars and seventy cents (\$229.70) per day,
26 which shall, upon order of the court, be a charge against the general fund of the county. If the
27 board of supervisors increases the per diem fees for official court reporters pro tempore in the
28 superior court pursuant to Section 70046.1, this increase shall apply equally for all official
29 reporters pro tempore in the municipal courts, but all of these increases shall be effective only
30 until the second year following the calendar year in which the adjustment is made.

31 74666. Attaches of the Santa Clara County Judicial District shall be subject to the provisions of
32 merit system rules established pursuant to the charter of the County of Santa Clara in the same
33 manner and to the same extent as applicable generally to officers and employees of said county.

34 Each attache shall receive a salary computed in accordance with the range established for that
35 position or classification in order to provide compensation comparable to other positions and
36 classifications in the county service as such comparability is determined by the board of
37 supervisors. Whenever reference to a numbered salary range is made in any section of this article,
38 the schedule found in the basic salary plan as adopted by the board of supervisors, which includes
39 the same range numbers and rates of pay utilized for general employees of Santa Clara County,
40 shall apply.

41 If the board of supervisors increases or decreases salaries, or adopts a revised salary plan, the
42 new schedule of salaries and ranges shall apply equally to and be effective for such attaches of the
43 court in the manner and on the date as is determined by the board of supervisors, but all such
44 changes or adjustments shall be effective only until the second year following the calendar year in
45 which the adjustment is made.

46 Such attaches shall be entitled to receive, on prescribed terms and conditions, such vacation,
47 sick leave, leave of absence, and other benefits as are or may be provided by the board of
48 supervisors from time to time. Such attaches may be appointed, promoted, demoted, terminated,
49 or transferred, or their status otherwise adjusted, in the same manner and with the same effect as
50 is or may be provided for by law. Such attaches shall be subject to such employment
51 qualifications as may be adopted for their positions.

1 This section is expressly subject to the provisions of Section 72002.1 and any other provisions
2 of state law regarding attaches of the court.

3 74667. In the Santa Clara County Judicial District the sheriff shall be ex officio marshal and
4 shall act as such without additional compensation and his designated deputies shall be ex officio
5 deputy marshals of the court.

6 74668. In the Santa Clara County Judicial District all per diem fees otherwise payable by law
7 by the parties to proceedings in the court to official reporters or official reporters pro tempore
8 shall be paid to the clerk of the court. All fees shall be deposited in the treasury of the county to
9 the credit of the general fund.

10 **Note: Comment Requested**

11 The Commission is reviewing whether county treasury provisions remain viable, given the
12 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
13 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
14 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
15 (state funding of trial court operations). These matters are also being examined by a Joint Court-
16 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
17 treatment of Government Code Section 74668.

18 74669. In the Santa Clara County Judicial District fees for transcription of testimony and
19 proceedings in such courts shall be paid by the litigants to official reporters and official reporters
20 pro tempore as otherwise provided by law. In all cases where by law, the court may direct the
21 payment of transcription fees out of the county treasury, such fees shall, upon order of the court,
22 be paid from the general fund including fees for transcription of testimony and proceedings in
23 criminal cases as provided in Sections 69947 to 69953, inclusive, which shall be paid from the
24 county treasury.

25 74670. In the Santa Clara County Judicial District no further fee shall be collected from, or
26 assessed against, any party to any proceeding for services of a phonographic reporter in taking
27 down in shorthand the testimony and other proceedings in the trial or hearing of any matter as
28 required by law or by order of the court. Such phonographic reporter shall be allowed and shall
29 receive, unless waived by him, the fees allowed by law for transcribing his shorthand notes of the
30 testimony and proceedings reported by him, and such fees for transcription shall be paid as
31 provided by Sections 69947 to 69953, inclusive, and by any other law pertinent to the case.

32 74672. In the Santa Clara County Judicial District the fee required by Section 74671 shall be
33 taxed as costs in favor of any party paying it and to whom costs are awarded by the judgment of
34 the court. It is not subject to Section 6103.

35 The clerk of the Santa Clara County Judicial District shall transmit to the county treasurer in
36 accordance with Section 24353 all money paid to him pursuant to Section 74671. The money
37 shall be deposited in the general fund of the county.

38 74673. In any county with a population of over 1,000,000 and not over 1,070,000 as
39 determined by the 1970 federal census and in which there is, or may be, established by a majority
40 vote of the judges of the superior court and a majority vote of the judges of the municipal court of
41 that county a joint committee comprised of an equal number of superior court and municipal court
42 judges, such committee shall advise the respective courts on matters relating to the administration
43 of criminal justice. Upon concurrence of a majority of the superior court judges and a majority of
44 the municipal court judges, the joint committee may initiate and administer programs, services
45 and other matters relating to the improvement of the criminal justice system.

46 The executive director and any and all other employees of the joint committee shall be
47 appointed by and serve at the pleasure of the joint committee. The number and compensation of
48 all employees of the joint committee shall be fixed by the board of supervisors. All expenses of

1 the joint committee shall be paid from the general fund of the county, subject to the approval of
2 the board of supervisors.

3 **Gov't Code §§ 74690-74699 (repealed). Santa Cruz County Municipal Court**

4 SEC. ____ . Article 29 (commencing with Section 74690) of Chapter 10 of Title 8 of the
5 Government Code is repealed.

6 **Comment.** Sections 74690-74699 are repealed to reflect:

7 (1) Unification of the municipal and superior courts in Santa Cruz County pursuant to Article
8 VI, Section 5(e), of the California Constitution, effective July 1, 1998. See Section 70211 (former
9 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
10 (judicial districts); Section 69600.5 (number of judges in Santa Cruz County). Cf. Section
11 71042.5 (preservation of judicial districts for purposes of publication); former Section 71264
12 (municipal court served by marshal).

13 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
14 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
15 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
16 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
17 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
18 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
19 reporters), 69947 (compensation of official reporter), 72190 (court commissioners).

20 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
21 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

23 **Article 29. Santa Cruz County**

24 74690. This article applies to the municipal courts established in districts in Santa Cruz County.

25 74691. There are five judges.

26 74692. (a) There shall be one clerk of the municipal court in Santa Cruz County, who shall be
27 known as court administrator-clerk of the municipal court, and who shall be appointed by and
28 serve at the pleasure of a majority of the judges of the municipal court. The court administrator-
29 clerk of the municipal court shall receive a salary at the rate specified in rate ND of the salary
30 schedule. The position of court administrator-clerk of the municipal court shall not be deemed a
31 civil service position.

32 (b) There shall be one assistant clerk of the municipal court who shall be appointed by the court
33 administrator-clerk of the municipal court, with the approval of a majority of the judges of the
34 municipal court.

35 74693. The court administrator-clerk of the municipal court may appoint:

36 (a) One assistant court administrator-clerk of the municipal court, who shall receive a salary at
37 a rate specified in range MT of the salary schedule.

38 (b) One supervising deputy court clerk, grade II, who shall receive a salary at the rate specified
39 in range M9 of the salary schedule.

40 (c) Six supervising deputy court clerks, grade I, who shall receive a salary at the rate specified
41 in range JM of the salary schedule.

42 (d) Seven senior municipal courtroom clerks who shall receive a salary at the rate specified in
43 range JN of the salary schedule.

44 (e) Nine municipal courtroom clerks who shall receive a salary at the rate specified in range D6
45 of the salary schedule.

1 (f) Twenty-nine clerks, grade II or deputy court clerks. Clerks, grade II shall receive a salary at
2 the rate specified in range 28 of the salary schedule. Deputy court clerks shall receive a salary at
3 the rate specified in range 32 of the salary schedule.

4 (g) Two clerks, grade II, who shall receive a salary at the rate specified in range 27 of the salary
5 schedule.

6 (h) Three typist clerks, each of whom shall be either grade I or grade II. Grade I typist clerks
7 shall receive a salary at the rate specified in range J7 of the salary schedule. Grade II typist clerks
8 shall receive a salary at the rate specified in range J8 of the salary schedule.

9 (i) One secretary, who shall receive a salary at the rate specified in range D4 of the salary
10 schedule.

11 (j) One departmental systems analyst, who shall receive a salary at the rate specified in range
12 KF of the salary schedule.

13 (k) One supervising accountant, grade I, who shall receive a salary at the rate specified in range
14 FX of the salary schedule.

15 (l) Two account clerks, grade III, who shall receive a salary at the rate specified in range FH of
16 the salary schedule.

17 (m) .50 payroll clerk, who shall receive a salary at the rate specified in range FN of the salary
18 schedule.

19 (n) 1.50 receptionists, who shall receive a salary at the rate specified in range 27 of the salary
20 schedule.

21 (o) .70 assistant departmental administrative analyst, who shall receive a salary at the rate
22 specified in range KF of the salary schedule.

23 (p) One data entry operator, grade II, who shall receive a salary at the rate specified in range D2
24 of the salary schedule.

25 (q) Seven court reporters, who shall receive a salary at the rate specified in range 62 of the
26 salary schedule.

27 (r) One traffic commissioner, who shall receive a salary at the rate specified in range DO of the
28 salary schedule.

29 (s) Two court interpreters, who shall receive a salary at a rate specified in range WC of the
30 salary schedule.

31 (t) One judicial administrative assistant, who shall receive a salary at the rate specified in range
32 LH of the salary schedule.

33 74693.1. Whenever reference to a numbered salary range is made in any section of this article,
34 the schedule of salaries adopted by resolution of the Board of Supervisors of Santa Cruz County
35 in effect on January 1, 1988, shall apply.

36 Unless otherwise specifically provided, each person appointed to a position, the compensation
37 of which is fixed by reference to a salary range incorporated by this section, shall be placed in the
38 step of the specified salary range and advanced in step in the specified salary range in accordance
39 with the personnel practices of the County of Santa Cruz.

40 74693.2. All employees of the Santa Cruz Municipal Court shall be entitled to the same
41 provisions with respect to retirement, vacations and other benefits allowed to other employees of
42 the county, and be subject to the personnel regulations, memoranda of understanding and the
43 affirmative action plan of the County of Santa Cruz.

44 74693.3. The positions enumerated in Sections 74692 and 74693, inclusive, are deemed to be
45 comparable in job and salary level to positions of the same title listed in the service of Santa Cruz
46 County.

47 Notwithstanding any other provision of law, in the event that any class, the number of positions
48 prescribed for any class, or the salary, benefits, personnel regulations, memoranda of
49 understanding or affirmative action plan for any class which is shown above is modified by the
50 civil service commission or board of supervisors, or both, a commensurate modification shall,
51 with the approval of the presiding judge of the municipal court, be made for the comparable court
52 class. Any adjustment made pursuant to this section shall be effective the same date as the

1 effective date of the action applicable to the respective and comparable county class, but shall
2 remain in effect only until January 1 of the second year in which such change is made, unless
3 subsequently ratified by the Legislature.

4 74694. The sheriff of the county shall be ex officio marshal of the court and may appoint two of
5 his deputies to act as ex officio deputy marshals of the court.

6 74695. Each judge of the municipal court in the County of Santa Cruz may appoint a competent
7 phonographic reporter, pursuant to Section 72194, to be known as an official reporter of such
8 court, and such pro tempore reporters as necessary to report the proceedings of the court. Official
9 reporters shall hold office at the pleasure of the appointing judge and shall be attaches of the court
10 and shall receive a biweekly salary as specified in salary schedule 62 of the County of Santa
11 Cruz, which shall be a charge against the general fund of the county. During the hours which the
12 courts are open for transaction of judicial business, official reporters shall devote full time to the
13 performance of the duties required of them by law. The duties of official reporters appointed
14 pursuant to this section shall be performed as elsewhere provided by law.

15 74698. The judges of the municipal court shall appoint one court commissioner. The
16 commissioner shall possess the same qualifications as the law requires of a judge of the court.
17 Within the jurisdiction of the court and under the direction of the judges, the commissioner shall
18 exercise the powers and perform the duties authorized by the law. The commissioner shall hold
19 office at the pleasure of the judges and shall receive a monthly salary at the rate established by the
20 judges. In no event shall such salary exceed the salary provided for a judge of the municipal
21 court. The commissioner shall be an ex officio deputy clerk of the court and shall be a member of
22 any retirement system which includes attaches of the court. The commissioner may engage in the
23 private practice of law upon approval of the judges.

24 74699. Notwithstanding any other provision of the law, the compensation rate for each official
25 court reporter pro tempore shall be ninety dollars (\$90) a day for each day such official court
26 reporter pro tempore provides court reporting services to this municipal court, or at a rate equal to
27 but not less than the rate of compensation established by the county board of supervisors for
28 official court reporters pro tempore appointed by the superior court of the County of Santa Cruz.

29 **Gov't Code §§ 74700-74711 (repealed). Sonoma County Municipal Court**

30 SEC. ____ . Article 29.5 (commencing with Section 74700) of Chapter 10 of Title 8 of
31 the Government Code is repealed.

32 **Comment.** Sections 74700-74711 are repealed to reflect:

33 (1) Unification of the municipal and superior courts in Sonoma County pursuant to Article VI,
34 Section 5(e), of the California Constitution, effective June 12, 1998. See Section 70211 (former
35 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
36 (judicial districts); Sections 68202-68203 (salary of superior court judge), 69603 (number of
37 judges in Sonoma County). Cf. Section 71042.5 (preservation of judicial districts for purposes of
38 publication); former Section 71264 (municipal court served by marshal).

39 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
40 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
41 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
42 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
43 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
44 protection system), 71673 (authority of court). See also Code Civ. Proc. § 259 (powers of court
45 commissioners); Sections 69941 (appointment of official reporters), 69947 (compensation of
46 official reporter), 72190 (court commissioners).

47 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
48 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

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

2 **Article 29.5. Sonoma County**

3 74700. This article applies to the municipal court district which embraces all of Sonoma
4 County and is known as the Sonoma County Municipal Court. This article establishes a uniform
5 compensation schedule which shall apply to the Sonoma County Municipal Court and provides
6 the personnel for such court.

7 74701. Judges of the Sonoma County Municipal Court shall be compensated in accordance
8 with the uniform salary statutes.

9 74701.5. The judges of the Sonoma County Municipal Court may, by majority vote, appoint
10 two court commissioners who shall meet the qualifications and have the powers and duties
11 specified in Sections 72190 and 72190.1 of this code, and Section 259 of the Code of Civil
12 Procedure. However, if the board of supervisors finds that there are sufficient funds for one
13 additional court commissioner and adopts a resolution to that effect, there shall be three court
14 commissioners. Any commissioner so appointed shall also have the power and duties of a traffic
15 referee, as provided in Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The
16 salary of the commissioner for all duties performed pursuant to this section shall be equal to 85
17 percent of the annual salary of a judge of a municipal court. The commissioner shall be a member
18 of the Sonoma County Retirement System and shall receive vacation, sick leave, and fringe
19 benefits identical to those provided Sonoma County administrative management employees.

20 74702. There shall be one clerk administrator who shall be the court executive officer and who
21 shall be appointed by, and serve at the pleasure of, the judges of the municipal court. In addition
22 to the duties imposed on this position by law, the judges of the municipal court may prescribe and
23 delegate to the clerk administrator such administrative powers and duties as they deem necessary
24 for the optimal administration of the court.

25 The salary of the clerk administrator shall be established by joint action of the Sonoma County
26 Board of Supervisors and a majority of the judges of the municipal court at an amount equal to
27 that paid county department heads with comparable experience and responsibility. The clerk
28 administrator shall receive the same privileges with respect to sick leave, vacations, and fringe
29 benefits as provided equivalent department heads employed by the county.

30 74703. (a) The judges of the Sonoma County Municipal Court may, with the approval of the
31 board of supervisors, appoint a permanent full-time traffic referee, in addition to the appointment
32 of any other traffic referee authorized by statute, to be funded entirely by the County of Sonoma.
33 The permanent full-time traffic referee shall hold office at the pleasure of the judges. The judges
34 may also appoint temporary traffic referees, as needed, to assist in processing traffic caseloads
35 during times of training, illness, or vacation of the full-time traffic referee.

36 (b) The permanent full-time traffic referee and temporary traffic referees shall have the powers
37 and duties specified in Sections 72401 and 72402, as well as the powers of a deputy clerk of the
38 court, and shall perform such other duties as may be assigned by the court.

39 (c) The permanent full-time traffic referee shall receive a salary equal to 60 percent of the
40 annual salary of a municipal court judge. The permanent full-time traffic referee shall receive sick
41 leave, vacation leave, and benefits identical to those provided to Sonoma County administrative
42 management employees.

43 (d) The temporary traffic referees shall receive a salary identical to that of the permanent full-
44 time traffic referee, except that the compensation shall be prorated as the number of hours
45 actually served relates to a 40-hour workweek. Temporary traffic referees shall not receive sick
46 leave, vacation leave, or benefits, other than those mandated by state or federal law.

47 (e) The permanent full-time traffic referee shall be appointed from a list of temporary traffic
48 referees established and approved by a majority of the judges of that court. The number of

1 temporary traffic referees shall be such that each temporary traffic referee serves on the bench an
2 average of at least three days in each month, and the presiding judge shall assure that all
3 temporary traffic referees maintain current knowledge of the procedures. The court shall
4 periodically review the performance of each temporary traffic referee and shall maintain an
5 ongoing training program to maintain their skills. Each temporary traffic referee shall possess the
6 same qualifications the law requires of a municipal court judge, and shall have completed an
7 orientation program satisfactory to the presiding judge, including a review of the procedures and
8 practices of the court, together with observation of each particular calendar to which the traffic
9 referee may be assigned, and shall not engage in the private practice of law before any court of
10 the municipal to which he or she is appointed, and is subject to disqualification as provided for
11 judges.

12 (f) A permanent full-time traffic referee and each temporary traffic referee shall perform those
13 functions conferred by law and assigned by the presiding judge. Before any action or proceeding
14 is tried or heard by a permanent full-time traffic referee or temporary traffic referee, any party to,
15 or any attorney appearing in, the action or proceeding shall, however, be entitled to require, by
16 oral or written motion without notice, that the action or proceeding be reassigned or transferred,
17 whereupon the action or proceeding shall be reassigned or transferred as promptly as possible to a
18 judge, court commissioner, or referee of the court. The court shall, prior to the commencement of
19 any such trial or hearing, provide notice to each party or attorney of record in the action or
20 proceeding of this entitlement to require reassignment or transfer.

21 (g) The permanent full-time traffic referee position and the temporary traffic referee positions
22 shall not be counted in the calculation of trial court funding pursuant to Section 77202, and the
23 salary for these positions shall not be considered as part of "court operations" for purposes of
24 Sections 77003 and 77204.

25 74705. Certain classes of employment in the municipal courts are deemed to be equivalent in
26 job responsibility and salary level to certain classes in the service of the County of Sonoma, or in
27 some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of
28 those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the
29 salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or
30 minus the percentage rate specified in this section, if applicable. The adjustment shall become
31 effective on the same date as the effective date of the action by the board of supervisors, as it
32 applies to the classes in the service of the county, but the adjustment shall remain effective only
33 until January 1 of the second year following the calendar year in which the adjustment is made.

Municipal Court Classification	County Classification
Municipal Court Executive Officer	Municipal Court Executive Officer
Assistant Court Executive Officer	Municipal Court Assistant Executive Officer
Administrative Assistant	Administrative Assistant
Municipal Court Services Manager	Municipal Court Services Manager
Municipal Court Reporter	Municipal Court Reporter
Municipal Court Secretary	Municipal Court Secretary
Executive Secretary	Executive Secretary
Municipal Court Division Supervisor	Municipal Court Division Supervisor
Municipal Courtroom Clerk	Municipal Courtroom Clerk
Municipal Court Clerk III	Municipal Court Clerk III
Account Clerk III	Account Clerk III
Account Clerk II/I	Account Clerk II/I
Municipal Court Clerk II	Municipal Court Clerk II
Municipal Court Clerk I	Municipal Court Clerk I

49 74706. All fees collected by the sheriff or his deputies for services to the municipal court shall
50 be deposited with the county treasurer.

1 74707. Section 70047.5 shall govern the salary, retirement, vacation, sick leave, and other
2 benefits applicable to official reporters of the municipal court, appointed pursuant to Section
3 72194, in addition to providing for the daily reimbursement rate and other expenses of reporters
4 pro tempore.

5 74708. In the municipal court in the district which coincides with all the territory in the County
6 of Sonoma, there shall be the following personnel:

7 (a) There shall be six judges who may together appoint:

8 (1) Two court commissioners.

9 (2) One municipal court executive officer, who will serve as clerk of the court.

10 (3) Four municipal court reporters.

11 (4) One municipal court secretary.

12 (b) The municipal court executive officer may appoint:

13 (1) One assistant municipal court executive officer.

14 (2) Two administrative assistants.

15 (3) One municipal court services manager.

16 (4) One executive secretary.

17 (5) Six municipal court division supervisors.

18 (6) Eight municipal courtroom clerks.

19 (7) Sixteen municipal court clerks III.

20 (8) One account clerk III.

21 (9) Four account clerks II/I.

22 (10) Twenty-six and one-half municipal court clerks II/I.

23 74710. No provision is made for marshal or deputy marshals in the Sonoma County Municipal
24 Court and no compensation is established for any such marshal and deputy marshal positions. In
25 lieu thereof, the Sheriff of the County of Sonoma shall be ex officio marshal and shall serve the
26 court without additional compensation.

27 74711. All officers and employees of the municipal court shall be entitled to the privileges
28 afforded their equivalent county class by the Sonoma County Salary Ordinance or the applicable
29 memorandum of understanding with respect to sick leave, vacations, and other benefits. The
30 municipal court officers and employees may be appointed, promoted, demoted, reclassified,
31 terminated or transferred, or their status otherwise adjusted, in the same manner and with the
32 same effect as is provided by the salary ordinance or the applicable memorandum of
33 understanding in effect at the time of any such adjustment in status.

34 **Gov't Code §§ 74720-74731 (repealed). Siskiyou County Municipal Court District**

35 SEC. ____ . Article 29.6 (commencing with Section 74720) of Chapter 10 of Title 8 of
36 the Government Code is repealed.

37 **Comment.** Sections 74720-74731 are repealed to reflect:

38 (1) Unification of the municipal and superior courts in Siskiyou County pursuant to Article VI,
39 Section 5(e), of the California Constitution, effective June 4, 1998. See Cal. Const. art. VI, § 23
40 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
41 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
42 Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38
43 (judicial districts), 190 *et seq.* (jury selection); Section 69601.7 (number of judges in Siskiyou
44 County). *Cf.* Section 71042.5 (preservation of judicial districts for purposes of publication);
45 former Section 71264 (municipal court served by marshal).

46 (2) The fact that the office of deputy marshal no longer exists in Siskiyou County following
47 expiration of the former constables' terms of office.

48 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
49 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623

1 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
2 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
3 (employment selection and advancement), 71650-71658 (employment protection system), 71673
4 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
5 (compensation of official reporter).

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

7 Article 29.6. Siskiyou County

8 74720. The Siskiyou County Municipal Court District shall supersede the Western,
9 Southeastern, and Dorris/Tulelake Judicial Districts and shall embrace the entire County of
10 Siskiyou.

11 74721. There shall be three judges.

12 74722. The present judicial incumbents in the superseded judicial districts shall succeed to the
13 judicial positions of the new municipal court district.

14 74723. The time for election and qualifications of the successor to any judge who becomes a
15 judge of the municipal court shall be that previously fixed by law for the election and
16 qualifications of successors. The judges of the district shall be elected at large by the electors
17 resident within the district. Any otherwise qualified candidate is eligible to be elected if he or she
18 resides within the district.

19 74724. The court shall maintain facilities at Yreka, Dorris, Weed, and other locations
20 determined by the court. The court shall determine the nature and frequency of sessions to be held
21 at additional court locations.

22 **Note: Comment Requested**

23 Issues involving sessions and facilities are still unsettled, but Government Code Section 74724
24 is proposed for repeal because it falls within a municipal court article. The Commission solicits
25 comments on whether the section should be preserved pending (1) any implementation of
26 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
27 among the interested parties.

28 74725. Trial jurors for each session of the courts of the district shall be selected from the
29 persons residing within the district.

30 74726. The officers, employees, and attaches of the municipal court shall be entitled to the
31 same vacation, sick leave, and similar benefits and privileges as those granted to other employees
32 of the county. Incumbent officers, employees, and attaches of the superseded courts shall retain
33 all accrued benefits and privileges.

34 74727. (a) All matters affecting the employment of the officers, employees, and attaches that
35 are not specifically determined by this article or another provision of state law shall be governed
36 by the current personnel ordinance of the County of Siskiyou.

37 (b) The Board of Supervisors of the County of Siskiyou may adjust the salaries paid to
38 employees of the municipal court as part of its county employee compensation plan. Any
39 adjustment shall be effective on the same date as the effective date of the action of the board to
40 adjust compensation of other county employees. Any adjustment shall be effective only until
41 January 1 of the second year following the year in which the adjustment is made, unless ratified
42 by the Legislature.

43 74727.5. (a) Whenever a reference is made to a numbered salary range in any section of this
44 article, the schedule of biweekly salaries found in the salary ordinance of Siskiyou County shall
45 apply.

(b) The work of the superior and municipal courts in Siskiyou County is to be performed, minimally, by each of the positions herein identified by the trial courts of Siskiyou County.

(c) The court may appoint the following numbers of staff at the classification and salary ranges indicated:

Number	Classification	Salary Range
1	Director of Family Court Services	51
1	Court Reporter	48
1.75	Research Attorney (Attorney III)	60
1	Court Manager II	45
2	Court Manager I	41
2	Judicial Secretary	38
1	Senior Legal Secretary	32
1	Legal Secretary	28
.5	Court Mediator/Evaluator	40
2	Information System Specialist III	46
4	Court Clerk III	30
20	Court Clerk II	26
1	Court Executive Officer	59
.75	Family Law Facilitator (Attorney III)	60
1	Bailiff	30

74728. The Siskiyou County Sheriff shall be ex officio marshal.

74729. There shall be three deputy marshals. Any person lawfully and rightfully holding the office of constable on November 8, 1994, is entitled to serve as deputy marshal, with the same compensation and the same terms of employment he or she had as a constable, for the remainder of his or her elected or appointed term.

74730. So long as a new position of deputy marshal is occupied by a person who occupied the position of a constable prior to November 8, 1995, the relationship of the new deputy marshal to the County of Siskiyou shall remain the same as the relationship of such person occupying the office of constable was prior to November 8, 1994. Nothing shall be interpreted as waiving any rights the County of Siskiyou may have with regard to, or changing the status of, any person occupying the position of constable prior to November 8, 1994, or as affecting the rights of any person claiming a right to occupy the position of constable prior to November 8, 1994, except to the extent permitted by Proposition 191 amending Section 5 of Article VI of the California Constitution.

74731. Except as otherwise provided, the designated deputies of the Sheriff of Siskiyou County shall act as ex officio deputy marshals of the Siskiyou County Municipal Court.

Gov't Code §§ 74740-74750 (repealed). South Bay Municipal Court District

SEC. ____ . Article 30 (commencing with Section 74740) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74740-74750 are repealed to reflect:

(1) Unification of the municipal and superior courts in San Diego County pursuant to Article VI, Section 5(e), of the California Constitution, effective December 1, 1998. See Cal. Const. art. VI, § 23 and Section 70212(b) (preexisting court locations retained as superior court locations), Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38 (judicial districts); Section 69595 (number of judges in San Diego County). Cf. Section 71042.5 (preservation of judicial districts for purposes of publication).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71601(l)-(m) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job

1 classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623
2 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
3 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
4 (employment selection and advancement), 71650-71658 (employment protection system), 71673
5 (authority of court). See also Sections 69941 (appointment of official reporters), 69947
6 (compensation of official reporter).

7 (3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
8 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations), 77211
9 (“900” telephone numbers). See also Sections 69952 (payment from Trial Court Operations
10 Fund), 69953 (payment of fees).

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

12 Article 30. South Bay Judicial District

13 74740. Notwithstanding Section 71040, there shall be a municipal court in a judicial district,
14 embracing the Cities of Chula Vista, Coronado, Imperial Beach, National City, that portion of the
15 City of San Diego lying southerly of the City of Chula Vista and the portion of the City of San
16 Diego lying within San Diego Bay south of a westerly continuation of the northern boundary of
17 National City to the point of intersection with the eastern boundary of the City of Coronado, and
18 such other contiguous area as the board of supervisors may direct, designated the South Bay
19 Judicial District.

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

21 74741. There shall be seven judges.

22 74742. (a) In addition to any other compensation and benefits, each judge of the municipal
23 court shall receive the same life insurance, accidental death and dismemberment insurance,
24 comprehensive annual physical examinations, executive flexible benefits plan (except that if
25 deferred compensation is selected, no adjustment based on retirement tier shall apply), and dental
26 and vision insurance as provided by the County of San Diego for the classification of chief
27 administrative officer. Changes in such benefits shall be effective on the same date as for those
28 for the classification of chief administrative officer.

29 (b) Subject to approval by the board of supervisors, each judge of the municipal court shall
30 receive one or more of the following benefits: the same long-term disability insurance as provided
31 by the County of San Diego for the classification of chief administrative officer or retiree health
32 benefits whereby each judge of the municipal court serving on or after October 1, 1987, who
33 retires from the municipal court on or after January 1, 1989, shall receive the same amount of
34 insurance premium for retiree health benefits under the Public Employees’ Medical and Hospital
35 Care Act (Part 5 (commencing with Section 22751) of Title 2) that the state provides to retired
36 superior court judges under that act.

37 **Note: Comment Requested**

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

42 74743. (a) By order entered in the minutes of the court, a majority of judges may appoint two
43 commissioners. However, if the board of supervisors finds that there are sufficient funds for one
44 additional commissioner and adopts a resolution to that effect, a majority of judges may appoint
45 an additional commissioner. The commissioners shall serve at the pleasure of the judges and shall
46 receive a salary equal to 80 percent of the salary of a judge of the municipal court.

47 (b) A commissioner shall receive and be entitled to the same number of holidays, leaves of
48 absence, and all other fringe benefits as are now or may hereafter be provided for a chief deputy

1 county counsel in the classified service of the County of San Diego. However, a commissioner
2 shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service
3 during the pay period; and (2) earn vacation credit at the rate of 8.075 percent of each hour of
4 paid service during the pay period until such time as the commissioner has 15 years of
5 county/court service. At that time, the commissioner will earn vacation at the same rate as chief
6 deputy county counsel with 15 years of county service.

7 (c) With the approval of a majority of the judges of the court and the board of supervisors, a
8 commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar
9 of California membership fee.

10 74744. There shall be one court administrator who shall serve as clerk of the court and who
11 shall be appointed by a majority of the judges of the court. The salary of the court administrator
12 shall be within the biweekly rate range ES-15 indicated in the Compensation Ordinance of the
13 County of San Diego. The biweekly salary, and any advancement or reduction within the range,
14 shall be determined in accordance with the provisions set forth under Article 3.5 of the
15 Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345,
16 except that any reference to “executive compensation committee” or “chief administrative
17 officer” in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be
18 interpreted as “a majority of the judges.”

19 74745. The court administrator may appoint with the approval of the judges:

20 (a) Three deputy court administrators. Persons appointed to this position on or after January 1,
21 1993, shall serve at the pleasure of the court administrator. The deputy court administrators shall
22 receive a salary within the biweekly rate range ES-6 indicated in the Compensation Ordinance of
23 the County of San Diego. The biweekly salary, and any advancement or reduction within the
24 range, shall be determined in accordance with the provisions set forth under Article 3.5 of the
25 Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345,
26 except that any reference to “executive compensation committee” or “the chief administrative
27 officer” in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be
28 interpreted as “the court administrator.”

29 (b) One deputy clerk-administrative assistant trainee, I, II, or III as the case may be. A deputy
30 clerk-administrative assistant trainee shall receive a biweekly salary at a rate equal to that
31 specified for administrative trainee in the classified service of the County of San Diego. A deputy
32 clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for
33 administrative assistant I in the classified service of the County of San Diego. A deputy clerk-
34 administrative assistant II shall receive a biweekly salary at a rate equal to that specified for
35 administrative assistant II in the classified service of the County of San Diego. A deputy clerk-
36 administrative assistant III shall receive a biweekly salary at a rate equal to that specified for
37 administrative assistant III in the classified service of the County of San Diego.

38 (c) One deputy clerk-division manager I, II, or III, as the case may be. A division manager I
39 shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V in
40 the San Diego Judicial District. A division manager II shall receive a biweekly salary at a rate
41 15.5 percent higher than that specified for deputy clerk V in the San Diego Judicial District. A
42 division manager III shall receive a biweekly salary at a rate 24.5 percent higher than that
43 specified for deputy clerk-division manager II.

44 (d) Seven deputy clerks V each of whom shall receive a biweekly salary equal to that specified
45 for deputy clerk V in the San Diego Municipal Court. The duties of the class of deputy clerk V
46 shall include supervisory responsibilities.

47 (e) One deputy clerk, associate, senior accountant, or accounting manager, as the case may be.
48 A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that
49 specified for associate accountant in the classified service of the County of San Diego. A deputy
50 clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior
51 accountant in the classified service of the County of San Diego. A deputy clerk-accounting

1 manager shall receive a biweekly salary at a rate equal to that specified for deputy clerk-division
2 manager III.

3 (f) One deputy clerk-staff development specialist or a deputy clerk-staff development
4 coordinator, as the case may be. A deputy clerk-staff development specialist shall receive a
5 biweekly salary at a rate equal to that specified for staff development specialist in the classified
6 service of the County of San Diego. A deputy clerk-staff development coordinator shall receive a
7 biweekly salary at a rate 5 percent higher than that specified for staff development specialist in
8 the classified service of the County of San Diego.

9 (g) One deputy clerk-volunteer program coordinator. A deputy clerk-volunteer program
10 coordinator shall receive a biweekly salary at a rate equal to the greater of that specified for
11 volunteer program coordinator in the superior court service of the County of San Diego or 15.75
12 percent higher than that specified for deputy clerk III.

13 (h) Ten deputy clerks IV. Each of the deputy clerks IV shall receive a biweekly salary at a rate
14 equal to the greater of that specified for superior court clerk in the superior court service of the
15 County of San Diego or 19.95 percent higher than that specified for deputy clerk III.

16 (i) Sixty-four deputy clerks III, II, or I, or deputy clerk-intermediate clerk typists, as the case
17 may be. Each of the deputy clerks III shall receive a biweekly salary at a rate equal to that
18 specified for legal procedures clerk III in the classified service of the County of San Diego. Each
19 of the deputy clerks II shall receive a biweekly salary at a rate equal to that specified for legal
20 procedures clerk II in the classified service of the County of San Diego. Each of the deputy clerks
21 I shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk I in the
22 classified service of the County of San Diego. At the discretion of the court administrator,
23 appointments to the deputy clerk I and II classification may be at any step within the salary range.
24 Up to three of these positions may be filled at the level of deputy clerk-intermediate clerk typist.
25 A deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that
26 specified for intermediate clerk typist in the classified service of the County of San Diego. In the
27 absence of a deputy clerk IV, the court administrator may assign a maximum of five deputy clerks
28 III to perform courtroom clerk duties, supervisory duties, or training duties for 40 or more hours
29 during a pay period. A deputy clerk III assigned to perform these duties is eligible to receive a
30 biweekly salary at a rate 10 percent higher than that specified for a deputy clerk III. This
31 increased biweekly salary shall apply only during pay periods in which 40 or more hours are
32 spent performing the supervisory, training, or courtroom clerk duties specified above and shall
33 not apply to paid leave or to terminal payoff.

34 (j) One deputy clerk-administrative secretary IV, III, II, or I, as the case may be. A deputy
35 clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified
36 for administrative secretary IV in the classified service of the County of San Diego. A deputy
37 clerk-administrative secretary III shall receive a biweekly salary at a rate equal to that specified
38 for administrative secretary III in the classified service of the County of San Diego. A deputy
39 clerk-administrative secretary II shall receive a biweekly salary at a rate equal to that specified for
40 administrative secretary II in the classified service of the County of San Diego. A deputy clerk-
41 administrative secretary I shall receive a biweekly salary at a rate equal to that specified for
42 administrative secretary I in the classified service of the County of San Diego.

43 (k) Four deputy clerk-court interpreters who shall receive a biweekly salary at a rate equal to
44 that specified for superior court clerk-interpreter in the superior court service of the County of
45 San Diego.

46 (l) Notwithstanding subdivision (b) of Section 74749, up to 10 deputy clerk-court workers may
47 be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-
48 court worker provides for temporary appointments to positions in classes not listed in Sections
49 74740 to 74750, inclusive, pending a review and evaluation of the duties of these positions by the
50 court administrator, and the establishment of specific classes as provided in this section. Prior to
51 the establishment of those classes, the county personnel director shall conduct a classification
52 review and make recommendations to the municipal court as to the establishment of those classes.
53 The rate of pay for each individual employed in this class of deputy clerk-court worker shall be
54 within the range proposed for the class pending establishment, at a rate determined by the court

1 administrator following consultation with the county personnel director. The rules regarding
2 appointment and compensation as they relate to appointments to deputy clerk-court worker shall
3 be the same as those applicable to the class that is pending establishment. Appointments shall be
4 temporary and shall not exceed 18 months. Employee benefits, if applicable, shall be equal to
5 those granted to the class in the classified service of the County of San Diego to which the
6 pending class shall be tied for benefit purposes. When that appointment is made, the class,
7 compensation (including salary and fringe benefits), and number of those positions may be
8 established by joint action of the majority of the judges and the board of supervisors in
9 accordance with established county personnel and budgetary procedures. In the event that the
10 class pending establishment is tied to a class in the unclassified service of the County of San
11 Diego, the joint action may designate that persons serving in the class pending establishment shall
12 serve at the pleasure of the court administrator. The court administrator may then appoint
13 additional attaches to the classes of positions in the same manner as those for which express
14 provision is made, and they shall receive the compensation so provided. Persons occupying
15 deputy clerk-court worker positions shall have their appointments expire not later than 30
16 calendar days following promulgation of a list of certified eligibles for the new class.
17 Appointments to the new class shall continue at the stated compensation or as thereafter modified
18 by joint action of the majority of the judges and the board of supervisors.

19 (m) Notwithstanding subdivision (b) of Section 74749, up to 10 extra help positions (hourly
20 rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary
21 level deemed appropriate. These appointments shall be temporary for a period not to exceed six
22 months, plus one additional period of up to six months, at the court administrator's option.
23 Notwithstanding any other provisions of this section, the court administrator may fill these
24 positions with personnel employed for a period not to exceed 120 working days or 960 hours,
25 whichever is greater, during a fiscal year on a part-time basis.

26 (n) Notwithstanding subdivision (c) of Section 74749, the court administrator may appoint up
27 to 15 temporary extra help deputy clerk-municipal court trainees I, II, III, or V, who shall be paid
28 at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-
29 municipal court trainee I shall receive an hourly salary at a rate equal to that specified for student
30 worker I in the unclassified service of the County of San Diego. A deputy clerk-municipal court
31 trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the
32 unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall
33 receive an hourly salary at a rate equal to that specified for student worker III in the unclassified
34 service of the County of San Diego. A deputy clerk-municipal court trainee V shall receive a
35 biweekly salary at a rate equal to that specified for student worker V in the classified service of
36 the County of San Diego. Persons who graduate and receive a degree in the field which qualified
37 them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and
38 be employed on a full-time basis for up to six months from the first day of the month following
39 their date of graduation.

40 (o) Except as provided herein, the provisions of Section 74345 shall apply to the attaches
41 appointed pursuant to this section and Section 74744.

42 (p) Three confidential deputy administrative clerks or deputy administrative clerks III, II, or I,
43 as the case may be. A confidential deputy administrative clerk III and a deputy administrative
44 clerk III shall receive a biweekly salary at a rate equal to that specified for deputy clerk IV. A
45 confidential deputy administrative clerk II and a deputy administrative clerk II shall receive a
46 biweekly salary at a rate equal to that specified for deputy clerk III. A confidential deputy
47 administrative clerk I and a deputy administrative clerk I shall receive a biweekly salary at a rate
48 equal to that specified for deputy clerk II.

49 (q) One deputy clerk-municipal court secretary, who shall receive a salary at a rate equal to that
50 specified for confidential legal secretary III in the classified service of the County of San Diego.
51 At the discretion of the court administrator appointment to the deputy clerk-municipal court
52 secretary may be at any step within the salary range.

53 (r) Three deputy clerk-senior systems analyst, associate systems analyst, assistant systems
54 analyst, or systems analyst trainee, or systems support analyst II, I, or trainee, or LAN systems

1 analysts III, II, or I, as the case may be. A deputy clerk-senior systems analyst shall receive a
2 biweekly salary at a rate equal to that specified for senior systems analyst in the classified service
3 of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly
4 salary at a rate equal to that specified for associate systems analyst in the classified service of the
5 County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at
6 a rate equal to that specified for assistant systems analyst in the classified service of the County of
7 San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal
8 to that specified for systems analyst trainee in the classified service of the County of San Diego.
9 A deputy clerk-systems support analyst II shall receive a biweekly salary at a rate equal to that
10 specified for systems support analyst II in the classified service of the County of San Diego. A
11 deputy clerk-systems support analyst I shall receive a biweekly salary at a rate equal to that
12 specified for systems support analyst I in the classified service of the County of San Diego. A
13 deputy clerk-systems support analyst trainee shall receive a salary equal to that specified for
14 systems support analyst trainee in the classified service of the County of San Diego. A deputy
15 clerk-LAN systems analyst III shall receive a biweekly salary at a rate equal to that specified for
16 DIS LAN systems analyst III in the classified service of the County of San Diego. A deputy
17 clerk-LAN systems analyst II shall receive a biweekly salary at a rate equal to that specified for
18 DIS LAN systems analyst II in the classified service of the County of San Diego. A deputy clerk-
19 LAN systems analyst I shall receive a biweekly salary at a rate equal to that specified for DIS
20 LAN systems analyst I in the classified service of the County of San Diego.

21 (s) One deputy clerk-municipal court computer specialist I, II, or III, as the case may be. A
22 deputy clerk-municipal court computer specialist I, II, or III shall receive a biweekly salary at a
23 rate equal to that specified for departmental computer specialist I, II, or III, respectively, in the
24 classified service of the County of San Diego.

25 (t) Three deputy clerk-collection officers I, II, or III, as the case may be. A deputy clerk-
26 collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and
27 recovery officer I in the classified service of the County of San Diego. A deputy clerk-collection
28 officer II shall receive a biweekly salary at a rate equal to that specified for revenue and recovery
29 officer II in the classified service of the County of San Diego. A deputy clerk-collection officer
30 III shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer
31 III in the classified service of the County of San Diego. Persons appointed to these positions on or
32 after January 1, 1999, shall serve at the pleasure of the court administrator.

33 (u) One deputy clerk-small claims adviser or deputy clerk-small claims counsel, as the case
34 may be. The deputy clerk-small claims adviser shall receive a biweekly salary at a rate of 18.63
35 percent less than that specified for small claims counsel in the classified service of the County of
36 San Diego. The deputy clerk-small claims counsel shall receive a biweekly salary at a rate equal
37 to that specified for small claims counsel in the classified service of the County of San Diego.

38 (v) Two deputy clerk-substance abuse assessors I or II, as the case may be. Notwithstanding
39 subdivision (b) of Section 73649, persons appointed to these positions on or after January 1,
40 1998, shall serve at the pleasure of the court administrator. A substance abuse assessor II shall
41 receive a biweekly salary at a rate equal to that specified for the class of deputy probation officer
42 in the classified service of the County of San Diego. A deputy clerk-substance abuse assessor I
43 shall receive a biweekly salary at a rate 9 percent below that specified for a deputy clerk-
44 substance abuse assessor II. Appointments to deputy clerk-substance abuse assessor I and II may
45 be at any step within the salary range.

46 (w) One deputy clerk-court referral officers II or deputy clerk-court referral officers I, as the
47 case may be. A deputy clerk-court referral officer II shall receive a biweekly salary at a rate equal
48 to that specified for the class of deputy probation officer in the classified service of San Diego
49 County. A deputy clerk-court referral officer I shall receive biweekly salary at a rate of 9 percent
50 below that specified for the class of deputy probation officer in the classified service of San
51 Diego County. The above positions shall be filled only upon the equivalent number of
52 corresponding vacancies in the positions denoted in subdivisions (d) and (e) of Section 74359.1.

53 (x) Notwithstanding any other provision of law, the number of positions and compensation of
54 positions in classifications authorized under subdivisions (a) to (k), inclusive, under subdivisions

1 (m), (n), and (p) to (x), inclusive, and under Sections 74743, 74744, and 74750 may be adjusted
2 as necessary by action of the majority of the judges. The rules regarding appointments of persons
3 to those positions shall be the same as those applicable to the class of those positions. The action
4 of the majority of the judges adjusting those positions shall designate the class title or titles,
5 number of positions, and compensation for each respective class. Any adjustment made pursuant
6 to this subdivision shall be effective upon action of the majority of judges and shall remain in
7 effect until ratified by the Legislature.

8 74745.1. Any positions authorized by Section 74745 may be filled by independent contractors
9 on a contractual basis at the discretion of the court administrator. Should any of the positions be
10 filled by independent contractors on a contractual basis, the provisions of Section 74745 shall not
11 apply for these positions only.

12 74745.5. The South Bay Municipal Court or any agency supporting this court may establish a
13 “900” telephone number or numbers for computerized remote access by individuals or
14 organizations to court information. The proceeds from those “900” telephone numbers shall be
15 continuously and solely appropriated to the use of the court or court support agency providing
16 access to the individuals or organizations for purposes of staff and information data processing
17 services.

18 74746. In the event that there shall be an increase in the number of judges as provided in
19 Section 74743, the court administrator may appoint one deputy clerk IV, one deputy clerk III, and
20 one deputy clerk II, for each respective additional judge so appointed. Such additional deputy
21 clerks shall receive the biweekly salaries specified for their respective classes by Section 74745.

22 74747. Persons who succeed to positions in the municipal court under provisions of the
23 Municipal and Justice Court Act of 1949 shall receive credit for continuous prior service in
24 superseded courts and in the sheriff’s department or constabulary of the county. In determining
25 the rate of compensation to be paid to the officers and employees named in this article, service in
26 any city, municipal or justice court of the State of California and service in the sheriff’s
27 department or constabulary of the County of San Diego shall be deemed to be service in the
28 respective offices and employments in the Municipal Court of the South Bay Judicial District.

29 74748. The municipal court shall hold sessions in the City of Chula Vista and at such other
30 places as the board of supervisors, by ordinance, may designate.

31  **Note: Comment Requested**

32 Issues involving sessions and facilities are still unsettled, but Government Code Section 74748
33 is proposed for repeal because it falls within a municipal court article. The Commission solicits
34 comments on whether the section should be preserved pending (1) any implementation of
35 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
36 among the interested parties.

37 74749. (a) In addition to the salary provided in this article, the attaches of the municipal court
38 shall receive, and they shall be entitled to the same number of holidays, leaves of absence,
39 percentage of retirement offsets and all other fringe benefits as now or may hereafter be provided
40 for the employees of the County of San Diego in the comparable classes specified in Section
41 74345.

42 The court administrator shall receive the same number of holidays, leaves of absence, and all
43 other fringe benefits as are now or may be hereafter received by the classification of chief
44 probation officer of the County of San Diego. The deputy court administrators shall receive the
45 same number of holidays, leaves of absence, and all other fringe benefits as are now or may be
46 hereafter received by the classification of assistant chief probation officer of the County of San
47 Diego. All persons employed as deputy clerk-division manager III, deputy clerk-division manager
48 II, or deputy clerk-division manager I, shall receive the same number of holidays, leaves of
49 absence, and all other fringe benefits as are now or may hereafter be received by the class of

1 administrative assistant III in the classified service of the County of San Diego. However, all
2 officers, employees, and attaches of the municipal court shall be eligible to enroll in the dental
3 and vision group insurance plans sponsored by the County of San Diego.

4 The purpose and intent of this subdivision is to provide all court attaches except the
5 commissioner and court reporters with any and all fringe benefits but no more than those which
6 are available to their comparable classes in the service of the County of San Diego as specified
7 herein or in Section 74345. Whenever action or approval by the chief administrative officer or
8 county personnel director is required for the county benefit, it shall be taken or given, as to
9 comparable municipal court officers and attaches other than those serving at the pleasure of the
10 court, by the court administrator with the approval of the majority of the judges of the municipal
11 court or their designees, or as to those serving at the pleasure of the court, by the majority of the
12 judges or their designees. Changes in benefits shall be effective on the same date as those for
13 employees of the County of San Diego in the specified comparable classes. The majority of all
14 the municipal court judges may adopt rules for the conduct of the personnel privileges to be
15 afforded the attaches of the court excluding fringe benefits.

16 (b) All attaches other than the commissioner and the court reporters, and other persons serving
17 at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended,
18 laid off, or discharged for cause by the appointing authority subject in such appointment,
19 promotion, removal, suspension, lay off, or discharge to civil service provisions applicable to the
20 classified personnel of the County of San Diego. Whenever those attaches are appointed or
21 promoted to a position, they must serve a probationary period of at least six months and not to
22 exceed 18 months, as specified in the job announcement for the class prior to appointment.

23 74750. Official reporters in the Municipal Court of the South Bay Judicial District appointed
24 pursuant to Section 72194 shall be attaches of such court, and in lieu of any other compensation
25 provided by law for their services in reporting testimony and proceedings in such court shall be
26 paid a biweekly salary equal to that specified for official court reporters for the Superior Court of
27 the County of San Diego. These salaries shall be a charge against the general fund of the county.

28 Pursuant to Section 72194, the judges of such court may appoint as many additional reporters
29 as the business of the court may require, who shall be known as official reporters pro tempore,
30 and who shall serve without salary but who shall receive the fees provided by Sections 69947 to
31 69953, inclusive, except that in lieu of the per diem fees provided in such sections for reporting
32 testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at
33 a rate equal to that paid to official reporters pro tempore for the Superior Court of the County of
34 San Diego, which shall be a charge against the general fund of the County of San Diego.

35 Fees for transcription of testimony and proceedings in such court shall be paid by the litigants
36 to official reporters and official reporters pro tempore as otherwise provided by law. In all cases
37 where by law the court may direct the payment of transcription fees out of the county treasury,
38 such fees shall, upon order of the court, be paid from the general fund, including fees for
39 transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to
40 69953, inclusive.

41 Official reporters of such court shall be members of any retirement system maintained by the
42 county. For the purpose of such retirement system the salary provided in this article for such
43 reporters shall be deemed their entire compensation.

44 Notwithstanding the provisions of Section 74749, official reporters serve at the pleasure of the
45 judges and shall receive and be entitled to the same number of holiday, leaves of absence, and all
46 other fringe benefits as are now or may hereafter be provided for by rule for the official reporters
47 of the Superior Court of the County of San Diego.

48 **Gov't Code §§ 74760-74767 (repealed). Glenn County Municipal Court District**

49 SEC. ____ . Article 30.1 (commencing with Section 74760) of Chapter 10 of Title 8 of
50 the Government Code is repealed.

51 **Comment.** Sections 74760-74767 are repealed to reflect:

1 (1) Unification of the municipal and superior courts in Glenn County pursuant to Article VI,
2 Section 5(e), of the California Constitution, effective July 31, 1998. See Cal. Const. art. VI, § 23
3 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
4 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
5 Const. art. VI, § 16 (election of judges); Section 69583.5 (number of judges in Glenn County).

6 (2) Elimination of the marshal's office and the transfer of its functions to the sheriff's office,
7 effective August 17, 1999. Cf. former Section 74766 (marshal of Glenn County).

8 (3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
9 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
10 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
11 compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-
12 71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658
13 (employment protection system), 71673 (authority of court). See also Code Civ. Proc. § 195 (jury
14 commissioners); Sections 69941 (appointment of official reporters), 69947 (compensation of
15 official reporter).

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

17 **Article 30.1. Glenn County**


18 74760. The Glenn County Municipal Court District shall supersede the Glenn County Judicial
19 District and shall embrace the entire County of Glenn.

20 74761. There shall be one judge.

21 74762. The incumbent judge of the superseded judicial district in that office on November 8,
22 1994, shall succeed to the judgeship of the municipal court district.

23 74763. The time for election and qualification of the successor to the judge who becomes the
24 first judge of the municipal court shall be that previously fixed by law for the election and
25 qualifications of successors to municipal court judges generally. The judge shall be elected at
26 large by the electors resident within the district.

27 74764. The court shall maintain facilities at Willows and other locations determined by the
28 court. The court shall determine the nature and frequency of sessions to be held at additional court
29 locations.

30  **Note: Comment Requested**

31 Issues involving sessions and facilities are still unsettled, but Government Code Section 74764
32 is proposed for repeal because it falls within a municipal court article. The Commission solicits
33 comments on whether the section should be preserved pending (1) any implementation of
34 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
35 among the interested parties.

36 74765. (a) All matters affecting the employment of the officers, employees, and attaches of the
37 consolidated courts that are not specifically determined by this article or another provision of
38 state law shall be governed by the personnel ordinance and resolutions of the County of Glenn.
39 Employees currently governed by the terms and conditions of the current Memorandum of
40 Understanding between the County of Glenn and the Glenn County Employees Association shall
41 continue to be covered by the agreement until amended or superseded by mutual agreement.

42 (b) The officers, employees, and attaches of the consolidated courts shall be entitled to the same
43 vacation, sick leave, and similar benefits and privileges as those granted to other employees of the
44 county who are not represented by an employee association authorized to meet and confer with
45 the County of Glenn over the terms and conditions of the employment of the employees
46 represented by the association. Incumbent officers, employees, and attaches of the superseded

1 court shall retain all accrued benefits and privileges resulting from service in the superseded court
 2 if Constitutional Amendment 4 is passed by the voters and adopted by unanimous vote of the
 3 judges of the Glenn County Superior and Municipal Courts of the County of Glenn.

4 (c) The Board of Supervisors of the County of Glenn may adjust the salaries paid and benefits
 5 provided to employees of the consolidated courts as part of its county employee compensation
 6 plan:

7 (1) There shall be one clerk and jury commissioner for the Glenn County Consolidated Courts,
 8 who shall be the court Executive Officer and receive an annual salary recommended by the courts
 9 and approved by the board of supervisors.

10 (2) The Glenn County Courts are judicially and administratively consolidated with joint job
 11 classifications, the work of the Superior and Municipal Courts in Glenn County is to be
 12 performed minimally by each of the positions herein identified by the trial courts of Glenn
 13 County. The Court Executive Officer with the approval of the judges may appoint the following
 14 authorized titles, number of positions and compensation rates for employees of the Glenn County
 15 Courts:

16	Position Title	No. of	Biweekly Salary
17		Positions	
18	Deputy Court Executive Officer	1	1,760.00-1,760.00
19	Court Analyst	1	1,091.20-1,329.60
20	Court Administrative Services Officer	1	964.00-1,175.20
21	Court Accounting Technician	1	1,012.80-1,234.40
22	Legal Process Clerk Supervisor	1	964.00-1,175.20
23	Legal Process Clerk IV	1	895.20-1,091.20
24	Legal Process Clerk III	3	811.20-988.80
25	Legal Process Clerk II	8	734.40-895.20
26	Legal Process Clerk I	2	682.40-832.00
27	Administrative Secretary/Law Librarian	1	717.60-873.60
28	Technology Technician	1	1,091.20-1,329.60
29	Court Conciliator Supervising	1	2,880.00-2,880.00
30	Court Investigator	1	323.05-323.05
31	Court Reporter	1	1,297.00-1,297.00
32	Court Interpreter	1	607.50-607.50

33 Such other employees as the board of supervisors may approve upon the recommendation of
 34 the consolidated courts, each of which shall receive a salary recommended by the courts and
 35 approved by the board of supervisors. Any appointee shall be compensated in the first step of the
 36 range and advanced to each higher step upon satisfactory completion of 12 months service in the
 37 preceding range. Upon the recommendation of the courts and approval of the board of
 38 supervisors, such employees may be employed at, or may be granted, a special step increase to
 39 any step within the salary range on the basis of experience and qualifications.

40 **Note: Comment Requested**

41 The Commission is researching several issues pertaining to jury commissioners, including
 42 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
 43 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
 44 by that Act. The Commission solicits comments on these points.

45 74766. (a) The Constable of the Glenn County Judicial District in office on November 8, 1994,
 46 is entitled to serve as marshal of the municipal court, with the same compensation and the same
 47 terms of employment enjoyed as that constable, for the remainder of the constable's elected term.

48 (b) Upon expiration of the term of the person first holding the office of marshal, or upon the
 49 first vacancy in that office, the office shall thereafter be an appointive office, and the marshal
 50 shall thereafter be appointed by and serve at the pleasure of the court.

51 74767. (a) Notwithstanding any other provision of this title, the Board of Supervisors of Glenn
 52 County, with the written consent of the majority of judges of the Glenn County Superior and

1 Municipal Courts, may order the consolidation of court-related services provided by the marshal
2 and the sheriff within that county. If the judges of these courts fail to notify the board of
3 supervisors within 90 days of the board's request for the judges' consent, or if the judges are
4 evenly divided on the matter, the board of supervisors shall determine under which agency, either
5 the marshal or the sheriff, court-related services shall be consolidated, and shall proceed to
6 implement the consolidation as if the written consent of a majority of the judges of these courts
7 had been presented to the board of supervisors.

8 (b) Except as provided in subdivision (f), all personnel of the marshal's office or personnel of
9 the sheriff's office affected by a consolidation of court-related services under this section shall
10 become employees of that consolidated office at their existing or equivalent classifications,
11 salaries, and benefits.

12 (c) Permanent employees of the marshal's office or sheriff's office on the effective date of
13 consolidation under this section who become employees of the consolidated office shall be
14 deemed permanent employees of the consolidated office. Probationary employees of the
15 marshal's office or the sheriff's office on the effective date of a consolidation under this section
16 who become employees of the consolidated office shall retain their probationary status and rights,
17 and shall not be deemed to have transferred so as to require serving a new probationary period.

18 (d) All county service or service by employees of the marshal's office or the sheriff's office on
19 the effective date of a consolidation under this section shall be counted toward seniority in that
20 court-related services office, and all time spent in the same, equivalent, or higher classification
21 shall be counted toward classification seniority.

22 (e) No employee of the marshal's office or the sheriff's office on the effective date of a
23 consolidation under this section shall lose peace officer status, or be demoted or otherwise
24 adversely affected solely because of the consolidation of court-related services, unless the number
25 of authorized deputy sheriff positions that are vacant on the effective date of the consolidation is
26 less than the number of sheriff's bailiffs who do not elect to accept other employment in the
27 sheriff's office or employment in the marshal's office pursuant to subdivision (f).

28 (f) If court-related services are consolidated under the marshal's office, all sheriff's bailiffs
29 affected by the consolidation shall be given the option of becoming employees of the marshal's
30 office or of remaining with the sheriff's office. If all deputy marshal positions are not filled
31 because of the exercise of this option by these bailiffs, the marshal may accept qualified
32 applicants from the sheriff's office under the provisions of subdivisions (b), (c), (d), and (e).

33 **Gov't Code §§ 74780-74792 (repealed). Stanislaus County Municipal Court**

34 SEC. ____ . Article 31 (commencing with Section 74780) of Chapter 10 of Title 8 of the
35 Government Code is repealed.

36 **Comment.** Sections 74780-74792 are repealed to reflect:

37 (1) Unification of the municipal and superior courts in Stanislaus County pursuant to Article
38 VI, Section 5(e), of the California Constitution, effective July 31, 1998. See Section 70211
39 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
40 Proc. §§ 38 (judicial districts), 190 *et seq.* (jury selection); Section 69604 (number of judges in
41 Stanislaus County). *Cf.* Section 71042.5 (preservation of judicial districts for purposes of
42 publication).

43 (2) Elimination of the marshal's office as a result of consolidation with the sheriff's office in
44 Stanislaus County, effective March 1, 1992. For provisions relating to the sheriff, see Sections
45 26603 (superior court attendance) 26608, 26609, 26660-26665 (process and notices), 26611
46 (court crier), 26720-26751 (fees). See also Code Civ. Proc. § 262.4 (conveyances on sale of real
47 estate).

48 (3) The fact that provisions relating to the Court Services Bureau and Court Security Services
49 Oversight Committee are obsolete. See Section 77212.5(a) (agreement with sheriff's department
50 regarding court security services).

1 (4) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
2 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
3 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
4 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
5 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
6 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
7 reporters), 69947 (compensation of official reporter).

8 (5) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
9 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
10 Sections 69952 (payment from Trial Court Operations Fund), 69953 (payment of fees).

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

12 Article 31. Stanislaus County

13 74780. This article applies to the municipal court established in a judicial district embracing the
14 County of Stanislaus. This court shall be known as the Stanislaus County Municipal Court.

15 74781. There are eight judges.

16 74782. (a) Whenever reference to a numbered salary range is made in any section of this
17 article, the schedule found in the salary and position allocation resolution of the County of
18 Stanislaus in effect December 1, 1981, shall apply.

19 (b) Except as otherwise provided in this article, each new officer or employee shall for the first
20 12 full calendar months of continuous service receive a salary at the monthly rate specified for
21 step 1 of the applicable range; on the first day of the next calendar month thereafter, his salary
22 may increase to the rate of step 2; after one, two and three additional years of continuous service,
23 his salary may increase to the rates for steps 3, 4, and 5, respectively. These increases shall be
24 granted only with the approval of the officer's or employee's appointing authority.

25 (c) Notwithstanding any other provision of law, the salary of any officer or employee may be
26 increased by the board of supervisors in order to provide compensation that is comparable to that
27 of county employees of similar qualifications and experience, holding equal or comparable
28 positions in the Stanislaus County classified service, as the comparability is determined by the
29 board. If the salaries of incumbent officers and employees are increased to provide compensation
30 that is comparable to that of county employees holding comparable positions, the officers and
31 employees may, with the approval of their appointing authority, retain the same salary step in the
32 salary range made applicable to their position as they occupied under the superseded salary range.
33 For the purpose of determining eligibility for subsequent annual increments, however, the
34 officer's and employee's anniversary date for step advancement shall not change. Any pay
35 increase authorized by this section shall only be effective until January 1 of the second calendar
36 year after the calendar year in which the change occurs, unless ratified by the Legislature.

37 (d) If any officer or employee in the service of the court is appointed or promoted to another
38 office or position in such service which is compensated at a higher salary range, he or she shall
39 receive the compensation provided pursuant to the salary and classification procedures of the
40 county.

41 (e) If any officer or employee in the service of the court is demoted to another office or
42 position, he or she shall receive the compensation provided pursuant to the salary and
43 classification procedures of the county.

44 74782.1. A majority of the municipal court judges may appoint one commissioner who shall
45 possess the same qualifications as the law requires of a judge of a municipal court. The duties of
46 the commissioner shall be as prescribed by law. The commissioner shall receive 80 percent of the
47 salary of a judge of the municipal court and shall not engage in the private practice of law. The

1 commissioner shall be entitled to all employee benefits that are provided for or made applicable
2 to the other employees of the court.

3 74783. There shall be one clerk-administrator who shall be appointed by and serve at the
4 pleasure of a majority of the judges of the court. The clerk-administrator and all other court
5 employees shall receive the salary specified in the salary resolution for Stanislaus County which
6 is in effect. The clerk may appoint, with the approval of the judges of the court, all of the
7 following:

- 8 (a) One assistant clerk-administrator.
- 9 (b) Ten courtroom clerks.
- 10 (c) Four supervising legal clerks II.
- 11 (d) One accountant I.
- 12 (e) Nine legal clerks III.
- 13 (f) One account clerk III.
- 14 (g) One supervising judicial secretary.
- 15 (h) Thirty-three legal clerks I/II.
- 16 (i) One supervising courtroom clerk.
- 17 (j) Four supervising legal clerks I.
- 18 (k) One staff services coordinator.
- 19 (l) Four interpreters.
- 20 (m) One master calendar clerk.

21 74784. (a) Except as provided in subdivision (b), there shall be one marshal who shall be
22 appointed by and serve at the pleasure of a majority of the judges of the court. The marshal and
23 all other marshal employees shall receive the salary specified in the salary resolution for
24 Stanislaus County which is in effect. The marshal may appoint, with the approval of the judges of
25 the court all of the following:

- 26 (1) Two marshal-captains.
- 27 (2) Nineteen deputy marshals.
- 28 (3) One supervising civil process technician.
- 29 (4) One civil process technician.
- 30 (5) Three civil process clerks.
- 31 (6) Three marshal technicians.
- 32 (7) The number of deputy marshal-keepers as may be required by law.

33 (b) Notwithstanding any other provision of law, the Board of Supervisors of Stanislaus County
34 may find that cost savings can be realized by eliminating the office of marshal and consolidating
35 the court-related services provided by the sheriff and the marshal within that county. If that
36 finding is made and such a consolidation is approved by resolution of the board, there shall be
37 conducted among all of the judges of the superior and municipal courts of that county an election
38 to approve the consolidation as set forth in the board's resolution. The outcome shall be
39 determined by a simple majority of votes cast. The registrar of voters shall administer that
40 election within a reasonable period of time in an expeditious fashion and tabulate the results
41 thereof. The results of that election shall be reported within five days following the election
42 period by the registrar of voters to the board of supervisors and to the judges of the superior and
43 municipal courts of that county. The board of supervisors shall immediately commence and,
44 within a reasonable time not to exceed 90 days, implement the consolidation as approved by a
45 majority of the votes cast in that election. However, if prior to the effective date of this
46 subdivision, the board of supervisors passes a resolution setting forth the terms and conditions of
47 the consolidation and makes a finding of cost savings, and if the judges of the superior and
48 municipal courts approve the consolidation by a majority vote and so certify to the board, no
49 election shall be necessary under this subdivision and the board shall commence the
50 implementation of the consolidation.

51 Upon any consolidation pursuant to this subdivision, the board of supervisors and the sheriff
52 shall create a Court Services Bureau within the office of the sheriff, which shall carry out all

1 current functions of the marshal and the court security and civil divisions of the sheriff's
2 department, and which shall commence to exist at the time the office of marshal is eliminated.

3 A Court Security Services Oversight Committee consisting of two judges of the superior court
4 and two judges of the municipal court shall be created upon the elimination of the office of
5 marshal, which shall have the authority and duty to oversee the funding, staffing, and operation of
6 the Court Services Bureau. That authority and those duties shall include the following:

7 (1) To recommend approval to the superior and municipal courts of transfers of staff in and out
8 of the Court Services Bureau, and security measures and plans prepared by the Court Services
9 Bureau.

10 (2) As between the sheriff and the courts, a majority vote of the superior court judges and a
11 majority vote of the municipal court judges shall be the final determination of the staffing level
12 subsequent to the 1992-93 fiscal year, and funding level and budget of the Court Services Bureau
13 prepared for the Court Services Bureau prior to submission to the board of supervisor. However, a
14 minimum of 14 deputy sheriff coroners shall staff and serve the municipal court on a daily basis,
15 except as to a lesser number authorized on any given day by, the presiding judge of the municipal
16 court.

17 The sheriff, through the Court Services Bureau Commander, shall provide bailiffing, court
18 security, and prisoner holding and transportation for the superior court and municipal court and
19 shall process and serve civil and criminal process, including subpoenas and warrants. The sheriff
20 shall provide such other services as are determined to be necessary by the Court Security Services
21 Oversight Committee.

22 The sheriff shall be the appointing authority for all Court Services Bureau positions and
23 employees. All persons so appointed shall be subject to the approval of the majority of the judges
24 of the superior court and a majority of the judges of the municipal court.

25 The incumbent marshal of the Stanislaus County Municipal Court shall become commander of
26 the Court Services Bureau at the rank of lieutenant. Any compensation or benefit in addition to
27 that of a lieutenant shall be subject to a written agreement between the county and the incumbent
28 marshal, and he shall not be transferred except by a majority vote of the superior court judges and
29 a majority vote of the municipal court judges of Stanislaus County upon recommendation of the
30 Court Security Services Oversight Committee.

31 The selection, appointment, and removal of subsequent commanders of the Court Services
32 Bureau shall be made by the sheriff as directed by the majority vote of the superior court judges
33 and a majority vote of the municipal court judges of Stanislaus County from a list of qualified
34 candidates submitted by the sheriff and recommended by the Court Security Services Oversight
35 Committee.

36 The two incumbent marshal captains of the Stanislaus County Marshal's Office shall become
37 sergeants in the sheriff's department and be assigned to the Court Services Bureau and shall not
38 be removed without their consent, or absent such consent, by a majority vote of the superior court
39 judges and a majority vote of the municipal court judges of Stanislaus County.

40 All sworn personnel of the marshal's office who are assigned to court services on the date of
41 any such elimination of the marshal's office shall become members of the Court Services Bureau,
42 with those permanent employees holding the rank of deputy marshal becoming deputy sheriff
43 coroners.

44 Sworn personnel may be transferred to another position in the sheriff's office at the same or
45 equivalent classification, but shall not be involuntarily transferred out of the Court Services
46 Bureau.

47 Any such personnel who are probationary employees shall retain their probationary status and
48 rights and shall not be required to start a new probationary period.

49 No employee of the marshal's office on any such date the marshal's office is eliminated shall
50 lose peace officer status or be demoted or otherwise adversely affected by the consolidation of
51 court services accomplished by this subdivision.

52 Peace Officer Standards and Training certificates held by employees of the marshal's office and
53 sheriff's department on the date of any such elimination of the marshal's office shall be
54 considered the same for purposes of this subdivision.

1 Notwithstanding any other provision of this subdivision, the sheriff shall make all transfers
2 within the Court Services Bureau consistent with existing personnel policies of the sheriff,
3 memorandums of understanding, if any, and other such county personnel management rules and
4 regulations.

5 Any deputy marshal or marshal captain on the date of any such elimination of the marshal's
6 office who transfers out of the Court Services Bureau to another division of the sheriff's
7 department and subsequently fails to meet the employment requirements of that division, may be
8 transferred back to the Court Services Bureau at the sole discretion of the sheriff.

9 Any employee of the sheriff's department who desires to transfer into the Court Services
10 Bureau shall make application through the appropriate division to the Court Services Bureau
11 commander. Any such employee must agree to remain in the Court Services Bureau for at least
12 three to five years.

13 All sworn permanent employees subsequently assigned to the Court Services Bureau shall be
14 required to meet those requirements of the California Commission on Peace Officer Standards
15 and Training.

16 The county's personnel regulations and other governing county ordinances and resolutions shall
17 determine seniority and layoff order, and displacement rights of all employees including all
18 continuous county service shall be counted toward county seniority.

19 No increase in the cost of court security for the superior court and municipal court in Stanislaus
20 County between fiscal year 1992-93 and fiscal year 1991-92 shall be considered for purposes of
21 determining the cost of court operations pursuant to the Brown-Presley Trial Court Funding Act
22 (Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code),
23 notwithstanding any staffing level increase which may be required by the courts under this
24 subdivision; and the cost of any such increase shall not be a charge against trial court funds.

25 **Note.** Government Section 74784 will be preserved, in some form. A proposed amendment to
26 the section is reproduced below as an added section.

27 74785. Official reporters in the municipal court appointed pursuant to Section 72194 shall be
28 attaches of the court and, in lieu of any other compensation provided by law for their services in
29 reporting testimony in criminal proceedings in the court, shall receive a salary specified in the
30 salary resolution for Stanislaus County which is in effect.

31 74786. In addition to the compensation provided by this article, the employees, attaches, and
32 other personnel of the court shall receive no more than the same holidays, vacations, sick leaves,
33 and retirement benefits as the employees of the County of Stanislaus pursuant to the Ordinance
34 Code of the County of Stanislaus.

35 74787. The court may establish by rule areas surrounding court locations from which jurors for
36 trials held at such locations shall be selected.

37 74788. Pursuant to Section 72194, the judges of the court may appoint as many additional
38 reporters as the business of the court requires. The additional reporters shall be known as official
39 reporters pro tempore, and shall serve without salary but shall receive the fees provided as
40 follows:

- 41 (a) Commencing January 1, 1985, one hundred dollars (\$100) a day or any part of a day.
- 42 (b) Commencing January 1, 1986, one hundred five dollars (\$105) a day or any part of a day.
- 43 (c) Commencing January 1, 1987, one hundred fifteen dollars (\$115) a day or any part of a day.

44 74789. As otherwise provided by law, fees for transcription of testimony and proceedings in the
45 court shall be paid by the litigants to official reporters and official reporters pro tempore. In all
46 cases where by law the court may direct the payment of transcription fees out of the county
47 treasury, the fees shall, upon order of the court be paid from the general fund, including fees for
48 transcription of testimony and proceedings in criminal cases as provided in Sections 69947 and
49 69953, inclusive, which shall be paid from the county treasury.

1 74790. Official reporters of the court shall be members of any retirement system maintained by
2 the county in which they are employed. For the purpose of the retirement system, the
3 compensation of each reporter shall be the total of all per diem and transcription fees paid by the
4 county to all of the reporters of the municipal court for all phonographic-reporting services,
5 divided by the number of municipal court official reporters, plus his salary.

6 74791. In the event the Board of Supervisors of the County of Stanislaus amends the resolution
7 establishing salary ranges and salary rates for the personnel of the County of Stanislaus or adopts
8 a new resolution which provides for a change in compensation for ranges or steps, such changes
9 shall be effective for the municipal court employees under this article on the effective date of the
10 action of the board of supervisors, or the effective date of this section, whichever is earlier.

11 74792. In the event the Board of Supervisors of the County of Stanislaus amends the resolution
12 establishing salary ranges and salary rates for the personnel of the County of Stanislaus or adopts
13 a new resolution which provides for a change in compensation for ranges or steps, such changes
14 shall be effective for the municipal court employees under this article on the effective date of the
15 action of the board of supervisors, or the effective date of this section, whichever is earlier, but all
16 such changes shall be effective only until the second year following the calendar year in which
17 the change is made.

18 **Gov't Code § 74784 (added). Stanislaus County**

19 SEC. ____ . Article 31 (commencing with Section 74784) is added to Chapter 10 of Title
20 8 of the Government Code, to read:

21 **Article 31. Stanislaus County**

22 **§ 74784. Former marshal's office personnel in Stanislaus County**

23 74784. (a) All sworn personnel of the former Stanislaus County marshal's office who
24 are assigned to court services on the date of the elimination of the marshal's office shall
25 become members of the sheriff's Court Services Bureau, with those permanent
26 employees holding the rank of deputy marshal becoming deputy sheriff coroners.

27 Sworn personnel may be transferred to another position in the sheriff's office at the
28 same or equivalent classification, but shall not be involuntarily transferred out of the
29 Court Services Bureau.

30 (b) This section shall remain in effect only until January 1, 2018, and as of that date is
31 repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or
32 extends that date. The repeal of this section does not affect any right or benefit to which a
33 person was entitled on the date of repeal.

34 **Comment.** The first paragraph of subdivision (a) of Section 74784 continues the eleventh
35 paragraph of subdivision (b) of former Section 74784, making clear that the provision applies to
36 sworn personnel of the former Stanislaus County marshal's office.

37 The second paragraph of subdivision (a) continues the twelfth paragraph of subdivision (b) of
38 former Section 74784 without change.

39 Subdivision (b) is new.

40 For provisions relating to restatements and continuations of existing law, see Section 2. For
41 disposition of the provisions of former Section 74784 that are not continued, see the Comment to
42 former Article 31 (commencing with former Section 74780).

1 **Gov't Code §§ 74800-74811 (repealed). Stockton Municipal Court District**

2 SEC. ____ . Article 32 (commencing with Section 74800) of Chapter 10 of Title 8 of the
3 Government Code is repealed.

4 **Comment.** Sections 74800-74811 are repealed to reflect:

5 (1) Unification of the municipal and superior courts in San Joaquin County pursuant to Article
6 VI, Section 5(e), of the California Constitution, effective June 8, 1998. See Section 70211 (former
7 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
8 (judicial districts); Section 69598 (number of judges in San Joaquin County). Cf. Section 71042.5
9 (preservation of judicial districts for purposes of publication).

10 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
11 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
12 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
13 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
14 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
15 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
16 reporters), 69947 (compensation of official reporter).

17 (3) Elimination of the marshal's office as a result of consolidation with the sheriff's office in
18 San Joaquin County, effective May 27, 1997.

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

20 **Article 32. Stockton**

21 74800. This article applies to the municipal court established in a district embracing the City of
22 Stockton.

23 74801. There shall be six judges. However, on July 1, 1986, there shall be seven judges.

24 74802. There shall be one clerk who shall be the administrative officer and who shall receive
25 the salary specified in Section 74807.

26 74803. The clerk may appoint:

- 27 (a) One courtroom calendar coordinator.
- 28 (b) Twelve municipal courtroom clerks.
- 29 (c) Four deputy clerks III.
- 30 (d) Two judicial secretaries.
- 31 (e) Four deputy clerks II.
- 32 (f) Thirty-nine deputy clerks I.
- 33 (g) One accounting technician II.
- 34 (h) One administrative assistant I.
- 35 (i) One assistant clerk-administrator.
- 36 (j) Two court reporters.
- 37 (k) One office systems analyst.

38 74805. The marshal may appoint:

- 39 (a) Five marshal sergeants.
- 40 (b) Twenty-one deputy marshals.
- 41 (c) Four office assistants III.

42 74806. Whenever a reference is made to a numbered salary range in any section of this article,
43 the schedule of biweekly salaries found in the salary resolution for the County of San Joaquin in
44 effect shall apply.

1 74807. Persons employed in any of the positions authorized by this article shall be paid the
2 salary assigned to the following ranges as set forth in the biweekly salary schedule contained in
3 Section 74806, except that if the range shown opposite the title of the position includes a fraction
4 then the person employed in such position shall be paid a salary equal to that shown opposite said
5 fractional range in the salary ordinance of the County of San Joaquin:

6	Position	Range
7	(a) Deputy clerk I	50.40
8	(b) Deputy clerk II	52.40
9	(c) Deputy clerk III	53.90
10	(d) Judicial secretary	54.60
11	(e) Municipal courtroom clerk	56.90
12	(f) Clerk/Administrator	71.00
13	(g) Deputy marshal	60.70
14	(h) Marshal sergeant	63.00
15	(i) Courtroom calendar coordinator	58.90
16	(j) Accounting technician II	56.10
17	(k) Administrative assistant I	59.60
18	(l) Assistant clerk administrator	61.30
19	(m) Office assistant III	51.40
20	(n) Court reporter	64.10
21	(o) Office systems analyst	58.90

22 Subject to the provisions of the salary ordinance of the County of San Joaquin, each person
23 employed in the clerk's office or the marshal's office may receive an annual increase in salary of
24 one step on his or her assigned range until the employee reaches the maximum step on the range
25 assigned for his or her position. Thereafter no additional step increase shall be granted.

26 74807.5. There shall be one commissioner. The commissioner shall exercise, within the
27 jurisdiction of the court, all the powers and perform all the duties authorized by law. The
28 commissioner shall receive a salary equal to 70, 75, or 80 percent of the salary of a judge of the
29 municipal court and shall be entitled to all employee benefits that are provided for or made
30 applicable to the other employees of the court. The court shall determine the level of salary to be
31 received by a court commissioner, making adjustments on the three levels in accordance with the
32 qualifications, performance, and other factors deemed relevant by the court.

33 74808. Whenever the salary of a related class or classes of San Joaquin County employees is
34 adjusted, the salary of the following classes may be adjusted by a percentage not to exceed the
35 percentage of adjustment granted to the class or classes deemed by the board of supervisors to be
36 related:

- 37 (a) Deputy clerk I.
- 38 (b) Deputy clerk II.
- 39 (c) Deputy clerk III.
- 40 (d) Judicial secretary.
- 41 (e) Municipal courtroom clerks.
- 42 (f) Clerk/Administrator.
- 43 (g) Courtroom calendar coordinator.
- 44 (h) Deputy marshal.
- 45 (i) Marshal sergeant.
- 46 (j) Accounting technician II.
- 47 (k) Administrative assistant I.
- 48 (l) Assistant clerk administrator.
- 49 (m) Office assistant III.
- 50 (n) Court reporter.
- 51 (o) Office systems analyst.

1 All adjustments to the salaries of the above-named classes shall be effective as of the same date
2 as the adjustment for the class, or classes, deemed to be related, and shall be effective only until
3 January 1 of the second year following the year in which the adjustment is made, unless earlier
4 ratified by the Legislature.

5 74809. Notwithstanding any other provisions of law, the provisions of the county ordinance
6 relating to civil service and the rules of the civil service commission adopted pursuant thereto,
7 shall apply to all employees in the same manner and to the same extent as applicable generally to
8 officers and employees of the County of San Joaquin.

9 Such employees shall be entitled to the same vacation, sick leave, leave of absence, and similar
10 benefits, including uniform allowances for the deputy marshals and clerical employees who
11 regularly perform matron duties in the marshal's office, and may be appointed, promoted,
12 demoted, terminated or transferred, or their status otherwise adjusted in the same manner and
13 with the same effect as is or may be provided by the current salary ordinance of San Joaquin
14 County, or the civil service ordinance of the county, for employees of the county.

15 74810. (a) (1) Because cost savings or operational efficiencies, or both, can be realized by
16 consolidation of the three separate marshal's offices within the county, there shall be one marshal
17 for San Joaquin County designated as the Marshal of San Joaquin County. The marshal shall be
18 deemed the head of the department denominated as the San Joaquin County Marshal's Office. It
19 is the intent of this section to create a unified, appointive marshal's office.

20 (2) The office shall be responsible for all municipal court services, including bailiff duties in
21 such courts, service of process and other papers as required by such courts, and service of
22 criminal warrants issued by such courts. The marshal shall have the rights, duties, and powers
23 imposed upon marshals generally by law.

24 (b) (1) The marshal shall be appointed by, and serve at the pleasure of, the majority of judges of
25 all municipal courts in the county. When making such appointment, the judges shall consider, but
26 shall not be bound by, the recommendation of a committee comprised of the presiding judges of
27 each municipal court in the county.

28 (2) The marshal initially appointed pursuant to this section shall be selected from those
29 individuals who hold the position of marshal of one of the municipal courts of the county
30 immediately prior to the operative date of subdivision (a).

31 (c) (1) The salary range of the marshal originally appointed pursuant to this section shall be at a
32 minimum level of salary range 69E (\$2,430.40 biweekly). The salary range for any individual
33 appointed marshal after the original appointment of the marshal pursuant to this section shall be
34 set by the board of supervisors of the county.

35 (2) Until the end of the term of office to which he or she was elected immediately prior to the
36 operative date of this section, the marshal initially appointed pursuant to this section shall receive
37 all benefits currently received by the elected department heads of the county. Thereafter, the
38 marshal shall receive all benefits received by appointed department heads of the county. The
39 specific terms and conditions of the benefits to be received by the marshal initially appointed
40 pursuant to this section, including the rates of accrual and accumulation, shall be set forth in a
41 memorandum of understanding between the county and the three elected marshals of the county
42 which memorandum shall be adopted prior to the operative date of subdivision (a).

43 (3) Unless otherwise provided for in this section, salary and benefit adjustments for the marshal
44 shall be made by the board of supervisors of the county.

45 (d) (1) The marshal shall appoint, as necessary, an assistant marshal or assistant marshals who
46 shall serve at the pleasure of the marshal.

47 (2) The marshal shall initially appoint two assistant marshals who shall serve at the pleasure of
48 the marshal, but who shall not serve longer than is provided for in subdivision (h). The two
49 assistant marshals initially appointed pursuant to this section shall be selected from those
50 individuals who hold the position of marshal of one of the municipal courts of the county
51 immediately prior to the operative date of subdivision (a). Upon the first occurrence of a vacancy
52 in an assistant marshal's position, that position shall cease to exist.

1 (e) (1) The salary range of the two assistant marshals appointed pursuant to paragraph (2) of
2 subdivision (d) shall be at a minimum level of salary range 66.8E (\$2,089.60 biweekly). The
3 salary differential between the marshal and the two assistant marshals initially appointed pursuant
4 to paragraph (2) of subdivision (d) shall be maintained until the vacancy in the second of the
5 original two assistant marshal positions created by this section. The salary range for any
6 individual appointed to the assistant marshal position after the vacancy of the second of the
7 original two assistant marshal positions created by this section shall be set by the board of
8 supervisors of the county.

9 (2) Until the end of the term of office to which they were elected immediately prior to the
10 operative date of subdivision (a), the two assistant marshals appointed pursuant to this
11 subdivision shall receive all benefits currently received by the elected department heads of the
12 county. The specific terms and conditions of the benefits to be received by the two assistant
13 marshals initially appointed pursuant to paragraph (2) of subdivision (d), including the rates of
14 accrual and accumulation, shall be set forth in a memorandum of understanding between the
15 county and the three elected marshals of the county which memorandum shall be adopted prior to
16 the operative date of subdivision (a). Thereafter, they shall receive the benefits received by
17 appointed department heads of the county. After the occurrence of a vacancy in the remaining
18 assistant marshal position, any individual appointed to fill that position shall receive all benefits
19 received by assistant department heads of the county.

20 (3) Unless otherwise provided for in this subdivision, salary and benefit adjustments for
21 assistant marshal positions shall be made by the board of supervisors of the county.

22 (f) The office of the marshal shall be maintained in the Stockton Judicial District. A branch
23 office of the marshal shall be maintained in the Lodi Judicial District and one in the Manteca-
24 Ripon-Escalon-Tracy Judicial District.

25 (g) (1) All personnel of the Lodi Marshal's Office, the Manteca-Ripon-Escalon-Tracy
26 Marshal's Office, and the Stockton Marshal's Office on the operative date of this section shall
27 automatically become members of the consolidated San Joaquin County Marshal's Office at their
28 existing classifications, salaries, and benefits. All personnel assigned to the separate marshal's
29 offices as of the operative date of this section shall not lose peace officer status, or be demoted or
30 otherwise adversely affected by the consolidation. All county municipal court marshal's office
31 civil service time of personnel affected by this consolidation shall be counted toward county civil
32 service seniority.

33 (2) Permanent employees described in this section shall be deemed qualified, and no other
34 qualifications shall be required for employment or retention as a result of this consolidation.
35 Probationary employees on the operative date of subdivision (a) shall retain their probationary
36 status and rights, and shall not be deemed to have transferred so as to require serving a new
37 probationary period.

38 (h) Notwithstanding any other provisions of law, the marshal originally appointed pursuant to
39 this section, and the two assistant marshals originally appointed pursuant to paragraph (2) of
40 subdivision (d), shall be retired not later than the last day of the calendar month in which such
41 individuals attain age 65.

42 (i) Subdivision (a) shall become operative on January 2, 1995, and on that date the three elected
43 marshal positions in San Joaquin County are abolished.

44 74811. Whenever any person occupying the position of office assistant III in the office of the
45 marshal performs the duties of a matron in that office, her salary shall be increased by a sum
46 equivalent to 2 1/2 percent of the salary otherwise payable during the period of the performance
47 of such duties.

1 Article 32.3. San Joaquin County Court Security and Civil Process
2 Consolidation

3 **Gov't Code § 74820.1 (repealed). Consolidation of court-related services**

4 SEC. ____ . Section 74820.1 of the Government Code is repealed.

5 ~~74820.1. (a) Notwithstanding any other provision of law, the Board of Supervisors of~~
6 ~~San Joaquin County may determine that it is in the public interest to consolidate court~~
7 ~~security functions provided by the sheriff and the marshal within that county.~~

8 ~~(b) If that finding is made, there shall be conducted among all of the incumbent judges~~
9 ~~and commissioners of the superior and municipal courts of that county an election to~~
10 ~~determine the office, either the marshal's office or sheriff's office, under which those~~
11 ~~services shall be consolidated. The outcome shall be determined by a simple majority of~~
12 ~~votes cast, provided that the total number of votes cast exceeds 50 percent of the number~~
13 ~~of incumbent superior and municipal judges and commissioners in the county, by at least~~
14 ~~one vote. The registrar of voters shall administer that election and tabulate the results~~
15 ~~thereof within 15 days after the board of supervisors makes that finding. The results of~~
16 ~~the election shall be publicly reported within 15 days following the election period by the~~
17 ~~registrar of voters to the board of supervisors.~~

18 ~~(c) The board of supervisors shall immediately commence and, within a reasonable~~
19 ~~time not to exceed 90 days, implement the decision made by a majority of the incumbent~~
20 ~~judges and commissioners of the superior and municipal courts of that county in that~~
21 ~~election. If the results of the election are evenly divided, the board of supervisors may~~
22 ~~call additional elections without making additional findings.~~

23 **Comment.** Section 74820.1, relating to court-related services in San Joaquin County, is
24 superseded by new Section 74820.1.

25 **Gov't Code § 74820.1 (added). Consolidation of court-related services**

26 SEC. ____ . Section 74820.1 is added to the Government Code, to read:

27 74820.1. This article applies to the abolition of the marshal's office and the
28 consolidation of court security functions and service of process and notice functions in
29 the sheriff's office.

30 **Comment.** Section 74820.1 supersedes former Section 74820.1 (consolidation of court related
31 services). It reflects consolidation of court-related services in San Joaquin County within the
32 sheriff's office, effective May 27, 1997.

33 **Gov't Code § 74820.2 (amended). Court services division**

34 SEC. ____ . Section 74820.2 of the Government Code is amended to read:

35 74820.2. There is a court services division within the San Joaquin County Sheriff's
36 Department to provide security within the superior and municipal courts court.

37 **Comment.** Section 74820.2 is amended to reflect unification of the municipal and superior
38 courts in San Joaquin County pursuant to Article VI, Section 5(e), of the California Constitution,
39 effective June 8, 1998.

40 **Gov't Code § 74820.3 (amended). Court services division positions and employees**

41 SEC. ____ . Section 74820.3 of the Government Code is amended to read:

42 74820.3. (a) The sheriff shall be the appointing authority for all court services division
43 positions and employees.

1 (b) The incumbent marshal of San Joaquin County shall become the sheriff's division
2 chief (exempt) of the court services division upon the operative date of this section and
3 may not be removed except by the sheriff with the concurrence of a majority of the
4 incumbent judges and commissioners. His or her salary and benefits shall not be reduced.
5 Upon the vacancy of this initial position, the classification, salary, and benefits shall be
6 reevaluated by the county.

7 (e) Selection, appointment, and removal of subsequent chiefs of the court services
8 division shall be made by a majority vote of the incumbent superior court and municipal
9 court judges and commissioners from a list of qualified candidates submitted by a
10 committee comprised of the sheriff, and an incumbent judge of the superior court, and an
11 incumbent judge of the municipal court selected by the board of supervisors.

12 (d) The two incumbent assistant marshals in the marshal's office shall become sheriff's
13 commanders, court services division, in the sheriff's department and shall be assigned to
14 the division of court services upon the operative date of this section. They may not be
15 removed except by the sheriff with the concurrence of the majority of incumbent judges
16 and commissioners. Their salary and benefits shall not be reduced. Upon the first vacancy
17 of one of the two sheriff's commanders, the position shall be eliminated. Upon the second
18 vacancy of the two sheriff's commanders, the classification, salary, and benefits shall be
19 reevaluated by the county.

20 **Comment.** Subdivision (b) of Section 74820.3 is amended to reflect unification of the
21 municipal and superior courts in San Joaquin County pursuant to Article VI, Section 5(e), of the
22 California Constitution, effective June 8, 1998.

23 Obsolete provisions in former subdivisions (b) and (d) regarding the former incumbent marshal
24 and assistant marshals have been deleted.

25 **Gov't Code § 74820.4 (repealed). Effect of consolidation on personnel**

26 SEC. ____ . Section 74820.4 of the Government Code is repealed.

27 74820.4. (a) All personnel of the marshal's office subject to consolidation shall become
28 members of the sheriff's office. Their salary and benefits shall not be reduced. Permanent
29 employees presently holding the rank of deputy or sergeant, respectively, in the marshal's
30 office may become deputy sheriffs or sheriff's sergeants upon consolidation if they meet
31 the qualifications for deputy sheriffs or sheriff's sergeants. If they cannot meet the
32 qualifications for deputy sheriffs or sheriff's sergeants or desire to remain in court
33 services, they may become deputy sheriff's sergeants at the nearest equivalent step
34 without step increases or deputy sheriff I's without a loss in pay.

35 (b) Deputy sheriffs and sheriff's sergeants may be transferred to other positions in the
36 sheriff's office at the same or equivalent classification. Those who remain sheriff's
37 sergeants at the nearest equivalent step without step increases or deputy sheriff I's may
38 not be involuntarily transferred out of the court services division.

39 (c) Permanent employees of the sheriff's office assigned to court services on the
40 operative date of the consolidation and permanent employees of the marshal's office on
41 the operative date of the consolidation shall be deemed qualified for employment and
42 retention in the San Joaquin County Sheriff's Department. Probationary employees of the
43 sheriff's department assigned to court services on the operative date of the consolidation
44 and probationary employees of the marshal's office on the operative date of the
45 consolidation shall retain their probationary status and rights, and shall not be required to
46 start a new probationary period.

47 (d) For personnel of the sheriff's office assigned to court services on the operative date
48 of the consolidation and personnel of the marshal's office on the operative date of the

1 consolidation, all county service shall be counted toward county seniority, and all time
2 spent in the same classification, and all time spent in the equivalent or higher
3 classification shall be counted toward classification seniority. All county seniority shall
4 be credited as departmental seniority. For layoff and displacement purposes, all covered
5 service in the sheriff's department and marshal's office shall be counted equally, and the
6 county's personnel management regulations and other governing county ordinances and
7 resolutions shall determine the class, county, and departmental seniority dates, the
8 seniority and layoff order, and the displacement rights of all employees.

9 (e) No employee of the sheriff's office assigned to court services on the operative date
10 of the consolidation or employee of the marshal's office on the operative date of the
11 consolidation shall lose peace officer status or be demoted by the consolidation of court
12 services pursuant to this section. Peace Officer Standards and Training certificates held
13 on the operative date of this section by employees of the San Joaquin County Marshal's
14 Department and the San Joaquin County Sheriff's Department shall be considered the
15 same for purposes of this section.

16 **Comment.** Section 74820.4 is repealed to reflect consolidation of court-related services in San
17 Joaquin County within the sheriff's office, effective May 27, 1997.

18 **Gov't Code § 74820.5 (repealed). Transfers**

19 SEC. ____ . Section 74820.5 of the Government Code is repealed.

20 74820.5. Notwithstanding any other provision of this article, the sheriff shall make all
21 transfers within the court services division consistent with existing personnel policies of
22 the sheriff, memoranda of understanding, if any, and other county personnel
23 management, rules, and regulations.

24 **Comment.** Section 74820.5 is repealed as unnecessary.

25 **Gov't Code § 74820.6 (repealed). Marshal's office abolished**

26 SEC. ____ . Section 74820.6 of the Government Code is repealed.

27 74820.6. The marshal's office is abolished.

28 **Comment.** Section 74820.6 is repealed to reflect consolidation of court-related services in San
29 Joaquin County within the sheriff's office, effective May 27, 1997.

30 **Gov't Code § 74820.7 (repealed). Operation of Gov't Code §§ 74820.2 to 74820.6**

31 SEC. ____ . Section 74820.7 of the Government Code is repealed.

32 74820.7. Sections 74820.2 to 74820.6, inclusive, shall become operative only if the
33 sheriff's office is selected as the office under which court security services shall be
34 consolidated. Under those circumstances, the sections shall become operative upon the
35 vote of the incumbent judges and commissioners of the county so selecting the sheriff.

36 **Comment.** Section 74820.7 is repealed to reflect consolidation of court-related services in San
37 Joaquin County within the sheriff's office, effective May 27, 1997.

38 **Gov't Code § 74820.8 (repealed). Marshal of the consolidated offices**

39 SEC. ____ . Section 74820.8 of the Government Code is repealed.

40 74820.8. The incumbent marshal shall be the marshal of the consolidated offices. The
41 marshal shall be appointed by, and serve at the pleasure of, the majority of the incumbent
42 judges and commissioners of the superior court and all municipal courts in the county.
43 When making that appointment, the incumbent judges and commissioners shall consider,

1 but shall not be bound by, the recommendation of a committee comprised of the presiding
2 judges of the superior court and each municipal court.

3 **Comment.** Section 74820.8 is repealed to reflect consolidation of court-related services in San
4 Joaquin County within the sheriff's office, effective May 27, 1997.

5 **Gov't Code § 74820.9 (repealed). Salaries, benefits and ratings**

6 SEC. ____ . Section 74820.9 of the Government Code is repealed.

7 ~~74820.9. Deputy sheriffs and sheriff's sergeants who become members of the~~
8 ~~consolidated office shall do so at their existing salaries and benefits, and shall be y-rated~~
9 ~~in accordance with the County Salary Ordinance. All other staff who become members of~~
10 ~~the consolidated office shall do so at their existing salaries and benefits.~~

11 **Comment.** Section 74820.9 is repealed to reflect consolidation of court-related services in San
12 Joaquin County within the sheriff's office, effective May 27, 1997.

13 **Gov't Code § 74820.10 (repealed). Status of sheriff employees**

14 SEC. ____ . Section 74820.10 of the Government Code is repealed.

15 ~~74820.10. Permanent employees of the sheriff's department on the operative date of the~~
16 ~~consolidation shall be deemed qualified, and no other qualifications shall be required for~~
17 ~~employment or retention. Probationary employees of the sheriff's department on the~~
18 ~~operative date of the consolidation shall retain their probationary status and rights, and~~
19 ~~shall not be deemed to have transferred so as to require serving a new probationary~~
20 ~~period.~~

21 **Comment.** Section 74820.10 is repealed to reflect consolidation of court-related services in
22 San Joaquin County within the sheriff's office, effective May 27, 1997.

23 **Gov't Code § 74820.11 (repealed). Seniority**

24 SEC. ____ . Section 74820.11 of the Government Code is repealed.

25 ~~74820.11. All county service or service in the sheriff's department of employees of the~~
26 ~~sheriff's department on the operative date of the consolidation shall be counted toward~~
27 ~~seniority in the court-related services office, and all time spent in the same, equivalent, or~~
28 ~~higher classification shall be counted toward classification seniority.~~

29 **Comment.** Section 74820.11 is repealed to reflect consolidation of court-related services in
30 San Joaquin County within the sheriff's office, effective May 27, 1997.

31 **Gov't Code § 74820.12 (repealed). Peace officer status**

32 SEC. ____ . Section 74820.12 of the Government Code is repealed.

33 ~~74820.12. No employee of the sheriff's department on the operative date of the~~
34 ~~consolidation shall lose peace officer status.~~

35 **Comment.** Section 74820.12 is repealed to reflect consolidation of court-related services in
36 San Joaquin County within the sheriff's office, effective May 27, 1997.

37 **Gov't Code § 74820.13 (repealed). Operation of Gov't Code §§ 74820.8 to 74820.12**

38 SEC. ____ . Section 74820.13 of the Government Code is repealed.

39 ~~74820.13. Sections 74820.8 to 74820.12, inclusive, shall become operative only if the~~
40 ~~marshal is selected as the agency under which court-related services shall be~~
41 ~~consolidated, in which case those sections shall become operative upon the vote of the~~
42 ~~incumbent judges and commissioners of the county so selecting the marshal.~~

Comment. Section 74820.13 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff’s office, effective May 27, 1997.

Gov’t Code § 74820.14 (repealed). Service of process and notice functions

SEC. ____ . Section 74820.14 of the Government Code is repealed.
~~74820.14. Notwithstanding the other provisions of this article, if it finds that it is in the public interest, the board of supervisors may consolidate the service of process and notice functions in either the sheriff’s or the marshal’s office. If the service of process and notice functions are consolidated, personnel shall be transferred under the provisions of this article that relate to personnel matters.~~

Comment. Section 74820.14 is repealed to reflect consolidation of court-related services in San Joaquin County within the sheriff’s office, effective May 27, 1997.

Gov’t Code §§ 74830-74839 (repealed). Sutter County Municipal Court

SEC. ____ . Article 32.5 (commencing with Section 74830) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74830-74839 are repealed to reflect:

(1) Unification of the municipal and superior courts in Sutter County pursuant to Article VI, Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38 (judicial districts); Section 69604.3 (number of judges in Sutter County). Cf. Section 71042.5 (preservation of judicial districts for purposes of publication); former Section 71264 (municipal court served by marshal).

(2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Section 69947 (compensation of official reporter).

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

Article 32.5. Sutter County

74830. This article applies to the municipal court established in a judicial district embracing the County of Sutter. This court shall be known as the Sutter County Municipal Court.

74831. There are two judges.

74832. There shall be one clerk of the Sutter County Municipal Court who shall be known as court administrator. The court administrator shall be appointed by the majority of the judges of the court, or in the case of an equal division of the judges of the court, the senior judge, and shall receive the salary specified in M38 of the county’s salary system. The court administrator may appoint:

Title of Job Classification	Applicable Salary Range	Number of Positions Authorized
Municipal court clerk III	G 31	2
Municipal court clerk II	G 28	1
Municipal court clerk I	G 26	4
Municipal court clerk I or clerk typist II	G 25	1

1 74833. The sheriff shall be ex officio marshal and shall act as such without additional
2 compensation. The sheriff's designated deputies shall be ex officio deputy marshals of the court.

3 74834. (a) Whenever a reference is made to a numbered salary range in any section of this
4 article, the schedule of biweekly salaries found in the salary resolution for the County of Sutter in
5 effect on July 1, 1987, shall apply.

6 (b) In the event the Board of Supervisors of the County of Sutter amends the resolution
7 establishing salary ranges and biweekly salary rates for the personnel of the County of Sutter,
8 effective on the date of this section, or adopts a new resolution which provides for a change in
9 compensation for ranges or steps, such changes shall be effective for the municipal court
10 employees under this article on the effective date of the action of the board of supervisors and
11 shall remain effective only until January 1 of the second year following the year in which such
12 change is made.

13 (c) Notwithstanding the provisions of this article, and in order to equalize the compensation of
14 employees of the municipal court with the compensation paid to county employees with
15 commensurate duties and responsibilities, upon recommendation of the judge of the court and
16 with the approval of the Board of Supervisors of the County of Sutter, an officer or employee of
17 this court may be paid any compensation which is within the ranges and increments set forth in
18 this article in excess of or less than the maximum to which such officer or employee would
19 otherwise be entitled under the salary range established for his classification by this article. Any
20 such salary adjustment shall remain effective only until January 1 of the second year following
21 the year in which such change is made.

22 74835. The officers and attaches of the municipal court shall be entitled to the same vacation,
23 sick leave, and similar benefits and privileges as are granted to other employees of the County of
24 Sutter under ordinances and resolutions of the board of supervisors.

25 74836. If an increase in the business of the court or any other emergency requires a greater
26 number of attaches or employees for prompt and faithful discharge of the business of the court
27 other than the number expressly provided in this article or requires the performance of duties of
28 positions in a class not expressly provided in this article, with the approval of the judge of the
29 court and the board of supervisors, the clerk may appoint as many additional attaches or
30 employees as are needed. The additional attaches or employees shall be selected and appointed in
31 the same manner as those for whom express provision is made, and they shall receive salary and
32 compensation as prescribed in this article or as prescribed by ordinance or resolution of the board
33 of supervisors for classes not expressly provided in this article.

34 Additional attaches and employees may continue in such positions only until the January 1
35 following their appointments, provided, however, if 180 days do not elapse between the date of
36 the appointments and the following January 1, then such appointments shall be effective until
37 January 1 of the following year. The provisions of this section are not intended to affect the
38 application of Section 72150.

39 74837. All matters affecting the employment of such municipal court officers and attaches
40 which are not specifically determined by this article or other provisions of state law shall be
41 governed and regulated by the then current ordinances and resolutions of the Board of
42 Supervisors of the County of Sutter.

43 74838. All officers and attaches of the municipal court shall devote their full time to the
44 performance of their duties.

45 74839. In lieu of any other compensation, including reimbursement for expenses, in Sutter
46 County the board of supervisors may, with the approval of the presiding judge of the Sutter
47 County Municipal Court, contract with official court reporters and reporters pro tempore, for the
48 municipal court at a rate of two thousand fifty dollars (\$2,050) per month. The board of
49 supervisors may negotiate changes in this rate of compensation, but any such change shall remain
50 in effect only until January 1 of the second year following the year in which the change is made.

Gov’t Code §§ 74840-74851 (repealed). Vallejo-Benicia Judicial District

SEC. ____ . Article 33 (commencing with Section 74840) of Chapter 10 of Title 8 of the Government Code is repealed.

Comment. Sections 74840-74851 are repealed to reflect:

(1) Unification of the municipal and superior courts in Solano County pursuant to Article VI, Section 5(e), of the California Constitution, effective August 3, 1998. See Section 70211 (former municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38 (judicial districts); Section 69602 (number of judges in Solano County). Cf. Section 71042.5 (preservation of judicial districts for purposes of publication).

(2) Elimination of the marshal’s office as a result of consolidation with the sheriff’s office in Solano County, effective August 3, 1998. For provisions governing keepers fees, see Sections 26726 (fees for sheriff keeping property under attachment, execution, or claim and delivery), 71266 (sheriff fee statutes applicable to marshals), 72112 (deputy marshals serving as custodians).

(3) Enactment of the Trial Court Employment Protection and Governance Act. See Sections 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment protection system), 71673 (authority of court). See also Code Civ. Proc. § 195 (jury commissioners); Sections 69941 (appointment of official reporters), 69947 (compensation of official reporter).

(4) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations).

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

Article 33. Vallejo-Benicia Judicial District

74840. This article applies to the Vallejo-Benicia Judicial District in the County of Solano.

74841. There are three judges.

74841.5. There is one traffic trial commissioner, who shall be appointed by the presiding judge with concurrence of the judges of the court, and shall hold office at the pleasure of the judges.

The qualifications, powers and duties, and compensation of the commissioner shall be determined pursuant to Article 10 (commencing with Section 72450) of Chapter 9.

The traffic trial commissioner position shall not be counted in the calculation of trial court funding pursuant to Section 77202, and the salary for this position shall not be considered as a part of court operations for Solano County for purposes of Sections 77003 and 77204.

74842. There shall be one municipal court executive officer, who shall also serve as the clerk/administrator, who shall be appointed by the presiding judge with concurrence of a majority of the judges of the court, and shall hold office at the pleasure of a majority of the judges. The clerk/administrator shall administer the nonjudicial activities of the court and serve as jury commissioner, exercising insofar as applicable to the municipal court, the powers of a jury commissioner of a superior court.

The clerk/administrator shall receive compensation at the classification and salary grade indicated:

Number	Classification	Salary Grade
(a) 1	Municipal Court Executive Officer	65-00400

The position shall be entitled to the same benefits and privileges respecting retirement, vacation, sick leave, insurance, administrative leave, and expense account which are provided other management employees of the county.

Note: Comment Requested

The Commission is researching several issues pertaining to jury commissioners, including whether jury commissioner provisions in the Government and Penal Codes should be relocated to the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded by that Act. The Commission solicits comments on these points.

74843. The clerk/administrator may appoint the following numbers of staff at the classifications and salary grades indicated:

Number	Classification
1	Accountant/Accountant (entry)
1	Administrative Secretary
1	Assistant Municipal Court Executive Officer
1	Clerical Support Specialist
1	Clerk
6	Courtroom Clerks
3	Court Reporters (Municipal Court)
1	Data Entry Clerk
1	Data Systems Coordinator
1	Electronic Recording Monitor
5	Fiscal Clerk/Clerk Trainee
1	Fiscal Records Supervisor
1	Judicial Secretary
1	Lead Fiscal Clerk
2	Lead Legal Procedures Clerk
22	Legal Procedures Clerk/Trainee
1	Master Calendar Clerk
1	Supervising Courtroom Clerk
3	Supervising Legal Procedures Clerk

74843.5. So long as Solano County continues to receive block grant funding pursuant to the Brown-Presley Trial Court Funding Act, the clerk/administrator may appoint the following numbers of staff at the classification and salary grades indicated:

Number	Classification	Salary Grade
(a) 1	Courtroom Clerk	09-03400
(b) 2	Fiscal Clerks	09-02400
(c) 2	Legal Procedures Clerks	09-01800
(d) 1	Clerk	09-00600
(e) 1	Data Systems Coordinator	75-01400
(f) 1	Electronic Recording Monitor	09-03250

74844. There is one marshal who shall be elected by the voters of the judicial district and who shall receive a salary at the rate specified in salary grade 60-00200.

74845. The marshal may appoint the following numbers of staff at the classifications and salary grades indicated:

Number	Classification	Salary Grade
(a) 1	Sergeant-Marshall	04-00100
(b) 1	Lead Legal Procedures Clerk	09-02800
(c) 7	Deputy Marshal or Deputy Marshal Trainee	03-00300
(d) 2	Legal Procedures Clerk	09-01800

74845.1. The marshal may appoint as many deputy marshal-keepers as may be required by law. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this section are not salaried employees of the

1 judicial district for the purposes of obtaining civil service status or any other benefits of this
2 article.

3 74845.2. So long as Solano County continues to receive block grant funding pursuant to the
4 Brown-Presley Trial Court Funding Act, the marshal may appoint the following numbers of staff
5 at the classification and salary grade indicated:

6	Number	Classification	Salary Grade
7	(a) 1	Deputy Marshal or Deputy Marshal Trainee	03-00300

8 74846. Whenever a reference to a salary grade number is made in this article, the schedules
9 found in the Memoranda of Understanding adopted by the Board of Supervisors of the County of
10 Solano and effective on January 1, 1991, shall apply. Any schedule and listing shall remain
11 effective only until January 1 of the second year following the calendar year in which the change
12 is made.

13 74847. Persons employed in any of the positions authorized by this article shall be paid the
14 salary assigned to the ranges as set forth in the salary grades in Sections 74842, 74843, 74844,
15 74845, and 74851.

16 Each person employed in the office of the executive officer and the office of the marshal,
17 including the executive officer and the marshal, on January 1, 1968, shall receive credit for prior
18 continuous service in office including service in departments superseded upon the establishment
19 of the municipal court, and such prior service shall be deemed service in the new position.
20 However, such credit shall be given only when the judges of the court determine that the officer
21 or employee is entitled to receive it. The executive officer and other employees of the court shall
22 be appointed at the first step for the grade assigned to their classification, except if it is difficult to
23 secure qualified personnel, or if a person of unusual qualifications is hired, the judges may
24 appoint such person at the second step of the grade assigned to that classification. In the case of
25 the appointment of the executive officer, the judges shall be authorized, if they deem it necessary,
26 to appoint at a higher step, not to exceed the fifth step of the grade assigned to that classification
27 as set forth in Section 74842, and, provided, further that if the judges are unable to secure a
28 qualified person to fulfill the position of executive officer for a salary as hereinabove provided,
29 then the judges with the concurrence of the board of supervisors and the county administrator
30 may establish a salary at a rate not to exceed step 5 of the salary grade of the executive officer on
31 the date of the appointment.

32 74848. (a) All increases in salary shall not be given as matter of right but only when the judges
33 of the court determine that the officer or employee is properly entitled to receive it. Each person
34 employed in the office of the executive officer and in the office of the marshal, including the
35 executive officer but not including the marshal, shall have a merit increase eligibility date which
36 shall be the first day of the pay period following completion of the number of full pay periods of
37 services indicated on the following chart.

38	Salary Grade Step	Number of Full Pay
39	Number to	Periods of Service
40	Which Eligible	Completed Between Steps
41	2	13
42	3	13
43	4	26
44	5	39

45 (b) If an employee begins his or her employment on the first working day of a pay period, it
46 shall be considered for purposes of this section that such employment began on the first calendar
47 day of that pay period. The granting of any leave of absence without pay, other than military
48 leave of absence, exceeding seven consecutive calendar days in a pay period shall cause the merit
49 increase eligibility date to be extended to the first day of the pay period following completion of
50 the leave of absence without pay.

1 However, an officer or employee who is promoted or reclassified to a position in a class with a
2 higher salary shall receive the recruiting salary for the higher class if it is greater than his salary
3 prior to promotion or reclassification, or such higher amount as would constitute a one-step
4 increase (approximately 5 percent) on the salary grade over the salary received prior to the
5 promotion or reclassification, not to exceed the top step on the new salary grade.

6 (c) The effective date of all promotions shall coincide with the first working day of a pay
7 period. Upon the promotion or reclassification, a new merit increase eligibility date shall be
8 established, which shall be the first day of the pay period following completion of the number of
9 full pay periods service which corresponds with the required period of service pursuant to
10 subdivision (b).

11 74849. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
12 Chapter 8 of Title 8 or any other provision of this article, in order to equalize the compensation of
13 employees of the municipal court with the compensation paid to county employees with
14 commensurate duties and responsibilities, upon recommendation of the judges of the court and
15 with the approval of the Board of Supervisors of the County of Solano, an officer or employee of
16 the court, except the marshal, whether appointed under the provisions of this article or under
17 Article 4 (commencing with Section 72150) of Chapter 8 of Title 8, may be paid any
18 compensation which is within the ranges and increments set forth in this article in excess of or
19 less than the maximum to which such officer or employee would otherwise be entitled under the
20 salary grade established for his or her classification as set forth in Section 74846. Any such salary
21 adjustment shall not extend longer than 60 days after the final adjournment of the next succeeding
22 regular session of the Legislature after such salary adjustment.

23 74850. Employees of the office of the executive officer and marshal, including the executive
24 officer and the marshal, shall have the benefits and privileges, not including compensation,
25 provided for employees of the County of Solano in that county's salary ordinance and other
26 ordinances and rules applicable to county employees.

27 Employees of the office of the executive officer and marshal, except the executive officer and
28 the marshal, shall be members of the County Civil Service System of the County of Solano to the
29 extent that such membership is not contrary to the provisions of Section 5 of Article VI of the
30 California Constitution, or any other provisions of state law.

31 74851. (a) Regular official court reporters shall report all criminal and civil proceedings in their
32 respective courts. When not engaged in the performance of other duties imposed by law, each
33 reporter shall render such assistance as may be required in any other court of the county to which
34 he or she may be assigned, and perform such other verbatim reporting services as may be required
35 such as, but not limited to, board of equalization hearings, public hearings, and depositions.
36 During hours in which the court is open for the transaction of judicial business, official reporters
37 shall devote full time to the performance of regular duties and shall not engage in any other
38 employment in their professional capacity.

39 (b) Each regular official court reporter shall receive compensation at the classification and
40 salary grade indicated:

Number	Classification	Salary Grade
(1)	Court Reporter	09-04100

43 (c) For all transcripts incident to reporting services, each reporter shall receive the fees
44 provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial
45 hiring rate for each position shall be step 1, provided that the judges may appoint any such
46 reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be
47 appointed has such experience and qualifications as to entitle him or her to such higher initial
48 step.

49 (d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall
50 be entitled to the same benefits and privileges respecting longevity, service credits, cost-of-living
51 or other general pay increases, retirement, vacation, sick leave, and group insurance which are
52 provided other employees of the county. Court reporters shall be entitled to any increases

1 provided other employees of the county respecting longevity, service credits, cost-of-living or
2 general pay increases, retirement, vacation, sick leave, and group insurance, but such increases
3 shall be on an interim basis and remain in effect only until January 1, 1993, unless ratified by
4 statute by the Legislature prior to that date.

5 (e) Judges of the court may appoint as many official reporters pro tempore as the business of
6 the court requires. They shall be unsalaried but shall receive the fees provided by Article 9
7 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court,
8 shall be a proper charge against the general fund of the county.

9 **Gov't Code §§ 74860-74868 (repealed). Tehama County Municipal Court**

10 SEC. ____ . Article 34 (commencing with Section 74860) of Chapter 10 of Title 8 of the
11 Government Code is repealed.

12 **Comment.** Sections 74860-74868 are repealed to reflect:

13 (1) Unification of the municipal and superior courts in Tehama County pursuant to Article VI,
14 Section 5(e), of the California Constitution, effective August 1, 1998. See Section 70211 (former
15 municipal court judgeships continued as superior court judgeships). See also Section 69604.5
16 (number of judges in Tehama County). Cf. former Section 71264 (municipal court served by
17 marshal).

18 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
19 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
20 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
21 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
22 (employment selection and advancement), 71650-71658 (employment protection system), 71673
23 (authority of court).

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

25 **Article 34. Tehama County**

26 74860. This article applies to the Tehama County Municipal Court, which supersedes the
27 Corning and Red Bluff Justice Court Districts and embraces the entire County of Tehama.

28 74861. There are two judges. The initial judges shall be selected pursuant to Sections 71080
29 and 71084.

30 74862. The Tehama County Sheriff shall be ex officio marshal.

31 74863. There shall be two deputy marshals. Any person serving as an elected constable on
32 December 31, 1992, is entitled to serve as deputy marshal with the same compensation and terms
33 of employment he or she had as constable, for the remainder of his or her elected term.

34 74864. Except as otherwise provided in this article, the designated deputies of the Sheriff of
35 Tehama County shall act as ex officio deputy marshals of the Tehama County Municipal Court.

36 74865. Upon recommendation of the judges of the county, and with the approval of the board
37 of supervisors, the court may appoint such additional employees as it deems necessary for the
38 performance of the duties and exercise of the powers conferred by law upon the court and its
39 members. Any appointment made pursuant to this section shall be on an interim basis and shall
40 expire January 1 of the second calendar year following the year in which the appointment was
41 made unless ratified by the Legislature. This section does not affect the application of Section
42 72150.

1 74866. (a) Whenever reference to a numbered salary range is made in this article, the salary and
 2 position schedule of the respective employee bargaining agreement in effect on July 1, 1992, shall
 3 apply.

4 (b) Except as otherwise provided in this article, employees shall receive step advances,
 5 promotions, and demotions as prescribed pursuant to the salary and classification procedures of
 6 the county for the respective position.

7 (c) Notwithstanding any other provision of law, the salary of any officer or employee may be
 8 increased by the board of supervisors in order to provide compensation that is comparable to that
 9 of county employees of similar qualifications and experience, holding equal or comparable
 10 positions in the Tehama County classified service, as the comparability is determined by the
 11 board. Any pay increase authorized by this section shall only be effective until January 1 of the
 12 second calendar year after the calendar year in which the change occurs, unless ratified by the
 13 Legislature.

14 74867. (a) The court executive officer, with the concurrence of a majority of the judges of the
 15 court, may appoint all of the following:

Number	Title	Salary Range
1	Court Services Supervisor	(M64)
2	Court Division Managers	(M57)
1	Municipal Court Clerk III	(T46)
6	Municipal Court Clerks II	(T42)
7	Municipal Court Clerks I	(T39)
2	Accounting Technicians	(T47)

23 (b) Employees of the Red Bluff and Corning Justice Courts assuming substantially the same
 24 positions in the Tehama County Municipal Court shall be placed at the same range and step they
 25 previously occupied.

26 74868. In addition to the compensation provided by this article, the employees, attaches, and
 27 other personnel of the court shall receive the same number of holidays, vacations, and other
 28 benefits as the employees of the County of Tehama pursuant to the adopted bargaining
 29 agreements of the respective units.

30 **Gov't Code §§ 74900-74913 (repealed). Ventura County Municipal Court**

31 SEC. ____ . Article 35 (commencing with Section 74900) of Chapter 10 of Title 8 of the
 32 Government Code is repealed.

33 **Comment.** Sections 74900-74913 are repealed to reflect:

34 (1) Unification of the municipal and superior courts in Ventura County pursuant to Article VI,
 35 Section 5(e), of the California Constitution, effective June 10, 1998. See Cal. Const. art. VI, § 23
 36 and Section 70212 (preexisting court locations retained as superior court locations), Section
 37 70211 (former municipal court judgeships continued as superior court judgeships). See also Code
 38 Civ. Proc. § 38 (judicial districts); Section 69606 (number of judges in Ventura County). Cf.
 39 Section 71042.5 (preservation of judicial districts for purposes of publication).

40 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
 41 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
 42 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
 43 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
 44 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
 45 protection system), 71673 (authority of court).

46 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
 47 employees).

48 (4) Enactment of the Trial Court Funding Act. See Sections 77001 (local trial court
 49 management), 77003 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
 50 (state funding of trial court operations).

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

2 **Article 35. Ventura County**

3 74900. This article applies to the municipal court established in the judicial district embracing
4 the County of Ventura, which shall be known as the Ventura County Municipal Court.

5 74901. There are 12 judges.

6 74903. A majority of the judges of the Ventura County Municipal Court may adopt rules and
7 procedures for the conduct of judicial business and matters connected with judicial administration
8 within the district which are not inconsistent with law or with the rules adopted and prescribed by
9 the Judicial Council.

10 **Note.** Government Section 74904 is not reproduced here, because it was repealed by AB 1700
11 (Steinberg & Frommer), 2001 Cal. Stat. ch. 824, § 32.

12 74905. (a) There shall be one clerk of the Ventura County Coordinated Courts, who shall be
13 known as the court executive officer and who shall be appointed by and serve at the pleasure of a
14 majority of the judges of the coordinated courts. The court executive officer shall receive the
15 biweekly compensation of four thousand three hundred eighteen dollars (\$4,318) to four thousand
16 eight hundred seventy-four dollars (\$4,874).

17 (b) There shall be two assistant executive officers and four deputy executive officers of the
18 Ventura County Coordinated Courts who shall be appointed by and serve at the pleasure of the
19 court executive officer. The assistant executive officers shall receive the biweekly compensation
20 of two thousand six hundred sixty-six dollars (\$2,666) to three thousand eight hundred thirteen
21 dollars (\$3,813). The deputy executive officers shall receive the biweekly compensation of two
22 thousand one hundred and one dollars (\$2,101) to three thousand and one dollars (\$3,001).

23 (c) The rate of biweekly compensation to be paid to the court executive officer, within the
24 compensation ranges set forth within subdivision (a), shall be established by a majority of the
25 judges of the Ventura County Coordinated Courts at an amount equal to that paid county
26 employees with comparable experience and responsibility. The rate of biweekly compensation to
27 be paid to the assistant executive officers, and the deputy executive officers, within the
28 compensation ranges set forth in subdivision (b), shall be established by joint action of the courts
29 and approval of the board of supervisors or their designee, at an amount equal to that paid county
30 employees with comparable experience and responsibility.

31 74907. Whereas the Ventura County Courts are judicially coordinated and administratively
32 consolidated with joint job classifications, the work of the superior and municipal courts in
33 Ventura County is to be performed, minimally, by each of the positions herein identified by the
34 trial courts of Ventura County. The court executive officer may appoint the following positions
35 which shall receive biweekly compensation as specified in Section 74909:

- 36 (a) Eight court program managers.
- 37 (b) Four court office systems coordinator II.
- 38 (c) Two financial evaluation officers II.
- 39 (d) Seventeen court program supervisors.
- 40 (e) Two court program supervisors: fiscal.
- 41 (f) Two court program managers: collections.
- 42 (g) One court program manager: facilities.
- 43 (h) One administrative assistant II.
- 44 (i) Two court personnel assistants.
- 45 (j) Seven collections officers II.
- 46 (k) One court program manager: fiscal.
- 47 (l) One courier II.
- 48 (m) Eighty-five court services assistants II.

- 1 (n) Thirteen court services assistants III.
- 2 (o) Seven fiscal assistants II.
- 3 (p) Six fiscal assistants III.
- 4 (q) One fiscal assistant IV.
- 5 (r) Three fiscal technicians I.
- 6 (s) One court program manager: human resources.
- 7 (t) One court office systems coordinator III.
- 8 (u) Sixty-seven judicial assistants.
- 9 (v) Six attorneys: 84 months.
- 10 (w) Two management assistants II.
- 11 (x) One management assistant IV: confidential.
- 12 (y) Three collections officers III.
- 13 (z) Two fiscal technicians II.
- 14 (aa) Two data entry operators III.
- 15 (ab) Four court interpreter/translators.
- 16 (ac) Two office assistants II.
- 17 (ad) One office assistant III.
- 18 (ae) Two senior attorneys.
- 19 (af) One senior court interpreter/translator.
- 20 (ag) One court program manager: systems.
- 21 (ah) One court personnel analyst I.
- 22 (ai) One court personnel aide.
- 23 (aj) One court program assistant.
- 24 (ak) One court program manager: family mediation.
- 25 (al) Eight family relations mediators.
- 26 (am) One court child care coordinator II.

27 74908. (a) Provided that the Board of Supervisors of Ventura County has adopted a resolution
28 pursuant to subdivision (b), in Ventura County the judges of the superior and municipal courts, by
29 majority vote, may appoint two court commissioners to be shared by the courts, and may provide
30 that the commissioners in addition to the powers and duties specified in Section 259 of the Code
31 of Civil Procedure, may perform the duties of a probate commissioner specified in Section 69897,
32 and if appointed by the presiding judge of the juvenile court, shall perform the duties of a juvenile
33 court referee as specified in Section 248 of the Welfare and Institutions Code, and at the direction
34 of the judges may have the same jurisdiction and exercise the same powers and duties as the
35 judges of the court with respect to any infraction or small claims action.

36 (b) The county shall be bound by, and the resolution adopted by the board of supervisors shall
37 specifically recognize, the following conditions:

38 (1) The county has sufficient funds for the support of the positions and any staff who will
39 provide direct support to the positions, agrees to assume any and all additional costs that may
40 result therefrom, and agrees that no state funds shall be made available, or shall be used, in
41 support of the positions or any staff who provide direct support to the positions.

42 (2) The additional commissioners shall not be deemed judicial positions for purposes of
43 calculating trial court funding pursuant to Section 77202.

44 (3) The salaries for these positions and for any staff who provide direct support to these
45 positions shall not be considered as part of court operations for purposes of Sections 77003 and
46 77204.

47 (4) The county agrees not to seek funding from the state for payment of the salaries, benefits, or
48 other compensation for these positions or for any staff who provide direct support to these
49 positions.

50 (c) Any commissioner appointed pursuant to this section shall have been a member of the State
51 Bar for not less than five years, shall hold office at the pleasure of the judges of the superior and

1 municipal courts, and shall not engage in the private practice of law. They shall be ex officio
 2 deputy clerks.

3 (d) The salary of these court commissioners for all duties performed pursuant to this section
 4 shall be set by the board of supervisors, not to exceed 85 percent of the annual salary of a superior
 5 court judge. The commissioners shall be members of the Ventura County Employees' Retirement
 6 System and shall receive the benefits, as set forth for court commissioners, in the County of
 7 Ventura Management, Confidential Clerical, and Other Unrepresented Employees Resolution.

8 (e) Notwithstanding any other provision of law, shared court commissioners who have been
 9 duly appointed pursuant to this section and have thereafter retired from service, may be assigned
 10 by the presiding judges of the superior and municipal courts to serve as a shared court
 11 commissioner for any period of time that there is a need for the prompt and efficient discharge of
 12 the business of the superior or municipal courts. While so serving, they shall be paid the full
 13 compensation of a court commissioner, payable as follows: they shall continue to receive their
 14 retirement allowance, and in addition the county shall pay the amount equal to the difference
 15 between the retirement allowance and full compensation. That employment shall not operate to
 16 reinstate them as a member of the county retirement system or to terminate or suspend their
 17 retirement rights or allowance, and no deductions shall be made from the compensation as
 18 contributions to the retirement system.

19 (f) The shared court commissioner positions authorized by this section shall be in lieu of any
 20 court commissioner positions authorized by Section 70141. If any shared court commissioners are
 21 appointed in Ventura County pursuant to this section, Section 70141 shall be inapplicable to
 22 Ventura County.

23 **Note: Comment Requested**

24 The staff is researching whether the provisions relating to retired annuitants should be
 25 preserved. The Commission solicits comments on this issue and whether these provisions are
 26 superseded by provisions of the individual retirement plans, the Trial Court Funding Act, the
 27 Trial Court Employment Protection and Governance Act, and other changes to the structure of the
 28 trial courts.

29 74909. (a) The following biweekly salary schedule, which is consistent with the Salary
 30 Ordinance of the County of Ventura, shall apply to the personnel of the Ventura County
 31 Coordinated Courts:

Coordinated Courts Classification	Biweekly Rate
Court Program Manager	\$1,546.82-2,203.33
Court Program Manager-Collections	1,615.76-2,303.12
Court Program Manager-Facilities	1,725.09-2,462.23
Administrative Assistant II	1,132.99-1,588.88
Court Personnel Assistant	1,060.90-1,505.70
Court Program Manager-Fiscal	1,951.32-2,785.61
Court Program Manager-Human Resources	1,725.09-2,462.23
Court Office Systems Coordinator II	1,238.67-1,741.86
Financial Evaluation Officer II	860.25-1,203.52
Court Program Supervisor	1,126.38-1,577.55
Collections Officer II	819.47-1,146.62
Collections Officer III	860.25-1,203.52
Courier II	644.68- 900.70
Court Services Assistant II	839.44-1,175.08
Court Services Assistant III	902.70-1,263.16
Fiscal Assistant II	692.95- 968.61
Fiscal Assistant III	781.18-1,092.49
Fiscal Assistant IV	924.33-1,294.37
Fiscal Technician II	994.25-1,391.63
Attorney-84 months	2,889.77-3,106.50

1	Judicial Assistant	946.80-1,325.56
2	Court Program Manager-Systems	1,766.06-2,521.13
3	Management Assistant II	839.44-1,175.08
4	Management Assistant IV-Confidential	1,060.90-1,505.70
5	Court Program Supervisor-Fiscal	1,372.30-1,925.57
6	Data Entry Operator III	703.78- 983.78
7	Office Assistant II	644.68- 900.70
8	Office Assistant III	744.56-1,041.10
9	Senior Attorney	2,475.09-3,542.48
10	Senior Court Interpreter/Translator	1,801.72-1,801.72
11	Court Interpreter/Translator	1,723.09-1,723.09
12	Court Personnel Analyst I	1,276.17-1,816.50
13	Court Personnel Aide	826.54-1,156.91
14	Court Program Assistant	1,218.49-1,732.50
15	Court Office Systems Coordinator III	1,450.04-2,033.60
16	Court Program Manager-Family Mediation	1,866.90-2,662.51
17	Family Relations Mediator	1,359.24-1,905.83
18	Court Child Care Coordinator II	839.44-1,175.08

19 *NE-Nonexempt

20 Merit increases within the salary range shall be in accordance with the salary merit increment
21 plan.

22 (b) In the event that the above biweekly salary schedule is not applicable, then Section 74912
23 shall apply.

24 74910. If an increase in the business of the court or any other emergency requires a greater
25 number of attaches or employees for the prompt and faithful discharge of the business of the court
26 than the number expressly provided in this article or requires the performance of duties of
27 positions in a class not expressly provided in this article, with the approval of a majority of the
28 judges of the coordinated courts and the board of supervisors, or their designee, the court
29 executive officer may appoint as many additional attaches or employees as are needed. The
30 additional attaches or employees shall be selected and appointed in the same manner as those for
31 whom express provision is made, and they shall receive salary and compensation as prescribed in
32 this article or as prescribed in the Ventura County Personnel and Salary Ordinance for classes not
33 expressly provided for in this article. Additional attaches and employees may continue in such
34 positions not longer than 90 days after the final adjournment of the next regular session of the
35 Legislature. The provisions of this section are directory only and are not mandatory and are not
36 intended to affect the application of Section 72150.

37 74911. (a) All attaches and employees of the Ventura County Coordinated Courts shall be
38 entitled to anniversary dates and salary step increases in the manner provided in the Ventura
39 County Personnel and Salary Ordinance and shall receive the same vacation, sick leave, leave of
40 absence, overtime and similar privileges and benefits provided for the officers and employees of
41 Ventura County.

42 Except as otherwise provided in this article, the provisions of the Ventura County Ordinance
43 Code relating to the civil service system of the county, and the rules of the civil service
44 commission adopted pursuant thereto, shall be applicable to all attaches and employees of the
45 Ventura County Coordinated Courts in the same manner and to the same extent as applicable
46 generally to the officers and employees of Ventura County. The Ventura County Civil Service
47 Commission shall exercise the same jurisdiction over the attaches and employees of the Ventura
48 County Coordinated Courts as it exercises over the officers and employees of the county.

49 (b) The provisions of subdivision (a) shall not apply to the court executive officer, the assistant
50 executive, the assistant court executive officer, or deputy executive officers. Notwithstanding any
51 other provisions of this article, such persons shall receive the salary and benefits adjustments
52 provided to other Ventura County Management personnel.

74912. Certain classifications in the Ventura County Coordinated Courts are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County, and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Coordinated Courts and the salary of the personnel in such classifications, shall be adjusted an equivalent amount. The adjustment shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the Ventura County service. Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date the salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows:

Coordinated Courts Classification	County Classification
Court Program Manager	Court Program Manager
Court Program Manager-Collections	Court Program Manager-Collections
Court Program Manager-Facilities	Court Program Manager-Facilities
Administrative Assistant II	Administrative Assistant II
Court Personnel Assistant	Court Personnel Assistant
Court Program Manager-Fiscal	Court Program Manager-Fiscal
Court Program Manager-Human Resources	Court Program Manager-Human Resources
Court Office Systems Coordinator II	Court Office Systems Coordinator II
Financial Evaluation Officer II	Financial Evaluation Officer II
Court Program Supervisor	Court Program Supervisor
Collections Officer II	Collections Officer II
Collections Officer III	Collections Officer III
Courier II	Courier II
Court Services Assistant II	Court Services Assistant II
Court Services Assistant III	Court Services Assistant III
Fiscal Assistant II	Fiscal Assistant II
Fiscal Assistant III	Fiscal Assistant III
Fiscal Assistant IV	Fiscal Assistant IV
Fiscal Technician I	Fiscal Technician I
Fiscal Technician II	Fiscal Technician II
Judicial Assistant	Judicial Assistant
Court Program Manager-Systems Management Assistant II	Court Program Manager-Systems Management Assistant II
Management Assistant IV-Confidential	Management Assistant IV-Confidential
Court Program Supervisor-Fiscal	Court Program Supervisor-Fiscal
Data Entry Operator III	Data Entry Operator III
Office Assistant II	Office Assistant II
Office Assistant III	Office Assistant III
Attorney-84 Months	Attorney-84 Months
Court Interpreter/Translator	Court Interpreter/Translator
Senior Attorney	Senior Attorney
Senior Court Interpreter/Translator	Senior Court Interpreter/Translator
Court Personnel Analyst I	Court Personnel Analyst I
Court Personnel Aide	Court Personnel Aide
Court Program Assistant	Court Program Assistant
Court Office Systems Coordinator III	Court Office Systems Coordinator III
Court Program Manager-Family Mediation	Court Program Manager-Family Mediation
Family Relations Mediator	Family Relations Mediator
Court Child Care Coordinator II	Court Child Care Coordinator II

*NE--Nonexempt

1 74913. A majority of the judges of the Ventura County Coordinated Courts may adopt rules for
2 the conduct of the officers, attaches and employees of the Ventura County Coordinated Courts not
3 inconsistent with the Ventura County Civil Service Ordinance and Rules and the Ventura County
4 Personnel and Salary Ordinance.

5 **Gov't Code §§ 74915-74919 (repealed). Yuba County Municipal Court**

6 SEC. ____ . Article 35.5 (commencing with Section 74915) of Chapter 10 of Title 8 of
7 the Government Code is repealed.

8 **Comment.** Sections 74915-74919 are repealed to reflect:

9 (1) Unification of the municipal and superior courts in Yuba County pursuant to Article VI,
10 Section 5(e), of the California Constitution, effective April 16, 1999. See Cal. Const. art. VI, § 23
11 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
12 70211 (former municipal court judgeships continued as superior court judgeships). See also Code
13 Civ. Proc. §§ 38 (judicial districts), 190 *et seq.* (jury selection); Sections 68073 (responsibility for
14 court operations and facilities), 69611 (number of judges in Yuba County). *Cf.* Section 71042.5
15 (preservation of judicial districts for purposes of publication); former Section 71264 (municipal
16 court served by marshal).

17 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
18 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
19 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
20 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
21 (employment selection and advancement), 71650-71658 (employment protection system), 71673
22 (authority of court).

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

24 **Article 35.5. Yuba County**

25 74915. This article applies to the municipal court established in a judicial district embracing the
26 County of Yuba. This court shall be known as the Yuba County Municipal Court.

27 74915.5. There shall be two judges.

28 74916. (a) Facilities for the court shall be maintained at the county seat and at court facilities
29 provided elsewhere as determined by ordinance adopted by the board of supervisors. The court
30 shall determine the nature and frequency of sessions held at additional court locations designated
31 by the board of supervisors.

32 (b) Jurors shall be drawn from the entire county.

33  **Note: Comment Requested**

34 Issues involving sessions and facilities are still unsettled, but Government Code Section 74916
35 is proposed for repeal because it falls within a municipal court article. The Commission solicits
36 comments on whether the section should be preserved pending (1) any implementation of
37 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
38 among the interested parties.

39 74916.5. There shall be one clerk who shall receive the salary specified in the Yuba County
40 Salary Resolution. The clerk may, in accordance with the Yuba County Ordinance Code, appoint
41 the following at the salary specified in the Yuba County Salary Resolution:

42 (a) Two court clerks II who shall be deputy clerks.

43 (b) Six court clerks I who shall be deputy clerks.

44 (c) One court clerk I (Spanish speaking) who shall be a deputy clerk.

1 74917. The sheriff shall be ex officio marshal and shall act as such without additional
2 compensation. The sheriff's designated deputies shall be ex officio deputy marshals of the court.

3 74917.5. (a) Whenever a reference is made to the Yuba County Salary Resolution, that
4 resolution as it was in effect on October 1, 1980, shall apply.

5 (b) In the event the board of supervisors of the County of Yuba amends the Salary Resolution
6 or adopts a new resolution which provides a change in compensation, such changes shall be
7 effective for the municipal court employees under this article on the effective date of the action of
8 the board of supervisors and shall remain effective only until January 1 of the second year
9 following the year in which such change is made.

10 74918. The officers and attaches of the municipal court shall be entitled to the same vacation,
11 sick leave, and similar benefits and privileges as are granted to other employees of the County of
12 Yuba under ordinances and resolutions of the board of supervisors.

13 74918.5. If an increase in the business of the court or any other emergency requires a greater
14 number of attaches or employees for prompt and faithful discharge of the business of the court
15 other than the number expressly provided in this article or requires the performance of duties of
16 positions in a class not expressly provided in this article, with the approval of the presiding judge
17 of the court and the board of supervisors, the clerk may appoint in accordance with the Yuba
18 County Ordinance Code as many additional attaches or employees as are needed. The additional
19 attaches or employees shall be selected and appointed in the same manner as those for whom
20 express provision is made, and they shall receive salary and compensation as prescribed in this
21 article or as prescribed by ordinance or resolution of the board of supervisors for classes not
22 expressly provided in this article.

23 74919. All matters affecting the employment of such municipal court officers and attaches
24 which are not specifically determined by this article or other provisions of state law shall be
25 governed and regulated by the then current ordinances and resolutions of the Board of
26 Supervisors of the County of Yuba.

27 **Gov't Code §§ 74920-74926.7 (repealed). Tulare County Municipal Court District**

28 SEC. ____ . Article 36 (commencing with Section 74920) of Chapter 10 of Title 8 of the
29 Government Code is repealed.

30 **Comment.** Sections 74920-74926.7 are repealed to reflect:

31 (1) Unification of the municipal and superior courts in Tulare County pursuant to Article VI,
32 Section 5(e), of the California Constitution, effective July 27, 1998. See Cal. Const. art. VI, § 23
33 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
34 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
35 Const. art. VI, §§ 15 (qualifications of judges), 16 (election of judges); Code Civ. Proc. §§ 38
36 (judicial districts), 190 *et seq.* (jury selection); Sections 69508 (presiding judge), 69605 (number
37 of judges in Tulare County); Cal. R. Ct. 6.603 (authority and duties of presiding judge). *Cf.*
38 Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
39 74921.9 (marshals of Tulare County municipal courts).

40 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
41 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
42 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
43 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
44 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
45 protection system), 71673 (authority of court). See also Code Civ. Proc. § 195 (jury
46 commissioners); Fam. Code §§ 4250-4253 (child support commissioners); Sections 68086 (fees
47 for reporting services), 69941 (appointment of official reporters), 69947 (compensation of official
48 reporter), 72190 (court commissioners).

1 (3) Enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined),
2 77200 (state funding of trial court operations).

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

4 Article 36. Tulare County

5 74920. There is in the County of Tulare a single municipal court district known as the Tulare
6 County Municipal Court District.

7 74920.1. The Tulare County Municipal Court District consists of the following divisions
8 embracing that territory which was within the following judicial districts in the County of Tulare
9 as they existed on December 31, 1990, and as those divisions are thereafter modified by the board
10 of supervisors or by operation of law:

11 (a) The Porterville Division, comprising the territory within the former Porterville Municipal
12 Court District.

13 (b) The Central Division, comprising the territory within the former Lindsay Judicial District,
14 Exeter-Farmersville Judicial District and Woodlake Judicial District.

15 (c) The Visalia Division, comprising the territory within the former Visalia Municipal Court
16 District.

17 (d) The Tulare-Pixley Division, comprising the territory within the former Tulare-Pixley
18 Municipal Court District.

19 (e) The Dinuba Division, comprising the territory within the former Dinuba Judicial District.

20 74920.5. On the order of the board of supervisors, sessions of the Tulare-Pixley Division shall
21 be held within the territory embraced by the Pixley Judicial District as it existed on December 31,
22 1974.

23 **Note: Comment Requested**

24 Issues involving sessions and facilities are still unsettled, but Government Code Section
25 74920.5 is proposed for repeal because it falls within a municipal court article. The Commission
26 solicits comments on whether the section should be preserved pending (1) any implementation of
27 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
28 among the interested parties.

29 74920.6. On order of the board of supervisors, sessions and services of the Central Division
30 shall be held in the City of Woodlake, the City of Lindsay, and the City of Exeter.

31 **Note: Comment Requested**

32 Issues involving sessions and facilities are still unsettled, but Government Code Section
33 74920.6 is proposed for repeal because it falls within a municipal court article. The Commission
34 solicits comments on whether the section should be preserved pending (1) any implementation of
35 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
36 among the interested parties.

37 74921. The number of judges in each division is, as follows:

38 (a) Porterville Division--two.

39 (b) Central Division--one.

40 (c) Visalia Division--three.

41 (d) Tulare-Pixley Division--two.

42 (e) Dinuba Division--one.

43 Notwithstanding subdivision (c) of Section 77200, these judges shall not be deemed to
44 constitute judgeships authorized on or after January 1, 1990, for purposes of the Brown-Presley
45 Trial Court Funding Act.

1 74921.1. Notwithstanding Section 71080, upon the establishment of the Tulare County
2 Municipal Court District, judges shall be eligible for office in the district, as follows:

3 (a) Any Tulare County municipal or justice court judge who does not desire to succeed to office
4 in the district shall file with the county clerk a written statement to that effect by January 1, 1991.
5 Failure to file such a statement is deemed an election by the judge to assert his or her claim to
6 eligibility to office in the district, and he or she shall automatically succeed to office in the
7 district, as further provided in this section.

8 (b) In the Porterville Division, all judges of the Porterville Municipal Court District shall
9 automatically become judges of the Porterville Division, and shall serve until the election or
10 appointment of their successors.

11 (c) In the Central Division, the judge of the Woodlake Judicial District shall automatically
12 become the judge of the Central Division, and shall serve until the election or appointment of his
13 or her successor.

14 (d) In the Visalia Division, all judges of the Visalia Municipal Court District shall
15 automatically become judges of the Visalia Division, and shall serve until the election or
16 appointment of their successors.

17 (e) In the Tulare-Pixley Division, all judges of the Tulare-Pixley Municipal Court District shall
18 automatically become judges of the Tulare-Pixley Division, and shall serve until the election or
19 appointment of their successors.

20 (f) In the Dinuba Division, the judge of the Dinuba Judicial District shall automatically become
21 the judge of the Dinuba Division, and shall serve until the election or appointment of his or her
22 successor.

23 (g) The time for election and qualification of the successor to any judge who becomes a judge
24 of the district pursuant to this section, shall be that previously fixed by law for the election and
25 qualification of the successors for the court and office superseded, had those courts not been
26 superseded, but in no event shall any such election of successors be held within 10 months of
27 succession to office pursuant to this section.

28 (h) If, after the creation of the Tulare County Municipal Court District and the succession to
29 office of any eligible municipal or justice court judge holding that office upon the creation of the
30 district, a vacancy occurs in any division, the vacancy shall be filled according to otherwise
31 applicable law and not with reference to this section.

32 74921.2. The board of supervisors may, by ordinance, create new divisions of the Tulare
33 County Municipal Court District and may modify or enlarge the divisions created by this chapter.
34 This section shall not be construed to limit, or be limited by, existing provisions of law conferring
35 authority upon the board of supervisors to revise judicial division boundaries or to consolidate
36 judicial divisions after public hearing before the board of supervisors.

37 74921.3. For purposes of the qualification and election of judges, the “division” referred to in
38 this chapter is and shall continue to be the “district” referred to in subdivision (b) of Section 16 of
39 Article VI of the Constitution of the State of California.

40 74921.4. Within each division, even in divisions having only one judge, there shall be a
41 supervising judge.

42 74921.5. In Tulare County, the judges of the consolidated superior and municipal courts
43 (hereafter referred to as the “Trial Court”) shall, by majority vote, or as otherwise provided by
44 agreement of a majority of the judges, elect one Presiding Judge and one Assistant Presiding
45 Judge of the Trial Court. The Presiding Judge shall carry out the duties required by Rule 205 of
46 the California Rules of Court.

47 The judges shall, by majority vote, or as otherwise provided by agreement of a majority of the
48 judges, select an Executive Committee consisting of the Presiding Judge, Assistant Presiding
49 Judge, and two judges at-large as voting members, and the Executive Officer and Administrative
50 Officer as nonvoting members. The Executive Committee shall advise and assist the Presiding

1 Judge on all matters relating to administration of the Trial Court, and exercise such other powers
2 and duties as the majority of the judges shall designate.

3 74921.6. The judges of the Trial Court shall meet in February of each year at a time and place
4 to be designated by the Presiding Judge, and more often if necessary upon call in writing of the
5 Presiding Judge. Each judge of the Trial Court shall have one vote. Any judge who does not
6 attend a regular or special meeting may authorize another judge to exercise his or her written
7 proxy, general, or specific, as stated in the proxy. A quorum for the conduct of business shall
8 require at least 50 percent of the total number of judges eligible to vote (including general but not
9 specific proxies). Any proxy to be effective, must be submitted to the secretary of the meeting
10 prior to the commencement of the vote.

11 74921.7. The judges shall by majority vote appoint an Executive Office for the Trial Court who
12 shall serve at the pleasure of a majority vote of the judges. The Executive Officer shall perform
13 those duties specified in Rule 207 of the California Rules of Court, shall serve as secretary at all
14 meetings of the judges, including the Executive Committee, shall be Jury Commissioner for the
15 Trial Court and shall perform such other duties as are assigned by the Presiding Judge or the
16 Executive Committee.

17 **Note: Comment Requested**

18 The Commission is researching several issues pertaining to jury commissioners, including
19 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
20 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
21 by that Act. The Commission solicits comments on these points.

22 74921.8. In addition to an Executive Officer, the judges shall appoint an Administrative Officer
23 who shall serve at the pleasure of the judges. The Administrative Officer shall perform such
24 duties as are assigned by the Presiding Judge and the Executive Committee.

25 74921.10. There shall also be the following court employee positions, whose numbers and
26 salary range shall be as specified:

27	Number	Title	Range
28	1	Administrative Services Officer I	216
29	1	Administrative Services Officer II	234
30	1	Assistant Chief Deputy Court Clerk	190
31	1	Attorney, Superior Court (AW)	254
32	1	Chief Deputy Court Clerk	205
33	1	Child Support Court Commissioner	845
34	1	Collection Supervisor	177
35	7	Collector I	167
36	1	Computer Services Technician II	162
37	1	Commissioner, Municipal Court	987
38	1	Court Administrator/Court Executive Officer	875
39	1	Court Administrative Officer	871
40	14	Court Clerk II	167
41	16	Court Reporter	220
42	34	Courtroom Clerk	173
43	1	Court Commissioner	845
44	9	Deputy Clerk Administrator II	205
45	1	Director Family Court Services	235
46	4	Family Court Mediator II	219
47	1	Family Law Facilitator	254
48	1	Family Law Commissioner	845
49	1	Jury Services Supervisor	178
50	1	Law Clerk	185

1	1	Law Library Director	831
2	22	Legal Clerk II	160
3	1	Legal Clerk III	170
4	5	Legal Clerk II - Bilingual	165
5	1	Legal Processing Supervisor	190
6	2	Legal Secretary II	181
7	25	Legal Office Assistant II	147
8	2	Legal Office Assistant II - Bilingual	152
9	3	Legal Office Assistant III	157
10	1	Micro Computer Network Administrator	217
11	.6	Master Calendar Clerk	173
12	1	Municipal Court Services Analyst	221
13	2	Office Assistant II	137
14	2	Paralegal	175
15	1.45	Research Assistant - Law Library	168
16	7	Senior Account Clerk	153
17	1	Supervising Calendar Clerk	203

18 74921.11. Whenever reference is made to a numbered salary range in any section of this article,
 19 the salary schedule found in the salary resolution of Tulare County in effect on January 6, 1998,
 20 shall apply. The salaries of trial court officers and attaches may be adjusted upon approval of the
 21 board of supervisors. Any adjustments shall only be effective to January 1 of the second year
 22 following the year in which those adjustments are made, unless ratified by the Legislature.

23 74922. The then current personnel rules and ordinances of the county shall govern the hiring
 24 date; increases within range; salary on promotion, transfer, or demotion; salary on position
 25 reclassification, obligations and benefits and discipline of municipal court officers and attaches.

26 All other matters affecting the employment of such municipal court officers and attaches which
 27 are not specifically determined by this article or other provisions of state law shall be as
 28 determined by the board of supervisors.

29 74923. In the event the board of supervisors creates any new divisions or modifies any
 30 divisions pursuant to Section 74921.1, the number, classification, and compensation of additional
 31 municipal court personnel necessitated thereby shall be governed by Article 3 (commencing with
 32 Section 71080) of Chapter 6, and Article 4 (commencing with Section 72150) of Chapter 8, of
 33 this title.

34 74924. Trial jurors for each session of the courts of the district shall be selected from persons
 35 residing within the divisions within which those sessions are held. Upon adoption of a rule
 36 pertaining thereto by the judges, any division may use the same jury panel as that summoned for
 37 service in the superior court. When selected from the superior court panel, persons so selected for
 38 jury duty in a municipal court division need not be residents of the division.

39 74925. Notwithstanding Section 72190, a majority of the judges of the district may appoint one
 40 commissioner who shall hold office at the pleasure of a majority of the judges. The commissioner
 41 shall serve all the divisions by agreement of the judges. The commissioner shall receive a salary
 42 of not less than 70 nor more than 80 percent of the salary of a judge of the municipal court. The
 43 salary shall be determined by the board of supervisors within this range. The commissioner shall
 44 possess the same qualifications as the law requires of a judge of the municipal court and shall not
 45 engage in the private practice of law. The commissioner shall be an ex officio deputy clerk of the
 46 court and shall receive vacation, sick leave, and fringe benefits as determined by the board of
 47 supervisors.

48 Membership in the Tulare County Retirement System shall be optional at the election of the
 49 commissioner. The commissioner shall make an irrevocable election whether or not to participate
 50 in the retirement system no later than 60 days after appointment to the position.

1 74925.1. If an increase in the business of the court or any other emergency requires a greater
2 number of attaches or employees for the prompt and faithful discharge of the business of the court
3 than the number expressly provided in this chapter, or requires the performance of duties of
4 positions in a class not expressly provided for in this chapter, with the approval of the presiding
5 judge of the court and the board of supervisors, the clerk or the marshal may appoint as many
6 additional attaches or employees as are needed. These additional attaches or employees shall be
7 selected and appointed in the same manner as those for whom express provision is made, and they
8 shall receive compensation as prescribed in this article, or as prescribed by ordinance or
9 resolution of the board of supervisors for classes not expressly provided for in this article. If,
10 through workload or organizational changes, duties are delegated to certain positions in classes
11 not expressly provided for in this article, with the approval of the presiding judge of the court and
12 the board of supervisors, those positions may be reallocated to different existing classes in the
13 County of Tulare classification plan or allocated to new classes appropriate to the duties being
14 performed. Attaches and employees may continue in those positions, or reallocated positions,
15 only until January 1 of the second year following the year in which the adjustments are made,
16 unless the adjustments are ratified by the Legislature. This section does not affect the application
17 of Section 72150.

18 74925.2. (a) Notwithstanding Section 72194, each judge of the district may appoint a
19 competent phonographic reporter, to be known as a regular official reporter of the court, and as
20 many pro tempore reporters as are necessary to report the proceedings of the court. Regular
21 official reporters shall hold office during the pleasure of the appointing judge. The duties of
22 regular official reporters appointed pursuant to this section shall be performed as elsewhere
23 provided by law.

24 (b) The fee for official court reporters for reporting proceedings shall be one hundred fifty
25 dollars (\$150) per day. All other fees of these reporters shall be as elsewhere provided by law.
26 Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the
27 same per diem fee paid regular official reporters of the municipal courts for the days the pro
28 tempore reporter actually is on duty under order of the court. Regular official reporters and pro
29 tempore reporters shall not receive more than one per diem fee per day from the county. Rates of
30 compensation of all regular official reporters and official reporters pro tempore may be adjusted
31 by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall
32 be effective only until January 1 of the second year following the year in which the adjustments
33 are made, unless ratified by the Legislature.

34 (c) Regular official reporters may, at the election of each regular official reporter, be members
35 of any retirement system maintained by the county. For retirement credit purposes, compensation
36 earnable shall be deemed to be the annual total of all per diem and transcription fees paid by the
37 county to each regular official reporter up to a maximum of thirty thousand dollars (\$30,000) per
38 year. Each new regular official reporter shall make an election within 60 days of his or her
39 appointment as a regular official reporter. The election shall be an irrevocable decision not
40 subject to later withdrawal, change, or modification.

41 74926. Upon the effective date of this chapter, an incumbent officer or attache of a superseded
42 justice or municipal court shall be placed on the step level of the salary schedule made applicable
43 to his or her position which pays the same rate of compensation as he or she received as an officer
44 or attache of the superseded justice or municipal court; or, if there is no equivalent salary in the
45 salary schedule, he or she shall be placed in the step level having a rate of compensation next
46 higher than his or her former salary.

47 74926.5. The officers and attaches of the municipal courts, except regular official reporters and
48 reporters pro tempore, shall be entitled to the same vacation, sick leave, leave of absence, and
49 similar benefits and privileges as are provided for the employees of the County of Tulare under
50 ordinances and resolutions of the board of supervisors in effect on January 1, 1991, or as
51 thereafter revised or amended by the board of supervisors.

1 74926.7. All officers and attaches of the trial court shall devote their full time to the
2 performance of their duties.


3 **Gov’t Code §§ 74934-74945 (repealed). Butte County municipal court districts**

4 SEC. ____ . Article 37 (commencing with Section 74934) of Chapter 10 of Title 8 of the
5 Government Code is repealed.

6 **Comment.** Sections 74934-74945 are repealed to reflect:

7 (1) Unification of the municipal and superior courts in Butte County pursuant to Article VI,
8 Section 5(e), of the California Constitution, effective June 3, 1998. See Cal. Const. art. VI, § 23
9 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
10 70211 (former municipal court judgeships continued as superior court judgeships). See also Cal.
11 Const. art. VI, § 15 (qualifications of judges); Code Civ. Proc. § 38 (judicial districts); Sections
12 68073 (responsibility for court operations and facilities), 69581 (number of judges in Butte
13 County). Cf. Section 71042.5 (preservation of judicial districts for purposes of publication);
14 former Section 71264 (municipal court served by marshal), Section 71266 (marshals’ fees paid
15 into county treasury).

16 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
17 71615(c)(1) (preservation of employees’ job classifications), 71620 (trial court personnel), 71623
18 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
19 compensation plan benefits), 71629 (trial court employment benefits not affected), 71630-
20 71639.3 (labor relations), 71640-71645 (employment selection and advancement), 71650-71658
21 (employment protection system), 71673 (authority of court). See also Sections 69941
22 (appointment of official reporters), 69947 (compensation of official reporter).

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

24 **Article 37. Municipal Court Districts in Butte County**

25 74934. This article applies only to municipal courts established in the following judicial
26 districts in Butte County:

27 (a) A district embracing the Cities of Chico and Paradise, designated as the North Butte County
28 Judicial District headquartered in the City of Chico.

29 (b) A district embracing the Cities of Oroville, Biggs, and Gridley, designated as the South
30 Butte County Judicial District which is hereby created and shall be headquartered in the City of
31 Oroville.

32 74935. Each of the municipal court districts established in Butte County shall have the number
33 of judges set out below opposite the name of the judicial district over which that court has
34 jurisdiction and each judge shall be a resident of the county:

- 35 North County Judicial District2
- 36 South County Judicial District2

37 74935.5. There shall be maintained in both the City of Gridley and the Town of Paradise
38 branch court facilities, including staff and other necessary personnel, so that the citizens of those
39 communities may utilize such facilities as needed for small claims, infractions (traffic), civil
40 matters, and misdemeanors.

41  **Note: Comment Requested**

42 Issues involving sessions and facilities are still unsettled, but Government Code Section
43 74935.5 is proposed for repeal because it falls within a municipal court article. The Commission
44 solicits comments on whether the section should be preserved pending (1) any implementation of
45 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
46 among the interested parties.

1 74935.6. Official reporters of the Butte County Municipal Court shall be appointed by the
2 judges of each municipal court district pursuant to Section 72194 and shall serve at the pleasure
3 of the judges.

4 74935.7. Pursuant to Section 72194, the judges of each municipal court district may appoint as
5 many additional reporters as the business of the court requires, who shall be known as official
6 reporters pro-tempore. They shall serve without salary but shall receive the fees provided by
7 Sections 69947 to 69953.

8 74936. There shall be one clerk/administrator in each judicial district who shall be appointed by
9 the judges of the judicial district.

10 74937. (a) The presiding judge of the North Butte County Municipal Court may appoint the
11 following positions:

- 12 (1) One municipal court administrator.
- 13 (2) One assistant municipal court administrator or supervising court clerk.
- 14 (3) Three supervising court clerks.
- 15 (4) Ten court clerks III, II or office assistant III.
- 16 (5) Four court clerks II, I, or office assistant II, I.
- 17 (6) One accounting specialist or senior account clerk.
- 18 (7) One and one-half court reporters.

19 (b) The presiding judge of the South Butte County Municipal Court may appoint the following
20 positions:

- 21 (1) One municipal court administrator.
- 22 (2) One assistant municipal court administrator or supervising court clerk.
- 23 (3) Two supervising court clerks, or court clerks III, II or office assistants III.
- 24 (4) Four court clerks III, II or office assistants III.
- 25 (5) Seven court clerks II, I or office assistants II, I.
- 26 (6) One accounting specialist or senior account clerk.
- 27 (7) One and one-half court reporters.
- 28 (8) One office assistant II, I.

29 74938. The Sheriff of Butte County shall be the ex officio marshal of the North County Judicial
30 District and the South County Judicial District.

31 74939. The bailiffs of the Sheriff of Butte County shall be the ex officio deputy marshals of the
32 North County Judicial District and the South County Judicial District.

33 74940. Whenever reference is made to a range number in this section of this article, the
34 schedule of biweekly salaries shall be that as set forth in the Butte County Salary Ordinance.

- 35 (a) Municipal court administrator--range 1256.
- 36 (b) Assistant municipal court administrator--range 1196.
- 37 (c) Supervising court clerk--range 1148.
- 38 (d) Court clerk I--range 1088.
- 39 (e) Court clerk II--range 1108.
- 40 (f) Court clerk III--range 1128.
- 41 (g) Office assistant III--range 1077.
- 42 (h) Office assistant II--range 1057.
- 43 (i) Office assistant I--range 1037.
- 44 (j) Accounting specialist--range 1102.
- 45 (k) Senior account clerk--range 1082.
- 46 (l) Account clerk--range 1062.
- 47 (m) Court reporter--range 1210.

48 74941. Subject to the provisions of Section 72001, the compensation of officers and attaches
49 shall be governed by the Butte County Merit System Rules and Procedures, Salary Ordinance,

1 and Memorandum of Understanding with the recognized labor organizations representing court
2 employees.

3 74942. The officers and attaches of the municipal courts shall be entitled to the same vacation,
4 sick leave, and benefits and privileges as are granted to other comparable employees of Butte
5 County.

6 74943. All fees collected by the marshal or his deputies for services to the municipal courts
7 shall be deposited with the county treasurer.

8 74944. All officers and attaches of the municipal courts shall devote their full time to the
9 performance of their duties.

10 74945. All matters affecting the employment of such municipal court officers and attaches
11 which are not specifically determined by this article or other provisions of state law shall be
12 governed and regulated by the then current ordinances and resolutions of the Board of
13 Supervisors of Butte County.

14 **Gov't Code §§ 74948-74958 (repealed). Napa County Municipal Court**

15 SEC. ____ . Article 38 (commencing with Section 74948) of Chapter 10 of Title 8 of the
16 Government Code is repealed.

17 **Comment.** Sections 74948-74958 are repealed to reflect:

18 (1) Unification of the municipal and superior courts in Napa County pursuant to Article VI,
19 Section 5(e), of the California Constitution, effective June 3, 1998. See Cal. Const. art. VI, § 23
20 and Section 70212 (preexisting court locations retained as superior court locations), Section
21 70211 (former municipal court judgeships continued as superior court judgeships). See also Code
22 Civ. Proc. § 38 (judicial districts); Sections 69508 (presiding judge), 69590.5 (number of judges
23 in Napa County). Cf. Section 71042.5 (preservation of judicial districts for purposes of
24 publication); former Section 71264 (municipal court served by marshal).

25 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
26 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
27 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
28 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
29 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
30 protection system), 71673 (authority of court). See also Fam. Code §§ 4250-4253 (child support
31 commissioners); Sections 69941 (appointment of official reporters), 69947 (compensation of
32 official reporter).

33 (3) Enactment of Section 69505 (business-related travel expenses of trial court judges and
34 employees).

35 (4) Enactment of the Trial Court Funding Act. See Section 77003 ("court operations" defined),
36 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
37 Section 68073 (responsibility for court operations and facilities). For other provisions governing
38 the deposit of fees collected by marshals and sheriffs, see Sections 24350 (fees collected by
39 salaried county or court officer paid into county treasury), 24353 (money collected by county or
40 court officer paid into county treasury), 71266 (marshals' fees paid into county treasury).

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

42 **Article 38. Napa County**

43 74948. This article applies to the municipal court district which embraces the entire County of
44 Napa, which court shall be known as the Municipal Court for the County of Napa.

1 74949. There shall be three judges in the municipal court for the County of Napa. The presiding
2 judge of the court shall be selected pursuant to the local rules of court.

3 74949.1. (a) In Napa County the judges of the superior and municipal courts, by majority vote,
4 may appoint two full-time court commissioners to be shared by the courts, who shall hold office
5 at the pleasure of the judges making the appointment, and shall possess the same qualifications as
6 are required of a judge of a superior court. Within the jurisdiction of the respective courts, and to
7 the extent the judges so direct, the shared court commissioner shall exercise the same powers and
8 perform the same duties as a judge of the municipal court with respect to any infractions or small
9 claims actions; shall exercise all other powers and perform all other duties of a municipal court
10 commissioner that may be prescribed by law; shall act, notwithstanding the provisions of Section
11 72400, as a traffic referee, having the powers and duties specified in Article 9 (commencing with
12 Section 72400) of Chapter 8; shall have the powers and perform the duties of a superior court
13 commissioner specified in Section 259 of the Code of Civil Procedure; shall have the powers and
14 perform the duties of a probate commissioner specified in Section 69897; if and when appointed
15 by the presiding judge of the juvenile court to do so, shall have the powers and perform the duties
16 of a juvenile court referee as specified in Section 248 of the Welfare and Institutions Code; shall
17 have the powers and perform the duties of child support commissioners pursuant to Sections 4252
18 and 4351 of the Family Code; and shall be ex officio deputy clerks of the courts.

19 (b) The salary of these shared court commissioners for all duties performed pursuant to this
20 section shall be set by the board of supervisors, in an amount not to exceed 85 percent of the
21 annual salary of a superior court judge. In addition to this salary, the shared court commissioners
22 shall be entitled to and shall receive fringe benefits and travel expense reimbursement on the
23 same basis as full-time employees of the superior court, other than the court executive officer.
24 The shared court commissioners shall observe the same holidays as other full-time court
25 employees. The shared court commissioners shall not engage in the private practice of the law.

26 (c) The judges and court executive officer of the Napa municipal and superior courts shall
27 periodically review the performance of the shared court commissioners and shall maintain an
28 ongoing training program to maintain the skills of the commissioners.

29 (d) The shared court commissioner positions authorized by this section shall be in lieu of any
30 court commissioner positions authorized by Section 70141.

31 74950. Facilities for the court shall be maintained in the City of Napa, the City of Saint Helena,
32 the City of Calistoga, and in such other locations within the County of Napa as are designated by
33 the board of supervisors pursuant to the provisions of Section 71342. The court shall hold
34 sessions at each facility as business requires.

35  **Note: Comment Requested**

36 Issues involving sessions and facilities are still unsettled, but Government Code Section 74950
37 is proposed for repeal because it falls within a municipal court article. The Commission solicits
38 comments on whether the section should be preserved pending (1) any implementation of
39 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
40 among the interested parties.

41 74951. All officers and employees of the Municipal Court for the County of Napa shall be
42 entitled to the privileges afforded county employees of the County of Napa generally, relative to
43 sick leave, vacation and other benefits. All such officers and employees may be appointed,
44 promoted, demoted, reclassified, terminated or transferred, or their status otherwise adjusted in
45 the same manner and with the same effect as is provided by the personnel and salary ordinances
46 of the County of Napa in effect at the time of any such adjustment in status.

47 74952. (a) No provision is made for a marshal or deputy marshals in the Municipal Court for
48 the County of Napa and no compensation is established for any such marshal and deputy marshal
49 positions. In lieu thereof, the Sheriff of the County of Napa shall be ex officio marshal and his
50 designated deputies shall be ex officio deputy marshals of the court. All fees collected by the

1 sheriff or his deputies for services rendered as an ex officio marshal of the court shall be
2 deposited in the county treasury.

3 74953. Official reporters of the Municipal Court for the County of Napa shall be appointed
4 pursuant to Section 72194. For their services in reporting testimony and proceedings in court,
5 they shall receive the same fees provided in Section 70045.7 for reporters of the Superior Court
6 for the County of Napa.

7 74954. (a) Whenever a reference is made to a numbered salary range according to the standard
8 salary schedule in any section of this article, the schedule found in the Napa County Table and
9 Index of Classes shall apply, except as provided otherwise in subdivision (b).

10 (b) In the event the Board of Supervisors of the County of Napa amends the resolution
11 establishing salary ranges and monthly salary rates on the standard salary schedule for the County
12 of Napa, effective on the date of this act, or adopts a new resolution which provides for a change
13 in compensation for ranges or steps, such changes shall be effective for the municipal court
14 employees under this article on the effective date of the action of the board of supervisors.

15 74954.5. (a) Whenever a reference is made to a numbered salary range according to the
16 management and nonclassified personnel salary schedule in any section of this article, the
17 schedule found in the Napa County Table and Index of Classes shall apply thereafter, except as
18 provided otherwise in subdivision (b).

19 (b) In the event the Board of Supervisors of the County of Napa amends the resolution
20 establishing salary ranges and monthly salary rates for the management and nonclassified
21 personnel of the County of Napa, or adopts a new resolution which provides for a change in
22 compensation for ranges or steps, such changes shall be effective for the municipal court
23 management and nonclassified personnel under this article on the effective date of the action of
24 the board of supervisors.

25 74955. There shall be one court executive officer (clerk of the court) who shall be appointed
26 by, and who shall serve at the pleasure of, a majority of the judges of the municipal court. The
27 court clerk shall be paid a biweekly salary at the rate specified in range 52507A-E in the salary
28 schedule for management and nonclassified personnel. In addition to any other duties imposed by
29 law, the court clerk shall, at the direction of the presiding judge, perform any or all of the
30 following duties:

31 (a) To direct and coordinate the nonjudicial activities of the court.

32 (b) To prepare and administer the budget of the court.

33 (c) To coordinate with other appropriate county agencies the acquisition, utilization,
34 maintenance, and disposition of county facilities, equipment, and supplies necessary for the
35 operation of the court.

36 (d) To collect, compare, and analyze statistical data on a continuing basis concerning the status
37 of judicial and nonjudicial business of the court and to prepare periodic reports and
38 recommendations based on such data.

39 (e) To serve as liaison for the court with other persons, committees, boards, groups, and
40 associations as directed by the presiding judge.

41 74956. (a) There shall also be the following court employee positions, whose numbers and
42 salary range on the standard salary schedule of the County of Napa shall be as specified:

43	44	45	46
	Position	Number	Salary
	Classification	of Funded	Range
		Positions	
46	Account Clerk I	1.00	00101A-E
47	Assistant Court Executive Officer	1.00	03706A-E
48	Branch Manager	1.00	43206A-E
49	Court Services Supervisor	1.00	54902A-E
50	Court Executive Officer	1.00	52507A-E

1	Court Division Supervisor	3.00	54902A-E
2	Data Clerk	1.00	26801A-E
3	Family Mediator	0.75	53001A-E
4	Legal Clerk I	1.00	14901A-E
5	Legal Clerk I-BI	2.00	14901A-E
6	Legal Clerk II	10.00	15001A-E
7	Legal Clerk II-BI	1.00	15001A-E
8	Legal Clerk I/Int.	1.00	50601A-E
9	Legal Resident Attorney	1.00	52301A-E
10	Legal Secretary	2.50	15103A-E
11	Office Assistant II	4.00	27201A-E
12	Secretary	1.00	24801A-E
13	Senior Account Clerk	1.00	00301A-E
14	Judicial Assistant I/II	13.00	25001A-E
15	Judicial Assistant III	3.00	60701A-E
16	Supervisor Account Clerk	1.00	35402A-E
17	Supervisor Mediator	1.00	08506A-E
18	Systems Coordinator	1.00	55501A-E

19 (b) Each such person employed on the effective date of this article in the office of the clerk of
 20 the municipal court shall receive credit for prior continuous service in the office, including
 21 service in a court superseded upon establishment of the municipal court.

22 (c) With the approval of the board of supervisors, a majority of the municipal court judges may
 23 establish additional positions for officers, attaches, and employees in addition to those provided
 24 by subdivision (a). The order and approval establishing any such position shall designate the
 25 position title and salary range. Such appointments shall be on an interim basis and shall expire
 26 June 30 of the following fiscal year in which such appointments are made unless ratified by the
 27 Legislature.

28 74957. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of
 29 Chapter 8 of Title 8 of this code, and notwithstanding other provisions of this article, in order to
 30 equalize the compensation of employees of the municipal court with the compensation paid to
 31 county employees with commensurate duties and responsibilities, upon recommendation of the
 32 judges of the court and with the approval of the board of supervisors of the County of Napa, any
 33 officer or employee of the court, whether appointed under the provisions of this article or under
 34 Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 of this code, may be paid any
 35 compensation which is within the ranges and increments set forth in this article in excess of or
 36 less than the maximum to which such officer or employee would otherwise be entitled under the
 37 salary range established for the applicable classification as set forth in Section 74956. Any such
 38 salary adjustment shall remain effective only until January 1 of the second year following the year
 39 in which such change is made.

40 74958. The clerks and other clerical employees of the superseded Napa and Saint Helena
 41 Justice Courts shall become the clerks of the Napa-Saint Helena Municipal Court upon its
 42 organization so far as such equivalent positions are provided in Section 74956.

43 If it appears that two or more clerks of the superseded justice courts are equally entitled by
 44 virtue of the office held in any such court, to any office in the municipal court, the presiding
 45 judge of the municipal court shall determine which person is entitled to the office over which the
 46 conflict exists.

47 **Gov't Code §§ 74960-74973 (repealed). Yolo County Municipal Court**

48 SEC. ____ . Article 39 (commencing with Section 74960) of Chapter 10 of Title 8 of the
 49 Government Code is repealed.

50 **Comment.** Sections 74960-74973 are repealed to reflect:

1 (1) Unification of the municipal and superior courts in Yolo County pursuant to Article VI,
2 Section 5(e), of the California Constitution, effective June 3, 1998. See Cal. Const. art. VI, § 23
3 and Section 70212(b) (preexisting court locations retained as superior court locations), Section
4 70211 (former municipal court judgeships continued as superior court judgeships). See also Code
5 Civ. Proc. § 38 (judicial districts); Section 69610 (number of judges in Yolo County). Cf. Section
6 71042.5 (preservation of judicial districts for purposes of publication); former Section 71264
7 (municipal court served by marshal).

8 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
9 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71622
10 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans), 71625 (accrued leave
11 benefits), 71628 (deferred compensation plan benefits), 71629 (trial court employment benefits
12 not affected), 71640-71645 (employment selection and advancement), 71650-71658 (employment
13 protection system), 71673 (authority of court). See also Sections 69941 (appointment of official
14 reporters), 69947 (compensation of official reporter).

15 (3) Enactment of the Trial Court Funding Act. See Sections 77003 ("court operations" defined),
16 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations). See also
17 Sections 68073 (responsibility for court operations and facilities), 69952 (payment from Trial
18 Court Operations Fund), 69953 (payment of fees).

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

20 Article 39. Yolo County

21 74960. This article applies to the municipal court established within the municipal court district
22 which embraces the entire territory of the County of Yolo lying within the exterior boundaries of
23 such county, which court shall be known as the Yolo County Municipal Court.

24 74961. There shall be four judges.

25 74962. Facilities for the court shall be maintained at or near the county seat and at court
26 facilities provided elsewhere as determined by ordinance adopted by the board of supervisors.
27 The court shall determine the nature and frequency of sessions held at additional court locations
28 designated by the board of supervisors.

29  **Note: Comment Requested**

30 Issues involving sessions and facilities are still unsettled, but Government Code Section 74962
31 is proposed for repeal because it falls within a municipal court article. The Commission solicits
32 comments on whether the section should be preserved pending (1) any implementation of
33 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
34 among the interested parties.

35 74963. There shall be one municipal court clerk administrator who shall be appointed by, and
36 who shall serve at the pleasure of, a majority of the judges of the municipal court. The municipal
37 court clerk-administrator shall receive a monthly salary at a rate specified in range 34.55.

38 74964. By majority vote, the municipal court judges of Yolo County may appoint a court
39 commissioner who shall meet the qualifications and have the powers and duties specified in
40 Sections 72190, 72190.1, and 72190.2 of this code, and Section 259 of the Code of Civil
41 Procedure. The appointment may only be made in lieu of appointing a traffic referee pursuant to
42 Section 72400.

43 The commissioner shall be paid biweekly, pursuant to the payroll procedures in effect in the
44 County of Yolo, in an amount equal to 75 to 85 percent of a municipal court judge's salary. The
45 court shall recommend to the board of supervisors the level of salary to be received by the
46 commissioner based on qualifications, performance, and other factors deemed relevant by the
47 court, and the board of supervisors shall determine the salary level within the specified range.

1 74965. The municipal court clerk-administrator may appoint:

2 (a) Four municipal court supervisors II, who shall receive a monthly salary at a rate specified in
3 range 21.09, or four municipal court supervisors I, who shall receive a monthly salary at a rate
4 specified in range 19.89, or any combination thereof not exceeding a total of four positions.

5 (b) Thirty-three municipal court senior clerks, who shall receive a monthly salary at a rate
6 specified in range 18.80, or thirty-three municipal courtroom clerks II, each of whom shall
7 receive a monthly salary at a rate specified in range 17.73, or thirty-three municipal courtroom
8 clerks I, each of whom shall receive a monthly salary at a rate specified in range 16.72, or thirty-
9 three legal process clerks IV, each of whom shall receive a monthly salary at a rate specified in
10 range 15.78, or thirty-three legal process clerks III, each of whom shall receive a monthly salary
11 at a rate specified in range 14.88, or thirty-three legal process clerks II, each of whom shall
12 receive a monthly salary at a rate specified in range 14.03, or thirty-three legal process clerks I,
13 each of whom shall receive a monthly salary at a rate specified in range 13.24, or any
14 combination thereof not exceeding a total of thirty-three positions, of which one shall be part-time
15 not to exceed 20 hours per week.

16 (c) Four municipal court fiscal clerks, who shall receive a monthly salary at a rate specified in
17 range 15.14, or four account clerks II, each of whom shall receive a monthly salary at a rate
18 specified in range 13.71, or any combination thereof not exceeding a total of four positions.

19 (d) One administrative assistant, who shall receive a monthly salary at a rate specified in range
20 17.99.

21 74967. The sheriff and his deputies shall act as ex officio marshal and deputy marshals of the
22 court.

23 74969. Whenever reference to a numbered salary range is made in any section of this article,
24 the schedule of monthly salaries found in the salary resolution of the County of Yolo in effect on
25 January 1, 1992, shall apply.

26 74970. Except as otherwise provided by law, all officers and employees of the Yolo County
27 Municipal Court shall be entitled to the same provisions with respect to retirement, vacations, and
28 other benefits allowed to employees of the county, and be subject to the personnel regulations,
29 memoranda of understanding, management benefit package, and the affirmative action plan of the
30 County of Yolo as they exist on January 1, 1992.

31 74971. The positions enumerated in Sections 74963 to 74965, inclusive, are deemed to be
32 comparable in job and salary level to certain positions in the service of Yolo County. The
33 following table sets forth the court classifications with the comparable county classifications
34 shown opposite thereto:

Clerk Classification	County Classification
Municipal court clerk Administrator	Municipal Court Clerk Administrator
Municipal Court Supervisor II	Municipal Court Supervisor II
Municipal Court Supervisor I	Municipal Court Supervisor I
Municipal Court Senior Clerk	Municipal Court Senior Clerk
Legal Process Clerk IV	Legal Process Clerk IV
Legal Process Clerk III	Legal Process Clerk III
Legal Process Clerk II	Legal Process Clerk II
Legal Process Clerk I	Legal Process Clerk I
Municipal Court Fiscal Clerk	Municipal Court Fiscal Clerk
Account Clerk II	Account Clerk II
Administrative Assistant	Administrative Assistant

47 In the event that any classification, the number of positions prescribed for any classification, or
48 the salary, benefits, personnel regulations, memorandum of understanding or affirmative action
49 plan for any classification which is shown above is modified by the board of supervisors, a
50 commensurate modification shall be made for the comparable court classifications. Any

1 adjustment made pursuant to this section shall be effective the same date as the effective date of
2 the action applicable to the respective and comparable county classifications, but shall remain in
3 effect only until January 1 of the second year following the year in which such change is made,
4 unless subsequently ratified by the Legislature.

5 74972. The presiding judge may appoint as many reporters as the business of the court requires,
6 who shall be known as official reporters pro tempore, and who shall hold office at his pleasure.
7 The reporter shall serve without salary but shall receive for his services in reporting testimony
8 and proceedings in such court, the same compensation as is paid reporters pro tempore of the
9 superior court in Yolo County, which in criminal cases shall, upon order of the court, be a charge
10 against the general fund of the county.

11 74973. Fees for transcription of testimony and proceedings in the court shall be paid by the
12 litigants to official reporters pro tempore as otherwise provided by law. In all cases where by law
13 the court may direct the payment of transcription fees out of the county treasury, such fees shall,
14 upon order of the court, be paid from the general funds, including fees for transcription of
15 testimony in proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive,
16 which shall be paid from the county treasury.

17 **Gov't Code §§ 74980-74991 (repealed). Shasta County Municipal Court**

18 SEC. ____ . Article 40 (commencing with Section 74980) of Chapter 10 of Title 8 of the
19 Government Code is repealed.

20 **Comment.** Sections 74980-74991 are repealed to reflect:

21 (1) Unification of the municipal and superior courts in Shasta County pursuant to Article VI,
22 Section 5(e), of the California Constitution, effective June 3, 1998. See Section 70211 (former
23 municipal court judgeships continued as superior court judgeships). See also Code Civ. Proc. § 38
24 (judicial districts); Section 69601 (number of judges in Shasta County). *Cf.* Sections 71042.5
25 (preservation of judicial districts for purposes of publication), 71265 (marshal's powers, duties,
26 and liabilities).

27 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
28 71601(l) ("trial court employee" defined), 71615(c)(1) (preservation of employees' job
29 classifications), 71615(c)(5) (trial court as employer of all trial court employees), 71620 (trial
30 court personnel), 71622 (subordinate judicial officers), 71623 (salaries), 71624 (retirement plans),
31 71625 (accrued leave benefits), 71628 (deferred compensation plan benefits), 71629 (trial court
32 employment benefits not affected), 71640-71645 (employment selection and advancement),
33 71650-71658 (employment protection system), 71673 (authority of court). See also Sections
34 69941 (appointment of official reporters), 69947 (compensation of official reporter).

35 The marshal is an appointed employee of the Shasta County Superior Court. Obsolete
36 provisions regarding the former elected marshal have been deleted.

37 For provisions governing the employment and compensation of county employees, see Cal.
38 Const. art. XI, §§ 1(b) and 4 (county governing board shall provide for the number,
39 compensation, tenure, and appointment of employees) and Section 25300 (board of supervisors
40 shall provide for the number, compensation, tenure and appointment of county employees).

41 (3) Enactment of the Trial Court Funding Act. See Sections 77003 and Cal. R. Ct. 810 ("court
42 operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court
43 operations). *Cf.* Section 71266 (marshals' fees paid into county treasury).

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

45 **Article 40. Shasta County Judicial District**

46 74980. This article applies to the municipal court established in the Shasta County Judicial
47 District.

1 74981. There shall be four judges of the Shasta County Municipal Court.

2 74982. (a) If the Shasta County Board of Supervisors finds that there are sufficient funds
3 available in the municipal court budget for the employment of a commissioner, the board by
4 ordinance or resolution may establish the position of commissioner of the Shasta County
5 Municipal Court.

6 (b) The commissioner shall be appointed by and serve at the pleasure of the court. A full-time
7 commissioner shall receive an annual salary equal to 75 percent of the annual salary of a
8 municipal court judge. The commissioner shall be provided the same employment benefits by
9 Shasta County as the county provides to other county management employees in the county's
10 merit personnel system. A part-time commissioner shall receive salary and employment benefits
11 prorated on the basis of a 40-hour work week consistent with county policy regarding regular
12 part-time employment.

13 (c) The commissioner shall perform those duties and exercise those powers conferred by law
14 and assigned to the commissioner by the court.

15 (d) A full-time commissioner shall not engage in the private practice of law. Notwithstanding
16 any other provision of law, a part-time commissioner, with approval of the court, may engage in
17 the private practice of law before any court except the Shasta County Municipal Court.

18 (e) The court shall periodically review the performance of any part-time commissioner and
19 shall maintain an ongoing training program to maintain the commissioner's skills. The part-time
20 commissioner shall have completed, prior to appointment, an orientation program satisfactory to
21 the presiding judge, including a review of the procedures and practices of the court, together with
22 observation of each calendar to which the commissioner may be assigned. Each part-time
23 commissioner shall serve on the bench an average of at least three days in each month, and the
24 presiding judge shall ensure that the part-time commissioner maintains current knowledge of the
25 court's personnel and procedures.

26 74983. If an official court reporter of the superior court in and for Shasta County is not
27 available for assignment as a reporter pro tempore of the municipal court pursuant to Sections
28 72197 and 70045.9, the court may appoint as many additional reporters pro tempore as the
29 business of the court requires. They shall serve without salary and without any entitlement to any
30 benefit included in the compensation of any other officer or employee of Shasta County, but shall
31 receive the fees provided by Sections 69947 to 69953, inclusive.

32 74984. (a) There shall be one marshal who shall be appointed by the superior and municipal
33 courts; provided, that upon the effective date of this section, the incumbent elected marshal shall
34 continue in office as marshal and may be removed by the court only for cause. When that marshal
35 leaves office, the succeeding marshals shall be appointed by and serve at the pleasure of the court.

36 (b) The marshal shall receive the salary of four thousand one hundred forty-nine dollars
37 (\$4,149) per month as set forth in the standard salary resolution of Shasta County in effect for the
38 1995-96 fiscal year. The marshal shall be provided the same employment benefits by Shasta
39 County as the county provides to other county employees in an equivalent category in the
40 county's merit personnel system.

41 (c) The board of supervisors may transfer certain duties of the sheriff to the marshal pursuant to
42 Section 26608.3.

43 (d) All fees collected by the marshal's office shall be deposited with the county treasurer and
44 credited to the general fund.

45 **Note.** Government Section 74984 will be preserved, in some form. A proposed amendment to
46 the section is reproduced below as an added section.

47 74985. (a) The marshal, with the approval of the court, may appoint the following marshal's
48 office employees whose numbers, classifications, and salary ranges in the standard salary
49 resolution of Shasta County in effect on January 1, 1994, are:

Position Title	Number of Positions		Salary Range
Marshal	1	Flat	\$4,149 per mo.
Deputy Marshal	15	39.3	\$2,343-2,848 per mo.
Deputy Marshal (Probationary)		Flat	\$2,232 per mo.
Deputy Marshal Trainee		Flat	\$2,125 per mo.
Legal Process Clerk II	4	31.3	\$1,586-1,928 per mo.
Legal Process Clerk I		29.3	\$1,438-1,748 per mo.
Marshal's Civil Supervisor	1	34.3	\$1,836-2,232 per mo.
Marshal's Sergeant	2	41.8	\$2,647-3,218 per mo.

(b) Each employee of the marshal's office shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

Note. Government Section 74985 will be preserved, in some form. A proposed amendment to the section is reproduced below as an added section.

74986. (a) The municipal and superior courts may appoint a court executive officer who shall be the chief administrative officer and ex officio clerk of the court. The court executive officer shall serve at the pleasure of the court and shall receive a salary of five thousand one hundred thirteen dollars (\$5,113) per month as set forth in the standard salary resolution of Shasta County in effect for the 1995-96 fiscal year. The court executive officer shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(b) The judges of the superior and municipal courts shall prescribe and regulate the duties and authority of the court executive officer.

74987. (a) The court executive officer, with the approval of the court, may appoint the court's support staff personnel. The following employees of the court shall be compensated within the following applicable ranges established by the standard salary resolution of Shasta County in effect on January 1, 1995:

Position Title	Number of Positions		Salary Range
Court Executive Officer	1	Flat	\$5,113 per mo.
Asst. Ct. Executive Officer	1	Flat	\$4,090 per mo.
Court Commissioner	1	Flat	\$6,129 per mo.
Court Services Manager	1		\$2,460-2,991 per mo.
Court Services Asst. IV	1		\$1,863-2,265 per mo.
Court Services Asst. III	5		\$1,774-2,157 per mo.
Court Services Asst. I/II	22		\$1,533-2,054 per mo.
Judicial Secretary	1		\$1,928-2,343 per mo.
Court Serv. Asst./Cal. Coord.	1		\$2,054-2,497 per mo.
Court Serv. Financial Hearing Officer	1		\$2,054-2,497 per mo.
Court Serv. Acct./Coll. Clerk I/II/III	5		\$1,586-2,157 per mo.
Court Serv. Supervisor	2		\$2,004-2,436 per mo.
Court Serv. Fiscal Officer	1		\$2,713-3,297 per mo.

(b) Each employee designated in subdivision (a) shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

74988. The court administrator, employees, and attaches of the court, the marshal and employees of the office of the marshal, except court reporters pro tempore and reserve deputy marshals, are employees of Shasta County for all purposes. However, nothing in this section affects the immunity from liability in damages which may otherwise attach to these employees as officers, employees, or attaches of the municipal court.

Note: Comment Requested

Government Code Section 74988 will be preserved, in some form. A proposed amendment to Section 74988 is reproduced below as an added section. The Commission solicits comments on the proposed revisions in light of the enactment of the Trial Court Employment Protection and Governance Act.

74989. The number, categories, and compensation of the officers, attaches, and employees provided by this article may be adjusted, as the need is determined, by the board of supervisors and in accordance with established county personnel and budgetary procedures. Any such adjustment shall be on an interim basis and shall expire 90 days after the adjournment of the next regular session of the Legislature. Nothing in this section precludes a majority of the judges from exercising powers in accordance with Sections 72150 and 72151.

74991. The provisions of this article shall prevail over any other provisions of this title which may conflict therewith.

Gov't Code §§ 74984-74988 (added). Shasta County

SEC. ____ . Article 40 (commencing with Section 74984) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 40. Shasta County

§ 74984. Marshal of the Shasta County Superior Court

74984. (a) There shall be one marshal who shall be appointed by the Shasta County Superior Court.

(b) The board of supervisors may transfer certain duties of the sheriff to the marshal pursuant to Section 26608.3.

(c) All fees collected by the marshal's office shall be deposited with the county treasurer and credited to the general fund.

Comment. Subdivision (a) of Section 74984 continues the first part of the first sentence of subdivision (a) of former Section 74984, omitting the reference to the municipal court as obsolete.

Subdivision (b) continues subdivision (c) of former Section 74984 without change.

Subdivision (c) continues subdivision (d) of former Section 74984 without change.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 74984 that are not continued, see the Comment to former Article 40 (commencing with former Section 74980).

§ 74985. Benefits for county employees in the Shasta County marshal's office

74985. Each employee of the marshal's office who is a county employee shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

Comment. Section 74985 continues subdivision (b) of former Section 74985, limiting the provision to county employees.

For provisions relating to restatements and continuations of existing law, see Section 2. For disposition of the provisions of former Section 74985 that are not continued, see the Comment to former Article 40 (commencing with former Section 74980).

1 **§ 74988. Status of marshal and employees of office of the marshal**

2 74988. The marshal and employees of the office of the marshal who provide court
3 security services, except reserve deputy marshals, are employees of the Shasta County
4 Superior Court for all purposes.

5 **Comment.** Section 74988 continues the first sentence of former Section 74988, changing the
6 status of the marshal and certain employees of the office of the marshal from county to superior
7 court employees.

8 For provisions relating to restatements and continuations of existing law, see Section 2. For
9 disposition of the provisions of former Section 74988 that are not continued, see the Comment to
10 former Article 40 (commencing with former Section 74980).

11 **Gov't Code §§ 74993-74997 (repealed). Tuolumne County Municipal Court District**

12 SEC. ____ . Article 41 (commencing with Section 74993) of Chapter 10 of Title 8 of the
13 Government Code is repealed.

14 **Comment.** Sections 74993-74997 are repealed to reflect:

15 (1) Unification of the municipal and superior courts in Tuolumne County pursuant to Article
16 VI, Section 5(e), of the California Constitution, effective April 23, 1999. See Section 70211
17 (former municipal court judgeships continued as superior court judgeships). See also Code Civ.
18 Proc. § 38 (judicial districts); Section 69605.5 (number of judges in Tuolumne County). Cf.
19 Section 71042.5 (preservation of judicial districts for purposes of publication); former Section
20 71264 (municipal court served by marshal).

21 (2) Enactment of the Trial Court Employment Protection and Governance Act. See Sections
22 71615(c)(1) (preservation of employees' job classifications), 71620 (trial court personnel), 71623
23 (salaries), 71624 (retirement plans), 71625 (accrued leave benefits), 71628 (deferred
24 compensation plan benefits), 71629 (trial court employment benefits not affected), 71640-71645
25 (employment selection and advancement), 71650-71658 (employment protection system), 71673
26 (authority of court).

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

28 **Article 41. Tuolumne County**

29 74993. This article applies to the Tuolumne County Municipal Court District which supersedes
30 the Central and West Justice Court District and embraces the entire County of Tuolumne.

31 74994. There are two judges of the Tuolumne County Municipal Court District.

32 74995. The Sheriff of the County of Tuolumne and his or her deputies specifically designated
33 by him or her shall be ex officio marshals and deputy marshals, respectively, of the Tuolumne
34 County Municipal Court and shall act as such without additional compensation.

35 74996. The employees of the Tuolumne County Municipal Court District shall be entitled to
36 the same benefits and privileges as are granted to other employees of the County of Tuolumne, as
37 provided by the county's ordinances, resolutions, memoranda of understanding, and rules
38 applicable to other county employees.


39 74997. The employees of the Tuolumne County Municipal Court shall be governed by the
40 personnel regulations, memoranda of understanding, and policies of the County of Tuolumne.

41 **Gov't Code § 75002 (unchanged). "Judge" defined**

42 75002. "Judge" means a justice of the Supreme Court or of a court of appeal, or a judge
43 of a superior court, municipal court, or justice court. A retired justice court judge does not


1 acquire status as a judge for the purposes of this chapter by reason of designation as a
2 judge pro tempore of, or assignment by the Chairperson of the Judicial Council to, any of
3 these courts.

4 “Judge” shall not mean a justice court judge who elected pursuant to Section 75029.5 to
5 be restored to membership in the Public Employees’ Retirement System.

6  **Note.** Government Section 75002 is retirement-related, so the references to municipal and
7 justice court judges would be retained.

8 **Gov’t Code § 75029.1 (unchanged). Right to elect to receive credit for prior service**

9 75029.1. On and after January 1, 1990, the right to elect to receive credit for prior
10 service as a judge of an excluded court pursuant to Section 75029 shall apply only to a
11 justice of the Supreme Court or a court of appeal or a judge of a superior or municipal
12 court.


13  **Note.** Government Section 75029.1 is retirement-related, so the reference to a municipal court
14 judge would be retained.

15 **Gov’t Code § 75076.2 (amended). Part-time service**

16 SEC. ____ . Section 75076.2 of the Government Code is amended to read:

17 75076.2. A judge who renders part-time service after January 1, 1990, shall receive a
18 reduced retirement allowance. The reduction shall be based upon the relationship between
19 the actual service rendered by the judge, including service rendered by reason of sitting
20 on assignment, and a full-time judge’s service during the period from January 1, 1990,
21 until the date of retirement. Computations under this section and subdivision (a) of
22 Section 75076 shall consider the salary payable to the judge of a municipal or justice
23 court to be equal to that of a municipal 91.3225 percent of the salary of a superior court
24 judge. For purposes of qualifying for retirement, part-time service shall be the equivalent
25 of full-time service.

26 **Comment.** Section 75076.2 is amended to reflect unification of the municipal and superior
27 courts pursuant to Article VI, Section 5(e), of the California Constitution. This change anticipates
28 that municipal court judge salaries will not be maintained after abolition of the municipal courts
29 through unification. A municipal court judge’s salary is approximately 91.3225 percent of a
30 superior court judge’s salary. See former Section 68202 (1984 Cal. Stat. ch. 1758, § 3); see also
31 Section 68203.

32  **Note.** Government Section 75076.2 is retirement-related, so the references to municipal and
33 justice court judges would be retained.

34 **Gov’t Code § 75095.5 (repealed). Election under specified circumstances**

35 SEC. ____ . Section 75095.5 of the Government Code is repealed.

36 ~~75095.5. Any election of any judge who became a municipal court judge on May 23,~~
37 ~~1980, and died on September 18, 1983, to come within the provisions of this article,~~
38 ~~which was filed with the Secretary of State on September 22, 1983, shall become~~
39 ~~effective on the date filed.~~

40 ~~The surviving spouse of the person so electing who was previously eligible to come~~
41 ~~within this article and did not do so, shall pay all of the contributions he would have~~
42 ~~made pursuant to Section 75097 had he been covered by this article as soon as eligible~~
43 ~~therefor.~~

1 **Comment.** Section 75095.5 is repealed as obsolete.

2 **Note: Comment Requested**

3 It does not appear necessary to revise Government Code Section 75095.5 to reflect unification
4 of the municipal and superior courts, enactment of the Trial Court Funding Act, or enactment of
5 the Trial Court Employment Protection and Governance Act. But the provision might be obsolete.
6 The Commission solicits comment on whether the provision continues to serve a useful purpose.

7 **Gov't Code § 75103 (amended). Deduction for Judges' Retirement Fund**

8 SEC. ____ . Section 75103 of the Government Code is amended to read:

9 75103. Except as provided in Section 75103.3, the auditor of each county shall deduct 8
10 percent from the portion paid by a county of the monthly salary, not including the
11 additional compensation pursuant to Section 68203.1, of each judge of the superior and
12 municipal court and cause this amount to be paid into the Judges' Retirement Fund.

13 **Comment.** Section 75103 is amended to reflect unification of the municipal and superior courts
14 pursuant to Article VI, Section 5(e), of the California Constitution.

15 **Note.** Government Section 75103 reflects legislative changes made in SB 742 (Escutia). See
16 2001 Cal. Stat. ch. 118, § 10.

17 **Gov't Code § 75502 (unchanged). Definitions**

18 75502. (a) "Judge" means a justice of the Supreme Court or of a court of appeal, or a
19 judge of a superior court, municipal court, or justice court who is first elected or
20 appointed to judicial office on or after November 9, 1994, and is not a member of the
21 Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000). A
22 retired judge does not acquire status as a judge for the purposes of this chapter by reason
23 of designation as a temporary judge of, or assignment by the Chairperson of the Judicial
24 Council to, any of these courts.

25 A former member of the Judges' Retirement System under Section 75002 who
26 withdrew his or her contributions upon leaving office, and who takes judicial office on or
27 after November 9, 1994, becomes a member of the system existing under Chapter 11
28 (commencing with Section 75000) and does not become a member of the Judges'
29 Retirement System II. No person shall be a member of the Judges' Retirement System II
30 who is or ever has been a member of the Judges' Retirement System pursuant to Chapter
31 11 (commencing with Section 75000).

32 (b) "System" means the Judges' Retirement System II established by this chapter.

33 (c) "Service" means the period of time a judge received a salary and made contributions
34 to the system by reason of holding office as a judge of any one or more of the courts of
35 this state specified in subdivision (a), computed in years and fractions of years.

36 (d) "Final compensation" means the average monthly salary of a judge during the 12
37 months immediately preceding his or her retirement from or otherwise leaving judicial
38 office and as limited by Section 75572.


39 (e) "Benefit factor" means the percentage used in calculating a judge's monthly
40 retirement allowance under Section 75522.

41 (f) "Contributions" means the accumulated deductions from the judge's salary under
42 Sections 75601 and 75602. References to payment to a judge of his or her contributions
43 or to the determination of a judge's and spouse's shares in the contributions include both
44 the contributions and interest thereon at the rates determined by the Board of
45 Administration of the Public Employees' Retirement System.

1 (g) “Salary” means the compensation received by a judge as the emolument of the
2 office of judge, but does not include any additional compensation received by reason of
3 designation as a temporary judge or assignment by the Chairperson of the Judicial
4 Council or the additional compensation pursuant to Section 68203.1.

5 (h) “Board” means the Board of Administration of the Public Employees’ Retirement
6 System.

7 (i) “Fund” or “retirement fund” means the Judges’ Retirement System II Fund
8 established pursuant to Section 75600.

9  **Note.** Government Section 75502 is retirement-related, so the references to municipal and
10 justice court judges would be retained.


11 The section reflects legislative changes made in SB 724 (Escutia). See 2001 Cal. Stat. ch. 118,
12 § 11.

13 **Gov’t Code § 75602 (amended). Deduction for Judges’ Retirement System II Fund**

14 SEC. ____ . Section 75602 of the Government Code is amended to read:

15 75602. Except as provided in Section 75605, the Controller or the auditor of each
16 county shall deduct 8 percent from the portion paid by a county, or the Controller and the
17 auditor, if appropriate, of the monthly salary, not including the additional compensation
18 pursuant to Section 68203.1, of each judge of the superior and municipal court and cause
19 this amount to be paid into the Judges’ Retirement System II Fund.

20 **Comment.** Section 75602 is amended to reflect unification of the municipal and superior courts
21 pursuant to Article VI, Section 5(e), of the California Constitution.

22  **Note.** Government Section 75602 reflects legislative changes made in SB 742 (Escutia). See
23 2001 Cal. Stat. ch. 118, § 14.

24 **Gov’t Code § 76101.5 (unchanged). Transfer of deposits between funds in Los Angeles and**
25 **Lassen Counties**

26 76101.5. Notwithstanding any other provision of this article or Article 3 (commencing
27 with Section 76200), following a public hearing, the board of supervisors of a county of
28 the first class or a county of the 47th class which has established both a Courthouse
29 Construction Fund and a Criminal Justice Facilities Construction Fund pursuant to the
30 provisions of this chapter may by resolution provide for the transfer of deposits from one
31 fund to the other.

32  **Note: Comment Requested**

33 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
34 work on Government Code Section 76101.5 pending (1) any implementation of recommendations
35 made by the Task Force on Court Facilities, and (2) completion of negotiations among the
36 interested parties. The Commission solicits comments on these issues.

37 **Gov’t Code § 76200 (amended). Alameda County courthouse construction fund**

38 SEC. ____ . Section 76200 of the Government Code is amended to read:

39 76200. Alameda County is authorized to establish a Courthouse Construction Fund
40 pursuant to Section 76100 so long as the county maintains ~~the Berkeley-Albany~~
41 Municipal Court a courtroom building in the City of Berkeley. In the event that the
42 ~~Berkeley-Albany Municipal Court~~ courtroom building in the City of Berkeley is closed,
43 Alameda County may not collect those funds.

1 **Comment.** Section 76200 is amended to reflect unification of the municipal and superior courts
2 in Alameda County pursuant to Article VI, Section 5(e), of the California Constitution, effective
3 July 31, 1998. See Cal. Const. art. VI, § 23 and Section 70212(b) (preexisting court locations
4 retained as superior court locations).

5 **Note: Comment Requested**

6 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
7 further work on Government Code Section 76200 pending (1) any implementation of
8 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
9 among the interested parties. The Commission solicits comments on these issues.

10 The Commission also solicits comments on whether the provision requiring maintenance of a
11 courtroom building in the City of Berkeley continues to serve a necessary or useful purpose.

12 **Gov't Code § 76219 (unchanged). Los Angeles County courthouse construction fund**

13 76219. (a) The Courthouse Construction Fund established in Los Angeles County
14 pursuant to Section 76100 shall be known as the Courthouse Construction Fund.

15 (b) All courtroom construction in the County of Los Angeles which utilizes moneys
16 from the Courthouse Construction Fund or moneys borrowed and owed against the
17 Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley
18 Statistical Area and the Los Cerritos Municipal Court District, until the time that the
19 County of Los Angeles has spent a total of at least forty-three million dollars
20 (\$43,000,000) on courthouse construction within the San Fernando Valley Statistical
21 Area and at least eight million dollars (\$8,000,000) within the Los Cerritos Municipal
22 Court District for the Bellflower Courthouse.

23 (c) All courtroom construction in the County of Los Angeles which utilizes moneys
24 from the Courthouse Construction Fund or moneys borrowed against the Courthouse
25 Construction Fund shall be within the boundaries of the San Fernando Valley Statistical
26 Area, within the boundaries of the Los Cerritos Municipal Court District, within the
27 boundaries of the East Los Angeles Municipal Court District, within the Downey
28 Municipal Court District, within the community of Hollywood, or within the West Los
29 Angeles Branch of the Los Angeles Municipal Court District, until the time that the
30 County of Los Angeles has fulfilled the requirements of subdivision (b) and has
31 additionally spent at least sixteen million five hundred thousand dollars (\$16,500,000) on
32 courthouse construction within the East Los Angeles Municipal Court District, has spent
33 at least ten million dollars (\$10,000,000) on courthouse construction within the Downey
34 Municipal Court District, has commenced construction on a courthouse with at least six
35 courtrooms in the West San Fernando Valley, has commenced construction on a
36 courthouse with at least two courtrooms in the community of Hollywood, and has
37 commenced construction on a courthouse for the West Los Angeles Branch of the Los
38 Angeles Municipal Court District.

39 (d) All courtroom construction in the County of Los Angeles which utilizes moneys
40 from the Courthouse Construction Fund or moneys borrowed against the Courthouse
41 Construction Fund shall be within the boundaries of the San Fernando Valley Statistical
42 Area, within the boundaries of the Los Cerritos Municipal Court District, within the
43 boundaries of the East Los Angeles Municipal Court District, within the Downey
44 Municipal Court District, within the community of Hollywood, within the West Los
45 Angeles Branch of the Los Angeles Municipal Court District, within the Pasadena
46 Judicial District, within the Southeast Municipal Court District, within the South Bay
47 Judicial District, within the Santa Monica Judicial District, within the Antelope Valley
48 Judicial District, or within the Long Beach Judicial District until the time that the County

1 of Los Angeles has fulfilled the requirements of subdivisions (b) and (c), and has
2 commenced construction of new facilities or the expansion of existing facilities for the
3 municipal courts in the Pasadena Judicial District, the north and south branches of the
4 Southeast Municipal Court District, and the South Bay Judicial District, has commenced
5 construction on a courthouse for the superior court with at least 18 courtrooms in the
6 North Hollywood Redevelopment Project Area of the City of Los Angeles or
7 immediately adjacent thereto, and has commenced construction of new facilities for the
8 superior and municipal courts in the Santa Monica Judicial District, the Antelope Valley
9 Judicial District, and the Long Beach Judicial District.

10 (e) For purposes of this section, the San Fernando Valley Statistical Area includes all
11 land within the San Fernando Valley Statistical Area (as defined in subdivision (e) of
12 Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the
13 unincorporated areas of Los Angeles County located west of the City of Los Angeles,
14 east and south of the Ventura County line, and north of a line extended westerly from the
15 southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision
16 (c) of Section 11093).

17 (f) The moneys of the Courthouse Construction Fund together with any interest earned
18 thereon shall be payable only for courtroom construction and land acquisition as
19 authorized in subdivision (b) and, after the requirement of subdivision (b) has been met,
20 shall be payable only for courtroom construction and land acquisition as authorized in
21 subdivision (c) and, after the requirements of subdivisions (b) and (c) have been met,
22 shall be payable only for courtroom construction and land acquisition as authorized in
23 subdivision (d).

24 (g) Deposits into the fund shall continue through and including either (1) the 25th year
25 after the initial calendar year in which the surcharge is selected or (2) whatever period of
26 time is necessary to repay any borrowings made by the county to pay for construction
27 provided for in this section, whichever time is longer.

28 (h) The resolution adopted by the Board of Supervisors of the County of Los Angeles
29 on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980
30 are necessary to the establishment of adequate courtroom facilities in the County of Los
31 Angeles shall be deemed a resolution stating that the provisions of this section are
32 necessary to the establishment of adequate courtroom facilities in the county, and shall
33 satisfy the requirements of this section.

34 **Note: Comment Requested**

35 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
36 work on Government Code Section 76219 pending (1) any implementation of recommendations
37 made by the Task Force on Court Facilities, and (2) completion of negotiations among the
38 interested parties. The Commission solicits comments on these issues.

39 The Commission also requests input as to whether any of the courtroom construction
40 mentioned in Section 76219 has already been completed.

41 **Gov't Code § 76238 (amended). City and County of San Francisco courthouse construction**
42 **fund**

43 SEC. ____ . Section 76238 of the Government Code is amended to read:

44 76238. (a) Notwithstanding any other law, for the purpose of assisting the City and
45 County of San Francisco in the acquisition, rehabilitation, construction, and financing of
46 courtrooms or of a courtroom building or buildings containing facilities necessary or
47 incidental to the operation of the justice system, the Board of Supervisors of the City and
48 County of San Francisco may require the amounts collected pursuant to subdivision (d) to

1 be deposited in the Courthouse Construction Fund established pursuant to Section 76100.
2 In the City and County of San Francisco, the moneys of the Courthouse Construction
3 Fund together with any interest earned thereon shall be payable only for the foregoing
4 purposes and at the time necessary therefor, and for the purposes set forth in subdivision
5 (b) and at the time necessary therefor.

6 (b) In conjunction with the acquisition, rehabilitation, construction, or financing of
7 courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City
8 and County of San Francisco may use the moneys of the Courthouse Construction Fund
9 (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for
10 other uses if new courtrooms or a courtroom building or buildings are acquired,
11 constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess
12 courtrooms or an excess courtroom building or buildings if that excess is anticipated to be
13 needed at a later time.

14 (c) Any excess courtrooms or excess courtroom building or buildings that are acquired,
15 rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented
16 for uses other than the operation of the justice system until such time as the excess
17 courtrooms or excess courtroom building or buildings are needed for the operation of the
18 justice system. Any amounts received as lease or rental payments pursuant to this
19 subdivision shall be deposited in the Courthouse Construction Fund.

20 (d) In the City and County of San Francisco, a surcharge for the purpose and for the
21 time set forth in this section may be added to any filing fee ~~in any civil action in either the~~
22 ~~municipal court or~~ in any civil or probate action in the superior court. The surcharge shall
23 be in an amount, not to exceed fifty dollars (\$50), and shall be collected in a manner as
24 set forth in a resolution adopted by the Board of Supervisors of the City and County of
25 San Francisco.

26 **Comment.** Subdivision (d) of Section 76238 is amended to reflect unification of the municipal
27 and superior courts in the City and County of San Francisco pursuant to Article VI, Section 5(e),
28 of the California Constitution, effective December 31, 1998.

29  **Note: Comment Requested**

30 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
31 further work on Government Code Section 76238 pending (1) any implementation of
32 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
33 among the interested parties. The Commission solicits comments on these issues.

34 **Gov't Code § 76245 (amended). Shasta County courthouse and criminal justice facilities**
35 **construction funds**

36 SEC. ____ . Section 76245 of the Government Code is amended to read:

37 76245. (a) The fund established in Shasta County pursuant to Section ~~76200~~ 76100
38 shall be known as the Statham Courthouse Construction Fund.

39 (b) The fund established in Shasta County pursuant to Section 76101 shall be known as
40 the Statham Criminal Justice Facilities Construction Fund.

41 **Comment.** Section 76245 is amended to correct an erroneous section reference.

42  **Note: Comment Requested**

43 Issues involving sessions and facilities are still unsettled. The Commission proposes to defer
44 further work on Government Code Section 76245 pending (1) any implementation of
45 recommendations made by the Task Force on Court Facilities, and (2) completion of negotiations
46 among the interested parties. The Commission solicits comments on these issues.

1 **Gov't Code § 77003 (amended). "Court operations" defined**

2 SEC. ____ . Section 77003 of the Government Code is amended to read:

3 77003. (a) As used in this chapter, "court operations" means all of the following:

4 (1) Salaries, benefits, and public agency retirement contributions for superior and
5 municipal court judges and for subordinate judicial officers. For purposes of this
6 paragraph, "subordinate judicial officers" includes all commissioner or referee positions
7 created prior to July 1, 1997, including positions created in the municipal court prior to
8 July 1, 1997, which thereafter became positions in the superior court as a result of
9 unification of the municipal and superior courts in a county, and including those
10 commissioner positions created pursuant to former Sections 69904, 70141, 70141.9,
11 70142.11, 72607, 73794, 74841.5, and 74908; and includes any staff who provide direct
12 support to commissioners; but does not include commissioners or staff who provide
13 direct support to the commissioners whose positions were created after July 1, 1997,
14 unless approved by the Judicial Council, subject to availability of funding.

15 (2) The salary, benefits, and public agency retirement contributions for other court staff
16 including all municipal court staff positions specifically prescribed by statute.

17 (3) Those marshals and sheriffs as the court deems necessary for court operations.

18 (4) Court-appointed counsel in juvenile court dependency proceedings and counsel
19 appointed by the court to represent a minor pursuant to Chapter 10 (commencing with
20 Section 3150) of Part 2 of Division 8 of the Family Code.

21 (5) Services and supplies relating to court operations.

22 (6) Collective bargaining under Sections 71630 and 71639.3 with respect to court
23 employees.

24 (7) Subject to paragraph (1) of subdivision (d) of Section 77212, actual indirect costs
25 for county and city and county general services attributable to court operations, but
26 specifically excluding, but not limited to, law library operations conducted by a trust
27 pursuant to statute; courthouse construction; district attorney services; probation services;
28 indigent criminal defense; grand jury expenses and operations; and pretrial release
29 services.

30 (8) Except as provided in subdivision (b), other matters listed as court operations in
31 Rule 810 of the California Rules of Court as it read on July 1, 1996.

32 (b) However, "court operations" does not include collection enhancements as defined in
33 Rule 810 of the California Rules of Court as it read on July 1, 1996.

34 **Comment.** Section 77003 is amended to reflect unification of the municipal and superior courts
35 pursuant to Article VI, Section 5(e), of the California Constitution.

36 The section is also amended to reflect the repeal of Sections 69904, 70141, 70141.9, 70142.11,
37 72607, 73794, 74841.5, and 74908.

38 **Note: Comment Requested**

39 The reference to Government Code Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794,
40 74841.5, and 74908 have been retained in Government Code Section 77003 to make clear that the
41 commissioner positions created pursuant to those sections are "court operations" despite the
42 proposed repeal of those sections. The Commission solicits comments on the continuing need to
43 reference these sections.

44 The section reflects legislative changes made in AB 1700 (Steinberg & Frommer), 2001 Cal.
45 Stat. ch. 824, § 33.5.

46 **Gov't Code § 77007 (amended). "Trial court" defined**

47 SEC. ____ . Section 77007 of the Government Code is amended to read:

48 77007. As used in this chapter, "trial court" means a superior or municipal court.


1 **Comment.** Section 77007 is amended to reflect unification of the municipal and superior courts
2 pursuant to Article VI, Section 5(e), of the California Constitution.

3 **Gov't Code § 77008 (amended). Filing fees defined**

4 SEC. ____ . Section 77008 of the Government Code is amended to read:

5 77008. As used in this chapter, "filing fees" means any and all fees and charges,
6 liberally construed, collected or collectible for filing, processing, including service of
7 process, copying, endorsing, or for any other service related to court operations as defined
8 in Section 77003. ~~However, with respect to a county with a population of 350,000 or less~~
9 ~~as determined by the Department of Finance, "filing fees" do not include any fees~~
10 ~~collected for probation services, indigent criminal defense, or pretrial release services.~~

11 **Comment.** Section 77008 is amended to reflect the fact that probation services, indigent
12 criminal defense, and pretrial release services are excluded from the definition of "court
13 operations" for all counties pursuant to Section 77003(a)(7). For purposes of the application of
14 this section, it should be noted that the only section in this chapter in which the term "filing fees"
15 is used is Section 77206.

16  **Note.** The last sentence in Government Section 77008 could potentially apply to any of the
17 following counties: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn,
18 Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced,
19 Modoc, Mono, Napa, Nevada, Placer, Plumas, San Benito, San Luis Obispo, Santa Cruz, Shasta,
20 Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba.

21 **Gov't Code § 77210 (unchanged). Retired municipal court judge**

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

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

28  **Note: Comment Requested**

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

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

34 **Gov't Code § 82011 (amended). "Code reviewing body" defined**

35 SEC. ____ . Section 82011 of the Government Code is amended to read:

36 82011. "Code reviewing body" means all of the following:

37 (a) The commission, with respect to the conflict-of-interest code of a state agency other
38 than an agency in the judicial branch of government, or any local government agency
39 with jurisdiction in more than one county.

40 (b) The board of supervisors, with respect to the conflict-of-interest code of any county
41 agency other than the board of supervisors, or any agency of the judicial branch of
42 government, and of any local government agency, other than a city agency, with
43 jurisdiction wholly within the county.

44 (c) The city council, with respect to the conflict-of-interest code of any city agency
45 other than the city council.

1 (d) The Attorney General, with respect to the conflict-of-interest code of the
2 commission.

3 (e) The Chief Justice or his or her designee, with respect to the conflict-of- interest code
4 of the members of the Judicial Council, Commission on Judicial Performance, and Board
5 of Governors of the State Bar of California.

6 (f) The Board of Governors of the State Bar of California with respect to the conflict-
7 of-interest code of the State Bar of California.

8 (g) The Chief Justice of California, the administrative presiding judges of the courts of
9 appeal, and the presiding judges of superior ~~and municipal~~ courts, or their designees, with
10 respect to the conflict-of-interest code of any agency of the judicial branch of government
11 subject to the immediate administrative supervision of that court.

12 (h) The Judicial Council of California, with respect to the conflict-of-interest code of
13 any state agency within the judicial branch of government not included under
14 subdivisions (e), (f), and (g).

15 **Comment.** Subdivision (g) of Section 82011 is amended to reflect unification of the municipal
16 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

17 **Gov't Code § 84215 (amended). Filing of campaign statements**

18 SEC. ____ . Section 84215 of the Government Code is amended to read:

19 84215. All candidates, elected officers, committees, and proponents of state ballot
20 measures or the qualification of state ballot measures, except as provided in subdivision
21 (e), shall file two copies of the campaign statements required by Section 84200 with the
22 clerk of the county in which they are domiciled. A committee is domiciled at the address
23 listed on its campaign statement unless it is domiciled outside California in which case its
24 domicile shall be deemed to be Los Angeles County for the purpose of this section. In
25 addition, campaign statements shall be filed at the following places:

26 (a) Statewide elected officers and candidates for these offices other than the Board of
27 Equalization, supreme court justices, their controlled committees, committees formed or
28 existing primarily to support or oppose these candidates, elected officers, supreme court
29 justices, or statewide measures, or the qualification of state ballot measures, and all state
30 general purpose committees and filers not specified in subdivisions (b) to (e), inclusive:

31 (1) The original and one copy with the Secretary of State.

32 (2) Two copies with the Registrar-Recorder of Los Angeles County.

33 (3) Two copies with the Registrar of Voters of the City and County of San Francisco.

34 (b) Members of the Legislature or Board of Equalization, court of appeal justices,
35 superior court judges, candidates for those offices, their controlled committees, and
36 committees formed or existing primarily to support or oppose these candidates or
37 officeholders:

38 (1) The original and one copy with the Secretary of State.

39 (2) Two copies with the clerk of the county with the largest number of registered voters
40 in the districts affected.

41 (c) Elected officers in jurisdictions other than legislative districts, Board of
42 Equalization districts, or appellate court districts that contain parts of two or more
43 counties, candidates for these offices, their controlled committees, and committees
44 formed or existing primarily to support or oppose candidates or local measures to be
45 voted upon in one of these jurisdictions shall file the original and one copy with the clerk
46 of the county with the largest number of registered voters in the jurisdiction.

47 (d) County elected officers, ~~municipal court judges~~, candidates for these offices, their
48 controlled committees, committees formed or existing primarily to support or oppose

1 candidates or local measures to be voted upon in any number of jurisdictions within one
2 county, other than those specified in subdivision (e), and county general purpose
3 committees shall file the original and one copy with the clerk of the county.

4 (e) City elected officers, candidates for city office, their controlled committees,
5 committees formed or existing primarily to support or oppose candidates or local
6 measures to be voted upon in one city, and city general purpose committees shall file the
7 original and one copy with the clerk of the city. These elected officers, candidates, and
8 committees need not file with the clerk of the county in which they are domiciled.

9 (f) Notwithstanding the above, a committee, candidate, or elected officer is not required
10 to file more than the original and one copy, or two copies, of a campaign statement with
11 any one county or city clerk or with the Secretary of State.

12 (g) If a committee is required to file campaign statements required by Section 84200 or
13 84200.5 in places designated in subdivisions (d) and (e), it shall continue to file these
14 statements in those places, in addition to any other places required by this title, until the
15 end of the calendar year.

16 **Comment.** Subdivision (d) of Section 84215 is amended to reflect unification of the municipal
17 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

18 **Gov't Code § 91013.5 (amended). Civil action**

19 SEC. ____ . Section 91013.5 of the Government Code is amended to read:

20 91013.5. In addition to any other available remedies, the commission or the filing
21 officer may bring a civil action and obtain a judgment in ~~small claims, municipal, or~~
22 ~~superior court, depending on the jurisdictional amount,~~ for the purpose of collecting any
23 unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The
24 action may be filed as a small claims, limited civil, or unlimited civil case, depending on
25 the jurisdictional amount. The venue for this action shall be in the county where the
26 monetary penalties, fees, or civil penalties were imposed by the commission or the filing
27 officer. In order to obtain a judgment in a proceeding under this section, the commission
28 or filing officer shall show, following the procedures and rules of evidence as applied in
29 ordinary civil actions, all of the following:

30 (a) That the monetary penalties, fees, or civil penalties were imposed following the
31 procedures set forth in this title and implementing regulations.

32 (b) That the defendant or defendants in the action were notified, by actual or
33 constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

34 (c) That a demand for payment has been made by the commission or the filing officer
35 and full payment has not been received.

36 **Comment.** Section 91013.5 is amended to reflect unification of the municipal and superior
37 courts pursuant to Article VI, Section 5(e), of the California Constitution. For small claims
38 jurisdiction, see Code Civ. Proc. § 116.220. For limited civil cases, see Code Civ. Proc. § 85. For
39 unlimited civil cases, see Code Civ. Proc. § 88.

40 HARBORS AND NAVIGATION CODE

41 **Harb. & Nav. Code § 515 (amended). Bond requirement**

42 SEC. ____ . Section 515 of the Harbors and Navigation Code is amended to read:

43 515. Before making the order, the judge shall require from the claimant a bond to the
44 people to be approved by the judge and filed with the ~~county clerk~~ of the court, in a
45 penalty double the value of the property or proceeds. The bond shall be conditioned upon

1 the payment of all damages that may be recovered against the claimant or the claimant's
2 representatives, within three years after its date, by any person establishing title to the
3 property or proceeds.

4 **Comment.** Section 515 is amended to reflect elimination of the county clerk's role as ex officio
5 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
6 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
7 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
8 county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840
9 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

10 **Harb. & Nav. Code § 664 (amended). Arrest procedures**

11 SEC. ____ . Section 664 of the Harbors and Navigation Code is amended to read:

12 664. (a) When any person is arrested for a violation of this chapter or any regulation
13 adopted by the department pursuant to this chapter or any ordinance or local law relating
14 to the operation and equipment of vessels, and such person is not immediately taken
15 before a magistrate, the arresting officer shall prepare in duplicate a written notice to
16 appear in court, containing the name and address of such person, the offense charged, and
17 the time and place where and when such person shall appear in court.

18 (b) The time specified in the notice to appear must be at least five days after such arrest.

19 (c) The place specified in the notice to appear shall be either any of the following:

20 1. Before a ~~municipal court judge, or superior court judge in a county in which there is~~
21 ~~no municipal court, who is~~ within the county in which the offense charged is alleged to
22 have been committed and who has jurisdiction of the offense and who is nearest and most
23 accessible with reference to the place where the arrest is made; ~~or,~~

24 2. Upon demand of the person arrested, before a ~~municipal court judge, or superior~~
25 ~~court judge in a county in which there is no municipal court, having jurisdiction of such~~
26 ~~offense at the county seat of the county in which such offense is alleged to have been~~
27 ~~committed; or before a judge in the judicial district in which the offense is alleged to have~~
28 ~~been committed.~~

29 3. Before an officer authorized by the county, city, or city and county, to receive a
30 deposit of bail.

31 4. Before a ~~municipal court judge, or superior court judge in a county in which there is~~
32 ~~no municipal court, who is~~ within 50 miles by the nearest road to the place of the alleged
33 offense ~~who has jurisdiction of the offense and whose judicial district~~ county contains
34 any portion of the body of water upon which the offense charged is alleged to have been
35 committed.

36 (d) The officer shall deliver one copy of the notice to appear to the arrested person and
37 the arrested person in order to secure release must give a written promise so to appear in
38 court by signing the duplicate notice which shall be retained by the officer. Thereupon the
39 arresting officer shall forthwith release the person arrested from custody.

40 (e) The officer shall, as soon as practicable, file the duplicate notice with the magistrate
41 specified therein. Thereupon the magistrate shall fix the amount of bail which in the
42 magistrate's judgment, in accordance with the provisions of Section 1275 of the Penal
43 Code, will be reasonable and sufficient for the appearance of the defendant and shall
44 indorse upon the notice a statement signed by the defendant in the form set forth in
45 Section 815a of the Penal Code. The defendant may, prior to the date upon which the
46 defendant promised to appear in court, deposit with the magistrate the amount of bail thus
47 set. Thereafter, at the time when the case is called for arraignment before the magistrate,
48 if the defendant shall not appear, either in person or by counsel, the magistrate may

1 declare the bail forfeited, and may in the magistrate’s discretion order that no further
2 proceedings shall be had in such case.

3 Upon the making of such order that no further proceedings be had, all sums deposited
4 as bail shall forthwith be paid into the county treasury for distribution pursuant to Section
5 1463 of the Penal Code.

6 (f) No warrant shall issue on such charge for the arrest of a person who has given such
7 written promise to appear in court, unless and until the person has violated such promise
8 or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply
9 with the terms and provisions of the judgment, as required by law.

10 **Comment.** Subdivision (c) of Section 664 is amended to reflect unification of the municipal
11 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

12 **Note: Comment Requested**

13 Harbors and Navigation Code Section 664 raises issues relating to local venue. The
14 Commission and the Judicial Council are studying this area and may propose further revisions to
15 address local venue issues. The Commission solicits comment on the proper treatment of the
16 section.

17 The Commission is also reviewing whether county treasury provisions remain viable, given the
18 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
19 Governance Act, and other changes to the structure of the trial courts. See Gov’t Code §§ 77003
20 and Cal. R. Ct. 810 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
21 (state funding of trial court operations). These matters are also being examined by a Joint Court-
22 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
23 treatment of the county treasury reference in subdivision (e).

24 **Harb. & Nav. Code § 667 (amended). Place of trial**

25 SEC. ____ . Section 667 of the Harbors and Navigation Code is amended to read:

26 667. In addition to any other court which may be a proper place of trial, any ~~municipal~~
27 superior court within 50 miles by the nearest road to the place of the alleged offense
28 ~~having jurisdiction of the offense, or the superior court in a county in which there is no~~
29 ~~municipal court~~, shall be a proper place of trial of any person on a charge of violation of
30 this chapter or any regulation adopted by the department pursuant to this chapter or any
31 ordinance or local law relating to the operation and equipment of vessels if the ~~judicial~~
32 district county in which the court is located includes any portion of the body of water
33 upon which the offense charged is alleged to have been committed.

34 **Comment.** Section 667 is amended to reflect unification of the municipal and superior courts
35 pursuant to Article VI, Section 5(e), of the California Constitution.

36 **Note: Comment Requested**

37 Harbors and Navigation Code Section 667 raises issues relating to local venue. The
38 Commission and the Judicial Council are studying this area and may propose further revisions to
39 address local venue issues. The Commission solicits comment on the proper treatment of the
40 section.

41 HEALTH AND SAFETY CODE

42 **Health & Safety Code § 1428 (amended). Contest of citation or civil penalty**

43 SEC. ____ . Section 1428 of the Health and Safety Code is amended to read:

1 1428. (a) If the licensee desires to contest a citation or the proposed assessment of a
2 civil penalty therefor, the licensee shall use the processes described in subdivisions (b)
3 and (c) for classes “AA,” “A,” or “B” citations. As a result of a citation review
4 conference, a citation or the proposed assessment of a civil penalty may be affirmed,
5 modified, or dismissed by the director or the director’s designee. If the director’s
6 designee affirms, modifies, or dismisses the citation or proposed assessment of a civil
7 penalty, he or she shall state with particularity in writing his or her reasons for that action,
8 and shall immediately transmit a copy thereof to each party to the original complaint. If
9 the licensee desires to contest a decision made after the citation review conference, the
10 licensee shall inform the director in writing within 15 business days after he or she
11 receives the decision by the director’s designee.

12 (b) If a licensee notifies the director that he or she intends to contest a class “AA” or a
13 class “A” citation, the licensee may first, within 15 business days after service of the
14 citation, notify the director in writing of his or her request for a citation review
15 conference. The licensee shall inform the director in writing, within 15 business days of
16 the service of the citation or the receipt of the decision of the director’s designee after the
17 citation review conference, of the licensee’s intent to adjudicate the validity of the
18 citation in the ~~municipal~~ or superior court in the county in which the long-term health
19 care facility is located. In order to perfect a judicial appeal of a contested citation, a
20 licensee shall file a civil action in the ~~municipal~~ or superior court in the county in which
21 the long-term health care facility is located. The action shall be filed no later than 90
22 calendar days after a licensee notifies the director that he or she intends to contest the
23 citation, or no later than 90 days after the receipt of the decision by the director’s
24 designee after the citation review conference, and served not later than 90 days after
25 filing. Notwithstanding any other provision of law, a licensee prosecuting a judicial
26 appeal shall file and serve an at-issue memorandum pursuant to Rule 209 of the
27 California Rules of Court within six months after the state department files its answer in
28 the appeal. Notwithstanding subdivision (d), the court shall dismiss the appeal upon
29 motion of the state department if the at-issue memorandum is not filed by the facility
30 within the period specified. The court may affirm, modify, or dismiss the citation, the
31 level of the citation, or the amount of the proposed assessment of the civil penalty.

32 (c) If a licensee desires to contest a class “B” citation, the licensee may request, within
33 15 business days after service of the citation, a citation review conference, by writing the
34 director or the director’s designee of the licensee’s intent to appeal the citation through
35 the citation review conference. If the licensee wishes to appeal the citation which has
36 been upheld in a citation review conference, the licensee shall, within 15 working days
37 from the date the citation review conference decision was rendered, notify the director or
38 the director’s designee that he or she wishes to appeal the decision through the procedures
39 set forth in Section 100171 or elects to submit the matter to binding arbitration in
40 accordance with subdivision (d). The administrative law judge may affirm, modify, or
41 dismiss the citation or the proposed assessment of a civil penalty. The licensee may
42 choose to have his or her appeal heard by the administrative law judge or submit the
43 matter to binding arbitration without having first appealed the decision to a citation
44 review conference by notifying the director in writing within 15 business days of the
45 service of the citation.

46 (d) If a licensee is dissatisfied with the decision of the administrative law judge, the
47 licensee may, in lieu of seeking judicial review of the decision as provided in Section
48 1094.5 of the Code of Civil Procedure, elect to submit the matter to binding arbitration by
49 filing, within 60 days of its receipt of the decision, a request for arbitration with the

1 American Arbitration Association. The parties shall agree upon an arbitrator designated
2 from the American Arbitration Association in accordance with the association's
3 established rules and procedures. The arbitration hearing shall be set within 45 days of
4 the election to arbitrate, but in no event less than 28 days from the date of selection of an
5 arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary
6 at the arbitrator's discretion. Except as otherwise specifically provided in this
7 subdivision, the arbitration hearing shall be conducted in accordance with the American
8 Arbitration Association's established rules and procedures. The arbitrator shall determine
9 whether the licensee violated the regulation or regulations cited by the department, and
10 whether the citation meets the criteria established in Sections 1423 and 1424. If the
11 arbitrator determines that the licensee has violated the regulation or regulations cited by
12 the department, and that the class of the citation should be upheld, the proposed
13 assessment of a civil penalty shall be affirmed, subject to the limitations established in
14 Section 1424. The licensee and the department shall each bear its respective portion of
15 the cost of arbitration. A resident, or his or her designated representative, or both, entitled
16 to participate in the citation review conference pursuant to subdivision (f), may make an
17 oral or written statement regarding the citation, at any arbitration hearing to which the
18 matter has been submitted after the citation review conference.

19 (e) If an appeal is prosecuted under this section, including an appeal taken in
20 accordance with Section 100171, the state department shall have the burden of
21 establishing by a preponderance of the evidence that (1) the alleged violation did occur,
22 (2) the alleged violation met the criteria for the class of citation alleged, and (3) the
23 assessed penalty was appropriate. The state department shall also have the burden of
24 establishing by a preponderance of the evidence that the assessment of a civil penalty
25 should be upheld. If a licensee fails to notify the director in writing that he or she intends
26 to contest the citation, or the proposed assessment of a civil penalty therefor, or the
27 decision made by the director's designee, after a citation review conference, within the
28 time specified in this section, the decision by the director's designee after a citation
29 review conference shall be deemed a final order of the state department and shall not be
30 subject to further administrative review, except that the licensee may seek judicial relief
31 from the time limits specified in this section. If a licensee appeals a contested citation or
32 the assessment of a civil penalty, no civil penalty shall be due and payable unless and
33 until the appeal is terminated in favor of the state department.

34 (f) The director or the director's designee shall establish an independent unit of trained
35 citation review conference hearing officers within the state department to conduct citation
36 review conferences. Citation review conference hearing officers shall be directly
37 responsible to the deputy director for licensing and certification, and shall not be
38 concurrently employed as supervisors, district administrators, or regional administrators
39 with the licensing and certification division. Specific training shall be provided to
40 members of this unit on conducting an informal conference, with emphasis on the
41 regulatory and legal aspects of long-term health care.

42 Where the state department issues a citation as a result of a complaint or regular
43 inspection visit, and a resident or residents are specifically identified in a citation by
44 name as being specifically affected by the violation, then the following persons may
45 attend the citation review conference:

- 46 (1) The complainant and his or her designated representative.
- 47 (2) A personal health care provider, designated by the resident.
- 48 (3) A personal attorney.

1 (4) Any person representing the Office of the State Long-Term Care Ombudsman, as
2 referred to in subdivision (d) of Section 9701 of the Welfare and Institutions Code.

3 Where the state department determines that residents in the facility were threatened by
4 the cited violation but does not name specific residents, any person representing the
5 Office of the State Long-Term Care Ombudsman, as referred to in subdivision (d) of
6 Section 9701 of the Welfare and Institutions Code, and a representative of the residents or
7 family council at the facility may participate to represent all residents. In this case, these
8 representatives shall be the sole participants for the residents in the conference. The
9 residents or family council shall designate which representative will participate.

10 The complainant, affected resident, and their designated representatives shall be
11 notified by the state department of the conference and their right to participate. The
12 director's designee shall notify the complainant or his or her designated representative
13 and the affected resident or his or her designated representative, of his or her
14 determination based on the citation review conference.

15 (g) In assessing the civil penalty for a violation, all relevant facts shall be considered,
16 including, but not limited to, all of the following:

17 (1) The probability and severity of the risk which the violation presents to the patient's
18 or resident's mental and physical condition.

19 (2) The patient's or resident's medical condition.

20 (3) The patient's or resident's mental condition and his or her history of mental
21 disability.

22 (4) The good faith efforts exercised by the facility to prevent the violation from
23 occurring.

24 (5) The licensee's history of compliance with regulations.

25 (h) Except as otherwise provided in this subdivision, an assessment of civil penalties
26 for a class "A" or class "B" violation shall be trebled and collected for a second and
27 subsequent violation for which a citation of the same class was issued within any 12-
28 month period. Trebling shall occur only if the first citation issued within the 12-month
29 period was issued in the same class, a civil penalty was assessed, and a plan of correction
30 was submitted for the previous same-class violation occurring within the period, without
31 regard to whether the action to enforce the previous citation has become final. However,
32 the increment to the civil penalty required by this subdivision shall not be due and
33 payable unless and until the previous action has terminated in favor of the state
34 department.

35 If the class "B" citation is issued for a patient's rights violation, as defined in
36 subdivision (c) of Section 1424, it shall not be trebled unless the state department
37 determines the violation has a direct or immediate relationship to the health, safety,
38 security, or welfare of long-term health care facility residents.

39 (i) The director shall prescribe procedures for the issuance of a notice of violation with
40 respect to violations having only a minimal relationship to safety or health.


41 (j) Actions brought under this chapter shall be set for trial at the earliest possible date
42 and shall take precedence on the court calendar over all other cases except matters to
43 which equal or superior precedence is specifically granted by law. Times for responsive
44 pleading and for hearing the proceeding shall be set by the judge of the court with the
45 object of securing a decision as to subject matters at the earliest possible time.

46 (k) If the citation is dismissed, the state department shall take action immediately to
47 ensure that the public records reflect in a prominent manner that the citation was
48 dismissed.

1 (l) Penalties paid on violations under this chapter shall be applied against the state
2 department's accounts to offset any costs incurred by the state pursuant to this chapter.
3 Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of
4 the date the decision becomes final. If a facility does not comply with this requirement,
5 the state department shall withhold any payment under the Medi-Cal program until the
6 debt is satisfied. No payment shall be withheld if the state department determines that it
7 would cause undue hardship to the facility or to patients or residents of the facility.

8 (m) The amendments made to subdivisions (a) and (c) of this section by Chapter 84 of
9 the Statutes of 1988, to extend the number of days allowed for the provision of
10 notification to the director, do not affect the right, that is also contained in those
11 amendments, to request judicial relief from these time limits.

12 **Comment.** Subdivision (b) of Section 1428 is amended to reflect unification of the municipal
13 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For the
14 jurisdictional classification of an action pursuant to this section, see Code Civ. Proc. § 86.1.

15  **Note.** Subdivision (b) of Health and Safety Code Section 1428 requires a licensee to file and
16 serve an at-issue memorandum "within six months after the state department files its answer in
17 the appeal." This requirement may be obsolete, because in many cases an at-issue memorandum
18 is no longer required. See Cal. R. Ct. 209; R. Weil & I. Brown, Jr., California Practice Guide:
19 Civil Procedure Before Trial, *Case Management and Trial Setting* § 12:101, at 12(I)-36 (2001).
20 The Commission does not plan to address this point in the instant proposal, but the issue may be
21 appropriate for future study.

22 **Health & Safety Code § 1543 (amended). Prosecution of misdemeanors by district attorney**
23 **or city attorney**

24 SEC. ____ . Section 1543 of the Health and Safety Code is amended to read:

25 1543. Notwithstanding any other provision of this chapter, the district attorney of every
26 county, and city attorneys in those cities which have city attorneys who have jurisdiction
27 to prosecute misdemeanors pursuant to ~~Sections 71099 and~~ Section 72193 of the
28 Government Code, shall, upon their own initiative or upon application by the state
29 department or its authorized representative, institute and conduct the prosecution of any
30 action for violation within his or her county of any provisions of this chapter.

31 **Comment.** Section 1543 is amended to reflect the repeal of Government Code Section 71099,
32 concerning prosecution of misdemeanor cases where a court is superseded by a municipal court.

33 **Health & Safety Code § 1568.0823 (amended). Violation of chapter**

34 SEC. ____ . Section 1568.0823 of the Health and Safety Code is amended to read:

35 1568.0823. (a) Any person who violates this chapter, or who willfully or repeatedly
36 violates any rule or regulation adopted under this chapter, is guilty of a misdemeanor and
37 upon conviction thereof shall be punished by a fine not to exceed one thousand dollars
38 (\$1,000), or by imprisonment in the county jail for a period not to exceed 180 days, or by
39 both fine and imprisonment.

40 (b) Operation of a residential care facility without a license shall be subject to a
41 summons to appear in court.

42 (c) Notwithstanding any other provision of this chapter, the district attorney of every
43 county, and the city attorneys in those cities which have city attorneys who have
44 jurisdiction to prosecute misdemeanors pursuant to ~~Sections 71099 and~~ Section 72193 of
45 the Government Code, shall, upon their own initiative or upon application by the

1 department or its authorized representative, institute and conduct the prosecution of any
2 action for violation within his or her county of this chapter.

3 **Comment.** Subdivision (c) of Section 1568.0823 is amended to reflect the repeal of
4 Government Code Section 71099, concerning prosecution of misdemeanor cases where a court is
5 superseded by a municipal court.

6 **Health & Safety Code § 1569.43 (amended). Prosecution of actions for violations**

7 SEC. ____ . Section 1569.43 of the Health and Safety Code is amended to read:

8 1569.43. Notwithstanding any other provisions of this chapter, the district attorney of
9 every county, and city attorneys in those cities which have city attorneys which prosecute
10 misdemeanors pursuant to ~~Sections 71099 and Section~~ 72193 of the Government Code,
11 shall, upon their own initiative or upon application by the state department or its
12 authorized representative, institute and conduct the prosecution of any action for violation
13 of this chapter within his or her jurisdiction.

14 **Comment.** Section 1569.43 is amended to reflect the repeal of Government Code Section
15 71099, concerning prosecution of misdemeanor cases where a court is superseded by a municipal
16 court.

17 **Health & Safety Code § 11758.54 (amended). Evaluation of alcohol detoxification and**
18 **intravenous drug user AIDS education pilot project**

19 SEC. ____ . Section 11758.54 of the Health and Safety Code is amended to read:

20 11758.54. (a) The department, in cooperation with San Luis Obispo County, shall
21 evaluate the pilot project created pursuant to this chapter. The evaluation shall include
22 numbers of intravenous (IV) drug users in target counties, status of HIV test results
23 among alcoholics and IV drug users not in recovery, drug and alcohol-related jail intakes,
24 and repeat offenses. Changes in the above data following completion of the in-home
25 detoxification project shall be carefully scrutinized. Particular attention shall be paid to
26 changes in incidence of HIV test results among individuals requesting testing from the
27 San Luis Obispo County health department and repeat alcohol- and drug-related offenses
28 as tracked by the county jail, municipal or superior court, and Department of Motor
29 Vehicles.

30 (b) Additional monitoring and outcome data shall be collected regarding clients of the
31 in-home detoxification pilot project, that shall include each of the following:

- 32 (1) Clients' health status at time of intake screening.
- 33 (2) Clients' health status during detoxification.
- 34 (3) Clients' health status after detoxification.
- 35 (4) Status and results of HIV testing for those choosing the test.
- 36 (5) Numbers of detoxification referrals completed.
- 37 (6) Numbers of successful referrals to followup.
- 38 (7) Rate of subsequent rearrest.

39 (c) The degree of successful completion of program objectives shall also be analyzed
40 and discussed. Analysis shall be based on results of monitoring instruments designed for
41 the in-home detoxification project that shall include all of the following:

- 42 (1) Numbers of referrals to the in-home detoxification project initiated.
- 43 (2) Numbers of clients (both detoxification clients and family members) who
44 successfully meet educational criteria related to AIDS education.
- 45 (3) Numbers of detoxification referrals completed.
- 46 (4) Numbers of successful referrals to followup treatment.
- 47 (5) Rate of subsequent rearrest.

1 (d) The department shall submit an evaluation of the pilot project to the Governor and
2 the Legislature not later than July 1, 1992.

3 (e) Blood testing and test result disclosure shall be in accordance with Chapter 7
4 (commencing with Section 120975) and Chapter 10 (commencing with Section 121075)
5 of Part 4 of Division 105.

6 **Comment.** Subdivision (a) of Section 11758.54 is amended to reflect unification of the
7 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

8 **Note: Comment Requested**

9 The reference to the municipal court in Health and Safety Code Section 11758.54 would be
10 retained, because records of proceedings in the municipal courts have continuing significance
11 despite the elimination of those courts (e.g., in evaluating the pilot project referenced in the
12 section).

13 The report required by subdivision (d) was due by July 1, 1992. Similarly, Health and Safety
14 Code Section 11758.51 provides that the pilot project “shall terminate on July 1, 1991, except as
15 otherwise specified” by San Luis Obispo County. The Commission solicits comment on whether
16 Section 11758.54(d) or other provisions relating to this pilot project continue to serve a useful
17 purpose.

18 **Health & Safety Code § 102247 (amended). Health statistics special fund**

19 SEC. ____ . Section 102247 of the Health and Safety Code is amended to read:

20 102247. (a) There is hereby created in the State Treasury the Health Statistics Special
21 Fund. The fund shall consist of revenues including, but not limited to, all of the
22 following:

23 (1) Fees or charges remitted to the State Registrar for record search or issuance of
24 certificates, permits, registrations, or other documents pursuant to Chapter 3
25 (commencing with Section 26800 26801) of Part 3 of Division 2 of Title 3 of the
26 Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5
27 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and
28 Chapter 15 (commencing with Section 103600), of Part 1, of Division 102.

29 (2) Funds remitted to the State Registrar by the federal Social Security Administration
30 for participation in the enumeration at birth program.

31 (3) Funds remitted to the State Registrar by the National Center for Health Statistics
32 pursuant to the federal Vital Statistics Cooperative Program.

33 (4) Any other funds collected by the State Registrar, except Children’s Trust Fund fees
34 collected pursuant to Section 18966 of the Welfare and Institutions Code, fees allocated
35 to the Judicial Council pursuant to Section 1852 of the Family Code, and fees collected
36 pursuant to Section 103645, all of which shall be deposited into the General Fund.

37 (b) Moneys in the Health Statistics Special Fund shall be expended by the State
38 Registrar for the purpose of funding its existing programs and programs that may become
39 necessary to carry out its mission, upon appropriation by the Legislature.

40 (c) Health Statistics Special Fund moneys shall be expended only for the purposes set
41 forth in this section and Section 102249, and shall not be expended for any other purpose
42 or for any other state program.


43 (d) It is the intent of the Legislature that the Health Statistics Special Fund provide for
44 the following:

45 (1) Registration and preservation of vital event records and dissemination of vital event
46 information to the public.

1 (2) Data analysis of vital statistics for population projections, health trends and
2 patterns, epidemiologic research, and development of information to support new health
3 policies.

4 (3) Development of uniform health data systems that are integrated, accessible, and
5 useful in the collection of information on health status.

6 **Comment.** Section 102247 is amended to correct the reference to former Section 26800.

7  **Note.** Health and Safety Code Section 102247 reflects legislative changes made in AB 430
8 (Cardenas). See 2001 Cal. Stat. ch. 171, § 4.

9 **Health & Safety Code § 103625 (amended). Certified copies**

10 SEC. ____ . Section 103625 of the Health and Safety Code is amended to read:

11 103625. (a) A fee of three dollars (\$3) shall be paid by the applicant for a certified copy
12 of a fetal death or death record.

13 (b)(1) A fee of three dollars (\$3) shall be paid by a public agency or licensed private
14 adoption agency applicant for a certified copy of a birth certificate that the agency is
15 required to obtain in the ordinary course of business. A fee of seven dollars (\$7) shall be
16 paid by any other applicant for a certified copy of a birth certificate. Four dollars (\$4) of
17 any seven-dollar (\$7) fee is exempt from subdivision (e) and shall be paid either to a
18 county children's trust fund or to the State Children's Trust Fund, in conformity with
19 Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the
20 Welfare and Institutions Code.

21 (2) The board of supervisors of any county that has established a county children's trust
22 fund may increase the fee for a certified copy of a birth certificate by up to three dollars
23 (\$3) for deposit in the county children's trust fund in conformity with Article 5
24 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare
25 and Institutions Code.

26 ~~(3) The board of supervisors of any county may increase the fee for a certified copy of~~
27 ~~a birth certificate by up to three dollars (\$3) through June 30, 1999, or until any earlier~~
28 ~~date upon which the board of supervisors finds that the fee is no longer necessary for~~
29 ~~dependency mediation funding, the proceeds of which shall be used solely for the~~
30 ~~purpose of providing dependency mediation services in the juvenile court. Public~~
31 ~~agencies shall be exempt from paying this portion of the fee. However, if a county~~
32 ~~increases this fee, neither the revenue generated from the fee increase nor the increased~~
33 ~~expenditures made for these services shall be considered in determining the court's~~
34 ~~progress towards achieving its cost reduction goals pursuant to Section 68113 of the~~
35 ~~Government Code if the net effect of the revenue and expenditures is a cost increase. In~~
36 ~~each county that increases the fee pursuant to this paragraph, up to 5 percent of the~~
37 ~~revenue generated from the fee increase may be apportioned to the county recorder for~~
38 ~~the additional accounting costs of the program.~~

39 (c) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified
40 copy of a marriage record, that has been filed with the county recorder or county clerk,
41 that the agency is required to obtain in the ordinary course of business. A fee of six
42 dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage record
43 that has been filed with the county recorder or county clerk. Three dollars (\$3) of any six-
44 dollar (\$6) fee is exempt from subdivision (e) and shall be transmitted monthly by each
45 local registrar, county recorder, and county clerk to the state for deposit into the General
46 Fund as provided by Section 1852 of the Family Code.

1 (d) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified
2 copy of a marriage dissolution record obtained from the State Registrar that the agency is
3 required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be
4 paid by any other applicant for a certified copy of a marriage dissolution record obtained
5 from the State Registrar.

6 (e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to
7 subdivisions (a) to (d), inclusive, shall transmit 15 percent of the fee for each certified
8 copy to the State Registrar by the 10th day of the month following the month in which the
9 fee was received.

10 (f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all
11 applicants for certified copies of the records described in those subdivisions shall pay an
12 additional fee of three dollars (\$3), that shall be collected by the State Registrar, the local
13 registrar, county recorder, or county clerk, as the case may be.

14 (g) The local public official charged with the collection of the additional fee established
15 pursuant to subdivision (f) may create a local vital and health statistics trust fund. The
16 fees collected by local public officials pursuant to subdivision (f) shall be distributed as
17 follows:

18 (1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be
19 transmitted to the State Registrar.

20 (2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into
21 the collecting agency's vital and health statistics trust fund, except that in any jurisdiction
22 in which a local vital and health statistics fund has not been established, the entire amount
23 of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

24 (3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be
25 deposited in accordance with Section 102247.

26 (h) Moneys in each local vital and health statistics trust fund shall be available to the
27 local official charged with the collection of fees pursuant to subdivision (f) for the
28 applicable jurisdiction for the purpose of defraying the administrative costs of collecting
29 and reporting with respect to those fees and for other costs as follows:

30 (1) Modernization of vital record operations, including improvement, automation, and
31 technical support of vital record systems.

32 (2) Improvement in the collection and analysis of health-related birth and death
33 certificate information, and other community health data collection and analysis, as
34 appropriate.

35 (i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in
36 existence on January 1, 2002, that is necessary for the daily operation of vital record
37 systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f)
38 be used to enhance service to the public, to improve analytical capabilities of state and
39 local health authorities in addressing the health needs of newborn children and maternal
40 health problems, and to analyze the health status of the general population.


41 (j) Each county shall annually submit a report to the State Registrar by March 1
42 containing information on the amount of revenues collected pursuant to subdivision (f) in
43 the previous calendar year and on how the revenues were expended and for what purpose.

44 (k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to
45 subdivision (f) shall transmit 45 percent of the fee for each certified copy to which
46 subdivision (f) applies to the State Registrar by the 10th day of the month following the
47 month in which the fee was received.

1 (l) The additional three dollars (\$3) authorized to be charged to applicants other than
2 public agency applicants for certified copies of marriage records by subdivision (c) may
3 be increased pursuant to Section 114.

4 (m) In providing for the expiration of the surcharge on birth certificate fees on June 30,
5 1999, the Legislature intends that juvenile dependency mediation programs pursue
6 ancillary funding sources after that date.

7 **Comment.** Section 103625 is amended to delete subdivision (b)(3) as obsolete. The period
8 during which a board of supervisors was authorized to increase the fee for a certified copy of a
9 birth certificate has elapsed.

10  **Note.** Health and Safety Code Section 103625 reflects legislative changes made in AB 430
11 (Cardenas). See 2001 Cal. Stat. ch. 171, § 6.

12 **Health & Safety Code § 108580 (unchanged). Condemnation proceedings**

13 108580. When a toy is alleged to be in violation of this article, the department or the
14 local health officer shall commence proceedings in the superior court, or municipal court
15 in whose jurisdiction the toy is located, for condemnation of the article.

16  **Note: Comment Requested**

17 Health and Safety Code Section 108580 can be construed to confer concurrent jurisdiction on
18 the municipal and superior courts. Thus, the Comment to the 1998 amendment of the section
19 (replacing “inferior court” with “municipal court”) states: “Whether a proceeding under this
20 section is treated as a limited civil case or otherwise depends on the designation made by the
21 person bringing it.”

22 Further study is required to determine how to amend the section so as to provide appropriate
23 guidance regarding jurisdictional classification, if necessary. The Commission solicits comment
24 on the proper treatment of the section.

25 The section also raises issues relating to local venue. The Commission and the Judicial Council
26 are studying this area and may propose revisions to address local venue issues. The Commission
27 solicits comment on the proper treatment of the section with regard to venue.

28 **Health & Safety Code § 110375 (unchanged). Deceptive packaging**

29 110375. (a) No container wherein commodities are packed shall have a false bottom,
30 false sidewalls, false lid or covering, or be otherwise so constructed or filled, wholly or
31 partially, as to facilitate the perpetration of deception or fraud.

32 (b) No container shall be made, formed, or filled as to be misleading. A container that
33 does not allow the consumer to fully view its contents shall be considered to be filled as
34 to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between
35 the actual capacity of a container and the volume of product contained therein.
36 Nonfunctional slack fill is the empty space in a package that is filled to less than its
37 capacity for reasons other than the following:

38 (1) Protection of the contents of the package.

39 (2) The requirements of machines used for enclosing the contents of the package.

40 (3) Unavoidable product settling during shipping and handling.

41 (4) The need to utilize a larger than required package or container to provide adequate
42 space for the legible presentation of mandatory and necessary labeling information, such
43 as those based on the regulations adopted by the Food and Drug Administration or state
44 or federal agencies under federal or state law, laws or regulations adopted by foreign
45 governments, or under an industrywide voluntary labeling program.

1 (5) The fact that the product consists of a commodity that is packaged in a decorative or
2 representational container where the container is part of the presentation of the product
3 and has value that is both significant in proportion to the value of the product and
4 independent of its function to hold the product, such as a gift combined with a container
5 that is intended for further use after the product is consumed, or durable commemorative
6 or promotional packages.

7 (6) An inability to increase the level of fill or to further reduce the size of the package,
8 such as where some minimum package size is necessary to accommodate required
9 labeling, discourage pilfering, facilitate handling, or accommodate tamper-resistant
10 devices.

11 (7) The product container bears a reasonable relationship to the actual amount of
12 product contained inside, and the dimensions of the actual product container, the product,
13 or the amount of product therein is visible to the consumer at the point of sale, or where
14 obvious secondary use packaging is involved.

15 (8) The dimensions of the product or immediate product container are visible through
16 the exterior packaging, or where the actual size of the product or immediate product
17 container is clearly and conspicuously depicted on the exterior packaging, accompanied
18 by a clear and conspicuous disclosure that the representation is the “actual size” of the
19 product or the immediate product container.

20 (9) The presence of any head space within an immediate product container necessary to
21 facilitate the mixing, adding, shaking, or dispensing of liquids or powders by consumers
22 prior to use.

23 (10) The exterior packaging contains a product delivery or dosing device if the device
24 is visible, or a clear and conspicuous depiction of the device appears on the exterior
25 packaging, or it is readily apparent from the conspicuous exterior disclosures or the
26 nature and name of the product that a delivery or dosing device is contained in the
27 package.

28 (11) The exterior packaging or immediate product container is a kit that consists of a
29 system, or multiple components, designed to produce a particular result that is not
30 dependent upon the quantity of the contents, if the purpose of the kit is clearly and
31 conspicuously disclosed on the exterior packaging.

32 (12) The exterior packaging of the product is routinely displayed using tester units or
33 demonstrations to consumers in retail stores, so that customers can see the actual,
34 immediate container of the product being sold, or a depiction of the actual size thereof
35 prior to purchase.

36 (13) The exterior packaging consists of single or multi-unit presentation boxes of
37 holiday or gift packages if the purchaser can adequately determine the quantity and sizes
38 of the immediate product container at the point of sale.

39 (14) The exterior packaging is for a combination of one purchased product, together
40 with a free sample or gift, wherein the exterior packaging is necessarily larger than it
41 would otherwise be due to the inclusion of the sample or gift, if the presence of both
42 products and the quantity of each product are clearly and conspicuously disclosed on the
43 exterior packaging.

44 (c) Any sealer may seize a container that facilitates the perpetration of deception or
45 fraud and the contents of the container. By order of the municipal or superior court of the
46 city or county within which a violation of this section occurs, the containers seized shall
47 be condemned and destroyed or released upon such conditions as the court may impose to
48 insure against their use in violation of this chapter. The contents of any condemned

1 container shall be returned to the owner thereof if the owner furnishes proper facilities for
2 the return.

3 **Note: Comment Requested**

4 Subdivision (c) of Health and Safety Code Section 110375 can be construed to confer
5 concurrent jurisdiction on the municipal and superior courts. Further study is required to
6 determine how to amend the section so as to provide appropriate guidance regarding jurisdictional
7 classification, if necessary. The Commission solicits comment on the proper treatment of the
8 section.

9 The section also raises issues relating to local venue. The Commission and the Judicial Council
10 are studying this area and may propose revisions to address local venue issues. The Commission
11 solicits comment on the proper treatment of the section with regard to venue.

12 **Health & Safety Code § 111880 (unchanged). Condemnation proceedings**

13 111880. When a food, drug, device, or cosmetic is alleged to be adulterated,
14 misbranded, falsely advertised, or the sale of which is otherwise in violation of this part,
15 the department shall commence proceedings in the superior court or municipal court in
16 whose jurisdiction the food, drug, device, or cosmetic is located, for condemnation of the
17 article.

18 **Note: Comment Requested**

19 Health and Safety Code Section 111880 can be construed to confer concurrent jurisdiction on
20 the municipal and superior courts. Thus, the Comment to the 1998 amendment of the section
21 (replacing “inferior court” with “municipal court”) states: “Whether a proceeding under this
22 section is treated as a limited civil case or otherwise depends on the designation made by the
23 person bringing it.”

24 Further study is required to determine how to amend the section so as to provide appropriate
25 guidance regarding jurisdictional classification, if necessary. The Commission solicits comment
26 on the proper treatment of the section.

27 The section also raises issues relating to local venue. The Commission and the Judicial Council
28 are studying this area and may propose revisions to address local venue issues. The Commission
29 solicits comment on the proper treatment of the section with regard to venue.

30 **Health & Safety Code § 111895 (unchanged). Condemnation or destruction of food, drug,
31 device, or cosmetic**

32 111895. Any superior or municipal court of this state may condemn any food, drug,
33 device, or cosmetic under provisions of this part. In the absence of such an order, the
34 food, drug, device, or cosmetic may be destroyed under the supervision of an authorized
35 agent of the department who has the written consent of the owner, his or her attorney, or
36 authorized representative.

37 **Note: Comment Requested**

38 Health and Safety Code Section 111895 can be construed to confer concurrent jurisdiction on
39 the municipal and superior courts. Thus, the Comment to the 1998 amendment of the section
40 (replacing “inferior court” with “municipal court”) states: “Whether a proceeding under this
41 section is treated as a limited civil case or otherwise depends on the designation made by the
42 person bringing it.”

43 Further study is required to determine how to amend the section so as to provide appropriate
44 guidance regarding jurisdictional classification, if necessary. The Commission solicits comment
45 on the proper treatment of the section.

1 The section also raises issues relating to local venue. The Commission and the Judicial Council
2 are studying this area and may propose revisions to address local venue issues. The Commission
3 solicits comment on the proper treatment of the section with regard to venue.

4 **Health & Safety Code § 117070 (amended). Violation of rule or regulation of public agency**

5 SEC. ____ . Section 117070 of the Health and Safety Code is amended to read:

6 117070. Any violation of any such rule or regulation lawfully made by the public
7 agency is a misdemeanor. ~~Any judge of a municipal court within any judicial district~~ The
8 superior court of the county within which the reservoir lies in whole or in part, ~~or any~~
9 ~~superior court in a county in which there is no municipal court, shall have jurisdiction~~ is a
10 proper place for trial of all prosecutions for violations of any rules and regulations
11 adopted by the public agency.

12 **Comment.** Section 117070 is amended to reflect unification of the municipal and superior
13 courts pursuant to Article VI, Section 5(e), of the California Constitution.

14 **Note: Comment Requested**

15 Health and Safety Code Section 117070 raises issues relating to local venue. The Commission
16 and the Judicial Council are studying this area and may propose revisions to address local venue
17 issues. The Commission solicits comment on the proper treatment of the section with regard to
18 venue.

19 **Health & Safety Code § 117120 (amended). Violation of rule or regulation of governmental**
20 **agency**

21 SEC. ____ . Section 117120 of the Health and Safety Code is amended to read:

22 117120. Any violation of any rule or regulation lawfully made by the governmental
23 agency is a misdemeanor. ~~Any judge of a municipal court within any judicial district~~ The
24 superior court of the county within which the reservoir lies in whole or in part, ~~or any~~
25 ~~superior court in a county in which there is no municipal court, shall have jurisdiction~~ is a
26 proper place for trial of all prosecutions for violations of any such rules and regulations
27 adopted by the governmental agency.

28 **Comment.** Section 117120 is amended to reflect unification of the municipal and superior
29 courts pursuant to Article VI, Section 5(e), of the California Constitution.

30 **Note: Comment Requested**

31 Health and Safety Code Section 117120 raises issues relating to local venue. The Commission
32 and the Judicial Council are studying this area and may propose revisions to address local venue
33 issues. The Commission solicits comment on the proper treatment of the section with regard to
34 venue.

35 **INSURANCE CODE**

36 **Ins. Code § 11706 (amended). Filing copy of award**

37 SEC. ____ . Section 11706 of the Insurance Code is amended to read:

38 11706. Such party may file a certified copy of any such award in the office of any
39 county clerk of a superior court of this State. Upon the filing of such copy the clerk shall
40 immediately enter a judgment thereon against the surety.

41 **Comment.** Section 11706 is amended to reflect elimination of the county clerk's role as ex
42 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk

1 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
2 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
3 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
4 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

5 LABOR CODE

6 **Lab. Code § 98 (amended). Investigation of employee complaints**

7 SEC. ____ . Section 98 of the Labor Code is amended to read:

8 98. (a) The Labor Commissioner shall have the authority to investigate employee
9 complaints. The Labor Commissioner may provide for a hearing in any action to recover
10 wages, penalties, and other demands for compensation properly before the division or the
11 Labor Commissioner including orders of the Industrial Welfare Commission, and shall
12 determine all matters arising under his or her jurisdiction. It shall be within the
13 jurisdiction of the Labor Commissioner to accept and determine claims from holders of
14 payroll checks or payroll drafts returned unpaid because of insufficient funds, if, after a
15 diligent search, the holder is unable to return the dishonored check or draft to the payee
16 and recover the sums paid out. Within 30 days of filing of the complaint, the Labor
17 Commissioner shall notify the parties as to whether a hearing will be held, or whether
18 action will be taken in accordance with Section 98.3, or whether no further action will be
19 taken on the complaint. If the determination is made by the Labor Commissioner to hold
20 a hearing, the hearing shall be held within 90 days of the date of that determination.
21 However, the Labor Commissioner may postpone or grant additional time before setting a
22 hearing if the Labor Commissioner finds that it would lead to an equitable and just
23 resolution of the dispute.

24 It is the intent of the Legislature that hearings held pursuant to this section be
25 conducted in an informal setting preserving the right of the parties.

26 (b) When a hearing is set, a copy of the complaint, which shall include the amount of
27 compensation requested, together with a notice of time and place of the hearing, shall be
28 served on all parties, personally or by certified mail.

29 (c) Within 10 days after service of the notice and the complaint, a defendant may file an
30 answer with the Labor Commissioner in any form as the Labor Commissioner may
31 prescribe, setting forth the particulars in which the complaint is inaccurate or incomplete
32 and the facts upon which the defendant intends to rely.

33 (d) No pleading other than the complaint and answer of the defendant or defendants
34 shall be required. Both shall be in writing and shall conform to the form and the rules of
35 practice and procedure adopted by the Labor Commissioner.

36 (e) Evidence on matters not pleaded in the answer shall be allowed only on terms and
37 conditions the Labor Commissioner shall impose. In all these cases, the claimant shall be
38 entitled to a continuance for purposes of review of the new evidence.

39 (f) If the defendant fails to appear or answer within the time allowed under this chapter,
40 no default shall be taken against him or her, but the Labor Commissioner shall hear the
41 evidence offered and shall issue an order, decision, or award in accordance with the
42 evidence. A defendant failing to appear or answer, or subsequently contending to be
43 aggrieved in any manner by want of notice of the pendency of the proceedings, may
44 apply to the Labor Commissioner for relief in accordance with Section 473 of the Code of
45 Civil Procedure. The Labor Commissioner may afford this relief. No right to relief,
46 including the claim that the findings or award of the Labor Commissioner or judgment

1 entered thereon are void upon their face, shall accrue to the defendant in any court unless
2 prior application is made to the Labor Commissioner in accordance with this chapter.

3 (g) All hearings conducted pursuant to this chapter are governed by the division and by
4 the rules of practice and procedure adopted by the Labor Commissioner.

5 (h) Whenever a claim is filed under this chapter against a person operating or doing
6 business under a fictitious business name, as defined in Section 17900 of the Business
7 and Professions Code, which relates to the person's business, the division shall inquire at
8 the time of the hearing whether the name of the person is the legal name under which the
9 business or person has been licensed, registered, incorporated, or otherwise authorized to
10 do business.

11 The division may amend an order, decision, or award to conform to the legal name of
12 the business or the person who is the defendant to a wage claim, provided it can be shown
13 that proper service was made on the defendant or his or her agent, unless a judgment had
14 been entered on the order, decision, or award pursuant to subdivision (d) of Section 98.2.
15 The Labor Commissioner may apply to the clerk of the ~~municipal~~ or superior court to
16 amend a judgment that has been issued pursuant to a final order, decision, or award to
17 conform to the legal name of the defendant, provided it can be shown that proper service
18 was made on the defendant or his or her agent.

19 **Comment.** Subdivision (h) of Section 98 is amended to reflect unification of the municipal and
20 superior courts pursuant to Article VI, Section 5(e), of the California Constitution. On unification
21 of the municipal and superior courts in a county, preexisting records of the municipal court
22 automatically became records of the superior court. Cal. Const. art. VI, § 23(c)(3); Gov't Code §
23 70212(c).

24 **Lab. Code § 98.1 (amended). Order, decision or award**

25 SEC. ____ . Section 98.1 of the Labor Code is amended to read:

26 98.1. (a) Within 15 days after the hearing is concluded, the Labor Commissioner shall
27 file in the office of the division a copy of the order, decision, or award. The order,
28 decision, or award shall include a summary of the hearing and the reasons for the
29 decision. Upon filing of the order, decision, or award, the Labor Commissioner shall
30 serve a copy of the decision personally or by first-class mail on the parties. The notice
31 shall also advise the parties of their right to appeal the decision or award and further
32 advise the parties that failure to do so within the period prescribed by this chapter shall
33 result in the decision or award becoming final and enforceable as a judgment by the
34 appropriate ~~municipal~~ or superior court, ~~in accordance with the appropriate rules of~~
35 ~~jurisdiction.~~

36 (b) For the purpose of this section, an award shall include any sums found owing,
37 damages proved, and any penalties awarded pursuant to this code.

38 (c) All awards granted pursuant to a hearing under this chapter shall accrue interest on
39 all due and unpaid wages at the same rate as prescribed by subdivision (b) of Section
40 3289 of the Civil Code. The interest shall accrue until the wages are paid from the date
41 that the wages were due and payable as provided in Part 1 (commencing with Section
42 200) of Division 2.

43 **Comment.** Section 98.1 is amended to reflect unification of the municipal and superior courts
44 pursuant to Article VI, Section 5(e), of the California Constitution.

45 **Note: Comment Requested**

46 The Commission solicits comment on whether it is necessary to refer to "the *appropriate*
47 superior court" in the last sentence of Labor Code Section 98.1(a). Would a reference to "the
48 superior court" suffice, or would it generate confusion regarding which superior court to contact

1 regarding enforcement of the judgment (e.g., where to apply for a writ of execution)? Would it be
2 better to refer to “the *proper* superior court” (as in most venue statutes) than to “the *appropriate*
3 superior court”?

4 **Lab. Code § 98.2 (amended). Review**

5 SEC. ____ . Section 98.2 of the Labor Code is amended to read:

6 98.2. (a) Within 10 days after service of notice of an order, decision, or award the
7 parties may seek review by filing an appeal to the ~~municipal or superior court, in~~
8 ~~accordance with the appropriate rules of jurisdiction,~~ where the appeal shall be heard de
9 novo. A copy of the appeal request shall be served upon the Labor Commissioner by the
10 appellant. For purposes of computing the 10-day period after service, Section 1013 of the
11 Code of Civil Procedure shall be applicable.

12 (b) Whenever an employer files an appeal pursuant to this section, the employer shall
13 post an undertaking with the reviewing court in the amount of the order, decision, or
14 award. The undertaking shall consist of an appeal bond issued by a licensed surety or a
15 cash deposit with the court in the amount of the order, decision, or award. The employer
16 shall provide written notification to the other parties and the Labor Commissioner of the
17 posting of the undertaking. The undertaking shall be on the condition that, if any
18 judgment is entered in favor of the employee, the employer shall pay the amount owed
19 pursuant to the judgment, and if the appeal is withdrawn or dismissed without entry of
20 judgment, the employer shall pay the amount owed pursuant to the order, decision, or
21 award of the Labor Commissioner unless the parties have executed a settlement
22 agreement for payment of some other amount, in which case the employer shall pay the
23 amount that the employer is obligated to pay under the terms of the settlement agreement.
24 If the employer fails to pay the amount owed within 10 days of entry of the judgment,
25 dismissal, or withdrawal of the appeal, or the execution of a settlement agreement, a
26 portion of the undertaking equal to the amount owed, or the entire undertaking if the
27 amount owed exceeds the undertaking, shall be forfeited to the employee.

28 (c) If the party seeking review by filing an appeal to the ~~municipal or superior court is~~
29 ~~unsuccessful in the appeal,~~ the court shall determine the costs and reasonable attorney’s
30 fees incurred by the other parties to the appeal, and assess that amount as a cost upon the
31 party filing the appeal.

32 (d) If no notice of appeal of the order, decision, or award is filed within the period set
33 forth in subdivision (a), the order, decision, or award shall, in the absence of fraud, be
34 deemed the final order.

35 (e) The Labor Commissioner shall file, within 10 days of the order becoming final
36 pursuant to subdivision (d), a certified copy of the final order with the clerk of the
37 ~~municipal or superior court, in accordance with the appropriate rules of jurisdiction,~~ of
38 the appropriate county unless a settlement has been reached by the parties and approved
39 by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in
40 conformity therewith. The judgment so entered shall have the same force and effect as,
41 and shall be subject to all of the provisions of law relating to, a judgment in a civil action,
42 and may be enforced in the same manner as any other judgment of the court in which it is
43 entered. Enforcement of the judgment shall receive court priority.

44 (f) In order to ensure that judgments are satisfied, the Labor Commissioner may serve
45 upon the judgment debtor, personally or by first-class mail at the last known address of
46 the judgment debtor listed with the division, a form similar to, and requiring the reporting
47 of the same information as, the form approved or adopted by the Judicial Council for

1 purposes of subdivision (a) of Section 116.830 of the Code of Civil Procedure to assist in
2 identifying the nature and location of any assets of the judgment debtor.

3 The judgment debtor shall complete the form and cause it to be delivered to the
4 division at the address listed on the form within 35 days after the form has been served on
5 the judgment debtor, unless the judgment has been satisfied. In case of willful failure by
6 the judgment debtor to comply with this subdivision, the division or the judgment
7 creditor may request the court to apply the sanctions provided in Section 708.170 of the
8 Code of Civil Procedure.

9 (g) Notwithstanding subdivision (e), the Labor Commissioner may stay execution of
10 any judgment entered upon an order, decision, or award that has become final upon good
11 cause appearing therefor and may impose the terms and conditions of the stay of
12 execution. A certified copy of the stay of execution shall be filed with the clerk entering
13 the judgment.

14 (h) When a judgment is satisfied in fact, otherwise than by execution, the Labor
15 Commissioner may, upon the motion of either party or on its own motion, order entry of
16 satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment
17 upon the filing of a certified copy of the order.

18 (i) The Labor Commissioner shall make every reasonable effort to ensure that
19 judgments are satisfied, including taking all appropriate legal action and requiring the
20 employer to deposit a bond as provided in Section 240.

21 (j) The judgment creditor, or the Labor Commissioner as assignee of the judgment
22 creditor, shall be entitled to court costs and reasonable attorney fees for enforcing the
23 judgment that is rendered pursuant to this section.

24 **Comment.** Subdivisions (a), (c), and (e) of Section 98.2 are amended to reflect unification of
25 the municipal and superior courts pursuant to Article VI, Section 5(e), of the California
26 Constitution. Where a dispute is tried de novo pursuant to this provision, a further appeal may be
27 taken from the court's decision. *Post v. Palo/Haklar & Associates*, 23 Cal. 4th 942, 948, 4 P. 3d
28 928, 98 Cal. Rptr. 2d 671 (2000). Before unification, the proper forum for resolution of this
29 second appeal depended on which court conducted the trial de novo. *Id.* If the trial de novo was
30 held in municipal court, appeal would be to the appellate division of the superior court. If the trial
31 de novo was held in superior court, appeal would be to the court of appeal.

32 Due to unification, all trials de novo pursuant to this section are now in superior court. Under
33 subdivision (a), the jurisdictional classification of a trial de novo (whether the proceeding is a
34 limited civil case or an unlimited civil case) is determined pursuant to Code of Civil Procedure
35 Section 85 (limited civil cases). See also Code Civ. Proc. § 86(a) (case at law in which demand is
36 \$25,000 or less is limited civil case). If a further appeal is taken, the proper appeal path depends
37 on the jurisdictional classification of the trial de novo. See Code Civ. Proc. §§ 32.5 (jurisdictional
38 classification), 904.1 (taking appeal), 904.2 (taking appeal in limited civil case).

39 **Note: Comment Requested**

40 The Commission solicits comment on the proper treatment of Labor Code Section 98.2.

41 **Lab. Code § 1181 (amended). Public notice**

42 SEC. ____ . Section 1181 of the Labor Code is amended to read:

43 1181. Upon the fixing of the time and place for the holding of a hearing for the purpose
44 of considering and acting upon the proposed regulations or any matters referred to in
45 Sections 1176 to 1180, inclusive, the commission shall:

46 (a) Give public notice thereof by advertisement in at least one newspaper published in
47 each of the cities of Los Angeles, Oakland, Sacramento, San Jose, Fresno, Eureka, San
48 Diego, Long Beach, Alameda, Berkeley, Stockton, San Bernardino, and San Francisco.

1 (b) Mail a copy of the notice and the proposed regulations to the county clerk of the
2 superior court of each county in the state to be posted at the courthouse; to each
3 association of employers or employees which, in the opinion of the commission, would
4 be affected by the hearing; and to any person or organization within this state filing with
5 the commission a written request for notice of such hearing. Failure to mail such notice
6 shall not invalidate any order of the commission issued after such hearing.

7 The notice shall also state the time and place fixed for the hearing, which shall not be
8 less than 30 days from the date of publication and mailing of such notices.

9 **Comment.** Section 1181 is amended to reflect elimination of the county clerk's role as ex
10 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
11 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
12 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
13 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
14 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

15 **Lab. Code § 1701.10 (amended). Bond or deposit**

16 SEC. ____ . Section 1701.10 of the Labor Code is amended to read:

17 1701.10. (a) Prior to engaging in the business or acting in the capacity of an advance-
18 fee talent service, a person shall file with the Labor Commissioner a bond in the amount
19 of ten thousand dollars (\$10,000) or a deposit in lieu of the bond pursuant to Section
20 995.710 of the Code of Civil Procedure. The bond shall be executed by a corporate surety
21 qualified to do business in this state and conditioned upon compliance with this chapter.
22 The total aggregate liability on the bond shall be limited to ten thousand dollars
23 (\$10,000). The bond may be terminated pursuant to Section 995.440 of, or Article 13
24 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of
25 Civil Procedure.

26 (b) The bond required by this section shall be in favor of, and payable to, the people of
27 the State of California and shall be for the benefit of any person damaged by any fraud,
28 misstatement, misrepresentation, unlawful act or omission, or failure to provide the
29 services of the advance-fee talent service while acting within the scope of that
30 employment or agency.

31 (c) The Labor Commissioner shall charge and collect a filing fee to cover the cost of
32 filing the bond or deposit.

33 (d) The Labor Commissioner shall enforce the provisions of this chapter that govern the
34 filing and maintenance of bonds and deposits.

35 (e)(1) Whenever a deposit is made in lieu of the bond otherwise required by this
36 section, the person asserting the claim against the deposit shall establish the claim by
37 furnishing evidence to the Labor Commissioner of a money judgment entered by a court,
38 together with evidence that the claimant is a person described in subdivision (b).

39 (2) When a claimant has established the claim with the Labor Commissioner, the Labor
40 Commissioner shall review and approve the claim and enter the date of the approval
41 thereon. The claim shall be designated an approved claim.

42 (3) When the first claim against a particular deposit has been approved, it shall not be
43 paid until the expiration of a period of 240 days after the date of its approval by the Labor
44 Commissioner. Subsequent claims that are approved by the Labor Commissioner within
45 the same 240-day period shall similarly not be paid until the expiration of that 240-day
46 period. Upon the expiration of the 240-day period, the Labor Commissioner shall pay all
47 approved claims from that 240-day period in full unless the deposit is insufficient, in
48 which case every approved claim shall be paid a pro rata share of the deposit.

1 (4) Whenever the Labor Commissioner approves the first claim against a particular
2 deposit after the expiration of a 240-day period, the date of approval of that claim shall
3 begin a new 240-day period to which paragraph (3) applies with respect to any amount
4 remaining in the deposit.

5 (5) After a deposit is exhausted, no further claims shall be paid by the Labor
6 Commissioner. Claimants who have had claims paid in full or in part pursuant to
7 paragraph (3) or (4) shall not be required to return funds received from the deposit for the
8 benefit of other claimants.

9 (6) Whenever a deposit has been made in lieu of a bond, the amount of the deposit shall
10 not be subject to attachment, garnishment, or execution with respect to an action or
11 judgment against the assignor of the deposit, other than as to an amount as no longer
12 needed or required for the purposes of this chapter and that would otherwise be returned
13 to the assignor of the deposit by the Labor Commissioner.

14 (7) The Labor Commissioner shall return a deposit two years from the date it receives
15 written notification from the assignor of the deposit that the assignor has ceased to
16 engage in the business or act in the capacity of an advance-fee talent service or has filed a
17 bond pursuant to subdivision (a), provided that there are no outstanding claims against
18 the deposit. The written notice shall include all of the following:

19 (A) The name, address, and telephone number of the assignor.

20 (B) The name, address, and telephone number of the bank at which the deposit is
21 located.

22 (C) The account number of the deposit.

23 (D) A statement that the assignor is ceasing to engage in the business or act in the
24 capacity of an advance-fee talent service or has filed a bond with the Labor
25 Commissioner. The Labor Commissioner shall forward an acknowledgement of receipt of
26 the written notice to the assignor at the address indicated therein, specifying the date of
27 receipt of the written notice and the anticipated date of release of the deposit, provided
28 there are then no outstanding claims against the deposit.

29 (8) A ~~municipal~~ or superior court may order the return of the deposit prior to the
30 expiration of two years upon evidence satisfactory to the court that there are no
31 outstanding claims against the deposit, or order the Labor Commissioner to retain the
32 deposit for a specified period beyond the two years to resolve outstanding claims against
33 the deposit.

34 (9) This subdivision applies to all deposits retained by the Labor Commissioner. The
35 Labor Commissioner shall notify each assignor of a deposit it retains and of the
36 applicability of this section.

37 (10) Compliance with Sections 1700.15 and 1700.16 of this code or Section 1812.503,
38 1812.510, or 1812.515 of the Civil Code shall satisfy the requirements of this section.

39 **Comment.** Subdivision (e) of Section 1701.10 is amended to reflect unification of the
40 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

41 **Note: Comment Requested**

42 Labor Code Section 1701.10 does not specify the procedure for seeking a court order requiring
43 return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance
44 regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at
45 law in which demand or value of property in controversy is \$25,000 or less is limited civil case);
46 see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission
47 solicits comment on the proper treatment of this provision.

1 **Lab. Code § 2691 (amended). Compliance or appeal**

2 SEC. ____ . Section 2691 of the Labor Code is amended to read:

3 2691. Within 10 days of receipt of notice of the award, the party or parties who are
4 required to comply with the terms of the award shall so comply and file proof of such
5 compliance with the commissioner or shall file a notice of appeal with the ~~municipal or~~
6 superior court for the county in which the hearing was held, ~~in accordance with the~~
7 ~~appropriate rules of jurisdiction~~. Upon the filing of such an appeal, a trial de novo shall
8 be held, provided, however, that the decision reached by the panel as stated in the award
9 shall be received as evidence by the trial court.

10 **Comment.** Section 2691 is amended to reflect unification of the municipal and superior courts
11 pursuant to Article VI, Section 5(e), of the California Constitution. For the jurisdictional
12 classification of an action pursuant to this section, see Code Civ. Proc. §§ 85 (limited civil cases)
13 & Comment, 88 (unlimited civil cases); see also Code Civ. Proc. § 86 (miscellaneous limited civil
14 cases).

15 **Lab. Code § 3301 (unchanged). Exclusion of certain sponsors**

16 3301. As used in this division, “employer” excludes the following:

17 (a) Any person while acting solely as the sponsor of a bowling team.

18 (b) Any private, nonprofit organization while acting solely as the sponsor of a person
19 who, as a condition of sentencing by a superior or municipal court, is performing services
20 for the organization.

21 The exclusions of this section do not exclude any person or organization from the
22 application of this division which is otherwise an employer for the purposes of this
23 division.

24  **Note: Comment Requested**

25 The reference to sentencing by a municipal court would be retained, because it might be
26 premature to conclude that all municipal court sentences have been completely served. The
27 Commission solicits comment on when Labor Code Section 3301 will be ripe for revision.

28 **Lab. Code § 5600 (amended). Writ of attachment**

29 SEC. ____ . Section 5600 of the Labor Code is amended to read:

30 5600. The appeals board may, upon the filing of an application by or on behalf of an
31 injured employee, the employee’s dependents, or any other party in interest, direct the
32 county clerk of the superior court of any county to issue writs of attachment authorizing
33 the sheriff to attach the property of the defendant as security for the payment of any
34 compensation which may be awarded in any of the following cases:

35 (a) In any case mentioned in Section 415.50 of the Code of Civil Procedure.

36 (b) Where the employer has failed to secure the payment of compensation as required
37 by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1.

38 The attachment shall be in an amount fixed by the appeals board, not exceeding the
39 greatest probable award against the defendant in the matter.

40 **Comment.** Section 5600 is amended to reflect elimination of the county clerk’s role as ex
41 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
42 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
43 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
44 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
45 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

1 **Lab. Code § 6436 (amended). Criminal complaint for failure to check for asbestos materials**

2 SEC. ____ . Section 6436 of the Labor Code is amended to read:

3 6436. The criminal complaint regarding a violation of Section 6505.5 may be brought
4 by the Attorney General or by the district attorney or prosecuting attorney of any city, in
5 the municipal superior court of any county in the state with jurisdiction over the
6 contractor or employer, by reason of the contractor's or employer's act or failure to act
7 within that jurisdiction county. Any penalty assessed by the court shall be paid to the
8 office of the prosecutor bringing the complaint, but if the case was referred to the
9 prosecutor by the division, or some other governmental unit, one-half of the civil or
10 criminal penalty assessed shall be paid to that governmental unit.

11 **Comment.** Section 6436 is amended to reflect unification of the municipal and superior courts
12 pursuant to Article VI, Section 5(e), of the California Constitution.

13 **Note: Comment Requested**

14 Labor Code Section 6436 raises issues relating to local venue. The Commission and the
15 Judicial Council are studying this area and may propose further revisions to address local venue
16 issues. The Commission solicits comment on the proper treatment of the section.

17 **MILITARY AND VETERANS CODE**

18 **Mil. & Vet. Code § 395.3 (amended). Return of public employee who resigned to enter**
19 **military service**

20 SEC. ____ . Section 395.3 of the Military and Veterans Code is amended to read:

21 395.3. In the event that any public officer or employee has resigned or resigns his or her
22 office or employment to serve or to continue to serve in the armed forces of the United
23 States or in the armed forces of this state, he or she shall have a right to return to and
24 reenter the office or employment prior to the time at which his or her term of office or his
25 or her employment would have ended if he or she had not resigned, on serving a written
26 notice to that effect upon the authorized appointing power, or if there is no authorized
27 appointing power, upon the officer or agency having power to fill a vacancy in the office
28 or employment, within six months of the termination of his or her active service with the
29 armed forces; provided, that the right to return and reenter upon the office or position
30 shall not extend to or be granted to any public officer or employee, who shall fail to
31 return to and reenter upon his or her office or position within 12 months after the first
32 date upon which he or she could terminate or could cause to have terminated his or her
33 active service with the armed forces of the United States or of the militia of this state.

34 As used in this section, "public officers and employees" includes all of the following:

35 (a) Members of the Senate and of the Assembly.

36 (b) Justices of the Supreme Court and the courts of appeal, judges of the superior courts
37 ~~and of the municipal courts~~, and all other judicial officers.

38 (c) All other state officers and employees not within Chapter 11 (commencing with
39 Section 19770) of Part 2 of Division 5 of Title 2 of the Government Code, including all
40 officers for whose selection and term of office provision is made in the Constitution and
41 laws of this state.

42 (d) All officers and employees of any county, city and county, city, township, district,
43 political subdivision, authority, commission, board, or other public agency within this
44 state.

45 The right of reentry into public office or employment provided for in this section shall
46 include the right to be restored to the civil service status as the officer or employee would

1 have if he or she had not so resigned; and no other person shall acquire civil service status
2 in the same position so as to deprive the officer or employee of his or her right to
3 restoration as provided for herein.

4 This section shall be retroactively applied to extend the right of reentry into public
5 office or employment to public officers and employees who resigned prior to its effective
6 date.

7 This section does not apply to any public officer or employee to whom the right to
8 reenter public office or employment after service in the armed forces has been granted by
9 any other provision of law.

10 If any provision of this section, or the application of this section to any person or
11 circumstance, is held invalid, the remainder of this section, or the application of this
12 section to persons or circumstances other than those as to which it is held invalid, shall
13 not be affected thereby.

14 If the provisions of this section are in conflict with the provisions of a memorandum of
15 understanding reached pursuant to Chapter 12 (commencing with Section 3560) of
16 Division 4 of Title 1 of the Government Code, the memorandum of understanding shall
17 be controlling without further legislative action, except that if such provisions of a
18 memorandum of understanding require the expenditure of funds, the provisions shall not
19 become effective unless approved by the Legislature in the annual Budget Act.

20 **Comment.** Section 395.3 is amended to reflect unification of the municipal and superior courts
21 pursuant to Article VI, Section 5(e), of the California Constitution. The reference to “judges of
22 the municipal courts” is deleted as unnecessary, because municipal courts no longer exist and a
23 former municipal court judge would be covered by the reference to “all other judicial officers.”

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PENAL CODE

Penal Code § 28 (amended). Evidence of mental disease, mental defect or mental disorder

SEC. ____ . Section 28 of the Penal Code is amended to read:


28. (a) Evidence of mental disease, mental defect, or mental disorder shall not be
admitted to show or negate the capacity to form any mental state, including, but not
limited to, purpose, intent, knowledge, premeditation, deliberation, or malice
aforethought, with which the accused committed the act. Evidence of mental disease,
mental defect, or mental disorder is admissible solely on the issue of whether or not the
accused actually formed a required specific intent, premeditated, deliberated, or harbored
malice aforethought, when a specific intent crime is charged.

(b) As a matter of public policy there shall be no defense of diminished capacity,
diminished responsibility, or irresistible impulse in a criminal action or juvenile
adjudication hearing.

(c) This section shall not be applicable to an insanity hearing pursuant to Section 1026
~~or 1429.5.~~

(d) Nothing in this section shall limit a court’s discretion, pursuant to the Evidence
Code, to exclude psychiatric or psychological evidence on whether the accused had a
mental disease, mental defect, or mental disorder at the time of the alleged offense.

Comment. Subdivision (c) of Section 28 is amended to reflect the repeal of Section 1429.5,
concerning a plea of not guilty by reason of insanity in a municipal court.

 **Note.** Penal Code Section 28 reflects a legislative change made in S.B. 205 (McPherson). See
2001 Cal. Stat. ch. 854, § 18.


1 **Penal Code § 190.7 (unchanged). Record of capital case on appeal**

2 190.7. (a) The “entire record” referred to in Section 190.6 includes, but is not limited
3 to, the following:

4 (1) The normal and additional record prescribed in the rules adopted by the Judicial
5 Council pertaining to an appeal taken by the defendant from a judgment of conviction.

6 (2) A copy of any other paper or record on file or lodged with the superior or municipal
7 court and a transcript of any other oral proceeding reported in the superior or municipal
8 court pertaining to the trial of the cause.

9 (b) Notwithstanding this section, the Judicial Council may adopt rules, not inconsistent
10 with the purpose of Section 190.6, specifically pertaining to the content, preparation and
11 certification of the record on appeal when a judgment of death has been pronounced.

12  **Note.** Penal Code Section 190.7 would be left in its current form, because records of
13 proceedings in the municipal courts have continuing significance despite the elimination of those
14 courts.

15 **Penal Code § 190.9 (amended). Record in death penalty cases**

16 SEC. ____ . Section 190.9 of the Penal Code is amended to read:

17 190.9. (a)(1) In any case in which a death sentence may be imposed, all proceedings
18 conducted in the ~~municipal and superior courts~~ court, including all conferences and
19 proceedings, whether in open court, in conference in the courtroom, or in chambers, shall
20 be conducted on the record with a court reporter present. The court reporter shall prepare
21 and certify a daily transcript of all proceedings commencing with the preliminary hearing.
22 Proceedings prior to the preliminary hearing shall be reported but need not be transcribed
23 until the ~~municipal or superior~~ court receives notice as prescribed in paragraph (2) of
24 subdivision (a).

25 (2) Upon receiving notification from the prosecution that the death penalty is being
26 sought, the ~~superior court shall notify the court in which the preliminary hearing took~~
27 ~~place. Upon this notification, the court in which the preliminary hearing took place~~ clerk
28 shall order the transcription and preparation of the record of all proceedings prior to and
29 including the preliminary hearing in the manner prescribed by the Judicial Council in the
30 rules of court. The record of all proceedings prior to and including the preliminary
31 hearing shall be certified by the court no later than 120 days following notification ~~by the~~
32 ~~superior court unless the superior court grants an extension of time~~ is extended pursuant
33 to rules of court adopted by the Judicial Council. Upon certification, ~~the court in which~~
34 ~~the preliminary hearing took place shall forward the record to the superior court for~~
35 ~~incorporation~~ the record of all proceedings is incorporated into the superior court record.

36 (b)(1) The court shall assign a court reporter who uses computer-aided transcription
37 equipment to report all proceedings under this section.

38 (2) Failure to comply with the requirements of this section relating to the assignment of
39 court reporters who use computer-aided transcription equipment shall not be a ground for
40 reversal.

41 (c) Any computer-readable transcript produced by court reporters pursuant to this
42 section shall conform to the requirements of ~~subdivision (e) of Section 269~~ Section 271
43 of the Code of Civil Procedure.

44 **Comment.** Subdivision (a) of Section 190.9 is amended to reflect unification of the municipal
45 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

46 Subdivision (a) is also amended to make clear that the clerk of the superior court is responsible
47 for ordering transcription and preparation of the record in a death penalty case.

1 Subdivision (c) is amended to correct a cross-reference. The substance of former Code of Civil
2 Procedure Section 269(c) is continued in Code of Civil Procedure Section 271.

3 **Penal Code § 412 (amended). Boxing contests**

4 SEC. ____ . Section 412 of the Penal Code is amended to read:

5 412. Any person, who, within this state, engages in, or instigates, aids, encourages, or
6 does any act to further, a pugilistic contest, or fight, or ring or prize fight, or sparring or
7 boxing exhibition, taking or to take place either within or without this state, between two
8 or more persons, with or without gloves, for any price, reward or compensation, directly
9 or indirectly, or who goes into training preparatory to such pugilistic contest, or fight, or
10 ring or prize fight, or sparring or boxing exhibition, or acts as aider, abettor, backer,
11 umpire, referee, trainer, second, surgeon, or assistant, at such pugilistic contest, or fight,
12 or ring or prize fight, or sparring or boxing exhibition, or who sends or publishes a
13 challenge or acceptance of a challenge, or who knowingly carries or delivers such
14 challenge or acceptance, or who gives or takes or receives any tickets, tokens, prize,
15 money, or thing of value, from any person or persons, for the purpose of seeing or
16 witnessing any such pugilistic contest, or fight, or ring or prize fight, or sparring or
17 boxing exhibition, or who, being the owner, lessee, agent, or occupant of any vessel,
18 building, hotel, room, enclosure or ground, or any part thereof, whether for gain, hire,
19 reward or gratuitously or otherwise, permits the same to be used or occupied for such a
20 pugilistic contest, or fight, or ring or prize fight, or sparring or boxing exhibition, or who
21 lays, makes, offers or accepts, a bet or bets, or wager or wagers, upon the result or any
22 feature of any pugilistic contest, or fight, or ring or prize fight, or sparring or boxing
23 exhibition, or acts as stakeholder of any such bet or bets, or wager or wagers, shall be
24 guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one
25 hundred dollars nor more than one thousand dollars and be imprisoned in the county jail
26 not less than thirty days nor exceeding one year; provided, however, that amateur boxing
27 exhibitions may be held within this state, of a limited number of rounds, not exceeding
28 four of the duration of three minutes each; the interval between each round shall be one
29 minute, and the contestants weighing one hundred and forty-five pounds or over shall
30 wear gloves of not less than eight ounces each in weight, and contestants weighing under
31 one hundred and forty-five pounds may wear gloves of not less than six ounces each in
32 weight. All gloves used by contestants in such amateur boxing exhibitions shall be so
33 constructed, as that the soft padding between the outside coverings shall be evenly
34 distributed over the back of said gloves and cover the knuckles and back of the hands.
35 And no bandages of any kind shall be used on the hands or arms of the contestants. For
36 the purpose of this statute an amateur boxing exhibition shall be and is hereby defined as
37 one in which no contestant has received or shall receive in any form, directly or
38 indirectly, any money, prize, reward or compensation either for the expenses of training
39 for such contest or for taking part therein, except as herein expressly provided. Nor shall
40 any person appear as contestant in such amateur exhibition who prior thereto has received
41 any compensation or reward in any form for displaying, exercising or giving any example
42 of his the person's skill in or knowledge of athletic exercises, or for rendering services of
43 any kind to any athletic organization or to any person or persons as trainer, coach,
44 instructor or otherwise, or who shall have been employed in any manner professionally
45 by reason of his the person's athletic skill or knowledge; provided, however, that a medal
46 or trophy may be awarded to each contestant in such amateur boxing exhibitions, not to
47 exceed in value the sum of \$35.00 each, which such medal or trophy must have engraved
48 thereon the name of the winner and the date of the event; but no portion of any admission

1 fee or fees charged or received for any amateur boxing exhibition shall be paid or given
2 to any contestant in such amateur boxing exhibition, either directly or indirectly, nor shall
3 any gift be given to or received by such contestants for participating in such boxing
4 exhibition, except said medal or trophy. At every amateur boxing exhibition held in this
5 state and permitted by this section of the Penal Code, any sheriff, ~~constable~~, marshal,
6 policeman or other peace officer of the city, county or other political subdivision, where
7 such exhibition is being held, shall have the right to, and it is hereby declared to be ~~his~~
8 the officer's duty to stop such exhibition, whenever it shall appear to ~~him~~ the officer that
9 the contestants are so unevenly matched or for any other reason, the said contestants have
10 been, or either of them, has been seriously injured or there is danger that said contestants,
11 or either of them, will be seriously injured if such contest continues, and ~~he~~ the officer
12 may call ~~to his~~ for assistance in enforcing ~~his~~ an order to stop said exhibition, as many
13 peace officers or male citizens of the state as may be necessary for that purpose.
14 Provided, further, that any contestant who shall continue to participate in such exhibition
15 after an order to stop such exhibition shall have been given by such peace officer, or who
16 shall violate any of the regulations herein prescribed, for governing amateur boxing
17 exhibitions, shall be deemed guilty of violating this section of the Penal Code and subject
18 to the punishment herein provided.

19 Nothing in this section contained shall be construed to prevent any county, city and
20 county, or incorporated city or town from prohibiting, by ordinance, the holding or
21 conducting of any boxing exhibition, or any person from engaging in any such boxing
22 exhibition therein.

23 **Comment.** Section 412 is amended to reflect elimination of the justice court and of the office
24 of constable pursuant to Article VI, Sections 1 and 5(b), of the California Constitution.

25 **Penal Code § 413 (amended). Spectator at prohibited boxing contest**

26 SEC. ____ . Section 413 of the Penal Code is amended to read:

27 413. Every person wilfully present as spectator at any fight or contention prohibited in
28 the preceding section, is guilty of a misdemeanor.

29 An information may be laid before any of the magistrates mentioned in section eight
30 hundred and eight of this code, that a person has taken steps toward promoting or
31 participating in a contemplated pugilistic contest, or fight, or ring or prize fight, or
32 sparring or boxing exhibition, prohibited under the provision of section four hundred and
33 twelve of this code, or is about to commit an offense under said section four hundred and
34 twelve. When said information is laid before said magistrate, ~~he~~ the magistrate must
35 examine, on oath, the informer, and any witness or witnesses ~~he~~ the informer may
36 produce, and must take their depositions in writing and cause them to be subscribed by
37 the parties making them. If it appears from the deposition that there is just reason to fear
38 the commission of the offense contemplated by the person so informed against, the
39 magistrate must issue a warrant directed generally to the sheriff of the county, or any
40 ~~constable~~, marshal, or policeman in the state, reciting the substance of the information
41 and commanding the officer forthwith to arrest the person informed against and bring ~~him~~
42 the person before the magistrate. When the person informed against is brought before the
43 magistrate, if the charge be controverted, the magistrate must take testimony in relation
44 thereto. The evidence must be reduced to writing and subscribed by the witnesses. If it
45 appears there is no just reason to fear the commission of the offense alleged to have been
46 contemplated, the person complained against must be discharged. If, however, there is
47 just reason to fear the commission of the offense, the person complained of must be
48 required to enter into an undertaking in such sum, not less than three thousand dollars, as

1 the magistrate may direct, with one or more sufficient sureties, conditioned that such
2 person will not, for a period of one year thereafter, commit any such contemplated
3 offense.

4 **Comment.** Section 413 is amended to reflect elimination of the justice court and of the office
5 of constable pursuant to Article VI, Sections 1 and 5(b), of the California Constitution.

6 **Penal Code § 808 (amended). Magistrates**

7 SEC. ____ . Section 808 of the Penal Code is amended to read:

8 808. The following persons are magistrates:

9 1. The judges of the Supreme Court.

10 2. The judges of the courts of appeal.

11 3. The judges of the superior courts.

12 4. ~~The judges of the municipal courts.~~

13 **Comment.** Section 808 is amended to reflect unification of the municipal and superior courts
14 pursuant to Article VI, Section 5(e), of the California Constitution.

15 **Penal Code § 810 (amended). Availability of magistrate**

16 SEC. ____ . Section 810 of the Penal Code is amended to read:

17 810. (a) ~~The presiding judge of the superior court and the presiding judge of each~~
18 ~~municipal court~~ in a county shall, as often as is necessary, designate on a schedule not
19 less than one judge of the ~~superior court or municipal court~~ to be reasonably available on
20 call as a magistrate for the setting of orders for discharge from actual custody upon bail,
21 the issuance of search warrants, and for such other matters as may by the magistrate be
22 deemed appropriate, at all times when a court is not in session in the county.

23 (b) The officer in charge of a jail, or a person the officer designates, in which an
24 arrested person is held in custody shall assist the arrested person or the arrested person's
25 attorney in contacting the magistrate on call as soon as possible for the purpose of
26 obtaining release on bail.

27 (c) Any telephone call made pursuant to this section by an arrested person while in
28 custody or by such person's attorney shall not count or be considered as a telephone call
29 for purposes of Section 851.5 of the Penal Code.

30 **Comment.** Section 810 is amended to reflect unification of the municipal and superior courts
31 pursuant to Article VI, Section 5(e), of the California Constitution.

32 **Penal Code § 830.1 (amended). Peace officers**

33 SEC. ____ . Section 830.1 of the Penal Code is amended to read:

34 830.1. (a) Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a
35 county, any chief of police of a city or chief, director, or chief executive officer of a
36 consolidated municipal public safety agency which performs police functions, any police
37 officer, employed in that capacity and appointed by the chief of police or chief, director,
38 or chief executive of a public safety agency, of a city, any chief of police, or police
39 officer of a district (including police officers of the San Diego Unified Port District
40 Harbor Police) authorized by statute to maintain a police department, any marshal or
41 deputy marshal of a ~~municipal~~ superior court or county, any port warden or special
42 officer of the Harbor Department of the City of Los Angeles, or any inspector or
43 investigator employed in that capacity in the office of a district attorney, is a peace
44 officer. The authority of these peace officers extends to any place in the state, as follows:

1 (1) As to any public offense committed or which there is probable cause to believe has
2 been committed within the political subdivision which employs the peace officer or in
3 which the peace officer serves.

4 (2) Where the peace officer has the prior consent of the chief of police or chief,
5 director, or chief executive officer of a consolidated municipal public safety agency, or
6 person authorized by him or her to give consent, if the place is within a city or of the
7 sheriff, or person authorized by him or her to give consent, if the place is within a county.


8 (3) As to any public offense committed or which there is probable cause to believe has
9 been committed in the peace officer's presence, and with respect to which there is
10 immediate danger to person or property, or of the escape of the perpetrator of the offense.

11 (b) Special agents and Attorney General investigators of the Department of Justice are
12 peace officers, and those assistant chiefs, deputy chiefs, chiefs, deputy directors, and
13 division directors designated as peace officers by the Attorney General are peace officers.
14 The authority of these peace officers extends to any place in the state where a public
15 offense has been committed or where there is probable cause to believe one has been
16 committed.

17 (c) Any deputy sheriff of ~~a county of the first class~~ the County of Los Angeles, and any
18 deputy sheriff of the Counties of Riverside and San Diego, who is employed to perform
19 duties exclusively or initially relating to custodial assignments with responsibilities for
20 maintaining the operations of county custodial facilities, including the custody, care,
21 supervision, security, movement, and transportation of inmates, is a peace officer whose
22 authority extends to any place in the state only while engaged in the performance of the
23 duties of his or her respective employment and for the purpose of carrying out the
24 primary function of employment relating to his or her custodial assignments, or when
25 performing other law enforcement duties directed by his or her employing agency during
26 a local state-of-emergency.

27 **Comment.** Subdivision (a) of Section 830.1 is amended to reflect unification of the municipal
28 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.
29 Subdivision (a) is also amended to reflect enactment of the Trial Court Employment Protection
30 and Governance Act. See Gov't Code §§ 71601(l) ("trial court employee" defined), 71615(c)(5)
31 (trial court as employer of all trial court employees), 71620 (trial court personnel).

32 The reference to a county of the first class in subdivision (c) is revised to refer to Los Angeles
33 County by name.

34  **Note.** Penal Code Section 830.1 reflects legislative changes made in SB 926 (Battin). See
35 2001 Cal. Stat. ch. 68, § 1.

36 **Penal Code § 851.8 (amended). Sealing and destruction of arrest records on determination**
37 **of factual innocence**

38 SEC. ____ . Section 851.8 of the Penal Code is amended to read:

39 851.8. (a) In any case where a person has been arrested and no accusatory pleading has
40 been filed, the person arrested may petition the law enforcement agency having
41 jurisdiction over the offense to destroy its records of the arrest. A copy of such petition
42 shall be served upon the district attorney of the county having jurisdiction over the
43 offense. The law enforcement agency having jurisdiction over the offense, upon a
44 determination that the person arrested is factually innocent, shall, with the concurrence of
45 the district attorney, seal its arrest records, and the petition for relief under this section for
46 three years from the date of the arrest and thereafter destroy its arrest records and the
47 petition. The law enforcement agency having jurisdiction over the offense shall notify the
48 Department of Justice, and any law enforcement agency which arrested the petitioner or

1 participated in the arrest of the petitioner for an offense for which the petitioner has been
2 found factually innocent under this subdivision, of the sealing of the arrest records and
3 the reason therefor. The Department of Justice and any law enforcement agency so
4 notified shall forthwith seal their records of the arrest and the notice of sealing for three
5 years from the date of the arrest, and thereafter destroy their records of the arrest and the
6 notice of sealing. The law enforcement agency having jurisdiction over the offense and
7 the Department of Justice shall request the destruction of any records of the arrest which
8 they have given to any local, state, or federal agency or to any other person or entity.
9 Each such agency, person, or entity within the State of California receiving such a request
10 shall destroy its records of the arrest and such request, unless otherwise provided in this
11 section.

12 (b) If, after receipt by both the law enforcement agency and the district attorney of a
13 petition for relief under subdivision (a), the law enforcement agency and district attorney
14 do not respond to the petition by accepting or denying such petition within 60 days after
15 the running of the relevant statute of limitations or within 60 days after receipt of the
16 petition in cases where the statute of limitations has previously lapsed, then the petition
17 shall be deemed to be denied. In any case where the petition of an arrestee to the law
18 enforcement agency to have an arrest record destroyed is denied, petition may be made to
19 ~~the municipal court or the superior court in a county in which there is no municipal court~~
20 which would have had territorial jurisdiction over the matter. A copy of such petition
21 shall be served on the district attorney of the county having jurisdiction over the offense
22 at least 10 days prior to the hearing thereon. The district attorney may present evidence to
23 the court at such hearing. Notwithstanding Section 1538.5 or 1539, any judicial
24 determination of factual innocence made pursuant to this section may be heard and
25 determined upon declarations, affidavits, police reports, or any other evidence submitted
26 by the parties which is material, relevant and reliable. A finding of factual innocence and
27 an order for the sealing and destruction of records pursuant to this section shall not be
28 made unless the court finds that no reasonable cause exists to believe that the arrestee
29 committed the offense for which the arrest was made. In any court hearing to determine
30 the factual innocence of a party, the initial burden of proof shall rest with the petitioner to
31 show that no reasonable cause exists to believe that the arrestee committed the offense for
32 which the arrest was made. If the court finds that this showing of no reasonable cause has
33 been made by the petitioner, then the burden of proof shall shift to the respondent to show
34 that a reasonable cause exists to believe that the petitioner committed the offense for
35 which the arrest was made. If the court finds the arrestee to be factually innocent of the
36 charges for which the arrest was made, then the court shall order the law enforcement
37 agency having jurisdiction over the offense, the Department of Justice, and any law
38 enforcement agency which arrested the petitioner or participated in the arrest of the
39 petitioner for an offense for which the petitioner has been found factually innocent under
40 this section to seal their records of the arrest and the court order to seal and destroy such
41 records, for three years from the date of the arrest and thereafter to destroy their records
42 of the arrest and the court order to seal and destroy such records. The court shall also
43 order the law enforcement agency having jurisdiction over the offense and the
44 Department of Justice to request the destruction of any records of the arrest which they
45 have given to any local, state, or federal agency, person or entity. Each state or local
46 agency, person or entity within the State of California receiving such a request shall
47 destroy its records of the arrest and the request to destroy such records, unless otherwise
48 provided in this section. The court shall give to the petitioner a copy of any court order
49 concerning the destruction of the arrest records.

1 (c) In any case where a person has been arrested, and an accusatory pleading has been
2 filed, but where no conviction has occurred, the defendant may, at any time after
3 dismissal of the action, petition the court which dismissed the action for a finding that the
4 defendant is factually innocent of the charges for which the arrest was made. A copy of
5 such petition shall be served on the district attorney of the county in which the accusatory
6 pleading was filed at least 10 days prior to the hearing on the petitioner's factual
7 innocence. The district attorney may present evidence to the court at such hearing. Such
8 hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner
9 to be factually innocent of the charges for which the arrest was made, then the court shall
10 grant the relief as provided in subdivision (b).

11 (d) In any case where a person has been arrested and an accusatory pleading has been
12 filed, but where no conviction has occurred, the court may, with the concurrence of the
13 district attorney, grant the relief provided in subdivision (b) at the time of the dismissal of
14 the accusatory pleading.

15 (e) Whenever any person is acquitted of a charge and it appears to the judge presiding
16 at the trial wherein such acquittal occurred that the defendant was factually innocent of
17 such charge, the judge may grant the relief provided in subdivision (b).

18 (f) In any case where a person who has been arrested is granted relief pursuant to
19 subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or
20 court shall issue a written declaration to the arrestee stating that it is the determination of
21 the law enforcement agency having jurisdiction over the offense or court that the arrestee
22 is factually innocent of the charges for which the person was arrested and that the arrestee
23 is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the
24 person may answer accordingly any question relating to its occurrence.

25 (g) The Department of Justice shall furnish forms to be utilized by persons applying for
26 the destruction of their arrest records and for the written declaration that one person was
27 found factually innocent under subdivisions (a) and (b).

28 (h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d),
29 or (e) which are contained in investigative police reports shall bear the notation
30 "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in
31 writing by the law enforcement agency having jurisdiction over the offense of the sealing
32 and destruction of the arrest records pursuant to this section.

33 (i) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c),
34 (d), or (e) shall not be admissible as evidence in any action.

35 (j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall
36 be accomplished by permanent obliteration of all entries or notations upon such records
37 pertaining to the arrest, and the record shall be prepared again so that it appears that the
38 arrest never occurred. However, where (1) the only entries on the record pertain to the
39 arrest and (2) the record can be destroyed without necessarily effecting the destruction of
40 other records, then the document constituting the record shall be physically destroyed.

41 (k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the
42 arrestee or a codefendant has filed a civil action against the peace officers or law
43 enforcement jurisdiction which made the arrest or instituted the prosecution and if the
44 agency which is the custodian of such records has received a certified copy of the
45 complaint in such civil action, until the civil action has been resolved. Any records sealed
46 pursuant to this section by the court in the civil actions, upon a showing of good cause,
47 may be opened and submitted into evidence. The records shall be confidential and shall
48 be available for inspection only by the court, jury, parties, counsel for the parties and any
49 other person authorized by the court. Immediately following the final resolution of the

1 civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and
2 destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

3 (l) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed
4 on or after January 1, 1981, petitions for relief under this section may be filed up to two
5 years from the date of the arrest or filing of the accusatory pleading, whichever is later.
6 Until January 1, 1983, petitioners can file for relief under this section for arrests which
7 occurred or accusatory pleadings which were filed up to five years prior to the effective
8 date of the statute. Any time restrictions on filing for relief under this section may be
9 waived upon a showing of good cause by the petitioner and in the absence of prejudice.

10 (m) Any relief which is available to a petitioner under this section for an arrest shall
11 also be available for an arrest which has been deemed to be or described as a detention
12 under Section 849.5 or 851.6.

13 (n) The provisions of this section shall not apply to any offense which is classified as
14 an infraction.

15 (o)(1) The provisions of this section shall be repealed on the effective date of a final
16 judgment based on a claim under the California or United States Constitution holding that
17 evidence which is relevant, reliable, and material may not be considered for purposes of a
18 judicial determination of factual innocence under this section. For purposes of this
19 subdivision, a judgment by the appellate division of a superior court is a final judgment if
20 it is published and if it is not reviewed on appeal by a court of appeal. A judgment of a
21 court of appeal is a final judgment if it is published and if it is not reviewed by the
22 California Supreme Court.

23 (2) Any such decision referred to in this subdivision shall be stayed pending appeal.

24 (3) If not otherwise appealed by a party to the action, any such decision referred to in
25 this subdivision which is a judgment by the appellate division of the superior court, shall
26 be appealed by the Attorney General.

27 (p) A judgment of the court under subdivision (b), (c), (d), or (e) is subject to the
28 following appeal path:

29 (1) In a felony case, appeal is to the court of appeal.

30 (2) In a misdemeanor case, or in a case in which no accusatory pleading was filed,
31 appeal is to the appellate division of the superior court.

32 **Comment.** Subdivision (b) of Section 851.8 is amended to reflect unification of the municipal
33 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

34 **Penal Code § 859a (amended). Plea in non-capital felony case**

35 SEC. ____ . Section 859a of the Penal Code is amended to read:

36 859a. (a) If the public offense charged is a felony not punishable with death, the
37 magistrate shall immediately upon the appearance of counsel for the defendant read the
38 complaint to the defendant and ask him or her whether he or she pleads guilty or not
39 guilty to the offense charged therein and to a previous conviction or convictions of crime
40 if charged. While the charge remains pending before the magistrate and when the
41 defendant's counsel is present, the defendant may plead guilty to the offense charged, or,
42 with the consent of the magistrate and the district attorney or other counsel for the people,
43 plead nolo contendere to the offense charged or plead guilty or nolo contendere to any
44 other offense the commission of which is necessarily included in that with which he or
45 she is charged, or to an attempt to commit the offense charged and to the previous
46 conviction or convictions of crime if charged upon a plea of guilty or nolo contendere.
47 The magistrate may then fix a reasonable bail as provided by this code, and upon failure
48 to deposit the bail or surety, shall immediately commit the defendant to the sheriff. Upon

1 accepting the plea of guilty or nolo contendere the magistrate shall certify the case,
2 including a copy of all proceedings therein and any testimony that in his or her discretion
3 he or she may require to be taken, to the court in which judgment is to be pronounced at
4 the time specified under subdivision (b), and thereupon the proceedings shall be had as if
5 the defendant had pleaded guilty in that court. This subdivision shall not be construed to
6 authorize the receiving of a plea of guilty or nolo contendere from any defendant not
7 represented by counsel. If the defendant subsequently files a written motion to withdraw
8 the plea under Section 1018, the motion shall be heard and determined by the court
9 before which the plea was entered.

10 (b) Notwithstanding Section 1191 or 1203, the magistrate shall, upon the receipt of a
11 plea of guilty or nolo contendere and upon the performance of the other duties of the
12 magistrate under this section, immediately appoint a time for pronouncing judgment in
13 the superior court ~~or municipal court~~ and refer the case to the probation officer if eligible
14 for probation, as prescribed in Section 1191.

15 **Comment.** Subdivision (b) of Section 859a is amended to reflect unification of the municipal
16 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

17 **Penal Code § 869 (amended). Deposition or testimony before magistrate**

18 SEC. ____ . Section 869 of the Penal Code is amended to read:

19 869. The testimony of each witness in cases of homicide shall be reduced to writing, as
20 a deposition, by the magistrate, or under his or her direction, and in other cases upon the
21 demand of the prosecuting attorney, or the defendant, or his or her counsel. The
22 magistrate before whom the examination is had may, in his or her discretion, order the
23 testimony and proceedings to be taken down in shorthand in all examinations herein
24 mentioned, and for that purpose he or she may appoint a shorthand reporter. The
25 deposition or testimony of the witness shall be authenticated in the following form:

26 (a) It shall state the name of the witness, his or her place of residence, and his or her
27 business or profession; except that if the witness is a peace officer, it shall state his or her
28 name, and the address given in his or her testimony at the hearing.

29 (b) It shall contain the questions put to the witness and his or her answers thereto, each
30 answer being distinctly read to him or her as it is taken down, and being corrected or
31 added to until it conforms to what he or she declares is the truth, except in cases where
32 the testimony is taken down in shorthand, the answer or answers of the witness need not
33 be read to him or her.

34 (c) If a question put be objected to on either side and overruled, or the witness declines
35 answering it, that fact, with the ground on which the question was overruled or the
36 answer declined, shall be stated.

37 (d) The deposition shall be signed by the witness, or if he or she refuses to sign it, his or
38 her reason for refusing shall be stated in writing, as he or she gives it, except in cases
39 where the deposition is taken down in shorthand, it need not be signed by the witness.

40 (e) The reporter shall, within 10 days after the close of the examination, if the
41 defendant be held to answer the charge of a felony, or in any other case if either the
42 defendant or the prosecution orders the transcript, transcribe his or her shorthand notes,
43 making an original and one copy and as many additional copies thereof as there are
44 defendants (other than fictitious defendants), regardless of the number of charges or
45 fictitious defendants included in the same examination, and certify and deliver the
46 original and all copies to the county clerk of the superior court in the county in which the
47 defendant was examined. The reporter shall, before receiving any compensation as a
48 reporter, file ~~with the auditor of the county~~ his or her affidavit setting forth that the

1 transcript has been delivered to the county clerk within the time herein provided for. The
2 compensation of the reporter for any services rendered by him or her as the reporter in
3 any court of this state shall be reduced one-half if the provisions of this section as to the
4 time of filing said transcript have not been complied with by him or her.

5 (f) In every case in which a transcript is delivered as provided in this section, the
6 county clerk clerk of the court shall file the original of the transcript with the papers in
7 the case, and shall deliver a copy of the transcript to the district attorney immediately
8 upon his or her receipt thereof and shall deliver a copy of said transcript to each
9 defendant (other than a fictitious defendant) at least five days before trial or upon earlier
10 demand by him or her without cost to him or her; provided, that if any defendant be held
11 to answer to two or more charges upon the same examination and thereafter the district
12 attorney shall file separate informations upon said several charges, the delivery to each
13 such defendant of one copy of the transcript of the examination shall be a compliance
14 with this section as to all of those informations.

15 (g) If the transcript is delivered by the reporter within the time hereinbefore provided
16 for, the reporter shall be entitled to receive the compensation fixed and allowed by law to
17 reporters in the superior courts of this state.

18 **Comment.** Section 869 is amended to reflect enactment of the Trial Court Funding Act. See
19 Gov't Code § 77001 (local trial court management). See also Gov't Code §§ 68073
20 (responsibility for court operations and facilities), 69947 (compensation of official reporter).

21 The section is also amended to reflect elimination of the county clerk's role as ex officio clerk
22 of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior
23 court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex
24 officio clerk of the court are delegated to the court administrative or executive officer, and the
25 county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840
26 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

27 **Note: Comment Requested**

28 The Commission is reviewing whether to retain the references to the county clerk. The
29 Commission solicits comments on this question.


30 **Penal Code § 870 (amended). Transcript of deposition**

31 SEC. ____ . Section 870 of the Penal Code is amended to read:

32 870. The magistrate or his or her clerk shall keep the depositions taken on the
33 information or the examination, until they are returned to the proper court; and shall not
34 permit them to be examined or copied by any person except a judge of a court having
35 jurisdiction of the offense, or authorized to issue writs of habeas corpus, the Attorney
36 General, district attorney, or other prosecuting attorney, and the defendant and his or her
37 counsel; provided however, upon demand by the defendant or his or her attorney the
38 magistrate shall order a transcript of the depositions taken on the information, or on the
39 examination, to be immediately furnished the defendant or his or her attorney, after the
40 commitment of the defendant as provided by Sections 876 and 877, and the reporter
41 furnishing the depositions, shall receive compensation ~~and be paid by the county for the~~
42 ~~same as provided by subdivision (f) of~~ in accordance with Section 869.

43 **Comment.** Section 870 is amended to reflect enactment of the Trial Court Funding Act. See
44 Gov't Code § 77001 (local trial court management). See also Gov't Code §§ 68073
45 (responsibility for court operations and facilities), 69947 (compensation of official reporter).

46 The section is also amended to correct the reference to former subdivision (f) of Section 869.

1  **Note.** Penal Code Section 870 may require further revision to reflect current practice. That
2 inquiry is beyond the scope of the present project.

3 **Penal Code § 896 (amended). Selection of grand jurors**

4 SEC. ____ . Section 896 of the Penal Code is amended to read:

5 896. (a) Immediately after such order is made, the court shall select the grand jurors
6 required by personal interview for the purpose of ascertaining whether they possess the
7 qualifications prescribed by subdivision (a) of Section 893. If a person so interviewed, in
8 the opinion of the court, possesses such qualifications, in order ~~for his name~~ to be listed
9 ~~he~~ the person shall sign a statement declaring that ~~he~~ the person will be available for jury
10 service for the number of hours usually required of a member of the grand jury in that
11 county.

12 (b) The selections shall be made of men and women who are not exempt from serving
13 and who are suitable and competent to serve as grand jurors pursuant to Sections 893,
14 898, and 899. The court shall list the persons so selected and required by the order to
15 serve as grand jurors during the ensuing fiscal year of the county, or until a new list of
16 grand jurors is provided, and shall at once place this list in the possession of the ~~county~~
17 clerk of the court.

18 **Comment.** Section 896 is amended to reflect elimination of the county clerk's role as ex officio
19 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
20 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
21 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
22 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
23 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

24 **Penal Code § 900 (amended). Duties of clerk**

25 SEC. ____ . Section 900 of the Penal Code is amended to read:

26 900. On receiving the list of persons selected by the court, the ~~county~~ clerk of the court
27 shall file it ~~in his office~~ and have such list, which shall include the name of the judge who
28 selected each person on the list, published one time in a newspaper of general circulation,
29 as defined in Section 6000 of the Government Code, in the county. The ~~county~~ clerk shall
30 thereupon do either of the following:

31 (a) Write down the names on the list onto separate pieces of paper of the same size and
32 appearance, fold each piece so as to conceal the name thereon, and deposit the pieces in a
33 box to be called the "grand jury box."

34 (b) Assign a number to each name on the list and place, in a box to be called the "grand
35 jury box," markers of the same size, shape, and color, each containing a number which
36 corresponds with a number on the list.

37 **Comment.** Section 900 is amended to reflect elimination of the county clerk's role as ex officio
38 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
39 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
40 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
41 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
42 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

43 **Penal Code § 903.2 (unchanged). Jury commissioner**

44 903.2. The jury commissioner shall diligently inquire and inform himself in respect to
45 the qualifications of persons resident in his county who may be liable to be summoned for
46 grand jury duty. He may require any person to answer, under oath to be administered by

1 him, all such questions as he may address to such person, touching his name, age,
2 residence, occupation, and qualifications as a grand juror, and also all questions as to
3 similar matters concerning other persons of whose qualifications for grand jury duty he
4 has knowledge.

5 The commissioner and his assistants, referred to in Sections 69895 and 69896 of the
6 Government Code, shall have power to administer oaths and shall be allowed actual
7 traveling expenses incurred in the performance of their duties. Such traveling expenses
8 shall be audited, allowed, and paid out of the general fund of the county.

9 **Note: Comment Requested**

10 The Commission is researching several issues pertaining to jury commissioners, including
11 whether jury commissioner provisions in the Government and Penal Codes should be relocated to
12 the Trial Jury Selection and Management Act (Code Civ. Proc. § 190 *et seq.*) or are superseded
13 by that Act. The Commission solicits comments on these points.

14 **Penal Code § 904 (amended). Drawing of grand jury**

15 SEC. ____ . Section 904 of the Penal Code is amended to read:

16 904. Every superior court, whenever in its opinion the public interest so requires, shall
17 make and file with the county clerk of the court an order directing a grand jury to be
18 drawn. Such order shall designate the number of grand jurors to be drawn, which shall
19 not be less than 29 or more than 40 in counties having a population exceeding four
20 million and not less than 25 nor more than 30 in other counties.

21 **Comment.** Section 904 is amended to reflect elimination of the county clerk's role as ex officio
22 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
23 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
24 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
25 county clerk is relieved of those powers, duties, and responsibilities. See Sections 69840 (powers,
26 duties, and responsibilities of clerk of court), 71620 (trial court personnel).

27 **Penal Code § 924.4 (amended). Grand jury succession**

28 SEC. ____ . Section 924.4 of the Penal Code is amended to read:

29 924.4. Notwithstanding the provisions of Sections 924.1 and 924.2, any grand jury or,
30 if the grand jury is no longer empaneled impaneled, the presiding ~~or~~ sole judge of the
31 superior court, may pass on and provide the succeeding grand jury with any records,
32 information, or evidence acquired by the grand jury during the course of any
33 investigation conducted by it during its term of service, except any information or
34 evidence that relates to a criminal investigation or that could form part or all of the basis
35 for issuance of an indictment. Transcripts of testimony reported during any session of the
36 grand jury shall be made available to the succeeding grand jury upon its request.

37 **Comment.** Section 924.4 is amended to delete language referring to the sole judge. Every
38 superior court has at least two judgeships as a result of trial court unification. See Gov't Code §
39 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
40 otherwise, the reference to the "presiding judge" means the sole judge of the court. See Gov't
41 Code § 69508.5 (presiding judge).

42 **Penal Code § 932 (amended). Order of grand jury**

43 SEC. ____ . Section 932 of the Penal Code is amended to read:

44 932. After investigating the books and accounts of the various officials of the county,
45 as provided in the foregoing sections of this article, the grand jury may order the district

1 attorney of the county to institute suit to recover any money that, in the judgment of the
2 grand jury, may from any cause be due the county. The order of the grand jury, certified
3 by the foreman of the grand jury and filed with the ~~county~~ clerk of the superior court of
4 the county, shall be full authority for the district attorney to institute and maintain any
5 such suit.

6 **Comment.** Section 932 is amended to reflect elimination of the county clerk's role as ex officio
7 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
8 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
9 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
10 county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840
11 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

12 **Penal Code § 933 (amended). Final report of grand jury**

13 SEC. ____ . Section 933 of the Penal Code is amended to read:

14 933. (a) Each grand jury shall submit to the presiding judge of the superior court a final
15 report of its findings and recommendations that pertain to county government matters
16 during the fiscal or calendar year. Final reports on any appropriate subject may be
17 submitted to the presiding judge of the superior court at any time during the term of
18 service of a grand jury. A final report may be submitted for comment to responsible
19 officers, agencies, or departments, including the county board of supervisors, when
20 applicable, upon finding of the presiding judge that the report is in compliance with this
21 title. For 45 days after the end of the term, the foreperson and his or her designees shall,
22 upon reasonable notice, be available to clarify the recommendations of the report.

23 (b) One copy of each final report, together with the responses thereto, found to be in
24 compliance with this title shall be placed on file with the ~~county~~ clerk of the court and
25 remain on file in the office of the ~~county~~ clerk. The ~~county~~ clerk shall immediately
26 forward a true copy of the report and the responses to the State Archivist who shall retain
27 that report and all responses in perpetuity.

28 (c) No later than 90 days after the grand jury submits a final report on the operations of
29 any public agency subject to its reviewing authority, the governing body of the public
30 agency shall comment to the presiding judge of the superior court on the findings and
31 recommendations pertaining to matters under the control of the governing body, and
32 every elected county officer or agency head for which the grand jury has responsibility
33 pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the
34 superior court, with an information copy sent to the board of supervisors, on the findings
35 and recommendations pertaining to matters under the control of that county officer or
36 agency head and any agency or agencies which that officer or agency head supervises or
37 controls. In any city and county, the mayor shall also comment on the findings and
38 recommendations. All of these comments and reports shall forthwith be submitted to the
39 presiding judge of the superior court who impaneled the grand jury. A copy of all
40 responses to grand jury reports shall be placed on file with the clerk of the public agency
41 and the office of the county clerk, or the mayor when applicable, and shall remain on file
42 in those offices. One copy shall be placed on file with the applicable grand jury final
43 report by, and in the control of the currently impaneled grand jury, where it shall be
44 maintained for a minimum of five years.

45 (d) As used in this section "agency" includes a department.

46 **Comment.** Section 933 is amended to reflect elimination of the county clerk's role as ex officio
47 clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of
48 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as

1 ex officio clerk of the court are delegated to the court administrative or executive officer, and the
2 county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840
3 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

4 **Penal Code § 938.1 (amended). Transcript of grand jury proceedings**

5 SEC. ____ . Section 938.1 of the Penal Code is amended to read:

6 938.1. (a) If an indictment has been found or accusation presented against a defendant,
7 such stenographic reporter shall certify and deliver to the ~~county~~ clerk of the superior
8 court an original transcription of ~~his~~ the reporter's shorthand notes and a copy thereof and
9 as many additional copies as there are defendants, other than fictitious defendants,
10 regardless of the number of charges or fictitious defendants included in the same
11 investigation. The reporter shall complete such certification and delivery within 10 days
12 after the indictment has been found or the accusation presented unless the court for good
13 cause makes an order extending the time. The time shall not be extended more than 20
14 days. The ~~county~~ clerk shall file the original of the transcript, deliver a copy of the
15 transcript to the district attorney immediately upon ~~his~~ receipt thereof and deliver a copy
16 of such transcript to each such defendant or ~~his~~ the defendant's attorney. If the copy of
17 the testimony is not served as provided in this section the court shall on motion of the
18 defendant continue the trial to such time as may be necessary to secure to the defendant
19 receipt of a copy of such testimony 10 days before such trial. If several criminal charges
20 are investigated against a defendant on one investigation and thereafter separate
21 indictments are returned or accusations presented upon said several charges, the delivery
22 to such defendant or ~~his~~ the defendant's attorney of one copy of the transcript of such
23 investigation shall be a compliance with this section as to all of such indictments or
24 accusations.

25 (b) The transcript shall not be open to the public until 10 days after its delivery to the
26 defendant or ~~his~~ the defendant's attorney. Thereafter the transcript shall be open to the
27 public unless the court orders otherwise on its own motion or on motion of a party
28 pending a determination as to whether all or part of the transcript should be sealed. If the
29 court determines that there is a reasonable likelihood that making all or any part of the
30 transcript public may prejudice a defendant's right to a fair and impartial trial, that part of
31 the transcript shall be sealed until the defendant's trial has been completed.

32 **Comment.** Section 938.1 is amended to reflect elimination of the county clerk's role as ex
33 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
34 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
35 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
36 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
37 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

38 **Penal Code § 938.3 (amended). Payment of reporter**

39 SEC. ____ . Section 938.3 of the Penal Code is amended to read:

40 938.3. The services of the stenographic reporter shall constitute a charge against the
41 county, and the stenographic reporter shall be compensated for reporting and transcribing
42 at the same rates as prescribed in ~~Sections 69947 to 69954, inclusive,~~ Section 69947 of
43 the Government Code, to be paid out of the county treasury on a warrant of the county
44 auditor when ordered by the judge of the superior court, except to the extent otherwise
45 provided for in Section 69947 of the Government Code.

46 **Comment.** Section 938.3 is amended to recognize the possibility that in some counties the
47 duties of the official reporter for which the reporter receives compensation from the court may

1 include grand jury reporting and transcription. In that circumstance, reimbursement is due to the
2 court from the county. See Gov't Code § 69947 & Comment (compensation of official reporter).
3 Cf. Gov't Code § 77003, Cal. R. Ct. 810 ("court operations" defined to exclude grand jury
4 expenses and operations).

5 **Penal Code § 977 (amended). Presence of defendant and counsel**

6 SEC. ____ . Section 977 of the Penal Code is amended to read:

7 977. (a)(1) In all cases in which the accused is charged with a misdemeanor only, he or
8 she may appear by counsel only, except as provided in paragraph (2). If the accused
9 agrees, the initial court appearance, arraignment, and plea may be by video, as provided
10 by subdivision (c).

11 (2) If the accused is charged with a misdemeanor offense involving domestic violence,
12 as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section
13 273.6, the accused shall be present for arraignment and sentencing.

14 (b)(1) In all cases in which a felony is charged, the accused shall be present at the
15 arraignment, at the time of plea, during the preliminary hearing, during those portions of
16 the trial when evidence is taken before the trier of fact, and at the time of the imposition
17 of sentence. The accused shall be personally present at all other proceedings unless he or
18 she shall, with leave of court, execute in open court, a written waiver of his or her right to
19 be personally present, as provided by paragraph (2). If the accused agrees, the initial court
20 appearance, arraignment, and plea may be by video, as provided by subdivision (c).

21 (2) The accused may execute a written waiver of his or her right to be personally
22 present, approved by his or her counsel, and the waiver shall be filed with the court.
23 However, the court may specifically direct the defendant to be personally present at any
24 particular proceeding or portion thereof. The waiver shall be substantially in the
25 following form:

26 "Waiver of Defendant's Personal Presence"


27 "The undersigned defendant, having been advised of his or her right to be present at all
28 stages of the proceedings, including, but not limited to, presentation of and arguments on
29 questions of fact and law, and to be confronted by and cross-examine all witnesses,
30 hereby waives the right to be present at the hearing of any motion or other proceeding in
31 this cause. The undersigned defendant hereby requests the court to proceed during every
32 absence of the defendant that the court may permit pursuant to this waiver, and hereby
33 agrees that his or her interest is represented at all times by the presence of his or her
34 attorney the same as if the defendant were personally present in court, and further agrees
35 that notice to his or her attorney that his or her presence in court on a particular day at a
36 particular time is required is notice to the defendant of the requirement of his or her
37 appearance at that time and place."

38 (c) The court may permit the initial court appearance and arraignment ~~in municipal or~~
39 ~~superior court~~ of defendants held in any state, county, or local facility within the county
40 on felony or misdemeanor charges, except for those defendants who were indicted by a
41 grand jury, to be conducted by two-way electronic audiovideo communication between
42 the defendant and the courtroom in lieu of the physical presence of the defendant in the
43 courtroom. If the defendant is represented by counsel, the attorney shall be present with
44 the defendant at the initial court appearance and arraignment, and may enter a plea during
45 the arraignment. However, if the defendant is represented by counsel at an initial hearing
46 ~~in superior court~~ in a felony case, and if the defendant does not plead guilty or nolo
47 contendere to any charge, the attorney shall be present with the defendant or if the
48 attorney is not present with the defendant, the attorney shall be present in court during the

1 hearing. The defendant shall have the right to make his or her plea while physically
2 present in the courtroom if he or she so requests. If the defendant decides not to exercise
3 the right to be physically present in the courtroom, he or she shall execute a written
4 waiver of that right. A judge may order a defendant's personal appearance in court for the
5 initial court appearance and arraignment. In a misdemeanor case, a judge may, pursuant
6 to this subdivision, accept a plea of guilty or no contest from a defendant who is not
7 physically in the courtroom. In a felony case, a judge may, pursuant to this subdivision,
8 accept a plea of guilty or no contest from a defendant who is not physically in the
9 courtroom if the parties stipulate thereto.

10 (d) Notwithstanding subdivision (c), if the defendant is represented by counsel, the
11 attorney shall be present with the defendant in any county exceeding 4,000,000 persons in
12 population.

13 **Comment.** Subdivision (c) of Section 977 is amended to reflect unification of the municipal
14 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

15  **Note.** Penal Code Section 977 reflects legislative changes made in AB 477 (Cohn). See 2001
16 Cal. Stat. ch. 82, § 1.

17 **Penal Code § 977.2 (amended). Appearance and arraignment by two-way electronic**
18 **audiovideo communication**

19 SEC. ____ . Section 977.2 of the Penal Code is amended to read:

20 977.2. (a) Notwithstanding Section 977 or any other law, in all cases in which the
21 defendant is charged with a misdemeanor or a felony and is currently incarcerated in the
22 state prison, the Department of Corrections may arrange for the initial court appearance
23 and arraignment ~~in municipal or superior court~~ to be conducted by two-way electronic
24 audiovideo communication between the defendant and the courtroom in lieu of the
25 physical presence of the defendant in the courtroom. Nothing in this section shall be
26 interpreted to eliminate the authority of the court to issue an order requiring the defendant
27 to be physically present in the courtroom in those cases where the court finds
28 circumstances that require the physical presence of the defendant in the courtroom.

29 (b) If the defendant is represented by counsel, the attorney shall be present with the
30 defendant at the initial court appearance and arraignment, and may enter a plea during the
31 arraignment. However, if the defendant is represented by counsel at an initial hearing ~~in~~
32 ~~superior court~~ in a felony case, and if the defendant does not plead guilty or nolo
33 contendere to any charge, the attorney shall be present with the defendant or if the
34 attorney is not present with the defendant, the attorney shall be present in court during the
35 hearing.

36 (c) In lieu of the physical presence of the defendant's counsel at the institution with the
37 defendant, the court and the department shall establish a confidential telephone and
38 facsimile transmission line between the court and the institution for communication
39 between the defendant's counsel in court and the defendant at the institution. In this case,
40 counsel for the defendant shall not be required to be physically present at the institution
41 during the initial court appearance and arraignment via electronic audiovideo
42 communication. Nothing in this section shall be construed to prohibit the physical
43 presence of the defense counsel with the defendant at the state prison.

44 **Comment.** Subdivisions (a) and (b) of Section 977.2 are amended to reflect unification of the
45 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Penal Code § 987.2 (amended). Appointment and compensation of counsel**

2 SEC. ____ . Section 987.2 of the Penal Code is amended to read:

3 987.2. (a) In any case in which a person, including a person who is a minor, desires but
4 is unable to employ counsel, and in which counsel is assigned in the superior or
5 municipal court to represent the person in a criminal trial, proceeding, or appeal, the
6 following assigned counsel shall receive a reasonable sum for compensation and for
7 necessary expenses, the amount of which shall be determined by the court, to be paid out
8 of the general fund of the county:

9 (1) In a county or city and county in which there is no public defender.

10 (2) In a county of the first, second, or third class where there is no contract for criminal
11 defense services between the county and one or more responsible attorneys.

12 (3) In a case in which the court finds that, because of a conflict of interest or other
13 reasons, the public defender has properly refused.

14 (4) In a county of the first, second, or third class where attorneys contracted by the
15 county are unable to represent the person accused.

16 (b) The sum provided for in subdivision (a) may be determined by contract between the
17 court and one or more responsible attorneys after consultation with the board of
18 supervisors as to the total amount of compensation and expenses to be paid, which shall
19 be within the amount of funds allocated by the board of supervisors for the cost of
20 assigned counsel in those cases.

21 (c) In counties that utilize an assigned private counsel system as either the primary
22 method of public defense or as the method of appointing counsel in cases where the
23 public defender is unavailable, the county, the courts, or the local county bar association
24 working with the courts are encouraged to do all of the following:

25 (1) Establish panels that shall be open to members of the State Bar of California.

26 (2) Categorize attorneys for panel placement on the basis of experience.

27 (3) Refer cases to panel members on a rotational basis within the level of experience of
28 each panel, except that a judge may exclude an individual attorney from appointment to
29 an individual case for good cause.

30 (4) Seek to educate those panel members through an approved training program.

31 (5) Establish a cost-efficient plan to ensure maximum recovery of costs pursuant to
32 Section 987.8.

33 (d) In a county of the first, second, or third class, the court shall first utilize the services
34 of the public defender to provide criminal defense services for indigent defendants. In the
35 event that the public defender is unavailable and the county and the courts have
36 contracted with one or more responsible attorneys or with a panel of attorneys to provide
37 criminal defense services for indigent defendants, the court shall utilize the services of the
38 county-contracted attorneys prior to assigning any other private counsel. Nothing in this
39 subdivision shall be construed to require the appointment of counsel in any case in which
40 the counsel has a conflict of interest. In the interest of justice, a court may depart from
41 that portion of the procedure requiring appointment of a county-contracted attorney after
42 making a finding of good cause and stating the reasons therefor on the record.

43 (e) In a county of the first, second, or third class, the court shall first utilize the services
44 of the public defender to provide criminal defense services for indigent defendants. In the
45 event that the public defender is unavailable and the county has created a second public
46 defender and contracted with one or more responsible attorneys or with a panel of
47 attorneys to provide criminal defense services for indigent defendants, and if the quality
48 of representation provided by the second public defender is comparable to the quality of
49 representation provided by the public defender, the court shall next utilize the services of

1 the second public defender and then the services of the county-contracted attorneys prior
2 to assigning any other private counsel. Nothing in this subdivision shall be construed to
3 require the appointment of counsel in any case in which the counsel has a conflict of
4 interest. In the interest of justice, a court may depart from that portion of the procedure
5 requiring appointment of the second public defender or a county-contracted attorney after
6 making a finding of good cause and stating the reasons therefor on the record.

7 (f) In any case in which counsel is assigned as provided in subdivision (a), that counsel
8 appointed by the court and any court-appointed licensed private investigator shall have
9 the same rights and privileges to information as the public defender and the public
10 defender investigator. It is the intent of the Legislature in enacting this subdivision to
11 equalize any disparity that exists between the ability of private, court-appointed counsel
12 and investigators, and public defenders and public defender investigators, to represent
13 their clients. This subdivision is not intended to grant to private investigators access to
14 any confidential Department of Motor Vehicles' information not otherwise available to
15 them. This subdivision is not intended to extend to private investigators the right to issue
16 subpoenas.

17 (g) Notwithstanding any other provision of this section, where an indigent defendant is
18 first charged in one county and establishes an attorney-client relationship with the public
19 defender, defense services contract attorney, or private attorney, and where the defendant
20 is then charged with an offense in a second or subsequent county, the court in the second
21 or subsequent county may appoint the same counsel as was appointed in the first county
22 to represent the defendant when all of the following conditions are met:

23 (1) The offense charged in the second or subsequent county would be joinable for trial
24 with the offense charged in the first if it took place in the same county, or involves
25 evidence which would be cross-admissible.

26 (2) The court finds that the interests of justice and economy will be best served by
27 unitary representation.

28 (3) Counsel appointed in the first county consents to the appointment.

29 (h) The county may recover costs of public defender services under Chapter 6
30 (commencing with Section 4750) of Title 5 of Part 3 for any case subject to Section 4750.

31 (i) Counsel shall be appointed to represent, in a misdemeanor case, a person who
32 desires but is unable to employ counsel, when it appears that the appointment is necessary
33 to provide an adequate and effective defense for the defendant. Appointment of counsel
34 in an infraction case is governed by Section 19.6.

35 (j) As used in this section, "county of the first, second, or third class" means the county
36 of the first class, county of the second class, and county of the third class as provided by
37 Sections 28020, 28022, 28023, and 28024 of the Government Code.

38 **Comment.** Subdivision (a) of Section 987.2 is amended to reflect unification of the municipal
39 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

40 **Note: Comment Requested**

41 Under subdivision (a), assigned counsel is to be paid out of the general fund of the county. This
42 reference still appears to be proper, because "court operations" as defined in Government Code
43 Section 77003 does not include indigent criminal defense. Cal. R. Ct. 810(b). The Commission
44 solicits comments on this issue.

45 **Penal Code § 1000 (amended). Application of chapter to certain violations**

46 SEC. ____ . Section 1000 of the Penal Code is amended to read:

1 1000. (a) This chapter shall apply whenever a case is before any court upon an
2 accusatory pleading for a violation of Section 11350, 11357, 11364, 11365, 11377, or
3 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if
4 the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or
5 Section 11368 of the Health and Safety Code if the narcotic drug was secured by a
6 fictitious prescription and is for the personal use of the defendant and was not sold or
7 furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts
8 directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the
9 Penal Code, if for being under the influence of a controlled substance, or Section 4060
10 of the Business and Professions Code, and it appears to the prosecuting attorney that, except
11 as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the
12 following apply to the defendant:

13 (1) The defendant has no conviction for any offense involving controlled substances
14 prior to the alleged commission of the charged offense.

15 (2) The offense charged did not involve a crime of violence or threatened violence.

16 (3) There is no evidence of a violation relating to narcotics or restricted dangerous
17 drugs other than a violation of the sections listed in this subdivision.

18 (4) The defendant's record does not indicate that probation or parole has ever been
19 revoked without thereafter being completed.

20 (5) The defendant's record does not indicate that he or she has successfully completed
21 or been terminated from diversion or deferred entry of judgment pursuant to this chapter
22 within five years prior to the alleged commission of the charged offense.

23 (6) The defendant has no prior felony conviction within five years prior to the alleged
24 commission of the charged offense.

25 (b) The prosecuting attorney shall review his or her file to determine whether or not
26 paragraphs (1) to (6), inclusive, of subdivision (a) apply to the defendant. Upon the
27 agreement of the prosecuting attorney, law enforcement, the public defender, and the
28 presiding judge of the criminal division of the ~~municipal court or of the superior court in~~
29 ~~a county in which there is no municipal court~~, or a judge designated by the presiding
30 judge, this procedure shall be completed as soon as possible after the initial filing of the
31 charges. If the defendant is found eligible, the prosecuting attorney shall file with the
32 court a declaration in writing or state for the record the grounds upon which the
33 determination is based, and shall make this information available to the defendant and his
34 or her attorney. This procedure is intended to allow the court to set the hearing for
35 deferred entry of judgment at the arraignment. If the defendant is found ineligible for
36 deferred entry of judgment, the prosecuting attorney shall file with the court a declaration
37 in writing or state for the record the grounds upon which the determination is based, and
38 shall make this information available to the defendant and his or her attorney. The sole
39 remedy of a defendant who is found ineligible for deferred entry of judgment is a
40 postconviction appeal.


41 (c) All referrals for deferred entry of judgment granted by the court pursuant to this
42 chapter shall be made only to programs that have been certified by the county drug
43 program administrator pursuant to Chapter 1.5 (commencing with Section 1211) of Title
44 8, or to programs that provide services at no cost to the participant and have been deemed
45 by the court and the county drug program administrator to be credible and effective. The
46 defendant may request to be referred to a program in any county, as long as that program
47 meets the criteria set forth in this subdivision.

48 (d) Deferred entry of judgment for a violation of Section 11368 of the Health and
49 Safety Code shall not prohibit any administrative agency from taking disciplinary action

1 against a licensee or from denying a license. Nothing in this subdivision shall be
2 construed to expand or restrict the provisions of section 1000.4.

3 (e) Any defendant who is participating in a program referred to in this section may be
4 required to undergo analysis of his or her urine for the purpose of testing for the presence
5 of any drug as part of the program. However, urine analysis results shall not be
6 admissible as a basis for any new criminal prosecution or proceeding.

7 **Comment.** Subdivision (b) of Section 1000 is amended to reflect unification of the municipal
8 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

9  **Note.** Penal Code Section 1000 reflects legislative changes made in SB 485 (Committee on
10 Public Safety). See 2001 Cal. Stat. ch. 473, § 7.

11 **Penal Code § 1000.5 (amended). Preguilty plea drug court program**

12 SEC. ____ . Section 1000.5 of the Penal Code is amended to read:

13 1000.5. (a) The presiding judge of the superior ~~or municipal~~ court, or a judge
14 designated by the presiding judge, together with the district attorney and the public
15 defender, may agree in writing to establish and conduct a preguilty plea drug court
16 program pursuant to the provisions of this chapter, wherein criminal proceedings are
17 suspended without a plea of guilty for designated defendants. The drug court program
18 shall include a regimen of graduated sanctions and rewards, individual and group therapy,
19 urine analysis testing commensurate with treatment needs, close court monitoring and
20 supervision of progress, educational or vocational counseling as appropriate, and other
21 requirements as agreed to by the presiding judge or his or her designee, the district
22 attorney, and the public defender. If there is no agreement in writing for a preguilty plea
23 program by the presiding judge or his or her designee, the district attorney, and the public
24 defender, the program shall be operated as a deferred entry of judgment program as
25 provided in this chapter.

26 (b) The provisions of Section 1000.3 and Section 1000.4 regarding satisfactory and
27 unsatisfactory performance in a program shall apply to preguilty plea programs. If the
28 court finds that (1) the defendant is not performing satisfactorily in the assigned program,
29 (2) the defendant is not benefiting from education, treatment, or rehabilitation, (3) the
30 defendant has been convicted of a crime specified in Section 1000.3, or (4) the defendant
31 has engaged in criminal conduct rendering him or her unsuitable for the preguilty plea
32 program, the court shall reinstate the criminal charge or charges. If the defendant has
33 performed satisfactorily during the period of the preguilty plea program, at the end of that
34 period, the criminal charge or charges shall be dismissed and the provisions of Section
35 1000.4 shall apply.

36 **Comment.** Subdivision (a) of Section 1000.5 is amended to reflect unification of the municipal
37 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

38 **Penal Code § 1034 (repealed). Change of venue in criminal action pending in municipal**
39 **court**

40 SEC. ____ . Section 1034 of the Penal Code is repealed.

41 ~~1034. In a criminal action pending in a municipal court, the court shall order a change~~
42 ~~of venue:~~

43 ~~(a) On motion of the defendant, to another judicial district when it appears that there is~~
44 ~~a reasonable likelihood that a fair and impartial trial cannot be had in the judicial district.~~
45 ~~When a change of venue is ordered by a municipal court, it shall be for the trial itself. All~~
46 ~~proceedings before trial shall occur in the judicial district of original venue, except when~~

1 it is evident that a particular proceeding must be heard by the judge who is to preside over
2 the trial.

3 (b) ~~On its own motion or on motion of any party, to an adjoining judicial district in the~~
4 ~~same county when it appears as a result of the exhaustion of all of the jury panels called~~
5 ~~that it will be impossible to secure a jury to try the cause in the judicial district or, when~~
6 ~~for the same reason it appears that it will be impossible to try the cause in any judicial~~
7 ~~district in the county, to a judicial district in an adjoining county.~~

8 (c) ~~On its own motion, to an adjoining judicial district in the same county, when it~~
9 ~~appears as a result of the unavailability of all the courts within a judicial district such that~~
10 ~~it will be unable to try the cause within the requirements of Section 1382. The court shall~~
11 ~~state its findings on the record. This subdivision is limited to those judicial districts~~
12 ~~operating under Judicial Council-approved trial court coordination plans.~~

13 **Comment.** Section 1034 is repealed to reflect unification of the municipal and superior courts
14 pursuant to Article VI, Section 5(e), of the California Constitution. For change of venue in a
15 criminal action pending in superior court, see Section 1033. See also Section 1038 (Judicial
16 Council rules for change of venue in criminal action).

17  **Note: Comment Requested**

18 Penal Code Section 1034 raises issues relating to local venue. The Commission and the Judicial
19 Council are studying this area and may propose additional legislation to address local venue
20 issues. The Commission solicits comment on the proper treatment of this provision.

21 **Penal Code § 1035 (amended). Change of venue and consent to venue**

22 SEC. ____ . Section 1035 of the Penal Code is amended to read:

23 1035. (a)(1) ~~In a criminal action pending in a municipal court, the court shall order a~~
24 ~~change of venue to another judicial district in the same county on motion of the~~
25 ~~prosecution if it appears that the change will be for the convenience of all parties to the~~
26 ~~action and the defendant and his attorney, if any, consent in writing to the change.~~

27 (2) ~~In a misdemeanor criminal case pending in a municipal court, upon a motion by any~~
28 ~~party, the court may order a change of venue, for changes of plea, to the judicial district~~
29 ~~in the same county where an action filed first in time is pending against the defendant,~~
30 ~~when the court finds that the transfer would increase efficiency and advance the court's~~
31 ~~coordination plan. The court shall state its findings on the record. If the change of venue~~
32 ~~is from one prosecutorial agency to another within the same county, the transferring~~
33 ~~agency shall approve in writing the transfer to the other prosecuting agency. This~~
34 ~~subdivision shall apply only to those judicial districts operating under Judicial Council-~~
35 ~~approved trial court coordination plans.~~

36 (b) A defendant arrested, held, or present in a county other than that in which an
37 indictment, information, felony complaint, or felony probation violation is pending
38 against the defendant, may state in writing his or her agreement to plead guilty or nolo
39 contendere to some or all of the pending charges, to waive trial or hearing in the county in
40 which the pleading is pending, and to consent to disposition of the case in the county in
41 which that defendant was arrested, held, or present, subject to the approval of the district
42 attorney for each county. Upon receipt of the defendant's statement and of the written
43 approval of the district attorneys, the clerk of the court in which the pleading is pending
44 shall transmit the papers in the proceeding or certified copies thereof to the clerk of the
45 court for the county in which the defendant is arrested, held, or present, and the
46 prosecution shall continue in that county. However, the proceedings shall be limited
47 solely to the purposes of plea and sentencing and not for trial. If, after the proceeding has
48 been transferred pursuant to this section, the defendant pleads not guilty, the clerk shall

1 return the papers to the court in which the prosecution was commenced and the
2 proceeding shall be restored to the docket of that court. The defendant's statement that
3 the defendant wishes to plead guilty or nolo contendere shall not be used against the
4 defendant.

5 **Comment.** Subdivision (a) of Section 1035 is deleted to reflect unification of the municipal and
6 superior courts pursuant to Article VI, Section 5(e), of the California Constitution. For change of
7 venue in a criminal action pending in superior court, see Section 1033. See also Section 1038
8 (Judicial Council rules for change of venue in criminal action).

9 **Note: Comment Requested**

10 Penal Code Section 1035 raises issues relating to local venue. The Commission and the Judicial
11 Council are studying this area and may propose additional legislation to address local venue
12 issues. The Commission solicits comment on the proper treatment of this provision.

13 **Penal Code § 1036.5 (amended). Setting aside order to change venue**

14 SEC. ____ . Section 1036.5 of the Penal Code is amended to read:

15 1036.5. Following the resolution of pre-trial motions, and prior to the issuance of an
16 order under Section 1036 or the transmittal of the case file for the purpose of trial to the
17 court to which venue has been ordered transferred, the court may, upon its own motion or
18 the motion of any party and on appropriate notice to the court to which venue has been
19 transferred, set aside its order to change venue on the ground that the conditions which
20 originally required the order to change venue, as set forth in Section 1033 or 1034, no
21 longer apply.

22 **Comment.** Section 1036.5 is amended to reflect the repeal of Section 1034, concerning a
23 change of venue in a criminal action pending in a municipal court.

24 **Penal Code § 1038 (amended). Judicial Council rules on change of venue in criminal actions**

25 SEC. ____ . Section 1038 of the Penal Code is amended to read:

26 1038. (a) The Judicial Council shall adopt rules of practice and procedure for the
27 change of venue in criminal actions.

28 (b) ~~Judicial Council rules may provide for transfer of a misdemeanor or infraction case~~
29 ~~in the superior court in a county in which there is no municipal court to another branch or~~
30 ~~location of the superior court in the same county.~~

31 **Comment.** Section 1038 is amended to reflect unification of the municipal and superior courts
32 pursuant to Article VI, Section 5(e), of the California Constitution. Former subdivision (b) was a
33 transitional provision, to emphasize that there was to be no disparity of treatment between a party
34 appearing in a municipal court and a similarly situated party appearing in a unified superior court.
35 See Section 1038 Comment (1998). It is no longer necessary. For authority of the superior court
36 to assign a case to a court location within the county, see Gov't Code § 69508(a). See also Cal. R.
37 Ct. 6.603(c)(1)(D).

38 **Note: Comment Requested**

39 Penal Code Section 1038 raises issues relating to local venue. The Commission and the Judicial
40 Council are studying this area and may propose further revisions to address local venue issues.
41 The Commission solicits comment on the proper treatment of the section.

42 **Penal Code § 1039 (repealed). Change of venue in misdemeanor or infraction case**

43 SEC. ____ . Section 1039 of the Penal Code is repealed.

1 ~~1039. A change of venue in a misdemeanor or infraction case shall be to a municipal~~
2 ~~court in the county to which the case is transferred or to the superior court if there is no~~
3 ~~municipal court in that county.~~

4 **Comment.** Section 1039 is repealed to reflect unification of the municipal and superior courts
5 pursuant to Article VI, Section 5(e), of the California Constitution.

6 ☞ **Note: Comment Requested**

7 Penal Code Section 1039 raises issues relating to local venue. The Commission and the Judicial
8 Council are studying this area and may propose additional legislation to address local venue
9 issues. The Commission solicits comment on the proper treatment of this provision.

10 **Penal Code § 1050 (amended). Expediting trial**

11 SEC. ____ . Section 1050 of the Penal Code is amended to read:

12 1050. (a) The welfare of the people of the State of California requires that all
13 proceedings in criminal cases shall be set for trial and heard and determined at the earliest
14 possible time. To this end the Legislature finds that the criminal courts are becoming
15 increasingly congested with resulting adverse consequences to the welfare of the people
16 and the defendant. Excessive continuances contribute substantially to this congestion and
17 cause substantial hardship to victims and other witnesses. Continuances also lead to
18 longer periods of presentence confinement for those defendants in custody and the
19 concomitant overcrowding and increased expenses of local jails. It is therefore recognized
20 that the people, the defendant, and the victims and other witnesses have the right to an
21 expeditious disposition, and to that end it shall be the duty of all courts and judicial
22 officers and of all counsel, both for the prosecution and the defense, to expedite these
23 proceedings to the greatest degree that is consistent with the ends of justice. In
24 accordance with this policy, criminal cases shall be given precedence over, and set for
25 trial and heard without regard to the pendency of, any civil matters or proceedings. In
26 further accordance with this policy, death penalty cases in which both the prosecution and
27 the defense have informed the court that they are prepared to proceed to trial shall be
28 given precedence over, and set for trial and heard without regard to the pendency of,
29 other criminal cases and any civil matters or proceedings, unless the court finds in the
30 interest of justice that it is not appropriate.

31 (b) To continue any hearing in a criminal proceeding, including the trial, (1) a written
32 notice shall be filed and served on all parties to the proceeding at least two court days
33 before the hearing sought to be continued, together with affidavits or declarations
34 detailing specific facts showing that a continuance is necessary and (2) within two court
35 days of learning that he or she has a conflict in the scheduling of any court hearing,
36 including a trial, an attorney shall notify the calendar clerk of each court involved, in
37 writing, indicating which hearing was set first. A party shall not be deemed to have been
38 served within the meaning of this section until that party actually has received a copy of
39 the documents to be served, unless the party, after receiving actual notice of the request
40 for continuance, waives the right to have the documents served in a timely manner.
41 Regardless of the proponent of the motion, the prosecuting attorney shall notify the
42 people's witnesses and the defense attorney shall notify the defense's witnesses of the
43 notice of motion, the date of the hearing, and the witnesses' right to be heard by the court.
44 ~~The superior and municipal courts of a county may adopt rules, which shall be consistent,~~
45 ~~regarding the method of giving the notice or waiver of service required by this~~
46 ~~subdivision, where a continuance is sought because of a conflict between scheduled~~
47 ~~appearances in the courts of that county.~~

1 (c) Notwithstanding subdivision (b), a party may make a motion for a continuance
2 without complying with the requirements of that subdivision. However, unless the
3 moving party shows good cause for the failure to comply with those requirements, the
4 court may impose sanctions as provided in Section 1050.5.

5 (d) When a party makes a motion for a continuance without complying with the
6 requirements of subdivision (b), the court shall hold a hearing on whether there is good
7 cause for the failure to comply with those requirements. At the conclusion of the hearing
8 the court shall make a finding whether good cause has been shown and, if it finds that
9 there is good cause, shall state on the record the facts proved that justify its finding. A
10 statement of the finding and a statement of facts proved shall be entered in the minutes. If
11 the moving party is unable to show good cause for the failure to give notice, the motion
12 for continuance shall not be granted.

13 (e) Continuances shall be granted only upon a showing of good cause. Neither the
14 convenience of the parties nor a stipulation of the parties is in and of itself good cause.

15 (f) At the conclusion of the motion for continuance, the court shall make a finding
16 whether good cause has been shown and, if it finds that there is good cause, shall state on
17 the record the facts proved that justify its finding. A statement of facts proved shall be
18 entered in the minutes.

19 (g)(1) When deciding whether or not good cause for a continuance has been shown, the
20 court shall consider the general convenience and prior commitments of all witnesses,
21 including peace officers. Both the general convenience and prior commitments of each
22 witness also shall be considered in selecting a continuance date if the motion is granted.
23 The facts as to inconvenience or prior commitments may be offered by the witness or by
24 a party to the case.

25 (2) For purposes of this section, “good cause” includes, but is not limited to, those
26 cases involving murder, as defined in subdivision (a) of Section 187, allegations that
27 stalking, as defined in Section 646.9, a violation of one or more of the sections specified
28 in subdivision (a) of Section 11165.1 or Section 11165.6, or domestic violence as defined
29 in Section 13700, or a case being handled in the Career Criminal Prosecution Program
30 pursuant to Sections 999b through 999h, has occurred and the prosecuting attorney
31 assigned to the case has another trial, preliminary hearing, or motion to suppress in
32 progress in that court or another court. A continuance under this paragraph shall be
33 limited to a maximum of 10 additional court days.

34 (3) Only one continuance per case may be granted to the people under this subdivision
35 for cases involving stalking or cases handled under the Career Criminal Prosecution
36 Program. Any continuance granted to the people in a case involving stalking or handled
37 under the Career Prosecution Program shall be for the shortest time possible, not to
38 exceed 10 court days.

39 (h) Upon a showing that the attorney of record at the time of the defendant’s first
40 appearance in the superior court on an indictment or information is a Member of the
41 Legislature of this state and that the Legislature is in session or that a legislative interim
42 committee of which the attorney is a duly appointed member is meeting or is to meet
43 within the next seven days, the defendant shall be entitled to a reasonable continuance not
44 to exceed 30 days.

45 (i) A continuance shall be granted only for that period of time shown to be necessary by
46 the evidence considered at the hearing on the motion. Whenever any continuance is
47 granted, the court shall state on the record the facts proved that justify the length of the
48 continuance, and those facts shall be entered in the minutes.

1 (j) Whenever it shall appear that any court may be required, because of the condition of
2 its calendar, to dismiss an action pursuant to Section 1382, the court must immediately
3 notify the Chair of the Judicial Council.

4 (k) This section shall not apply when the preliminary examination is set on a date less
5 than 10 court days from the date of the defendant's arraignment on the complaint, and the
6 prosecution or the defendant moves to continue the preliminary examination to a date not
7 more than 10 court days from the date of the defendant's arraignment on the complaint.

8 **Comment.** Subdivision (b) of Section 1050 is amended to reflect unification of the municipal
9 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

10 **Penal Code § 1089 (amended). Alternate jurors**

11 SEC. ____ . Section 1089 of the Penal Code is amended to read:

12 1089. Whenever, in the opinion of a judge of a superior ~~or of a municipal~~ court about to
13 try a defendant against whom has been filed any indictment or information or complaint,
14 the trial is likely to be a protracted one, the court may cause an entry to that effect to be
15 made in the minutes of the court, and thereupon, immediately after the jury is impaneled
16 and sworn, the court may direct the calling of one or more additional jurors, in its
17 discretion, to be known as "alternate jurors."

18 Such alternate jurors must be drawn from the same source, and in the same manner, and
19 have the same qualifications as the jurors already sworn, and be subject to the same
20 examination and challenges; provided, that the prosecution and the defendant shall each
21 be entitled to as many peremptory challenges to such alternate jurors as there are alternate
22 jurors called. When two or more defendants are tried jointly each defendant shall be
23 entitled to as many peremptory challenges to such alternate jurors as there are alternate
24 jurors called. The prosecution shall be entitled to additional peremptory challenges equal
25 to the number of all the additional separate challenges allowed the defendant or
26 defendants to such alternate jurors.

27 Such alternate jurors shall be seated so as to have equal power and facilities for seeing
28 and hearing the proceedings in the case, and shall take the same oath as the jurors already
29 selected, and must attend at all times upon the trial of the cause in company with the
30 other jurors; and for a failure so to do are liable to be punished for contempt.

31 They shall obey the orders of and be bound by the admonition of the court, upon each
32 adjournment of the court; but if the regular jurors are ordered to be kept in the custody of
33 the sheriff or marshal during the trial of the cause, such alternate jurors shall also be kept
34 in confinement with the other jurors; and upon final submission of the case to the jury
35 such alternate jurors shall be kept in the custody of the sheriff or marshal and shall not be
36 discharged until the original jurors are discharged, except as hereinafter provided.

37 If at any time, whether before or after the final submission of the case to the jury, a
38 juror dies or becomes ill, or upon other good cause shown to the court is found to be
39 unable to perform his duty, or if a juror requests a discharge and good cause appears
40 therefor, the court may order ~~him~~ the juror to be discharged and draw the name of an
41 alternate, who shall then take ~~his~~ a place in the jury box, and be subject to the same rules
42 and regulations as though ~~he~~ the alternate juror had been selected as one of the original
43 jurors.

44 **Comment.** Section 1089 is amended to reflect unification of the municipal and superior courts
45 pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Penal Code § 1203.1b (amended). Defendant's obligation to pay for probation supervision**
2 **or conditional sentence**

3 SEC. ____ . Section 1203.1b of the Penal Code is amended to read:

4 1203.1b. (a) In any case in which a defendant is convicted of an offense and is the
5 subject of any preplea or presentence investigation and report, whether or not probation
6 supervision is ordered by the court, and in any case in which a defendant is granted
7 probation or given a conditional sentence, the probation officer, or his or her authorized
8 representative, taking into account any amount that the defendant is ordered to pay in
9 fines, assessments, and restitution, shall make a determination of the ability of the
10 defendant to pay all or a portion of the reasonable cost of any probation supervision or a
11 conditional sentence, of conducting any preplea investigation and preparing any preplea
12 report pursuant to Section 1203.7, of conducting any presentence investigation and
13 preparing any presentence report made pursuant to Section 1203, and of processing a
14 jurisdictional transfer pursuant to Section 1203.9 or of processing a request for interstate
15 compact supervision pursuant to Sections 11175 to 11179, inclusive, whichever applies.
16 The reasonable cost of these services and of probation supervision or a conditional
17 sentence shall not exceed the amount determined to be the actual average cost thereof. A
18 payment schedule for the reimbursement of the costs of preplea or presentence
19 investigations based on income shall be developed by the probation department of each
20 county and approved by the presiding ~~judges of the municipal and superior courts~~ judge
21 of the superior court. The court shall order the defendant to appear before the probation
22 officer, or his or her authorized representative, to make an inquiry into the ability of the
23 defendant to pay all or a portion of these costs. The probation officer, or his or her
24 authorized representative, shall determine the amount of payment and the manner in
25 which the payments shall be made to the county, based upon the defendant's ability to
26 pay. The probation officer shall inform the defendant that the defendant is entitled to a
27 hearing, that includes the right to counsel, in which the court shall make a determination
28 of the defendant's ability to pay and the payment amount. The defendant must waive the
29 right to a determination by the court of his or her ability to pay and the payment amount
30 by a knowing and intelligent waiver.

31 (b) When the defendant fails to waive the right provided in subdivision (a) to a
32 determination by the court of his or her ability to pay and the payment amount, the
33 probation officer shall refer the matter to the court for the scheduling of a hearing to
34 determine the amount of payment and the manner in which the payments shall be made.
35 The court shall order the defendant to pay the reasonable costs if it determines that the
36 defendant has the ability to pay those costs based on the report of the probation officer, or
37 his or her authorized representative. The following shall apply to a hearing conducted
38 pursuant to this subdivision:

39 (1) At the hearing, the defendant shall be entitled to have, but shall not be limited to,
40 the opportunity to be heard in person, to present witnesses and other documentary
41 evidence, and to confront and cross-examine adverse witnesses, and to disclosure of the
42 evidence against the defendant, and a written statement of the findings of the court or the
43 probation officer, or his or her authorized representative.

44 (2) At the hearing, if the court determines that the defendant has the ability to pay all or
45 part of the costs, the court shall set the amount to be reimbursed and order the defendant
46 to pay that sum to the county in the manner in which the court believes reasonable and
47 compatible with the defendant's financial ability.

1 (3) At the hearing, in making a determination of whether a defendant has the ability to
2 pay, the court shall take into account the amount of any fine imposed upon the defendant
3 and any amount the defendant has been ordered to pay in restitution.

4 (4) When the court determines that the defendant's ability to pay is different from the
5 determination of the probation officer, the court shall state on the record the reason for its
6 order.

7 (c) The court may hold additional hearings during the probationary or conditional
8 sentence period to review the defendant's financial ability to pay the amount, and in the
9 manner, as set by the probation officer, or his or her authorized representative, or as set
10 by the court pursuant to this section.

11 (d) If practicable, the court shall order or the probation officer shall set payments
12 pursuant to subdivisions (a) and (b) to be made on a monthly basis. Execution may be
13 issued on the order issued pursuant to this section in the same manner as a judgment in a
14 civil action. The order to pay all or part of the costs shall not be enforced by contempt.

15 (e) The term "ability to pay" means the overall capability of the defendant to reimburse
16 the costs, or a portion of the costs, of conducting the presentence investigation, preparing
17 the preplea or presentence report, processing a jurisdictional transfer pursuant to Section
18 1203.9, processing requests for interstate compact supervision pursuant to Sections 11175
19 to 11179, inclusive, and probation supervision or conditional sentence, and shall include,
20 but shall not be limited to, the defendant's:

21 (1) Present financial position.

22 (2) Reasonably discernible future financial position. In no event shall the court consider
23 a period of more than one year from the date of the hearing for purposes of determining
24 reasonably discernible future financial position.

25 (3) Likelihood that the defendant shall be able to obtain employment within the one-
26 year period from the date of the hearing.

27 (4) Any other factor or factors that may bear upon the defendant's financial capability
28 to reimburse the county for the costs.


29 (f) At any time during the pendency of the judgment rendered according to the terms of
30 this section, a defendant against whom a judgment has been rendered may petition the
31 probation officer for a review of the defendant's financial ability to pay or the rendering
32 court to modify or vacate its previous judgment on the grounds of a change of
33 circumstances with regard to the defendant's ability to pay the judgment. The probation
34 officer and the court shall advise the defendant of this right at the time of rendering of the
35 terms of probation or the judgment.

36 (g) All sums paid by a defendant pursuant to this section shall be allocated for the
37 operating expenses of the county probation department.

38 (h) The board of supervisors in any county, by resolution, may establish a fee for the
39 processing of payments made in installments to the probation department pursuant to this
40 section, not to exceed the administrative and clerical costs of the collection of those
41 installment payments as determined by the board of supervisors, except that the fee shall
42 not exceed fifty dollars (\$50).

43 (i) This section shall be operative in a county upon the adoption of an ordinance to that
44 effect by the board of supervisors.

45 **Comment.** Subdivision (a) of Section 1203.1b is amended to reflect unification of the
46 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

47  **Note.** Penal Code Section 1203.1b reflects legislative changes made in SB 485 (Committee on
48 Public Safety). See 2001 Cal. Stat. ch. 473, § 8.

1 **Penal Code § 1203.1c (amended). Defendant’s obligation to pay for cost of incarceration in**
2 **local detention facility**

3 SEC. ____ . Section 1203.1c of the Penal Code is amended to read:

4 1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered
5 to serve a period of confinement in a county jail, city jail, or other local detention facility
6 as a term of probation or a conditional sentence, the court may, after a hearing, make a
7 determination of the ability of the defendant to pay all or a portion of the reasonable costs
8 of such incarceration, including incarceration pending disposition of the case. The
9 reasonable cost of such incarceration shall not exceed the amount determined by the
10 board of supervisors, with respect to the county jail, and by the city council, with respect
11 to the city jail, to be the actual average cost thereof on a per-day basis. The court may, in
12 its discretion, hold additional hearings during the probationary period. The court may, in
13 its discretion before such hearing, order the defendant to file a statement setting forth his
14 or her assets, liability and income, under penalty of perjury, and may order the defendant
15 to appear before a county officer designated by the board of supervisors to make an
16 inquiry into the ability of the defendant to pay all or a portion of such costs. At the
17 hearing, the defendant shall be entitled to have the opportunity to be heard in person or to
18 be represented by counsel, to present witnesses and other evidence, and to confront and
19 cross-examine adverse witnesses. A defendant represented by counsel appointed by the
20 court in the criminal proceedings shall be entitled to such representation at any hearing
21 held pursuant to this section. If the court determines that the defendant has the ability to
22 pay all or a part of the costs, the court may set the amount to be reimbursed and order the
23 defendant to pay that sum to the county, or to the city with respect to incarceration in the
24 city jail, in the manner in which the court believes reasonable and compatible with the
25 defendant’s financial ability. Execution may be issued on the order in the same manner as
26 on a judgment in a civil action. The order to pay all or part of the costs shall not be
27 enforced by contempt.

28 If practicable, the court shall order payments to be made on a monthly basis and the
29 payments shall be made payable to the county officer designated by the board of
30 supervisors, or to a city officer designated by the city council with respect to
31 incarceration in the city jail.

32 A payment schedule for reimbursement of the costs of incarceration pursuant to this
33 section based upon income shall be developed by the county officer designated by the
34 board of supervisors, or by the city council with respect to incarceration in the city jail,
35 and approved by the presiding ~~judges of the municipal and superior courts~~ judge of the
36 superior court in the county.

37 (b) “Ability to pay” means the overall capability of the defendant to reimburse the
38 costs, or a portion of the costs, of incarceration and includes, but is not limited to, the
39 defendant’s:

40 (1) Present financial obligations, including family support obligations, and fines,
41 penalties and other obligations to the court.

42 (2) Reasonably discernible future financial position. In no event shall the court consider
43 a period of more than one year from the date of the hearing for purposes of determining
44 reasonable discernible future position.

45 (3) Likelihood that the defendant shall be able to obtain employment within the one-
46 year period from the date of the hearing.

47 (4) Any other factor or factors which may bear upon the defendant’s financial ability to
48 reimburse the county or city for the costs.

1 (c) All sums paid by a defendant pursuant to this section shall be deposited in the
2 general fund of the county or city.

3 (d) This section shall be operative in a county upon the adoption of an ordinance to that
4 effect by the board of supervisors, and shall be operative in a city upon the adoption of an
5 ordinance to that effect by the city council. Such ordinance shall include a designation of
6 the officer responsible for collection of moneys ordered pursuant to this section and shall
7 include a determination, to be reviewed annually, of the average per-day costs of
8 incarceration in the county jail, city jail, or other local detention facility.

9 **Comment.** Subdivision (a) of Section 1203.1c is amended to reflect unification of the
10 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

11 **Penal Code § 1203.6 (amended). Adult probation officer**

12 SEC. ____ . Section 1203.6 of the Penal Code is amended to read:

13 1203.6. The adult probation officer shall be appointed and may be removed for good
14 cause by the judge of the superior court or, in a county with two superior court judges, by
15 the presiding judge who is senior in point of service. In the case of a superior court of
16 more than two judges, a majority of the judges shall make the appointment, and may
17 effect removal.

18 The salary of the probation officer shall be established by the board of supervisors.

19 The adult probation officer shall appoint and may remove all assistants, deputies and
20 other persons employed in his the officer's department, and their compensation shall be
21 established, according to the merit system or civil service system provisions of the
22 county. If no merit system or civil service system exists in the county, the board of
23 supervisors shall provide for appointment, removal, and compensation of such personnel.

24 This section is applicable in a charter county whose charter establishes the office of
25 adult probation officer and provides that such officer shall be appointed in accordance
26 with general law subject to the merit system provisions of the charter.

27 **Comment.** Section 1203.6 is amended to delete language referring to “the judge” of the court.
28 Every superior court has at least two judgeships as a result of trial court unification. See Gov’t
29 Code § 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
30 otherwise, a reference to the “presiding judge” means the sole judge of the court. See Gov’t Code
31 § 69508.5 (presiding judge).

32 The section is also amended to replace language referring to the senior judge with a reference
33 to the presiding judge. Every superior court has a presiding judge. See Gov’t Code §§ 69508,
34 69508.5.

35 **Penal Code § 1203.7 (amended). Probation records**

36 SEC. ____ . Section 1203.7 of the Penal Code is amended to read:

37 1203.7. Either at the time of the arrest for a crime of any person over 16 years of age, or
38 at the time of the plea or verdict of guilty, the probation officer of the county of the
39 jurisdiction of the crime shall, when so directed by the court, inquire into the antecedents,
40 character, history, family environment and offense of that person, and must report the
41 same to the court and file a report in writing in the records of the court. The report shall
42 contain his or her recommendation for or against the release of the person on probation. If
43 that person is released on probation and committed to the care of the probation officer,
44 the officer shall keep a complete and accurate record in suitable books of the history of
45 the case in court and of the name of the probation officer, and his or her acts in
46 connection with the case; also the age, sex, nativity, residence, education, habits of
47 temperance, whether married or single, and the conduct, employment and occupation and

1 the parents' occupation and the condition of the person committed to his or her care
2 during the term of probation, and the result of probation, which record shall be and
3 constitute a part of the records of the court and shall at all times be open to the inspection
4 of the court or any person appointed by the court for that purpose, as well as of all
5 magistrates and the chief of police or other head of the police, unless otherwise ordered
6 by the court. Those books of record shall be furnished by the ~~county clerk~~ probation
7 department, and shall be paid for out of the county treasury.

8 Five years after termination of probation in any case subject to this section, the
9 probation officer may destroy any records and papers in his or her possession relating to
10 the case.

11 The probation officer shall furnish to each person released on probation and committed
12 to his or her care, a written statement of the terms and conditions of probation, and shall
13 report to the court or judge appointing him or her, any violation or breach of the terms
14 and conditions imposed by the court on the person placed in his or her care.

15 **Comment.** Section 1203.7 is amended to reflect elimination of the county clerk's role as ex
16 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
17 of superior court). The books of record of the probation officer are more appropriately furnished
18 by the county probation department.

19  **Note: Comment Requested**

20 The Commission solicits comment on the question whether Penal Code Section 1203.7 should
21 be amended to substitute the county probation department for the county clerk.

22 **Penal Code § 1214 (amended). Enforcement of judgment for restitution fine or other fine**

23 SEC. ____ . Section 1214 of the Penal Code is amended to read:

24 1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to
25 Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section
26 13967 of the Government Code, as operative on or before September 28, 1994, with or
27 without imprisonment, the judgment may be enforced in the manner provided for the
28 enforcement of money judgments generally. Any portion of a restitution fine that remains
29 unsatisfied after a defendant is no longer on probation or parole is enforceable by the
30 State Board of Control pursuant to this section. Notwithstanding any other provision of
31 law prohibiting disclosure, the state, as defined in Section 900.6 of the Government Code,
32 a local public entity, as defined in Section 900.4 of the Government Code, or any other
33 entity, may provide the State Board of Control any and all information to assist in the
34 collection of unpaid portions of a restitution fine for terminated probation or parole cases.
35 For purposes of the preceding sentence, "state, as defined in Section 900.6 of the
36 Government Code," and "any other entity" shall not include the Franchise Tax Board.

37 (b) In any case in which a defendant is ordered to pay restitution, the order to pay
38 restitution (1) is deemed a money judgment if the defendant was informed of his or her
39 right to have a judicial determination of the amount and was provided with a hearing,
40 waived a hearing, or stipulated to the amount of the restitution ordered, and (2) shall be
41 fully enforceable by a victim as if the restitution order were a civil judgment, and
42 enforceable in the same manner as is provided for the enforcement of any other money
43 judgment. Upon the victim's request, the court shall provide the victim in whose favor
44 the order of restitution is entered with a certified copy of that order and a copy of the
45 defendant's disclosure pursuant to paragraph (4) of subdivision (f) of Section 1202.4,
46 affidavit or information pursuant to paragraph (5) of subdivision (f) of Section 1202.4, or
47 report pursuant to paragraph (7) of subdivision (f) of Section 1202.4. The court also shall

1 provide this information to the district attorney upon request in connection with an
2 investigation or prosecution involving perjury or the veracity of the information
3 contained within the defendant's financial disclosure. In addition, upon request, the court
4 shall provide the State Board of Control with a certified copy of any order imposing a
5 restitution fine or order and a copy of the defendant's disclosure pursuant to paragraph (4)
6 of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (5)
7 of subdivision (f) of Section 1202.4, or report pursuant to paragraph (7) of subdivision (f)
8 of Section 1202.4. A victim shall have access to all resources available under the law to
9 enforce the restitution order, including, but not limited to, access to the defendant's
10 financial records, use of wage garnishment and lien procedures, information regarding the
11 defendant's assets, and the ability to apply for restitution from any fund established for
12 the purpose of compensating victims in civil cases. Any portion of a restitution order that
13 remains unsatisfied after a defendant is no longer on probation or parole is enforceable by
14 the victim pursuant to this section. Victims and the State Board of Control shall inform
15 the court whenever an order to pay restitution is satisfied.

16 (c) Except as provided in subdivision (d), and notwithstanding the amount in
17 controversy limitation of Section 85 of the Code of Civil Procedure, a restitution order or
18 restitution fine that was imposed pursuant to Section 1202.4 ~~by a municipal court, or by~~
19 ~~the superior court acting pursuant to subdivision (d) of Section 1462, in any of the~~
20 following cases may be enforced in the same manner as a money judgment in a limited
21 civil case:

22 (1) In a misdemeanor case.

23 (2) In a case involving violation of a city or town ordinance.

24 (3) In a noncapital criminal case where the court has received a plea of guilty or nolo
25 contendre.

26 (d) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of
27 the Code of Civil Procedure shall not apply to a judgment for any fine or restitution
28 ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August
29 2, 1995, or Section 13967 of the Government Code, as operative on or before September
30 28, 1994.

31 (e)(1) This section shall become operative on January 1, 2000, and shall be applicable
32 to all courts, except when all of the following apply:

33 (A) A majority of judges of a court apply to the Judicial Council for an extension.

34 (B) The judicial application described in paragraph (1) documents the need for time to
35 adjust restitution procedures and practices, as well as to facilitate judicial education and
36 training in direct restitution to victims under subdivision (f) of Section 1202.4.

37 (C) The Judicial Council grants the extension upon finding good cause.

38 (2) Upon the grant of an extension pursuant to the application of a court under this
39 subdivision, the provisions of former Section 1202.4 shall continue to apply with respect
40 to that court. The extension may be for any period of time set by the Judicial Council, but
41 shall not exceed January 1, 2002, in any case.

42 **Comment.** Subdivision (c) of Section 1214 is amended to reflect unification of the municipal
43 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution, and to
44 reflect the repeal of Section 1462, concerning the jurisdiction of the municipal and superior
45 courts. Subdivisions (c)(1)-(c)(3) are drawn from former Section 1462(a)-(b).

46 **Note: Comment Requested**

47 The Commission solicits comment on the proper treatment of Penal Code Section 1214.

1 **Penal Code § 1237.5 (amended). Required documents for appeal**

2 SEC. ____ . Section 1237.5 of the Penal Code is amended to read:

3 1237.5. No appeal shall be taken by the defendant from a judgment of conviction upon
4 a plea of guilty or nolo contendere, or a revocation of probation following an admission
5 of violation, except where both of the following are met:

6 (a) The defendant has filed with the trial court a written statement, executed under oath
7 or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds
8 going to the legality of the proceedings.

9 (b) The trial court has executed and filed a certificate of probable cause for such appeal
10 with the county clerk of the court.

11 ~~This section shall become operative on January 1, 1992.~~

12 **Comment.** Section 1237.5 is amended to reflect elimination of the county clerk's role as ex
13 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
14 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
15 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
16 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
17 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

18 **Penal Code § 1240.1 (amended). Duties of defendant's counsel regarding appeal**

19 SEC. ____ . Section 1240.1 of the Penal Code is amended to read:

20 1240.1 (a) In any noncapital criminal, juvenile court, or civil commitment case wherein
21 the defendant would be entitled to the appointment of counsel on appeal if indigent, it
22 shall be the duty of the attorney who represented the person at trial to provide counsel and
23 advice as to whether arguably meritorious grounds exist for reversal or modification of
24 the judgment on appeal. The attorney shall admonish the defendant that he or she is not
25 able to provide advice concerning his or her own competency, and that the State Public
26 Defender or other counsel should be consulted for advice as to whether an issue regarding
27 the competency of counsel should be raised on appeal. The trial court may require trial
28 counsel to certify that he or she has counseled the defendant as to whether arguably
29 meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this
30 section shall be construed to prevent any person having a right to appeal from doing so.

31 (b) It shall be the duty of every attorney representing an indigent defendant in any
32 criminal, juvenile court, or civil commitment case to execute and file on his or her
33 client's behalf a timely notice of appeal when the attorney is of the opinion that arguably
34 meritorious grounds exist for a reversal or modification of the judgment or orders to be
35 appealed from, and where, in the attorney's judgment, it is in the defendant's interest to
36 pursue any relief that may be available to him or her on appeal; or when directed to do so
37 by a defendant having a right to appeal.

38 With the notice of appeal the attorney shall file a brief statement of the points to be
39 raised on appeal and a designation of any document, paper, pleading, or transcript of oral
40 proceedings necessary to properly present those points on appeal when the document,
41 paper, pleading or transcript of oral proceedings would not be included in the normal
42 record on appeal according to the applicable provisions of the California Rules of Court.
43 The executing of the notice of appeal by the defendant's attorney shall not constitute an
44 undertaking to represent the defendant on appeal unless the undertaking is expressly
45 stated in the notice of appeal.

46 If the defendant was represented by appointed counsel on the trial level, or if it appears
47 that the defendant will request the appointment of counsel on appeal by reason of
48 indigency, the trial attorney shall also assist the defendant in preparing and submitting a

1 motion for the appointment of counsel and any supporting declaration or affidavit as to
2 the defendant's financial condition. These documents shall be filed with the trial court at
3 the time of filing a notice of appeal, and shall be transmitted by the clerk of the trial court
4 to the clerk of the appellate court within three judicial days of their receipt. The appellate
5 court shall act upon that motion without unnecessary delay. An attorney's failure to file a
6 motion for the appointment of counsel with the notice of appeal shall not foreclose the
7 defendant from filing a motion at any time it becomes known to him or her that the
8 attorney has failed to do so, or at any time he or she shall become indigent if he or she
9 was not previously indigent.

10 (c) The State Public Defender shall, at the request of any attorney representing a
11 prospective indigent appellant or at the request of the prospective indigent appellant
12 himself or herself, provide counsel and advice to the prospective indigent appellant or
13 attorney as to whether arguably meritorious grounds exist on which the judgment or order
14 to be appealed from would be reversed or modified on appeal.

15 (d) The failure of a trial attorney to perform any duty prescribed in this section, assign
16 any particular point or error in the notice of appeal, or designate any particular thing for
17 inclusion in the record on appeal shall not foreclose any defendant from filing a notice of
18 appeal on his or her own behalf or from raising any point or argument on appeal; nor
19 shall it foreclose the defendant or his or her counsel on appeal from requesting the
20 augmentation or correction of the record on appeal in the reviewing court.

21 (e)(1) In order to expedite certification of the entire record on appeal in all capital
22 cases, the defendant's trial counsel, whether retained by the defendant or court-appointed,
23 and the prosecutor shall continue to represent the respective parties. Each counsel's
24 obligations extend to taking all steps necessary to facilitate the preparation and timely
25 certification of the record of ~~both municipal and superior~~ all trial court proceedings.

26 (2) The duties imposed on trial counsel in paragraph (1) shall not foreclose the
27 defendant's appellate counsel from requesting additions or corrections to the record on
28 appeal in either the trial court or the Supreme Court in a manner provided by rules of
29 court adopted by the Judicial Council.

30 **Comment.** Subdivision (e) of Section 1214 is amended to reflect unification of the municipal
31 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Where
32 proceedings in a case were held in municipal court before unification, the reference to "all trial
33 court proceedings" encompasses both the municipal and the superior court proceedings in the
34 case.

35 **Penal Code § 1269 (unchanged). Taking of bail**

36 1269. The taking of bail consists in the acceptance, by a competent court or magistrate,
37 of the undertaking of sufficient bail for the appearance of the defendant, according to the
38 terms of the undertaking, or that the bail will pay to the people of this state a specified
39 sum. Upon filing, the clerk shall enter in the register of actions the date and amounts of
40 such bond and the name or names of the surety or sureties thereon. In the event of the loss
41 or destruction of such bond, such entries so made shall be prima facie evidence of the due
42 execution of such bond as required by law.

43 Whenever any bail bond has been deposited in any criminal action or proceeding in a
44 municipal or superior court or in any proceeding in habeas corpus in a superior court, and
45 it is made to appear to the satisfaction of the court by affidavit or by testimony in open
46 court that more than three years have elapsed since the exoneration or release of said bail,
47 the court must direct that such bond be destroyed.

Note: Comment Requested

Penal Code Section 1269 calls for destruction of any bail bond deposited in any criminal action or proceeding in a municipal court whenever “it is made to appear to the satisfaction of the court by affidavit or by testimony in open court that *more than three years* have elapsed since the exoneration or release of said bail.” (Emphasis added.) The Commission proposes to defer work on the section until February 8, 2005, or later (i.e., four years after unification of the last remaining municipal court). The Commission solicits comment on this approach.

Penal Code § 1269b (amended). Bail

SEC. ____ . Section 1269b of the Penal Code is amended to read:

1269b. (a) The officer in charge of a jail where an arrested person is held in custody, an officer of a sheriff’s department or police department of a city who is in charge of a jail or is employed at a fixed police or sheriff’s facility and is acting under an agreement with the agency that keeps the jail wherein an arrested person is held in custody, an employee of a sheriff’s department or police department of a city who is assigned by the department to collect bail, the clerk of the ~~municipal~~ superior court of the ~~judicial district~~ county in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending may approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance; if that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior ~~and municipal~~ court judges in each county to prepare, adopt, and annually revise, by a majority vote, at a meeting called by the presiding judge ~~of the superior court of the county~~, a uniform countywide schedule of bail for all bailable felony offenses.

In adopting a uniform countywide schedule of bail for all bailable offenses the judges shall consider the seriousness of the offense charged. In considering the seriousness of the offense charged the judges shall assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including, but not limited to, additional bail for charges alleging facts that would bring a person within any of the following sections:

Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.6, 12022.7, 12022.8, or 12022.9, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional amount of required bail for offenses involving large quantities of controlled substances.

(d) ~~The municipal court judges in each county, at a meeting called by the presiding judge of the municipal court at each county seat, or the superior court judges in each~~

1 county in which there is no municipal court, at a meeting called by the presiding judge of
2 the superior court, shall prepare, adopt, and annually revise, by a majority vote, a
3 uniform, countywide schedule of bail for all misdemeanor and infraction offenses except
4 Vehicle Code infractions. The penalty schedule for infraction violations of the Vehicle
5 Code shall be established by the Judicial Council in accordance with Section 40310 of the
6 Vehicle Code.

7 (e) Each countywide bail schedule shall contain a list of the offenses and the amounts
8 of bail applicable thereto as the judges determine to be appropriate. If the schedules do
9 not list all offenses specifically, they shall contain a general clause for designated
10 amounts of bail as the judges of the county determine to be appropriate for all the
11 offenses not specifically listed in the schedules. A copy of the countywide bail schedule
12 shall be sent to the officer in charge of the county jail, to the officer in charge of each city
13 jail within the county, to each superior and municipal court judge and commissioner in
14 the county, and to the Judicial Council.

15 (f) Upon posting bail, the defendant or arrested person shall be discharged from custody
16 as to the offense on which the bail is posted.

17 All money and surety bonds so deposited with an officer authorized to receive bail shall
18 be transmitted immediately to the judge or clerk of the court by which the order was
19 made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is
20 filed, the judge or clerk of the court shall transmit all of the money and surety bonds to
21 the clerk of the court.

22 (g) If a defendant or arrested person so released fails to appear at the time and in the
23 court so ordered upon his or her release from custody, Sections 1305 and 1306 apply.

24 **Comment.** Subdivisions (a), (c), (d), and (e) of Section 1269b are amended to reflect
25 unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the
26 California Constitution. *Cf.* Code Civ. Proc. § 38 (judicial districts).

27  **Note: Comment Requested**

28 The Commission solicits comments on the actual procedures used by courts in adopting bail
29 schedules and whether the statutory procedure should be modified.

30 This section reflects legislative changes made in S.B. 210 (Committee on Local Government).
31 See 2001 Cal. Stat. ch. 176, § 42.

32 **Penal Code § 1281a (amended). Bail in felony cases**

33 SEC. ____ . Section 1281a of the Penal Code is amended to read:

34 1281a. A judge of any municipal the superior court within the county, wherein a cause
35 is pending against any person charged with a felony, may justify and approve bail in the
36 said cause, and may execute an order for the release of the defendant which shall
37 authorize the discharge of the defendant by any officer having said defendant in custody.

38 **Comment.** Section 1281a is amended to reflect unification of the municipal and superior courts
39 pursuant to Article VI, Section 5(e), of the California Constitution.

40  **Note: Comment Requested**

41 The Commission solicits input on whether a comparable superior court provision already exists
42 and whether the proposed treatment of Penal Code Section 1281a is appropriate.

43 **Penal Code § 1428 (amended). Docket**

44 SEC. ____ . Section 1428 of the Penal Code is amended to read:

1 1428. A docket must be kept by the clerk of each municipal court having jurisdiction of
2 criminal actions or proceedings, in which must be entered In misdemeanor and infraction
3 cases, the clerk of the superior court may keep a docket, instead of minutes pursuant to
4 Section 69844 of the Government Code and a register of actions pursuant to Section
5 69845 or 69845.5 of the Government Code. In the docket, the clerk shall enter the title of
6 each criminal action or proceeding and under each title all the orders and proceedings in
7 such action or proceeding. Wherever by any other section of this code made applicable to
8 such courts court an entry of any judgment, order or other proceeding in the minutes or
9 register of actions is required, an entry thereof in the docket shall be made and shall be
10 deemed a sufficient entry in the minutes or register of actions for all purposes.

11 **Comment.** Section 1428 is amended to reflect unification of the municipal and superior courts
12 pursuant to Article VI, Section 5(e), of the California Constitution.

13  **Note: Comment Requested**

14 Instead of eliminating the recordkeeping procedure used by municipal courts in criminal
15 actions and proceedings, the proposed amendment would give superior courts the option of
16 keeping a docket in such cases rather than minutes and a register of actions. The Commission
17 solicits comment on this approach.

18 **Penal Code § 1429.5 (repealed). Plea of not guilty by reason of insanity to misdemeanor**
19 **charge in municipal court**

20 SEC. ____ . Section 1429.5 of the Penal Code is repealed.

21 ~~1429.5. When a defendant pleads not guilty by reason of insanity to a misdemeanor~~
22 ~~charge in a municipal court, and also joins with it another plea or pleas, the defendant~~
23 ~~shall first be tried as if the defendant had entered such other plea or pleas only, and in~~
24 ~~such trial the defendant shall be conclusively presumed to have been sane at the time the~~
25 ~~offense is alleged to have been committed. If the defendant shall be found guilty, or if the~~
26 ~~defendant pleads only not guilty by reason of insanity, then the defendant shall be~~
27 ~~certified to the superior court of the county for prompt trial to determine the question~~
28 ~~whether the defendant was sane or insane at the time the offense was committed. The~~
29 ~~superior court shall proceed as provided in Sections 1026 and 1027. If the verdict or~~
30 ~~finding be that the defendant was sane at the time the offense was committed the superior~~
31 ~~court shall remand the defendant to the court from which the defendant was certified~~
32 ~~which court shall sentence the defendant as provided by law. If the verdict or finding be~~
33 ~~that the defendant was insane at the time the offense was committed the superior court~~
34 ~~shall proceed as provided in Section 1026.~~

35 **Comment.** Section 1429.5 is repealed to reflect unification of the municipal and superior courts
36 pursuant to Article VI, Section 5(e), of the California Constitution. For a plea of not guilty by
37 reason of insanity to a misdemeanor or other criminal charge in superior court, see Section 1026.

38 **Penal Code § 1462 (repealed). Municipal court jurisdiction**

39 SEC. ____ . Section 1462 of the Penal Code is repealed.

40 ~~1462. (a) Each municipal court shall have jurisdiction in all criminal cases amounting~~
41 ~~to misdemeanor, where the offense charged was committed within the county in which~~
42 ~~the municipal court is established. Each municipal court shall have exclusive jurisdiction~~
43 ~~in all cases involving the violation of ordinances of cities or towns situated within the~~
44 ~~district in which the court is established.~~

45 ~~(b) Each municipal court shall have jurisdiction in all noncapital criminal cases to~~
46 ~~receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment~~

1 under Section 859a, pronounce judgment, and refer the case to the probation officer if
2 eligible for probation.

3 (e) ~~The superior courts shall have jurisdiction in all misdemeanor criminal cases to~~
4 ~~receive a plea of guilty or nolo contendere, appoint a time for pronouncing judgment, and~~
5 ~~pronounce judgment.~~

6 (d) ~~The superior court in a county in which there is no municipal court has the~~
7 ~~jurisdiction provided in subdivisions (a) and (b).~~

8 **Comment.** Section 1462 is repealed to reflect unification of the municipal and superior courts
9 pursuant to Article VI, Section 5(e), of the California Constitution. The provision is no longer
10 necessary, because the superior court has original jurisdiction of all causes in a unified court
11 system. See Cal. Const. art. VI, § 10 (original jurisdiction).

12 **Penal Code § 1462.2 (amended). Place of misdemeanor trial**

13 SEC. ____ . Section 1462.2 of the Penal Code is amended to read:

14 1462.2. Except as otherwise provided in the Vehicle Code, the proper court for the trial
15 of criminal cases amounting to misdemeanor shall be ~~determined as follows: Any~~
16 ~~municipal court, having jurisdiction of the subject matter of the case, established the~~
17 ~~superior court in the county within which the offense charged was committed, or the~~
18 ~~superior court in a county in which there is no municipal court, is the proper court for the~~
19 ~~trial of the case.~~

20 If an action or proceeding is commenced in a court ~~having jurisdiction of the subject~~
21 ~~matter thereof~~ other than the court herein designated as the proper court for the trial, the
22 action may, notwithstanding, be tried in the court where commenced, unless the
23 defendant, at the time of pleading, requests an order transferring the action or proceeding
24 to the proper court. If after such request it appears that the action or proceeding was not
25 commenced in the proper court, the court shall order the action or proceeding transferred
26 to the proper court. The judge must, at the time of arraignment, inform the defendant of
27 the right to be tried in the county wherein the offense was committed.

28 **Comment.** Section 1462.2 is amended to reflect unification of the municipal and superior
29 courts pursuant to Article VI, Section 5(e), of the California Constitution.

30 **Note: Comment Requested**

31 Penal Code Section 1462.2 raises issues relating to local venue. The Commission and the
32 Judicial Council are studying this area and may propose further revisions to address local venue
33 issues. The Commission solicits comment on the proper treatment of the section.

34 **Penal Code § 1463 (amended). Definitions**

35 SEC. ____ . Section 1463 of the Penal Code is amended to read:

36 1463. All fines and forfeitures imposed and collected for crimes shall be distributed in
37 accordance with Section 1463.001.

38 The following definitions shall apply to terms used in this chapter:

39 (a) “Arrest” means any law enforcement action, including issuance of a notice to appear
40 or notice of violation, which results in a criminal charge.

41 (b) “City” includes any city, city and county, district, including any enterprise special
42 district, community service district, or community service area engaged in police
43 protection activities as reported to the Controller for inclusion in the 1989-90 edition of
44 the Financial Transactions Report Concerning Special Districts under the heading of
45 Police Protection and Public Safety, authority, or other local agency (other than a county)

1 which employs persons authorized to make arrests or to issue notices to appear or notices
2 of violation which may be filed in court.

3 (c) “City arrest” means an arrest by an employee of a city, or by a California Highway
4 Patrol officer within the limits of a city.

5 (d) “County” means the county in which the arrest took place.

6 (e) “County arrest” means an arrest by a California Highway Patrol officer outside the
7 limits of a city, or any arrest by a county officer or by any other state officer.

8 (f) “Court” means the superior ~~or municipal~~ court or a juvenile forum established under
9 Section 257 of the Welfare and Institutions Code, in which the case arising from the
10 arrest is filed.

11 (g) “Division of moneys” means an allocation of base fine proceeds between agencies
12 as required by statute including, but not limited to, Sections 1463.003, 1463.9, 1463.23,
13 1463.26, and Sections 13001, 13002, and 13003 of the Fish and Game Code, and Section
14 11502 of the Health and Safety Code.

15 (h) “Offense” means any infraction, misdemeanor, or felony, and any act by a juvenile
16 leading to an order to pay a financial sanction by reason of the act being defined as an
17 infraction, misdemeanor, or felony, whether defined in this or any other code, except any
18 parking offense as defined in subdivision (i).

19 (i) “Parking offense” means any offense charged pursuant to Article 3 (commencing
20 with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, including
21 registration and equipment offenses included on a notice of parking violation.

22 (j) “Penalty allocation” means the deposit of a specified part of moneys to offset
23 designated processing costs, as provided by Section 1463.16 and by Section 68090.8 of
24 the Government Code.

25 (k) “Total parking penalty” means the total sum to be collected for a parking offense,
26 whether as fine, forfeiture of bail, or payment of penalty to the Department of Motor
27 Vehicles. It may include the following components:

28 (1) The base parking penalty as established pursuant to Section 40203.5 of the Vehicle
29 Code.

30 (2) The Department of Motor Vehicles (DMV) fees added upon the placement of a hold
31 pursuant to Section 40220 of the Vehicle Code.

32 (3) The surcharges required by Section 76000 of the Government Code.

33 (4) The notice penalty added to the base parking penalty when a notice of delinquent
34 parking violations is given.

35 (l) “Total fine or forfeiture” means the total sum to be collected upon a conviction, or
36 the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It may
37 include, but is not limited to, the following components as specified for the particular
38 offense:

39 (1) The “base fine” upon which the state penalty and additional county penalty is
40 calculated.

41 (2) The “county penalty” required by Section 76000 of the Government Code.

42 (3) The “service charge” permitted by Section 853.7 of the Penal Code and Section
43 40508.5 of the Vehicle Code.

44 (4) The “special penalty” dedicated for blood alcohol analysis, alcohol program
45 services, traumatic brain injury research, and similar purposes.

46 (5) The “state penalty” required by Section 1464.

47 **Comment.** Subdivision (f) of Section 1463 is amended to reflect unification of the municipal
48 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Penal Code § 1463.22 (amended). Moneys deposited with county**

2 SEC. ____ . Section 1463.22 of the Penal Code is amended to read:

3 1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county
4 treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) for each
5 conviction of a violation of Section 16028 of the Vehicle Code shall be deposited by the
6 county treasurer in a special account and allocated to defray costs of ~~municipal~~ and
7 superior courts incurred in administering Sections 16028, 16030, and 16031 of the
8 Vehicle Code. Any moneys in the special account in excess of the amount required to
9 defray those costs shall be redeposited and distributed by the county treasurer pursuant to
10 Section 1463.

11 (b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer
12 pursuant to Section 1463, three dollars (\$3) for each conviction for a violation of Section
13 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special
14 account, and shall be transmitted once per month to the Controller for deposit in the
15 Motor Vehicle Account in the State Transportation Fund. These moneys shall be
16 available, when appropriated, to defray the administrative costs incurred by the
17 Department of Motor Vehicles pursuant to Sections 16031, 16032, 16034, and 16035 of
18 the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay
19 for all of the department's costs in administering those sections of the Vehicle Code.

20 (c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer
21 pursuant to Section 1463, ten dollars (\$10) upon the conviction of, or upon the forfeiture
22 of bail from, any person arrested or notified for a violation of Section 16028 of the
23 Vehicle Code shall be deposited by the county treasurer in a special account and shall be
24 transmitted monthly to the Controller for deposit in the General Fund.

25 **Comment.** Subdivision (a) of Section 1463.22 is amended to reflect unification of the
26 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

27  **Note: Comment Requested**

28 The Commission is reviewing whether county treasury provisions remain viable, given the
29 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
30 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
31 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200
32 (state funding of trial court operations). These matters are also being examined by a Joint Court-
33 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
34 treatment of the funding aspects of Penal Code Section 1463.22.

35 The Commission also solicits comment on the proper treatment of the references to Vehicle
36 Code Sections 16031, 16032, 16034, and 16035, all of which have been repealed. Should these
37 references be replaced with references to other provisions, or simply deleted? If there are no
38 corresponding references currently in the code, should subdivision (b) be deleted altogether?

39 **Penal Code § 1524.1 (amended). HIV testing of accused's blood**

40 SEC. ____ . Section 1524.1 of the Penal Code is amended to read:

41 1524.1. (a) The primary purpose of the testing and disclosure provided in this section is
42 to benefit the victim of a crime by informing the victim whether the defendant is infected
43 with the HIV virus. It is also the intent of the Legislature in enacting this section to
44 protect the health of both victims of crime and those accused of committing a crime.
45 Nothing in this section shall be construed to authorize mandatory testing or disclosure of
46 test results for the purpose of a charging decision by a prosecutor, nor, except as specified
47 in subdivisions (g) and (i), shall this section be construed to authorize breach of the

1 confidentiality provisions contained in Chapter 7 (commencing with Section 120975) of
2 Part 4 of Division 105 of the Health and Safety Code.

3 (b)(1) Notwithstanding the provisions of Chapter 7 (commencing with Section 120975)
4 of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been
5 charged by complaint, information, or indictment with a crime, or a minor is the subject
6 of a petition filed in juvenile court alleging the commission of a crime, the court, at the
7 request of the victim, may issue a search warrant for the purpose of testing the accused's
8 blood with any HIV test, as defined in Section 120775 of the Health and Safety Code
9 only under the following circumstances: when the court finds, upon the conclusion of the
10 hearing described in paragraph (3), or in those cases in which a preliminary hearing is not
11 required to be held, the court also finds that there is probable cause to believe that the
12 accused committed the offense, and that there is probable cause to believe that blood,
13 semen, or any other body fluid identified by the State Department of Health Services in
14 appropriate regulations as capable of transmitting the human immunodeficiency virus has
15 been transferred from the accused to the victim.

16 (2) Notwithstanding Chapter 7 (commencing with Section 120975) of Part 4 of
17 Division 105 of the Health and Safety Code, when a defendant has been charged by
18 complaint, information, or indictment with a crime under Section 220, 261, 261.5, 262,
19 264.1, 286, 288, 288a, 288.5, 289, or 289.5, and is the subject of a police report alleging
20 the commission of a separate, uncharged offense that could be charged under Section
21 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, or a minor is the
22 subject of a petition filed in juvenile court alleging the commission of a crime under
23 Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, and is the
24 subject of a police report alleging the commission of a separate, uncharged offense that
25 could be charged under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289,
26 or 289.5, the court, at the request of the victim of the uncharged offense, may issue a
27 search warrant for the purpose of testing the accused's blood with any HIV test, as
28 defined in Section 120775 of the Health and Safety Code only under the following
29 circumstances: when the court finds that there is probable cause to believe that the
30 accused committed the uncharged offense, and that there is probable cause to believe that
31 blood, semen, or any other body fluid identified by the State Department of Health
32 Services in appropriate regulations as capable of transmitting the human
33 immunodeficiency virus has been transferred from the accused to the victim.

34 (3)(A) Prior to the issuance of a search warrant pursuant to paragraph (1), the court,
35 where applicable and at the conclusion of the preliminary examination if the defendant is
36 ordered to answer pursuant to Section 872, shall conduct a hearing at which both the
37 victim and the defendant have the right to be present. During the hearing, only affidavits,
38 counter affidavits, and medical reports regarding the facts that support or rebut the
39 issuance of a search warrant under paragraph (1) shall be admissible.

40 (B) Prior to the issuance of a search warrant pursuant to paragraph (2), the court, where
41 applicable, shall conduct a hearing at which both the victim and the defendant are present.
42 During the hearing, only affidavits, counter affidavits, and medical reports regarding the
43 facts that support or rebut the issuance of a search warrant under paragraph (2) shall be
44 admissible.

45 (4) A request for a probable cause hearing made by a victim under paragraph (2) shall
46 be made before sentencing in the ~~municipal~~ or superior court, or before disposition on a
47 petition in a juvenile court, of the criminal charge or charges filed against the defendant.

48 (c)(1) In all cases in which the person has been charged by complaint, information, or
49 indictment with a crime, or is the subject of a petition filed in a juvenile court alleging the

1 commission of a crime, the prosecutor shall advise the victim of his or her right to make
2 this request. To assist the victim of the crime to determine whether he or she should make
3 this request, the prosecutor shall refer the victim to the local health officer for prerequest
4 counseling to help that person understand the extent to which the particular circumstances
5 of the crime may or may not have put the victim at risk of transmission of HIV from the
6 accused, to ensure that the victim understands both the benefits and limitations of the
7 current tests for HIV, to help the victim decide whether he or she wants to request that the
8 accused be tested, and to help the victim decide whether he or she wants to be tested.

9 (2) The Department of Justice, in cooperation with the California District Attorneys
10 Association, shall prepare a form to be used in providing victims with the notice required
11 by paragraph (1).

12 (d) If the victim decides to request HIV testing of the accused, the victim shall request
13 the issuance of a search warrant, as described in subdivision (b).

14 Neither the failure of a prosecutor to refer or advise the victim as provided in this
15 subdivision, nor the failure or refusal by the victim to seek or obtain counseling, shall be
16 considered by the court in ruling on the victim's request.

17 (e) The local health officer shall make provision for administering all HIV tests ordered
18 pursuant to subdivision (b).

19 (f) Any blood tested pursuant to subdivision (b) shall be subjected to appropriate
20 confirmatory tests to ensure accuracy of the first test results, and under no circumstances
21 shall test results be transmitted to the victim or the accused unless any initially reactive
22 test result has been confirmed by appropriate confirmatory tests for positive reactors.

23 (g) The local health officer shall have the responsibility for disclosing test results to the
24 victim who requested the test and to the accused who was tested. However, no positive
25 test results shall be disclosed to the victim or to the accused without also providing or
26 offering professional counseling appropriate to the circumstances.

27 (h) The local health officer and victim shall comply with all laws and policies relating
28 to medical confidentiality subject to the disclosure authorized by subdivisions (g) and (i).
29 Any individual who files a false report of sexual assault in order to obtain test result
30 information pursuant to this section shall, in addition to any other liability under law, be
31 guilty of a misdemeanor punishable as provided in subdivision (c) of Section 120980 of
32 the Health and Safety Code. Any individual as described in the preceding sentence who
33 discloses test result information obtained pursuant to this section shall also be guilty of an
34 additional misdemeanor punishable as provided for in subdivision (c) of Section 120980
35 of the Health and Safety Code for each separate disclosure of that information.

36 (i) Any victim who receives information from the health officer pursuant to subdivision
37 (g) may disclose the test results as the victim deems necessary to protect his or her health
38 and safety or the health and safety of his or her family or sexual partner.

39 (j) Any person transmitting test results or disclosing information pursuant to this
40 section shall be immune from civil liability for any actions taken in compliance with this
41 section.

42 (k) The results of any blood tested pursuant to subdivision (b) shall not be used in any
43 criminal proceeding as evidence of either guilt or innocence.

44 **Comment.** Subdivision (b)(4) of Section 1524.1 is amended to reflect unification of the
45 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

46 **Penal Code § 1538.5 (amended). Suppression motion**

47 SEC. ____ . Section 1538.5 of the Penal Code is amended to read:

1 1538.5. (a)(1) A defendant may move for the return of property or to suppress as
2 evidence any tangible or intangible thing obtained as a result of a search or seizure on
3 either of the following grounds:

4 (A) The search or seizure without a warrant was unreasonable.

5 (B) The search or seizure with a warrant was unreasonable because any of the
6 following apply:

7 (i) The warrant is insufficient on its face.

8 (ii) The property or evidence obtained is not that described in the warrant.

9 (iii) There was not probable cause for the issuance of the warrant.

10 (iv) The method of execution of the warrant violated federal or state constitutional
11 standards.

12 (v) There was any other violation of federal or state constitutional standards.

13 (2) A motion pursuant to paragraph (1) shall be made in writing and accompanied by a
14 memorandum of points and authorities and proof of service. The memorandum shall list
15 the specific items of property or evidence sought to be returned or suppressed and shall
16 set forth the factual basis and the legal authorities that demonstrate why the motion
17 should be granted.

18 (b) When consistent with the procedures set forth in this section and subject to the
19 provisions of Section 170 to 170.6, inclusive, of the Code of Civil Procedure, the motion
20 should first be heard by the magistrate who issued the search warrant if there is a warrant.

21 (c) Whenever a search or seizure motion is made in the ~~municipal~~ or superior court as
22 provided in this section, the judge or magistrate shall receive evidence on any issue of
23 fact necessary to determine the motion.

24 (d) If a search or seizure motion is granted pursuant to the proceedings authorized by
25 this section, the property or evidence shall not be admissible against the movant at any
26 trial or other hearing unless further proceedings authorized by this section, Section 871.5,
27 1238, or 1466 are utilized by the people.

28 (e) If a search or seizure motion is granted at a trial, the property shall be returned upon
29 order of the court unless it is otherwise subject to lawful detention. If the motion is
30 granted at a special hearing, the property shall be returned upon order of the court only if,
31 after the conclusion of any further proceedings authorized by this section, Section 1238 or
32 1466, the property is not subject to lawful detention or if the time for initiating the
33 proceedings has expired, whichever occurs last. If the motion is granted at a preliminary
34 hearing, the property shall be returned upon order of court after 10 days unless the
35 property is otherwise subject to lawful detention or unless, within that time, further
36 proceedings authorized by this section, Section 871.5 or 1238 are utilized; if they are
37 utilized, the property shall be returned only if, after the conclusion of the proceedings, the
38 property is no longer subject to lawful detention.

39 (f)(1) If the property or evidence relates to a felony offense initiated by a complaint, the
40 motion shall be made ~~in the superior court~~ only upon filing of an information, except that
41 the defendant may make the motion at the preliminary hearing ~~in the municipal court or~~
42 ~~in the superior court in a county in which there is no municipal court~~, but the motion shall
43 be restricted to evidence sought to be introduced by the people at the preliminary hearing.

44 (2) The motion may be made at the preliminary examination only if at least five court
45 days before the date set for the preliminary examination the defendant has filed and
46 personally served on the people a written motion accompanied by a memorandum of
47 points and authorities as required by paragraph (2) of subdivision (a). At the preliminary
48 examination, the magistrate may grant the defendant a continuance for the purpose of
49 filing the motion and serving the motion upon the people, at least five court days before

1 resumption of the examination, upon a showing that the defendant or his or her attorney
2 of record was not aware of the evidence or was not aware of the grounds for suppression
3 before the preliminary examination.

4 (3) Any written response by the people to the motion described in paragraph (2) shall
5 be filed with the court and personally served on the defendant or his or her attorney of
6 record at least two court days prior to the hearing at which the motion is to be made.

7 (g) If the property or evidence relates to a misdemeanor complaint, the motion shall be
8 made ~~in the municipal court or in the superior court in a county in which there is no~~
9 ~~municipal court~~ before trial and heard prior to trial at a special hearing relating to the
10 validity of the search or seizure. If the property or evidence relates to a misdemeanor filed
11 together with a felony, the procedure provided for a felony in this section and Sections
12 1238 and 1539 shall be applicable.

13 (h) If, prior to the trial of a felony or misdemeanor, opportunity for this motion did not
14 exist or the defendant was not aware of the grounds for the motion, the defendant shall
15 have the right to make this motion during the course of trial ~~in the municipal or superior~~
16 ~~court~~.

17 (i) If the property or evidence obtained relates to a felony offense initiated by complaint
18 and the defendant was held to answer at the preliminary hearing, or if the property or
19 evidence relates to a felony offense initiated by indictment, the defendant shall have the
20 right to renew or make the motion ~~in the superior court~~ at a special hearing relating to the
21 validity of the search or seizure which shall be heard prior to trial and at least 10 court
22 days after notice to the people, unless the people are willing to waive a portion of this
23 time. Any written response by the people to the motion shall be filed with the court and
24 personally served on the defendant or his or her attorney of record at least two court days
25 prior to the hearing, unless the defendant is willing to waive a portion of this time. If the
26 offense was initiated by indictment or if the offense was initiated by complaint and no
27 motion was made at the preliminary hearing, the defendant shall have the right to fully
28 litigate the validity of a search or seizure on the basis of the evidence presented at a
29 special hearing. If the motion was made at the preliminary hearing, unless otherwise
30 agreed to by all parties, evidence presented at the special hearing shall be limited to the
31 transcript of the preliminary hearing and to evidence that could not reasonably have been
32 presented at the preliminary hearing, except that the people may recall witnesses who
33 testified at the preliminary hearing. If the people object to the presentation of evidence at
34 the special hearing on the grounds that the evidence could reasonably have been
35 presented at the preliminary hearing, the defendant shall be entitled to an in camera
36 hearing to determine that issue. The ~~superior~~ court shall base its ruling on all evidence
37 presented at the special hearing and on the transcript of the preliminary hearing, and the
38 findings of the magistrate shall be binding on the ~~superior~~ court as to evidence or
39 property not affected by evidence presented at the special hearing. After the special
40 hearing is held ~~in the superior court~~, any review thereafter desired by the defendant prior
41 to trial shall be by means of an extraordinary writ of mandate or prohibition filed within
42 30 days after the denial of his or her motion at the special hearing.

43 (j) If the property or evidence relates to a felony offense initiated by complaint and the
44 defendant's motion for the return of the property or suppression of the evidence at the
45 preliminary hearing is granted, and if the defendant is not held to answer at the
46 preliminary hearing, the people may file a new complaint or seek an indictment after the
47 preliminary hearing, and the ruling at the prior hearing shall not be binding in any
48 subsequent proceeding, except as limited by subdivision (p). In the alternative, the people
49 may move to reinstate the complaint, or those parts of the complaint for which the

1 defendant was not held to answer, pursuant to Section 871.5. If the property or evidence
2 relates to a felony offense initiated by complaint and the defendant's motion for the return
3 or suppression of the property or evidence at the preliminary hearing is granted, and if the
4 defendant is held to answer at the preliminary hearing, the ruling at the preliminary
5 hearing shall be binding upon the people unless, upon notice to the defendant and the
6 court in which the preliminary hearing was held and upon the filing of an information, the
7 people, within 15 days after the preliminary hearing, request ~~in the superior court~~ a
8 special hearing, in which case the validity of the search or seizure shall be relitigated de
9 novo on the basis of the evidence presented at the special hearing, and the defendant shall
10 be entitled, as a matter of right, to a continuance of the special hearing for a period of
11 time up to 30 days. The people may not request relitigation of the motion at a special
12 hearing if the defendant's motion has been granted twice. If the defendant's motion is
13 granted at a special hearing ~~in the superior court~~, the people, if they have additional
14 evidence relating to the motion and not presented at the special hearing, shall have the
15 right to show good cause at the trial why the evidence was not presented at the special
16 hearing and why the prior ruling at the special hearing should not be binding, or the
17 people may seek appellate review as provided in subdivision (o), unless the court, prior to
18 the time the review is sought, has dismissed the case pursuant to Section 1385. If the case
19 has been dismissed pursuant to Section 1385, or if the people dismiss the case on their
20 own motion after the special hearing, the people may file a new complaint or seek an
21 indictment after the special hearing, and the ruling at the special hearing shall not be
22 binding in any subsequent proceeding, except as limited by subdivision (p). If the
23 property or evidence seized relates solely to a misdemeanor complaint, and the defendant
24 made a motion for the return of property or the suppression of evidence in the ~~municipal~~
25 ~~court or superior court in a county in which there is no municipal court~~ prior to trial, both
26 the people and defendant shall have the right to appeal any decision of that court relating
27 to that motion to the ~~superior court of the county in which the municipal or superior court~~
28 ~~is located~~ appellate division, in accordance with the California Rules of Court provisions
29 governing appeals to the appellate division in criminal cases. If the people prosecute
30 review by appeal or writ to decision, or any review thereof, in a felony or misdemeanor
31 case, it shall be binding upon them.

32 (k) If the defendant's motion to return property or suppress evidence is granted and the
33 case is dismissed pursuant to Section 1385, or the people appeal in a misdemeanor case
34 pursuant to subdivision (j), the defendant shall be released pursuant to Section 1318 if he
35 or she is in custody and not returned to custody unless the proceedings are resumed in the
36 trial court and he or she is lawfully ordered by the court to be returned to custody.

37 If the defendant's motion to return property or suppress evidence is granted and the
38 people file a petition for writ of mandate or prohibition pursuant to subdivision (o) or a
39 notice of intention to file such a petition, the defendant shall be released pursuant to
40 Section 1318, unless (1) he or she is charged with a capital offense in a case where the
41 proof is evident and the presumption great, or (2) he or she is charged with a noncapital
42 offense defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1, and the
43 court orders that the defendant be discharged from actual custody upon bail.

44 (l) If the defendant's motion to return property or suppress evidence is granted, the trial
45 of a criminal case shall be stayed to a specified date pending the termination in the
46 appellate courts of this state of the proceedings provided for in this section, Section
47 871.5, 1238, or 1466 and, except upon stipulation of the parties, pending the time for the
48 initiation of these proceedings. Upon the termination of these proceedings, the defendant
49 shall be brought to trial as provided by Section 1382, and, subject to the provisions of

1 Section 1382, whenever the people have sought and been denied appellate review
2 pursuant to subdivision (o), the defendant shall be entitled to have the action dismissed if
3 he or she is not brought to trial within 30 days of the date of the order that is the last
4 denial of the petition. Nothing contained in this subdivision shall prohibit a court, at the
5 same time as it rules upon the search and seizure motion, from dismissing a case pursuant
6 to Section 1385 when the dismissal is upon the court's own motion and is based upon an
7 order at the special hearing granting the defendant's motion to return property or suppress
8 evidence. In a misdemeanor case, the defendant shall be entitled to a continuance of up to
9 30 days if he or she intends to file a motion to return property or suppress evidence and
10 needs this time to prepare for the special hearing on the motion. In case of an appeal by
11 the defendant in a misdemeanor case from the denial of the motion, he or she shall be
12 entitled to bail as a matter of right, and, in the discretion of the trial or appellate court,
13 may be released on his or her own recognizance pursuant to Section 1318. In case of an
14 appeal by the defendant in a misdemeanor case from the denial of the motion, the trial
15 court may, in its discretion, grant a stay of the trial pending disposition of the appeal.

16 (m) The proceedings provided for in this section, and Sections 871.5, 995, 1238, and
17 1466 shall constitute the sole and exclusive remedies prior to conviction to test the
18 unreasonableness of a search or seizure where the person making the motion for the
19 return of property or the suppression of evidence is a defendant in a criminal case and the
20 property or thing has been offered or will be offered as evidence against him or her. A
21 defendant may seek further review of the validity of a search or seizure on appeal from a
22 conviction in a criminal case notwithstanding the fact that the judgment of conviction is
23 predicated upon a plea of guilty. Review on appeal may be obtained by the defendant
24 provided that at some stage of the proceedings prior to conviction he or she has moved
25 for the return of property or the suppression of the evidence.

26 (n) This section establishes only the procedure for suppression of evidence and return
27 of property, and does not establish or alter any substantive ground for suppression of
28 evidence or return of property. Nothing contained in this section shall prohibit a person
29 from making a motion, otherwise permitted by law, to return property, brought on the
30 ground that the property obtained is protected by the free speech and press provisions of
31 the United States and California Constitutions. Nothing in this section shall be construed
32 as altering (1) the law of standing to raise the issue of an unreasonable search or seizure;
33 (2) the law relating to the status of the person conducting the search or seizure; (3) the
34 law relating to the burden of proof regarding the search or seizure; (4) the law relating to
35 the reasonableness of a search or seizure regardless of any warrant that may have been
36 utilized; or (5) the procedure and law relating to a motion made pursuant to Section 871.5
37 or 995, or the procedures that may be initiated after the granting or denial of such a
38 motion.


39 (o) Within 30 days after a defendant's motion is granted at a special hearing ~~in the~~
40 ~~superior court~~ in a felony case, the people may file a petition for writ of mandate or
41 prohibition in the court of appeal, seeking appellate review of the ruling regarding the
42 search or seizure motion. If the trial of a criminal case is set for a date that is less than 30
43 days from the granting of a defendant's motion at a special hearing ~~in the superior court~~
44 in a felony case, the people, if they have not filed such a petition and wish to preserve
45 their right to file a petition, shall file in the superior court on or before the trial date or
46 within 10 days after the special hearing, whichever occurs last, a notice of intention to file
47 a petition and shall serve a copy of the notice upon the defendant.

48 (p) If a defendant's motion to return property or suppress evidence in a felony matter
49 has been granted twice, the people may not file a new complaint or seek an indictment in

1 order to relitigate the motion or relitigate the matter de novo at a special hearing ~~in the~~
2 ~~superior court~~ as otherwise provided by subdivision (j), unless the people discover
3 additional evidence relating to the motion that was not reasonably discoverable at the
4 time of the second suppression hearing. Relitigation of the motion shall be heard by the
5 same judge who granted the motion at the first hearing if the judge is available.

6 (q) The amendments to this section enacted in the 1997 portion of the 1997-98 Regular
7 Session of the Legislature shall apply to all criminal proceedings conducted on or after
8 January 1, 1998.

9 **Comment.** Section 1538.5 is amended to reflect unification of the municipal and superior
10 courts pursuant to Article VI, Section 5(e), of the California Constitution.

11  **Note.** Penal Code Section 1538.5 reflects legislative changes made in A.B. 1304 (Pacheco).
12 See 2001 Cal. Stat. ch. 231, § 1.

13 **Penal Code § 1539 (amended). Report of hearing**

14 SEC. ____ . Section 1539 of the Penal Code is amended to read:

15 1539. (a) If a special hearing be held in ~~the superior court~~ a felony case pursuant to
16 Section 1538.5, or if the grounds on which the warrant was issued be controverted and a
17 motion to return property be made (i) by a defendant on grounds not covered by Section
18 1538.5; (ii) by a defendant whose property has not been offered or will not be offered as
19 evidence against ~~him~~ the defendant; or (iii) by a person who is not a defendant in a
20 criminal action at the time the hearing is held, the judge or magistrate must proceed to
21 take testimony in relation thereto, and the testimony of each witness must be reduced to
22 writing and authenticated by a shorthand reporter in the manner prescribed in Section
23 869.

24 (b) The reporter shall forthwith transcribe ~~his~~ the reporter's shorthand notes pursuant to
25 this section if any party to a special hearing in ~~the superior court~~ a felony case files a
26 written request for its preparation with the clerk of the court in which the hearing was
27 held. The reporter shall forthwith file in the superior court an original and as many copies
28 thereof as there are defendants (other than a fictitious defendant) or persons aggrieved.
29 The reporter shall be entitled to compensation in accordance with the provisions of
30 Section 869. In every case in which a transcript is filed as provided in this section, the
31 ~~county clerk~~ of the court shall deliver the original of such transcript so filed ~~with him~~
32 to the district attorney immediately upon receipt thereof and shall deliver a copy of such
33 transcript to each defendant (other than a fictitious defendant) upon demand ~~by him~~
34 without cost to ~~him~~ the defendant.

35 (c) Upon a motion by a defendant pursuant to this chapter, the defendant shall be
36 entitled to discover any previous application for a search warrant in the case which was
37 refused by a magistrate for lack of probable cause.

38 **Comment.** Section 1539 is amended to make clear that it applies only to a special hearing in a
39 felony case pursuant to Section 1538.5. This implements the principle that trial court unification
40 did not change the extent to which court reporter services or electronic reporting is used in the
41 courts. 1998 Cal. Stat. ch. 931, § 507; *Trial Court Unification: Revision of Codes*, 28 Cal. L.
42 Revision Comm'n Reports 51, 60 (1998); see also 1997 Cal. Stat. ch. 279, § 3 (former Section
43 1538.5(g), (i)).

44 As before unification, Section 1539 does not address whether shorthand or other verbatim
45 reporting is required at a special hearing in a misdemeanor case pursuant to the state or federal
46 Constitution or some other provision of law. For discussion of the extent to which a defendant is
47 entitled to a verbatim record at public expense in a misdemeanor case, see *In re Armstrong*, 126
48 Cal. App. 3d 565, 574, 178 Cal. Rptr. 902 (1981) (on request, all misdemeanor defendants are

1 constitutionally entitled to verbatim record at public expense); but see *Andrus v. Municipal Court*,
2 143 Cal. App. 3d 1041, 1050, 192 Cal. Rptr. 341 (1983) (nothing in state or federal Constitution
3 requires free verbatim record in misdemeanor case on request without showing of indigency).

4 Section 1539 is also amended to reflect elimination of the county clerk's role as ex officio clerk
5 of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk of superior
6 court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex
7 officio clerk of the court are delegated to the court administrative or executive officer, and the
8 county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840
9 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

10 **Penal Code § 3075 (amended). Board of parole commissioners**

11 SEC. ____ . Section 3075 of the Penal Code is amended to read:

12 3075. (a) There is in each county a board of parole commissioners, consisting of each
13 of the following:

14 (1) The sheriff or, in a county with a department of corrections, the director of that
15 department.

16 (2) The probation officer.

17 (3) A member, not a public official, to be selected from the public by the presiding
18 judge, if any, or, if none, by the senior judge in point of service, of the superior court.

19 (b) The public member of the county board of parole commissioners or his or her
20 alternate shall be entitled to his or her actual traveling and other necessary expenses
21 incurred in the discharge of his or her duties. In addition, the public member or his or her
22 alternate shall be entitled to per diem at any rate that may be provided by the board of
23 supervisors. The public member or his or her alternate shall hold office for a term of one
24 year and in no event for a period exceeding three consecutive years. The term shall
25 commence on the date of appointment.

26 **Comment.** Subdivision (a) of Section 3075 is amended to delete language referring to the
27 senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

28 **Penal Code § 3076 (amended). Rules and regulations**

29 SEC. ____ . Section 3076 of the Penal Code is amended to read:

30 3076. (a) The board may make, establish and enforce rules and regulations adopted
31 under this article.

32 (b) The board shall act at regularly called meetings at which two-thirds of the members
33 are present, and shall make and establish rules and regulations in writing stating the
34 reasons therefor under which any prisoner who is confined in or committed to any county
35 jail, work furlough facility, industrial farm, or industrial road camp, or in any city jail,
36 work furlough facility, industrial farm, or industrial road camp under a judgment of
37 imprisonment or as a condition of probation for any criminal offense, unless the court at
38 the time of committing has ordered that such prisoner confined as a condition of
39 probation upon conviction of a felony not be granted parole, may be allowed to go upon
40 parole outside of such jail, work furlough facility, industrial farm, or industrial road
41 camp, but to remain, while on parole, in the legal custody and under the control of the
42 board establishing the rules and regulations for the prisoner's parole, and subject at any
43 time to be taken back within the enclosure of any such jail, work furlough facility,
44 industrial farm, or industrial road camp.

45 (c) The board shall provide a complete copy of its written rules and regulations and
46 reasons therefor and any amendments thereto to each of the judges of the ~~county's~~
47 ~~municipal and superior courts~~ superior court of the county.

1 The board shall provide to the persons in charge of the county's correctional facilities a
2 copy of the sections of its written rules and regulations and any amendments thereto
3 which govern eligibility for parole, and the name and telephone number of the person or
4 agency to contact for additional information. Such rules and regulations governing
5 eligibility either shall be conspicuously posted and maintained within each county
6 correctional facility so that all prisoners have access to a copy, or shall be given to each
7 prisoner.

8 **Comment.** Subdivision (c) of Section 3076 is amended to reflect unification of the municipal
9 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

10 **Penal Code § 3085.1 (amended). Contra Costa County alternate public member**

11 SEC. ____ . Section 3085.1 of the Penal Code is amended to read:

12 3085.1. The presiding judge, ~~if any, or, if none, the senior judge in point of service,~~ of
13 the superior court in Contra Costa County may appoint an alternate for the public
14 member who shall serve in the absence of the public member.

15 **Comment.** Section 3085.1 is amended to delete language referring to the senior judge. Every
16 superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

17 **Penal Code § 3607 (amended). Return of death warrant**

18 SEC. ____ . Section 3607 of the Penal Code is amended to read:

19 3607. After the execution, the warden must make a return upon the death warrant to the
20 county clerk of the court by which the judgment was rendered, showing the time, mode,
21 and manner in which it was executed.

22 **Comment.** Section 3607 is amended to reflect elimination of the county clerk's role as ex
23 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
24 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
25 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
26 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
27 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

28 **Penal Code § 4007 (amended). Transfer of prisoner**

29 SEC. ____ . Section 4007 of the Penal Code is amended to read:

30 4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for
31 the confinement of prisoners, the judge of the superior court may, by a written order filed
32 with the county clerk of the court, designate the jail of a contiguous county for the
33 confinement of any prisoner of his or her county, and may at any time modify or vacate
34 the order.

35 When there are reasonable grounds to believe that a prisoner may be forcibly removed
36 from a county jail, the sheriff may remove the prisoner to any California state prison for
37 safekeeping and it is the duty of the warden of the prison to accept and detain the prisoner
38 in his or her custody until his or her removal is ordered by the superior court of the
39 county from which he or she was delivered.

40 Immediately upon receiving the prisoner the warden shall advise the Director of
41 Corrections of that fact in writing.

42 When a county prisoner requires medical treatment necessitating hospitalization which
43 cannot be provided at the county jail or county hospital because of lack of adequate
44 detention facilities, and when the prisoner also presents a serious custodial problem
45 because of his or her past or present behavior, the judge of the superior court may, on the
46 request of the county sheriff and with the consent of the Director of Corrections,

1 designate by written order the nearest state prison or correctional facility which would be
2 able to provide the necessary medical treatment and secure confinement of the prisoner.
3 The written order of the judge shall be filed with the county clerk of the court. The court
4 shall immediately calendar the matter for a hearing to determine whether the order shall
5 continue or be rescinded. The hearing shall be held within 48 hours of the initial order or
6 the next judicial day, whichever occurs later. The prisoner shall not be transferred to the
7 state prison or correctional facility prior to the hearing, except upon a determination by
8 the physician responsible for the prisoner's health care that a medical emergency exists
9 which requires the transfer of the prisoner to the state prison or correctional facility prior
10 to the hearing. The prisoner shall be entitled to be present at the hearing and to be
11 represented by counsel. The prisoner may waive his or her right to this hearing in writing
12 at any time. If the prisoner waives his or her right to the hearing, the county sheriff shall
13 notify the prisoner's attorney of the transfer within 48 hours, or the next business day,
14 whichever is later. The court may modify or vacate the order at any time.

15 The rate of compensation for the prisoner's medical treatment and confinement within a
16 California state prison or correctional facility shall be established by the Department of
17 Corrections, and shall be charged against the county making the request.

18 When there are reasonable grounds to believe that there is a prisoner in a county jail
19 who is likely to be a threat to other persons in the facility or who is likely to cause
20 substantial damage to the facility, the judge of the superior court may, on the request of
21 the county sheriff and with the consent of the Director of Corrections, designate by
22 written order the nearest state prison or correctional facility which would be able to
23 secure confinement of the prisoner, subject to space available. The written order of the
24 judge must be filed with the county clerk of the court. The court shall immediately
25 calendar the matter for a hearing to determine whether the order shall continue or be
26 rescinded. The hearing shall be held within 48 hours of the initial order or the next
27 judicial day, whichever occurs later. The prisoner shall be entitled to be present at the
28 hearing and to be represented by counsel. The court may modify or vacate that order at
29 any time. The rate of compensation for the prisoner's confinement within a California
30 state prison or correctional facility shall be established by the Department of Corrections
31 and shall be charged against the county making the request.

32 **Comment.** Section 4007 is amended to reflect elimination of the county clerk's role as ex
33 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
34 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
35 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
36 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
37 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

38 **Penal Code § 4008 (amended). Copy of appointment**

39 SEC. ____ . Section 4008 of the Penal Code is amended to read:

40 4008. A copy of the appointment, certified by the county clerk of the court, must be
41 served on the sheriff or keeper of the jail designated, who must receive into his the jail all
42 prisoners authorized to be confined therein, pursuant to ~~the last section~~ Section 4007, and
43 who is responsible for the safekeeping of the persons so committed, in the same manner
44 and to the same extent as if he the sheriff or keeper of the jail were sheriff of the county
45 for whose use his the jail is designated, and with respect to the persons so committed he
46 the sheriff or keeper of the jail is deemed the sheriff of the county from which they were
47 removed.

1 **Comment.** Section 4008 is amended to reflect elimination of the county clerk's role as ex
2 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
3 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
4 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
5 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
6 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

7 **Penal Code § 4009 (amended). Revocation of designation**

8 SEC. ____ . Section 4009 of the Penal Code is amended to read:

9 4009. When a jail is erected in a county for the use of which the designation was made,
10 or its jail is rendered fit and safe for the confinement of prisoners, the judge of the
11 superior court of that county must, by a written revocation, filed with the ~~county clerk~~
12 thereof clerk of the court, declare that the necessity for the designation has ceased, and
13 that it is revoked.

14 **Comment.** Section 4009 is amended to reflect elimination of the county clerk's role as ex
15 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
16 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
17 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
18 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
19 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

20 **Penal Code § 4010 (amended). Service of copy of revocation**

21 SEC. ____ . Section 4010 of the Penal Code is amended to read:

22 4010. The ~~county clerk~~ of the court must immediately serve a copy of the revocation
23 upon the sheriff of the county, who must thereupon remove the prisoners to the jail of the
24 county from which the removal was had.

25 **Comment.** Section 4010 is amended to reflect elimination of the county clerk's role as ex
26 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
27 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
28 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
29 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
30 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

31 **Penal Code § 4012 (amended). Pestilence or contagious disease**

32 SEC. ____ . Section 4012 of the Penal Code is amended to read:

33 4012. When a pestilence or contagious disease breaks out in or near a jail, and the
34 physician thereof certifies that it is liable to endanger the health of the prisoners, the
35 county judge may, by a written appointment, designate a safe and convenient place in the
36 county, or the jail in a contiguous county, as the place of their confinement. The
37 appointment must be filed in the office of the ~~county clerk~~ of the court, and authorize the
38 sheriff to remove the prisoners to the place or jail designated, and there confine them until
39 they can be safely returned to the jail from which they were taken.

40 **Comment.** Section 4012 is amended to reflect elimination of the county clerk's role as ex
41 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
42 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
43 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
44 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
45 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

1 **Penal Code § 4024.1 (amended). Accelerated release where inmate count exceeds bed**
2 **capacity**

3 SEC. ____ . Section 4024.1 of the Penal Code is amended to read:

4 4024.1. (a) The sheriff, chief of police, or any other person responsible for a county or
5 city jail may apply to the presiding judge of the ~~municipal~~ or superior court to receive
6 general authorization for a period of 30 days to release inmates pursuant to the provisions
7 of this section.

8 (b) Whenever, after being authorized by a court pursuant to subdivision (a), the actual
9 inmate count exceeds the actual bed capacity of a county or city jail, the sheriff, chief of
10 police, or other person responsible for such county or city jail may accelerate the release,
11 discharge, or expiration of sentence date of sentenced inmates up to a maximum of five
12 days.

13 (c) The total number of inmates released pursuant to this section shall not exceed a
14 number necessary to balance the inmate count and actual bed capacity.

15 (d) Inmates closest to their normal release, discharge, or expiration of sentence date
16 shall be given accelerated release priority.

17 (e) The number of days that release, discharge, or expiration of sentence is accelerated
18 shall in no case exceed 10 percent of the particular inmate's original sentence, prior to the
19 application thereto of any other credits or benefits authorized by law.

20 **Comment.** Subdivision (a) of Section 4024.1 is amended to reflect unification of the municipal
21 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

22 **Penal Code § 4112 (amended). Resolution proclaiming establishment of industrial farm or**
23 **road camp**

24 SEC. ____ . Section 4112 of the Penal Code is amended to read:

25 4112. When land has been acquired and such buildings and structures erected and
26 improvements made as may be immediately necessary for the carrying out of the
27 purposes of this article or arrangements have been made for an industrial road camp or
28 camps, the board of supervisors shall adopt a resolution proclaiming that an industrial
29 farm or road camp has been established in the county and designating a day on and after
30 which persons will be admitted to such farm or camp. Certified copies of the resolution
31 shall be forwarded by the clerk of the board of supervisors to each ~~municipal~~ superior
32 court judge in the county ~~or each superior court judge in a county in which there is no~~
33 ~~municipal court.~~

34 **Comment.** Section 4112 is amended to reflect unification of the municipal and superior courts
35 pursuant to Article VI, Section 5(e), of the California Constitution.

36 **Penal Code § 4301 (amended). Membership of county advisory committee on adult**
37 **detention**

38 SEC. ____ . Section 4301 of the Penal Code is amended to read:

39 4301. There shall be 6, 9, or 12 members of the committee. One-third shall be
40 appointed by the board of supervisors; one-third by the sheriff, and one-third by the
41 ~~presiding or senior~~ judge of the superior court. Of the members appointed by the
42 presiding judge of the superior court, one shall be a member of the State Bar.

43 **Comment.** Section 4301 is amended to delete language referring to the senior judge. Every
44 superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

1 **Penal Code § 4303 (amended). Committee member expenses**

2 SEC. ____ . Section 4303 of the Penal Code is amended to read:

3 4303. Members of the committee shall serve without compensation, but shall be
4 allowed their reasonable expenses as approved by the presiding ~~or senior~~ judge of the
5 superior court. Such expenses shall be a charge upon the county in which the court has
6 jurisdiction, and shall be paid out of the county treasury upon a written order of the
7 presiding judge of the superior court directing the county auditor to draw ~~his a~~ warrant
8 upon the county treasurer for the specified amount of such expenses. All orders by the
9 ~~superior court~~ presiding judge upon the county treasurer shall be filed in duplicate with
10 the county board of supervisors and sheriff.

11 **Comment.** Section 4303 is amended to delete language referring to the senior judge. Every
12 superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

13 **Penal Code § 4304 (amended). Committee report**

14 SEC. ____ . Section 4304 of the Penal Code is amended to read:

15 4304. The committee shall file a report within 90 days after the thirty-first day of
16 December of the calendar year for which such report is made, copies of which shall be
17 filed with the county board of supervisors, the presiding ~~or senior~~ judge, the sheriff, the
18 Board of Corrections, and the Attorney General.

19 **Comment.** Section 4304 is amended to delete language referring to the senior judge. Every
20 superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

21 **Penal Code § 4852.18 (amended). Certificate of rehabilitation**

22 SEC. ____ . Section 4852.18 of the Penal Code is amended to read:

23 4852.18. The Board of Prison Terms shall furnish to the ~~county~~ clerk of the superior
24 court of each county a set of sample forms for a petition for certificate of rehabilitation
25 and pardon, a notice of filing of petition for certificate of rehabilitation and pardon, and a
26 certificate of rehabilitation. The ~~county~~ clerk of the court shall have a sufficient number
27 of these forms printed to meet the needs of the people of ~~his~~ the county, and he shall
28 make these forms available at no charge to persons requesting them.

29 **Comment.** Section 4852.18 is amended to reflect elimination of the county clerk's role as ex
30 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
31 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
32 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
33 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
34 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

35 **Note: Comment Requested**

36 The Commission is reviewing whether county cost and expense provisions remain viable, given
37 the enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
38 Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003
39 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial
40 court operations), and Cal. R. Ct. 810 ("court operations" defined). These matters are also being
41 examined by a Joint Court-County Working Group on Trial Court Funding. The Commission
42 solicits comment on the proper treatment of Penal Code Section 4852.18.

43 **Penal Code § 6031.1 (amended). Biennial inspections of local detention facilities**

44 SEC. ____ . Section 6031.1 of the Penal Code is amended to read:

1 6031.1. Inspections of local detention facilities shall be made biennially. Inspections of
2 privately operated work furlough facilities and programs shall be made biennially unless
3 the work furlough administrator requests an earlier inspection. Inspections shall include,
4 but not be limited to, the following:

5 (a) Health and safety inspections conducted pursuant to Section 101045 of the Health
6 and Safety Code.

7 (b) Fire suppression preplanning inspections by the local fire department.

8 (c) Security, rehabilitation programs, recreation, treatment of persons confined in the
9 facilities, and personnel training by the staff of the Board of Corrections.

10 Reports of each facility's inspection shall be furnished to the official in charge of the
11 local detention facility or, in the case of a privately operated facility, the work furlough
12 administrator, the local governing body, the grand jury, and the presiding ~~or~~ sole judge of
13 the superior court in the county where the facility is located. These reports shall set forth
14 the areas wherein the facility has complied and has failed to comply with the minimum
15 standards established pursuant to Section 6030.

16 **Comment.** Section 6031.1 is amended to delete language referring to the sole judge. Every
17 superior court has at least two judgeships as a result of trial court unification. See Gov't Code §
18 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
19 otherwise, the reference to the "presiding judge" means the sole judge of the court. See Gov't
20 Code § 69508.5 (presiding judge).

21 **Penal Code § 13151 (amended). Disposition report**

22 SEC. ____ . Section 13151 of the Penal Code is amended to read:

23 13151. The superior ~~or municipal~~ court that disposes of a case for which an arrest was
24 required to be reported to the Department of Justice pursuant to Section 13150 or for
25 which fingerprints were taken and submitted to the Department of Justice by order of the
26 court shall assure that a disposition report of such case containing the applicable data
27 elements enumerated in Section 13125, or Section 13151.1 if such disposition is one of
28 dismissal, is furnished to the Department of Justice within 30 days according to the
29 procedures and on a format prescribed by the department. The court shall also furnish a
30 copy of such disposition report to the law enforcement agency having primary
31 jurisdiction to investigate the offense alleged in the complaint or accusation. Whenever a
32 court shall order any action subsequent to the initial disposition of a case, the court shall
33 similarly report such proceedings to the department.

34 **Comment.** Section 13151 is amended to reflect unification of the municipal and superior courts
35 pursuant to Article VI, Section 5(e), of the California Constitution.

36 **Penal Code § 13510 (unchanged). Rules of minimum standards**

37 13510. (a) For the purpose of raising the level of competence of local law enforcement
38 officers, the commission shall adopt, and may from time to time amend, rules
39 establishing minimum standards relating to physical, mental, and moral fitness that shall
40 govern the recruitment of any city police officers, peace officer members of a county
41 sheriff's office, marshals or deputy marshals of a municipal court, peace officer members
42 of a county coroner's office notwithstanding Section 13526, reserve officers, as defined
43 in subdivision (a) of Section 830.6, police officers of a district authorized by statute to
44 maintain a police department, peace officer members of a police department operated by
45 a joint powers agency established by Article 1 (commencing with Section 6500) of
46 Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid
47 inspectors and investigators of a district attorney's office, as defined in Section 830.1,

1 who conduct criminal investigations, peace officer members of a district, safety police
2 officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and
3 (b) of Section 830.31, or housing authority police departments.


4 The commission also shall adopt, and may from time to time amend, rules establishing
5 minimum standards for training of city police officers, peace officer members of county
6 sheriff's offices, marshals or deputy marshals of a municipal court, peace officer
7 members of a county coroner's office notwithstanding Section 13526, reserve officers, as
8 defined in subdivision (a) of Section 830.6, police officers of a district authorized by
9 statute to maintain a police department, peace officer members of a police department
10 operated by a joint powers agency established by Article 1 (commencing with Section
11 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed
12 and paid inspectors and investigators of a district attorney's office, as defined in Section
13 830.1, who conduct criminal investigations, peace officer members of a district, safety
14 police officers and park rangers of the County of Los Angeles, as defined in subdivisions
15 (a) and (b) of Section 830.31, and housing authority police departments.

16 These rules shall apply to those cities, counties, cities and counties, and districts
17 receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to
18 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
19 Government Code.

20 (b) The commission shall conduct research concerning job-related educational
21 standards and job-related selection standards to include vision, hearing, physical ability,
22 and emotional stability. Job-related standards that are supported by this research shall be
23 adopted by the commission prior to January 1, 1985, and shall apply to those peace
24 officer classes identified in subdivision (a). The commission shall consult with local
25 entities during the conducting of related research into job-related selection standards.

26 (c) For the purpose of raising the level of competence of local public safety dispatchers,
27 the commission shall adopt, and may from time to time amend, rules establishing
28 minimum standards relating to the recruitment and training of local public safety
29 dispatchers having a primary responsibility for providing dispatching services for local
30 law enforcement agencies described in subdivision (a), which standards shall apply to
31 those cities, counties, cities and counties, and districts receiving state aid pursuant to this
32 chapter. These standards also shall apply to consolidated dispatch centers operated by an
33 independent public joint powers agency established pursuant to Article 1 (commencing
34 with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when
35 providing dispatch services to the law enforcement personnel listed in subdivision (a).
36 Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this
38 section, "primary responsibility" refers to the performance of law enforcement
39 dispatching duties for a minimum of 50 percent of the time worked within a pay period.

40 (d) Nothing in this section shall prohibit a local agency from establishing selection and
41 training standards that exceed the minimum standards established by the commission.

42  **Note.** Penal Code Section 13510 requires revision to reflect the elimination of the municipal
43 courts. However, there are unsettled issues regarding the status of marshals and deputy marshals
44 who are employed by the superior court. The section is being preserved without change pending
45 further study and recommendation by the Commission on Peace Officer Standards and Training
46 and other interested parties.

47 **Penal Code § 14150 (unchanged). Findings and declarations**

48 14150. The Legislature hereby finds and declares:

1 (a) Over the last 10 years, criminal case filings, including misdemeanor filings, have
2 been increasing faster than any other type of filing in California's courts. Between 1981
3 and 1991, nontraffic misdemeanor and infraction filings in municipal and justice courts
4 increased by 35 percent.

5 (b) These misdemeanor cases add to the workload which is now straining the California
6 court system. In addition, many of these cases are ill-suited to complete resolution
7 through the criminal justice system because they involve underlying disputes which may
8 result in continuing conflict and criminal conduct within the community.


9 (c) Many victims of misdemeanor criminal conduct feel excluded from the criminal
10 justice process. Although they were the direct victims of the offenders' criminal conduct,
11 the process does not currently provide them with a direct role in holding the offender
12 accountable for this conduct.

13 (d) Community conflict resolution programs utilizing alternative dispute resolution
14 (ADR) processes such as mediation and arbitration have been effectively used in
15 California and elsewhere to resolve conflicts involving conduct that could be charged as a
16 misdemeanor. These programs can assist in reducing the number of cases burdening the
17 court system. By utilizing ADR processes, these programs also provide an opportunity
18 for direct participation by the victims of the conduct, thereby increasing victims'
19 satisfaction with the criminal justice process. In addition, by bringing the parties together,
20 these programs may reduce conflict within the community by facilitating the settlement
21 of disputes which are causing repeated misdemeanor criminal conduct and may increase
22 compliance with restitution agreements by encouraging the offender to accept personal
23 responsibility.

24 (e) As of the effective date of this section, the San Francisco and Contra Costa district
25 attorney offices refer between 1,000 and 1,500 cases per year involving conduct which
26 could be charged as a misdemeanor to California Community Dispute Services, which
27 provides ADR services. Between 70 and 75 percent of these cases are successfully
28 resolved through the ADR process, and the rate of compliance with the agreements
29 reached is between 80 and 93 percent.

30 (f) The State of New York has developed a substantial statewide alternative dispute
31 resolution program in which 65 percent of the cases using the services are of a criminal
32 nature. These cases are referred to arbitration, conciliation, and mediation. Of the
33 criminal misdemeanor cases that were mediated, 82 percent reached an agreement
34 through the mediation process.

35 (g) It is in the public interest for community dispute resolution programs to be
36 established to provide ADR services in cases involving conduct which could be charged
37 as a misdemeanor and for district attorneys and courts to be authorized to refer cases to
38 these programs.

39  **Note.** In Penal Code Section 14150, the reference to filings in the municipal and justice courts
40 would be retained, because it is of historical importance and helps demonstrate the intent of this
41 provision.

42 **Penal Code § 14154 (amended). Referral of misdemeanor case to community conflict**
43 **resolution program**

44 SEC. ____ . Section 14154 of the Penal Code is amended to read:

45 14154. In a county in which the district attorney has established a community conflict
46 resolution program, ~~the municipal court or the superior court in a county in which there is~~
47 ~~no municipal court~~ may, with the consent of the district attorney and the defendant, refer

1 misdemeanor cases, including those brought by a city prosecutor, to that program. In
2 determining whether to refer a case to the community conflict resolution program, the
3 court shall consider, but is not limited to considering, all of the following:

4 (a) The factors listed in Section 14152.

5 (b) Any other referral criteria established by the district attorney for the program.

6 The court shall not refer any case to the community conflict resolution program which
7 was previously referred to that program by the district attorney.

8 **Comment.** Section 14154 is amended to reflect unification of the municipal and superior courts
9 pursuant to Article VI, Section 5(e), of the California Constitution.

10 PROBATE CODE

11 **Prob. Code § 1513 (amended). Investigation and report on proposed guardianship**

12 SEC. ____ . Section 1513 of the Probate Code is amended to read:

13 1513. (a) Unless waived by the court, a court investigator, probation officer, or
14 domestic relations investigator may make an investigation and file with the court a report
15 and recommendation concerning each proposed guardianship of the person or
16 guardianship of the estate. Investigations where the proposed guardian is a relative shall
17 be made by a court investigator. Investigations where the proposed guardian is a
18 nonrelative shall be made by the county agency designated to investigate potential
19 dependency. The report for the guardianship of the person shall include, but need not be
20 limited to, an investigation and discussion of all of the following:

21 (1) A social history of the guardian.

22 (2) A social history of the proposed ward, including, to the extent feasible, an
23 assessment of any identified developmental, emotional, psychological, or educational
24 needs of the proposed ward and the capability of the petitioner to meet those needs.

25 (3) The relationship of the proposed ward to the guardian, including the duration and
26 character of the relationship, where applicable, the circumstances whereby physical
27 custody of the proposed ward was acquired by the guardian, and a statement of the
28 proposed ward's attitude concerning the proposed guardianship, unless the statement of
29 the attitude is affected by the proposed ward's developmental, physical, or emotional
30 condition.

31 (4) The anticipated duration of the guardianship and the plans of both natural parents
32 and the proposed guardian for the stable and permanent home for the child. The court
33 may waive this requirement for cases involving relative guardians.

34 (b) The report shall be read and considered by the court prior to ruling on the petition
35 for guardianship, and shall be reflected in the minutes of the court. The person preparing
36 the report may be called and examined by any party to the proceeding.

37 (c) If the investigation finds that any party to the proposed guardianship alleges the
38 minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code,
39 the case shall be referred to the county agency designated to investigate potential
40 dependencies. Guardianship proceedings shall not be completed until the investigation
41 required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a
42 report is provided to the court in which the guardianship proceeding is pending.

43 (d) The report authorized by this section is confidential and shall only be made
44 available to persons who have been served in the proceedings or their attorneys. The
45 county clerk of the court shall make provisions for the limitation of the report exclusively
46 to persons entitled to its receipt.

1 (e) For the purpose of writing the report authorized by this section, the person making
2 the investigation and report shall have access to the proposed ward's school records,
3 probation records, and public and private social services records, and to an oral or written
4 summary of the proposed ward's medical records and psychological records prepared by
5 any physician, psychologist, or psychiatrist who made or who is maintaining those
6 records. The physician, psychologist, or psychiatrist shall be available to clarify
7 information regarding these records pursuant to the investigator's responsibility to gather
8 and provide information for the court.

9 (f) This section does not apply to guardianships resulting from a permanency plan for a
10 dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

11 (g) For purposes of this section, a "relative" means a person who is a spouse, parent,
12 stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt,
13 niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the
14 spouse of any of these persons, even after the marriage has been terminated by death or
15 dissolution.

16 **Comment.** Section 1513 is amended to reflect elimination of the county clerk's role as ex
17 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
18 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
19 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
20 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
21 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

22 **Prob. Code § 1821 (amended). Petition and supplemental information**

23 SEC. ____ . Section 1821 of the Probate Code is amended to read:

24 1821. (a) The petition shall request that a conservator be appointed for the person or
25 estate, or both, shall specify the name, address, and telephone number of the proposed
26 conservator and the name, address, and telephone number of the proposed conservatee,
27 and state the reasons why a conservatorship is necessary. Unless the petitioner is a bank
28 or other entity authorized to conduct the business of a trust company, the petitioner shall
29 also file supplemental information as to why the appointment of a conservator is required.
30 The supplemental information to be submitted shall include a brief statement of facts
31 addressed to each of the following categories:

32 (1) The inability of the proposed conservatee to properly provide for his or her needs
33 for physical health, food, clothing, and shelter.

34 (2) The location of the proposed conservatee's residence and the ability of the proposed
35 conservatee to live in the residence while under conservatorship.

36 (3) Alternatives to conservatorship considered by the petitioner and reasons why those
37 alternatives are not available.

38 (4) Health or social services provided to the proposed conservatee during the year
39 preceding the filing of the petition, when the petitioner has information as to those
40 services.

41 (5) The inability of the proposed conservatee to substantially manage his or her own
42 financial resources, or to resist fraud or undue influence.

43 The facts required to address the categories set forth in paragraphs (1) to (5), inclusive,
44 shall be set forth by the petitioner when he or she has knowledge of the facts or by the
45 declarations or affidavits of other persons having knowledge of those facts.

46 Where any of the categories set forth in paragraphs (1) to (5), inclusive, are not
47 applicable to the proposed conservatorship, the petitioner shall so indicate and state on
48 the supplemental information form the reasons therefor.

1 The Judicial Council shall develop a supplemental information form for the information
2 required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or
3 organizations approved by the Judicial Council, who represent public conservators, court
4 investigators, the State Bar, specialists with experience in performing assessments and
5 coordinating community-based services, and legal services for the elderly and disabled.

6 The supplemental information form shall be separate and distinct from the form for the
7 petition. The supplemental information shall be confidential and shall be made available
8 only to parties, persons given notice of the petition who have requested this supplemental
9 information or who have appeared in the proceedings, their attorneys, and the court. The
10 court shall have discretion at any other time to release the supplemental information to
11 other persons if it would serve the interests of the conservatee. The county clerk of the
12 court shall make provision for limiting disclosure of the supplemental information
13 exclusively to persons entitled thereto under this section.

14 (b) The petition shall set forth, so far as they are known to the petitioner, the names and
15 addresses of the spouse or domestic partner, and of the relatives of the proposed
16 conservatee within the second degree. If no spouse or domestic partner of the proposed
17 conservatee or relatives of the proposed conservatee within the second degree are known
18 to the petitioner, the petition shall set forth, so far as they are known to the petitioner, the
19 names and addresses of the following persons who, for the purposes of Section 1822,
20 shall all be deemed to be relatives:

21 (1) A spouse or domestic partner of a predeceased parent of a proposed conservatee.

22 (2) The children of a predeceased spouse or domestic partner of a proposed
23 conservatee.

24 (3) The siblings of the proposed conservatee's parents, if any, but if none, then the
25 natural and adoptive children of the proposed conservatee's parents' siblings.

26 (4) The natural and adoptive children of the proposed conservatee's siblings.

27 (c) If the petition is filed by a person other than the proposed conservatee, the petition
28 shall state whether or not the petitioner is a creditor or debtor, or the agent of a creditor or
29 debtor, of the proposed conservatee.

30 (d) If the proposed conservatee is a patient in or on leave of absence from a state
31 institution under the jurisdiction of the State Department of Mental Health or the State
32 Department of Developmental Services and that fact is known to the petitioner, the
33 petition shall state that fact and name the institution.

34 (e) The petition shall state, so far as is known to the petitioner, whether or not the
35 proposed conservatee is receiving or is entitled to receive benefits from the Veterans
36 Administration and the estimated amount of the monthly benefit payable by the Veterans
37 Administration for the proposed conservatee.

38 (f) The petition may include an application for any order or orders authorized under this
39 division, including, but not limited to, orders under Chapter 4 (commencing with Section
40 1870).

41 (g) The petition may include a further statement that the proposed conservatee is not
42 willing to attend the hearing on the petition, does not wish to contest the establishment of
43 the conservatorship, and does not object to the proposed conservator or prefer that
44 another person act as conservator.


45 (h) In the case of an allegedly developmentally disabled adult, the petition shall set
46 forth the following:

47 (1) The nature and degree of the alleged disability, the specific duties and powers
48 requested by or for the limited conservator, and the limitations of civil and legal rights
49 requested to be included in the court's order of appointment.

1 (2) Whether or not the proposed limited conservatee is or is alleged to be
2 developmentally disabled.

3 Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the
4 requirements of this section, and conservatorships filed pursuant to Article 7.5
5 (commencing with Section 416) of Part 1 of Division 1 of the Health and Safety Code are
6 exempt from providing the supplemental information required by this section, so long as
7 the guidelines adopted by the State Department of Developmental Services for regional
8 centers require the same information that is required pursuant to this section.

9 **Comment.** Section 1821 is amended to reflect elimination of the county clerk's role as ex
10 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
11 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
12 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
13 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
14 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

15  **Note.** Probate Code Section 1821 reflects legislative changes made in AB 25 (Migden). See
16 2001 Cal. Stat. ch. 893, § 18.

17 **Prob. Code § 1826 (amended). Court investigator's duties**

18 SEC. ____ . Section 1826 of the Probate Code is amended to read:

19 1826. Regardless of whether the proposed conservatee attends the hearing, the court
20 investigator shall do all of the following:

21 (a) Interview the proposed conservatee personally.

22 (b) Inform the proposed conservatee of the contents of the citation, of the nature,
23 purpose, and effect of the proceeding, and of the right of the proposed conservatee to
24 oppose the proceeding, to attend the hearing, to have the matter of the establishment of
25 the conservatorship tried by jury, to be represented by legal counsel if the proposed
26 conservatee so chooses, and to have legal counsel appointed by the court if unable to
27 retain legal counsel.

28 (c) Determine whether it appears that the proposed conservatee is unable to attend the
29 hearing and, if able to attend, whether the proposed conservatee is willing to attend the
30 hearing.

31 (d) Review the allegations of the petition as to why the appointment of the conservator
32 is required and, in making his or her determination, do the following:

33 (1) Refer to the supplemental information form submitted by the petitioner and
34 consider the facts set forth in the form that address each of the categories specified in
35 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1821.

36 (2) Consider, to the extent practicable, whether he or she believes the proposed
37 conservatee suffers from any of the mental function deficits listed in subdivision (a) of
38 Section 811 that significantly impairs the proposed conservatee's ability to understand
39 and appreciate the consequences of his or her actions in connection with any of the
40 functions described in subdivision (a) or (b) of Section 1801 and identify the observations
41 that support that belief.

42 (e) Determine whether the proposed conservatee wishes to contest the establishment of
43 the conservatorship.

44 (f) Determine whether the proposed conservatee objects to the proposed conservator or
45 prefers another person to act as conservator.

46 (g) Determine whether the proposed conservatee wishes to be represented by legal
47 counsel and, if so, whether the proposed conservatee has retained legal counsel and, if
48 not, the name of an attorney the proposed conservatee wishes to retain.

1 (h) Determine whether the proposed conservatee is capable of completing an affidavit
2 of voter registration.

3 (i) If the proposed conservatee has not retained legal counsel, determine whether the
4 proposed conservatee desires the court to appoint legal counsel.

5 (j) Determine whether the appointment of legal counsel would be helpful to the
6 resolution of the matter or is necessary to protect the interests of the proposed conservatee
7 in any case where the proposed conservatee does not plan to retain legal counsel and has
8 not requested the appointment of legal counsel by the court.

9 (k) Report to the court in writing, at least five days before the hearing, concerning all of
10 the foregoing, including the proposed conservatee's express communications concerning
11 both of the following:

12 (1) Representation by legal counsel.

13 (2) Whether the proposed conservatee is not willing to attend the hearing, does not wish
14 to contest the establishment of the conservatorship, and does not object to the proposed
15 conservator or prefer that another person act as conservator.

16 (l) Mail, at least five days before the hearing, a copy of the report referred to in
17 subdivision (k) to all of the following:

18 (1) The attorney, if any, for the petitioner.

19 (2) The attorney, if any, for the proposed conservatee.

20 (3) Any other persons as the court orders.

21 (m) The court investigator has discretion to release the report required by this section to
22 the public conservator, interested public agencies, and the long-term care ombudsman.

23 (n) The report required by this section is confidential and shall be made available only
24 to parties, persons given notice of the petition who have requested this report or who have
25 appeared in the proceedings, their attorneys, and the court. The court has discretion at any
26 other time to release the report, if it would serve the interests of the conservatee. The
27 county clerk of the court shall provide for the limitation of the report exclusively to
28 persons entitled to its receipt.

29 (o) This section does not apply to a proposed conservatee who has personally executed
30 the petition for conservatorship, or one who has nominated his or her own conservator, if
31 he or she attends the hearing.

32 (p) If the court investigator has performed an investigation within the preceding six
33 months and furnished a report thereon to the court, the court may order, upon good cause
34 shown, that another investigation is not necessary or that a more limited investigation
35 may be performed.

36 **Comment.** Section 1826 is amended to reflect elimination of the county clerk's role as ex
37 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
38 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
39 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
40 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
41 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

42 **Prob. Code § 1827.5 (amended). Assessment of proposed limited conservatee**

43 SEC. ____ . Section 1827.5 of the Probate Code is amended to read:

44 1827.5. (a) In the case of any proceeding to establish a limited conservatorship for a
45 person with developmental disabilities, within 30 days after the filing of a petition for
46 limited conservatorship, a proposed limited conservatee, with his or her consent, shall be
47 assessed at a regional center as provided in Chapter 5 (commencing with Section 4620) of

1 Division 4.5 of the Welfare and Institutions Code. The regional center shall submit a
2 written report of its findings and recommendations to the court.

3 (b) In the case of any proceeding to establish a general conservatorship for a person
4 with developmental disabilities, the regional center, with the consent of the proposed
5 conservatee, may prepare an assessment as provided in Chapter 5 (commencing with
6 Section 4620) of Division 4.5 of the Welfare and Institutions Code. If an assessment is
7 prepared, the regional center shall submit its findings and recommendations to the court.

8 (c) A report prepared under subdivision (a) or (b) shall include a description of the
9 specific areas, nature, and degree of disability of the proposed conservatee or proposed
10 limited conservatee. The findings and recommendations of the regional center are not
11 binding upon the court. In a proceeding where the petitioner is a provider of board and
12 care, treatment, habilitation, or other services to persons with developmental disabilities
13 or a spouse or employee of a provider, is not the natural parent of the proposed
14 conservatee or proposed limited conservatee, and is not a public entity, the regional
15 center shall include a recommendation in its report concerning the suitability of the
16 petitioners to meet the needs of the proposed conservatee or proposed limited
17 conservatee.

18 (d) At least five days before the hearing on the petition, the regional center shall mail a
19 copy of the report referred to in subdivision (a) to all of the following:

20 (1) The proposed limited conservatee.

21 (2) The attorney, if any, for the proposed limited conservatee.

22 (3) If the petitioner is not the proposed limited conservatee, the attorney for the
23 petitioner or the petitioner if the petitioner does not have an attorney.

24 (4) Such other persons as the court orders.

25 (e) The report referred to in subdivisions (a) and (b) shall be confidential and shall be
26 made available only to parties listed in subdivision (d) unless the court, in its discretion,
27 determines that the release of the report would serve the interests of the conservatee who
28 is developmentally disabled. The ~~county~~ clerk of the court shall make provision for
29 limiting disclosure of the report exclusively to persons entitled thereto under this section.

30 **Comment.** Section 1827.5 is amended to reflect elimination of the county clerk's role as ex
31 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
32 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
33 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
34 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
35 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

36 **Prob. Code § 1851 (amended). Review by court investigator**

37 SEC. ____ . Section 1851 of the Probate Code is amended to read:

38 1851. (a) When court review is required, the court investigator shall visit the
39 conservatee. The court investigator shall inform the conservatee personally that the
40 conservatee is under a conservatorship and shall give the name of the conservator to the
41 conservatee. The court investigator shall determine whether the conservatee wishes to
42 petition the court for termination of the conservatorship, whether the conservatee is still
43 in need of the conservatorship, whether the present conservator is acting in the best
44 interests of the conservatee, and whether the conservatee is capable of completing an
45 affidavit of voter registration. If the court has made an order under Chapter 4
46 (commencing with Section 1870), the court investigator shall determine whether the
47 present condition of the conservatee is such that the terms of the order should be modified
48 or the order revoked.

1 (b) The findings of the court investigator, including the facts upon which the findings
2 are based, shall be certified in writing to the court not less than 15 days prior to the date
3 of review. A copy of the report shall be mailed to the conservator and to the attorneys of
4 record for the conservator and conservatee at the same time it is certified to the court.

5 (c) In the case of a limited conservatee, the court investigator shall make a
6 recommendation regarding the continuation or termination of the limited conservatorship.

7 (d) The court investigator may personally visit the conservator and other persons as
8 may be necessary to determine whether the present conservator is acting in the best
9 interests of the conservatee.

10 (e) The report required by this section shall be confidential and shall be made available
11 only to parties, persons given notice of the petition who have requested the report or who
12 have appeared in the proceeding, their attorneys, and the court. The court shall have
13 discretion at any other time to release the report if it would serve the interests of the
14 conservatee. The county clerk of the court shall make provision for limiting disclosure of
15 the report exclusively to persons entitled thereto under this section.

16 **Comment.** Section 1851 is amended to reflect elimination of the county clerk's role as ex
17 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
18 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
19 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
20 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
21 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

22 **Prob. Code § 15688 (amended). Compensation of public guardian**

23 SEC. ____ . Section 15688 of the Probate Code is amended to read:

24 15688. Notwithstanding any other provision of this article and the terms of the trust, a
25 public guardian who is appointed as a trustee of a trust pursuant to Section 15660.5 shall
26 be paid from the trust property for all of the following:

27 (a) Reasonable expenses incurred in the administration of the trust.

28 (b) Compensation for services of the public guardian and the attorney of the public
29 guardian, and for the filing and processing services of the county clerk of the court in the
30 amount the court determines is just and reasonable.

31 (c) An annual bond fee in the amount of twenty-five dollars (\$25) plus one-fourth of 1
32 percent of the amount of the trust assets greater than ten thousand dollars (\$10,000). The
33 amount charged shall be deposited in the county treasury.

34 **Comment.** Section 15688 is amended to reflect elimination of the county clerk's role as ex
35 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
36 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
37 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
38 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
39 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

40 PUBLIC RESOURCES CODE

41 **Pub. Res. Code § 5560 (amended). Violation of ordinance, rule, or regulation of regional
42 park district, regional park and open-space district, or regional open-space district**

43 SEC. ____ . Section 5560 of the Public Resources Code is amended to read:

44 5560. (a) Violation of any ordinance, rule, or regulation adopted pursuant to this article
45 is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or by
46 imprisonment in the county jail for a period not to exceed six months, or by both such

1 fine and imprisonment, unless the board provides that a violation of any ordinance, rule,
2 or regulation is an infraction, which shall be punishable by a fine not to exceed fifty
3 dollars (\$50).

4 (b) Any ~~municipal superior court which may be established~~ of a county lying wholly or
5 in part within the district, ~~or superior court in a county in which there is no municipal~~
6 ~~court, shall have jurisdiction~~ is a proper court for trial of all prosecutions under this article
7 for violations of any ordinance, rule, or regulation adopted by the board.

8 **Comment.** Subdivision (b) of Section 5560 is amended to reflect unification of the municipal
9 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. "District,"
10 as used in this section, means "any regional park district, regional park and open-space district, or
11 regional open-space district formed pursuant to this article." Section 5500.

12  **Note: Comment Requested**

13 Public Resources Code Section 5560 raises issues relating to local venue. The Commission and
14 the Judicial Council are studying this area and may propose revisions to address local venue
15 issues. The Commission solicits comment on the proper treatment of the section with regard to
16 venue.

17 **Pub. Res. Code § 14591.5 (amended). Enforcement of judgments**

18 SEC. ____ . Section 14591.5 of the Public Resources Code is amended to read:

19 14591.5. After the time for judicial review under Section 11523 of the Government
20 Code has expired, the department may apply to ~~the clerk of the small claims court,~~
21 ~~municipal court,~~ or superior court, depending on the jurisdictional amount and any other
22 remedy sought, in the county where the penalties, restitution, or other remedy was
23 imposed by the department, for a judgment to collect any unpaid civil penalties or
24 restitution or to enforce any other remedy provided by this division. The application,
25 which shall include a certified copy of the final agency order or decision, shall constitute
26 a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter
27 the judgment immediately in conformity with the application. The judgment so entered
28 shall have the same force and effect as, and shall be subject to all the provisions of law
29 relating to, a judgment in a civil action, and may be enforced in the same manner as any
30 other judgment of the court ~~in which it is entered~~. The court shall make enforcement of
31 the judgment a priority.

32 **Comment.** Section 14591.5 is amended to reflect unification of the municipal and superior
33 courts pursuant to Article VI, Section 5(e), of the California Constitution. The small claims court
34 is a division of the superior court. Code Civ. Proc. § 116.210 (small claims division).

35 PUBLIC UTILITIES CODE

36 **Pub. Util. Code § 5411.5 (amended). Seizure or impoundment of vehicle**

37 SEC. ____ . Section 5411.5 of the Public Utilities Code is amended to read:

38 5411.5. Whenever a peace officer arrests a person for a violation of Section 5411
39 involving the operation of a charter-party carrier of passengers without a valid certificate
40 or permit at a public airport, within 100 feet of a public airport, or within two miles of the
41 international border between the United States and Mexico, the peace officer may
42 impound and retain possession of the vehicle used in violation of Section 5411.

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

1 The vehicle shall immediately be returned to the owner without cost to the owner if the
2 infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of
3 the offense, or it is determined that the vehicle was used in violation of Section 5411
4 without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned
5 to the owner upon payment of any fine ordered by the court. After the expiration of six
6 weeks from the final disposition of the criminal case, the impounding authority may deal
7 with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

8 At any time, a person may make a motion ~~in municipal court, or in superior court in a~~
9 ~~county in which there is no municipal court,~~ for the immediate return of the vehicle on
10 the ground that there was no probable cause to seize it or that there is some other good
11 cause, as determined by the court, for the return of the vehicle. A proceeding under this
12 section is a limited civil case.

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

17 **Comment.** Section 5411.5 is amended to reflect unification of the municipal and superior
18 courts pursuant to Article VI, Section 5(e), of the California Constitution.

19 REVENUE AND TAXATION CODE

20 **Rev. & Tax. Code § 19280 (unchanged). Collection of fines, penalties, and forfeitures by** 21 **Franchise Tax Board**

22 19280. (a)(1) Fines, state or local penalties, forfeitures, restitution fines, restitution
23 orders, or any other amounts imposed by a superior or municipal court of the State of
24 California upon a person or any other entity that is due and payable in an amount totaling
25 no less than two hundred fifty dollars (\$250), in the aggregate, for criminal offenses,
26 including all offenses involving a violation of the Vehicle Code except offenses relating
27 to parking or registration or offenses by pedestrians or bicyclists, may, no sooner than 90
28 days after payment of that amount becomes delinquent, be referred by the county or the
29 state to the Franchise Tax Board for collection under guidelines prescribed by the
30 Franchise Tax Board.

31 (2) For purposes of this subdivision:

32 (A) The amounts referred by the county or state under this section may include any
33 amounts that a government entity may add to the court-imposed obligation as a result of
34 the underlying offense, trial, or conviction. For purposes of this article, those amounts
35 shall be deemed to be imposed by the court.

36 (B) Restitution orders may be referred to the Franchise Tax Board only by a
37 government entity, as agreed upon by the Franchise Tax Board, provided that all of the
38 following apply:

39 (i) The government entity has the authority to collect on behalf of the state or the
40 victim.

41 (ii) The government entity shall be responsible for distributing the restitution order
42 collections, as appropriate.

43 (iii) The government entity shall ensure, in making the referrals and distributions, that it
44 coordinates with any other related collection activities that may occur by counties or
45 other state agencies.

1 (iv) The government entity shall ensure compliance with laws relating to the
2 reimbursement of the State Restitution Fund.

3 (C) The Franchise Tax Board shall establish criteria for referral, which shall include
4 setting forth a minimum dollar amount subject to referral and collection.

5 (b)(1) For the period January 1, 2001, to December 31, 2002, inclusive, the Franchise
6 Tax Board may limit referrals under the program authorized by this article to 17 counties.

7 (2) The report required to be issued by the Franchise Tax Board pursuant to Section 13
8 of Chapter 1242 of the Statutes of 1994, as amended by Section 46 of Chapter 604 of the
9 Statutes of 1997, is due to the Legislature on or before April 1, 2001, and shall
10 specifically address the feasibility and advisability of expanding the program authorized
11 by this article to accept referrals from all 58 counties.

12 (c) Upon written notice to the debtor from the Franchise Tax Board, any amount
13 referred to the Franchise Tax Board under subdivision (a) and any interest thereon,
14 including any interest on the amount referred under subdivision (a) that accrued prior to
15 the date of referral, shall be treated as final and due and payable to the State of California,
16 and shall be collected from the debtor by the Franchise Tax Board in any manner
17 authorized under the law for collection of a delinquent personal income tax liability,
18 including, but not limited to, issuance of an order and levy under Article 4 (commencing
19 with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil
20 Procedure in the manner provided for earnings withholding orders for taxes.

21 (d)(1) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with
22 Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts
23 referred under this article in the same manner and with the same force and effect and to
24 the full extent as if the language of those laws had been incorporated in full into this
25 article, except to the extent that any provision is either inconsistent with this article or is
26 not relevant to this article.

27 (2) Any information, information sources, or enforcement remedies and capabilities
28 available to the court or the state referring to the amount due described in subdivision (a),
29 shall be available to the Franchise Tax Board to be used in conjunction with, or
30 independent of, the information, information sources, or remedies and capabilities
31 available to the Franchise Tax Board for purposes of administering Part 10 (commencing
32 with Section 17001), this part, Part 10.7 (commencing with Section 21001), or Part 11
33 (commencing with Section 23001).

34 (e) The activities required to implement and administer this part shall not interfere with
35 the primary mission of the Franchise Tax Board to administer Part 10 (commencing with
36 Section 17001) and Part 11 (commencing with Section 23001).

37 (f) For amounts referred for collection under subdivision (a), interest shall accrue at the
38 greater of the rate applicable to the amount due being collected or the rate provided under
39 Section 19521. When notice of the amount due includes interest and is mailed to the
40 debtor and the amount is paid within 15 days after the date of notice, interest shall not be
41 imposed for the period after the date of notice.

42 (g) In no event shall a collection under this article be construed as a payment of income
43 taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing
44 with Section 23001).

45 **Note: Comment Requested**

46 Revenue and Taxation Code Section 19280 authorizes the Franchise Tax Board to collect
47 certain “[f]ines, state or local penalties, forfeitures, restitution fines, restitution orders, or any
48 other amounts imposed by a superior or municipal court. These obligations may be referred to the
49 Franchise Tax Board “no sooner than 90 days” after payment becomes delinquent. Because the

1 last municipal court was not eliminated until February 8, 2001, it probably is premature to delete
2 the “municipal court” reference from the section. The Commission solicits comment on when the
3 provision will be ripe for reform.

4 The Commission also notes that subdivision (b) requires the Franchise Tax Board to submit a
5 report “on or before April 1, 2001,” and authorizes the Franchise Tax Board to limit referrals
6 under the statute to 17 counties “[f]or the period January 1, 2001, to December 31, 2002,
7 inclusive.” The Commission solicits comment on whether subdivision (b) will continue to a
8 useful purpose after December 31, 2002.

9 **Rev. & Tax. Code § 19707 (amended). Venue**

10 SEC. ____ . Section 19707 of the Revenue and Taxation Code is amended to read:

11 19707. The place of trial for the offenses enumerated in this chapter shall be in the
12 county of residence or principal place of business of the defendant or defendants at the
13 time of commission of the offense. However, if the defendant or defendants had no
14 residence or principal place of business in this state at the time of commission of the
15 offense, the trial shall be held in the County of Sacramento.

16 In a criminal case charging a defendant or defendants with committing an offense
17 enumerated in this chapter, the place of trial may be as set forth in this section, or as
18 provided for in ~~Sections 1462~~ and Section 1462.2 or Chapter 1 (commencing with
19 Section 777) of Title 3 of Part 2 of the Penal Code.

20 **Comment.** Section 19707 is amended to reflect the repeal of Penal Code Section 1462,
21 concerning the jurisdiction of the municipal and superior courts.

22 **STREETS AND HIGHWAYS CODE**

23 **Sts. & Hy. Code § 5419 (amended). Notice to street superintendent**

24 SEC. ____ . Section 5419 of the Streets and Highways Code is amended to read:

25 5419. Upon the entry of judgment or dismissal of the action the ~~county~~ clerk of the
26 court shall forthwith mail to the street superintendent of the city having jurisdiction over
27 the proceeding in which the assessment was levied, a certified copy of the judgment or
28 other evidence sufficient to advise the street superintendent of the judgment of the court
29 in the action.

30 **Comment.** Section 5419 is amended to reflect elimination of the county clerk’s role as ex
31 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
32 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
33 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
34 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
35 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

36 **Sts. & Hy. Code § 6619 (amended). Notice to treasurer**

37 SEC. ____ . Section 6619 of the Streets and Highways Code is amended to read:

38 6619. A written notice of the pendency of any action for recovery on a bond shall be
39 filed with the treasurer. After the filing of such notice the treasurer shall not receive any
40 money on account of the bond and he shall have no authority to cancel the entries on the
41 bond in his the register or give a discharge of the bond without the written consent of the
42 owner thereof until judgment has been rendered in the action or until it has been
43 dismissed.

1 Upon the entry of judgment or dismissal of the action the ~~county~~ clerk of the court shall
2 forthwith mail to the treasurer a certified copy of the judgment or other evidence
3 sufficient to advise ~~him~~ the treasurer of the judgment of the court in the action.

4 **Comment.** Section 6619 is amended to reflect elimination of the county clerk’s role as ex
5 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
6 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
7 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
8 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
9 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

10 **Sts. & Hy. Code § 6621 (amended). Decree of foreclosure**

11 SEC. ____ . Section 6621 of the Streets and Highways Code is amended to read:
12 6621. Whenever a bond is foreclosed pursuant to this chapter, the decree of foreclosure
13 shall direct the ~~county~~ clerk of the court to deliver the bond sued upon to the treasurer of
14 the city which issued said bond together with a memorandum setting forth the title and
15 number of the action and the fact that the bond has been foreclosed.

16 **Comment.** Section 6621 is amended to reflect elimination of the county clerk’s role as ex
17 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
18 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
19 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
20 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
21 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

22 **Sts. & Hy. Code § 6622 (amended). Certificate of cancellation**

23 SEC. ____ . Section 6622 of the Streets and Highways Code is amended to read:
24 6622. The treasurer shall cancel the bond upon ~~his~~ the records and deliver to the ~~county~~
25 clerk of the court a receipt substantially in the following form:

26 “Certificate of Cancellation of Street Improvement Bond Series (designating it), in the
27 City (or County) of (naming it).

28 \$ _____/100 No. _____

29 I, _____, Treasurer of the City (or County) of _____ do hereby certify that I have received
30 the above bond from the ~~county~~ clerk of the Superior Court of _____ (naming county) in
31 that certain foreclosure action entitled _____ vs. _____ No. _____, Superior Court of _____
32 County; and I have this day canceled said bond on my records, pursuant to the order of
33 the court made in said case.

34 Dated at _____, this _____ day of _____, 19 20 ____.

35 _____
36 Treasurer of the City (or County) of _____

37 By _____
38 Deputy”

39 **Comment.** Section 6622 is amended to reflect elimination of the county clerk’s role as ex
40 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
41 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
42 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
43 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
44 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

45 **Sts. & Hy. Code § 6623 (amended). Entry of judgment or decree**

46 SEC. ____ . Section 6623 of the Streets and Highways Code is amended to read:

1 6623. The county clerk of the court shall enter the judgment or decree of foreclosure in
2 the action upon the delivery of the certificate of cancellation to ~~him~~.

3 **Comment.** Section 6623 is amended to reflect elimination of the county clerk's role as ex
4 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
5 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
6 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
7 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
8 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

9 **Sts. & Hy. Code § 8266 (amended). Filing complaint**

10 SEC. ____ . Section 8266 of the Streets and Highways Code is amended to read:

11 8266. The proceeding is instituted by filing with the county clerk of the court a
12 complaint setting forth:

- 13 (a) The name of the district.
14 (b) Its exterior boundaries.
15 (c) The date of its organization.
16 (d) A prayer that the district be judged legally formed under this part

17 **Comment.** Section 8266 is amended to reflect elimination of the county clerk's role as ex
18 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
19 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
20 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
21 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
22 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

23 UNEMPLOYMENT INSURANCE CODE

24 **Unemp. Ins. Code § 1815 (amended). Unemployment contributions judgment**

25 SEC. ____ . Section 1815 of the Unemployment Insurance Code is amended to read:

26 1815. If any employing unit is delinquent in the payment of any contributions, penalties
27 or interest provided for in this division, the director may, not later than 10 years after the
28 payment became delinquent or within 10 years after the last entry of a judgment under
29 this article or within 10 years after the last recording or filing of a notice of state tax lien
30 under Section 7171 of the Government Code, file in the Office of the County Clerk of the
31 Superior Court of Sacramento County, or with the county clerk of the superior court of
32 the county in which the employer has his its principal place of business, a certificate
33 specifying the amount of the contributions, interest and penalty due and the name and last
34 known address of the employer liable therefor. The certificate shall also contain a
35 statement that the director has complied with all the provisions of this division in relation
36 to the computation and levy of the contributions, interest and penalty, and a request that
37 judgment be entered against the employer in the amount set forth in the certificate. The
38 county clerk immediately upon the filing of the certificate shall enter a judgment for the
39 State of California against the employer in the amount set forth in the certificate. Such
40 judgment may be filed by the county clerk in a looseleaf book entitled "Unemployment
41 Contributions Judgments."

42 **Comment.** Section 1815 is amended to reflect elimination of the county clerk's role as ex
43 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
44 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
45 as ex officio clerk of the court are delegated to the court administrative or executive officer, and

1 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
2 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

3 **VEHICLE CODE**

4 **Veh. Code § 9805 (amended). Certificate of amount due**

5 SEC. ____ . Section 9805 of the Vehicle Code is amended to read:

6 9805. (a) The department may file in the office of the county clerk of the superior court
7 of Sacramento County, or any other county, a certificate specifying the amount of any
8 fee, tax, penalty, and collection cost due, the name and last known address of the
9 individual, company, or corporation liable for the amount due, and the fact that the
10 department has complied with all the provisions of this division in the computation of the
11 amount due, and a request that judgment be entered against the individual, company, or
12 corporation in the amount of the fee, tax, penalty, and collection cost set forth in the
13 certificate if the fee, tax, penalty, or collection cost constitutes either of the following:

14 (1) A lien under this division on the vehicle on which it is due is not paid when due,
15 and there is evidence that the vehicle has been operated in violation of this code or any
16 regulations adopted pursuant to this code.

17 (2) A lessee liability as provided in Section 10879 of the Revenue and Taxation Code.

18 (b) Prior to the filing of the certificate, the department shall, by mail, notify the
19 individual, company, or corporation of the amount which is due and of the opportunity
20 for a hearing as provided in this subdivision. At the request of the individual, company,
21 or corporation, the department shall conduct a hearing pursuant to Section 9801, at which
22 it shall be determined whether the claimed fee, tax, penalty, or collection cost in the
23 amount claimed by the department is due and constitutes a lien on the vehicle, and
24 whether the individual, company, or corporation is liable therefor.

25 (c) If no hearing is requested within 15 days after mailing the notice required by
26 subdivision (b), the certificate required by subdivision (b) may be filed.

27 **Comment.** Section 9805 is amended to reflect elimination of the county clerk's role as ex
28 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
29 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
30 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
31 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
32 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

33 **Veh. Code § 9806 (amended). Judgment for amount due**

34 SEC. ____ . Section 9806 of the Vehicle Code is amended to read:

35 9806. The county clerk of the court, immediately upon the filing of the certificate
36 specified in Section 9805, shall enter a judgment for the people of the State of California
37 against the individual, company, or corporation in the amount of any fee, tax, penalty,
38 and collection cost set forth in the certificate. The county clerk may file the judgment in a
39 looseleaf book entitled "Department of Motor Vehicles Registration Judgments."

40 **Comment.** Section 9806 is amended to reflect elimination of the county clerk's role as ex
41 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
42 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
43 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
44 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
45 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

1 **Veh. Code § 9872.1 (amended). Vessel or component part with hull identification number**
2 **removed, defaced, altered or destroyed**

3 SEC. ____ . Section 9872.1 of the Vehicle Code is amended to read:

4 9872.1. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or
5 her possession any vessel, or component part thereof, from which the hull identification
6 number has been removed, defaced, altered, or destroyed, unless the vessel or component
7 part has attached thereto a hull identification number assigned or approved by the
8 department in lieu of the manufacturer's number.

9 (b) Whenever a vessel, or component part thereof, from which the hull identification
10 number has been removed, defaced, altered, or destroyed, and which does not have
11 attached thereto an assigned or approved number as described in subdivision (a), comes
12 into the custody of a peace officer, the seized vessel or component part is subject, in
13 accordance with the procedures specified in this section, to impoundment and to such
14 disposition as may be provided by order of a court having jurisdiction. This subdivision
15 does not apply with respect to a seized vessel or component part used as evidence in any
16 criminal action or proceeding.

17 (c) Whenever a vessel or component part described in subdivision (a) comes into the
18 custody of a peace officer, any person from whom the property was seized, and all
19 claimants to the property whose interest or title is on registration records in the
20 department, shall be notified within five days, excluding Saturdays, Sundays, and
21 holidays, after the seizure, of the date, time, and place of the hearing required in
22 subdivision (e). The notice shall contain the information specified in subdivision (d).

23 (d) Whenever a peace officer seizes a vessel or component part as provided in
24 subdivision (b), any person from whom the property was seized shall be provided a notice
25 of impoundment of the vessel or component part which shall serve as a receipt and
26 contain the following information:

27 (1) Name and address of person from whom the property was seized.

28 (2) A statement that the vessel or component part seized has been impounded for
29 investigation of a violation of this section and that the property will be released upon a
30 determination that the hull identification number has not been removed, defaced, altered,
31 or destroyed, or upon the presentation of satisfactory evidence of ownership of the vessel
32 or component part, provided that no other person claims an interest in the property;
33 otherwise, a hearing regarding the disposition of the vessel or component part shall take
34 place in the proper court.

35 (3) A statement that any person from whom the property was seized, and all claimants
36 to the property whose interest or title is on registration records in the department, will
37 receive written notification of the date, time, and place of the hearing within five days,
38 excluding Saturdays, Sundays, and holidays, after the seizure.

39 (4) Name and address of the law enforcement agency where evidence of ownership of
40 the vessel or component part may be presented.

41 (5) A statement of the contents of this section.

42 (e) A hearing on the disposition of the property shall be held by ~~the municipal court, or~~
43 ~~by the superior court in a county in which there is no municipal court,~~ within 60 days
44 after the seizure. The hearing shall be before the court without a jury. A proceeding under
45 this section is a limited civil case.

46 (1) If the evidence reveals either that the hull identification number has not been
47 removed, altered, or destroyed or that the hull identification number has been removed,
48 altered, or destroyed but satisfactory evidence of ownership has been presented to the
49 seizing agency or court, the property shall be released to the person entitled thereto.

1 (2) If the evidence reveals that the hull identification number has been removed,
2 altered, or destroyed, and satisfactory evidence of ownership has not been presented, the
3 property shall be destroyed, sold, or otherwise disposed of as provided by court order.

4 (3) At the hearing, the seizing agency shall have the burden of establishing that the hull
5 identification number has been removed, defaced, altered, or destroyed and that no
6 satisfactory evidence of ownership has been presented.

7 (f) Nothing in this section precludes the return of a seized vessel or component part to
8 the owner by the seizing agency following presentation of satisfactory evidence of
9 ownership and, if determined necessary, upon the assignment of an identification number
10 to the vessel or component part by the department.

11 **Comment.** Subdivision (e) of Section 9872.1 is amended to reflect unification of the municipal
12 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

13 **Veh. Code § 10751 (amended). Vehicle or component part with manufacturer's serial or**
14 **identification number removed, defaced, altered or destroyed**

15 SEC. ____ . Section 10751 of the Vehicle Code is amended to read:

16 10751. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in his or
17 her possession, any vehicle, or component part thereof, from which any serial or
18 identification number, including, but not limited to, any number used for registration
19 purposes, that is affixed by the manufacturer to the vehicle or component part, in
20 whatever manner deemed proper by the manufacturer, has been removed, defaced,
21 altered, or destroyed, unless the vehicle or component part has attached thereto an
22 identification number assigned or approved by the department in lieu of the
23 manufacturer's number.

24 (b) Whenever a vehicle described in subdivision (a), including a vehicle assembled
25 with any component part which is in violation of subdivision (a), comes into the custody
26 of a peace officer, it shall be destroyed, sold, or otherwise disposed of under the
27 conditions as provided in an order by the court having jurisdiction. No court order
28 providing for disposition shall be issued unless the person from whom the property was
29 seized, and all claimants to the property whose interest or title is on registration records in
30 the Department of Motor Vehicles, are provided a postseizure hearing by the court having
31 jurisdiction within 90 days after the seizure. This subdivision shall not apply with respect
32 to a seized vehicle or component part used as evidence in any criminal action or
33 proceeding. Nothing in this section shall, however, preclude the return of a seized vehicle
34 or a component part to the owner by the seizing agency following presentation of
35 satisfactory evidence of ownership and, if determined necessary, upon the assignment of
36 an identification number to the vehicle or component part by the department.

37 (c) Whenever a vehicle described in subdivision (a) comes into the custody of a peace
38 officer, the person from whom the property was seized, and all claimants to the property
39 whose interest or title is on registration records in the Department of Motor Vehicles,
40 shall be notified within five days, excluding Saturdays, Sundays, and holidays, after the
41 seizure, of the date, time, and place of the hearing required in subdivision (b). The notice
42 shall contain the information specified in subdivision (d).

43 (d) Whenever a peace officer seizes a vehicle described in subdivision (a), the person
44 from whom the property was seized shall be provided a notice of impoundment of the
45 vehicle which shall serve as a receipt and contain the following information:

46 (1) Name and address of person from whom the property was seized.

47 (2) A statement that the vehicle seized has been impounded for investigation of a
48 violation of Section 10751 of the California Vehicle Code and that the property will be

1 released upon a determination that the serial or identification number has not been
2 removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence
3 of ownership of the vehicle or a component part, if no other person claims an interest in
4 the property; otherwise, a hearing regarding the disposition of the vehicle shall take place
5 in the proper court.

6 (3) A statement that the person from whom the property was seized, and all claimants
7 to the property whose interest or title is on registration records in the Department of
8 Motor Vehicles, will receive written notification of the date, time, and place of the
9 hearing within five days, excluding Saturdays, Sundays, and holidays, after the seizure.

10 (4) Name and address of the law enforcement agency where evidence of ownership of
11 the vehicle or component part may be presented.

12 (5) A statement of the contents of Section 10751 of the Vehicle Code.

13 (e) A hearing on the disposition of the property shall be held by ~~the municipal court, or~~
14 ~~by the superior court in a county in which there is no municipal court,~~ within 90 days
15 after the seizure. The hearing shall be before the court without a jury. A proceeding under
16 this section is a limited civil case.

17 (1) If the evidence reveals either that the serial or identification number has not been
18 removed, defaced, altered, or destroyed or that the number has been removed, defaced,
19 altered, or destroyed but satisfactory evidence of ownership has been presented to the
20 seizing agency or court, the property shall be released to the person entitled thereto.
21 Nothing in this section precludes the return of the vehicle or a component part to a good
22 faith purchaser following presentation of satisfactory evidence of ownership thereof upon
23 the assignment of an identification number to the vehicle or component part by the
24 department.

25 (2) If the evidence reveals that the identification number has been removed, defaced,
26 altered, or destroyed, and satisfactory evidence of ownership has not been presented, the
27 vehicle shall be destroyed, sold, or otherwise disposed of as provided by court order.

28 (3) At the hearing, the seizing agency has the burden of establishing that the serial or
29 identification number has been removed, defaced, altered, or destroyed and that no
30 satisfactory evidence of ownership has been presented.

31 (f) This section does not apply to a scrap metal processor engaged primarily in the
32 acquisition, processing, and shipment of ferrous and nonferrous scrap, and who receives
33 dismantled vehicles from licensed dismantlers, licensed junk collectors, or licensed junk
34 dealers as scrap metal for the purpose of recycling the dismantled vehicles for their
35 metallic content, the end product of which is the production of material for recycling and
36 remelting purposes for steel mills, foundries, smelters, and refiners.

37 **Comment.** Subdivision (e) of Section 10751 is amended to reflect unification of the municipal
38 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

39 **Veh. Code § 11102.1 (amended). Return of deposit of driving school licensee**

40 SEC. ____ . Section 11102.1 of the Vehicle Code is amended to read:

41 11102.1. If a deposit is given instead of the bond required by Section 11102:

42 (a) The director may order the deposit returned at the expiration of three years from the
43 date a driving school licensee has ceased to do business, or three years from the date a
44 licensee has ceased to be licensed, if the director is satisfied that there are no outstanding
45 claims against the deposit. A judge of a ~~municipal or~~ superior court may order the return
46 of the deposit prior to the expiration of three years upon evidence satisfactory to the judge
47 that there are no outstanding claims against the deposit.

1 (b) If either the director, department, or state is a defendant in any action instituted to
2 recover all or any part of the deposit, or any action is instituted by the director,
3 department, or state to determine those entitled to any part of the deposit, the director,
4 department, or state shall be paid reasonable attorney fees and costs from the deposit.
5 Costs shall include those administrative costs incurred in processing claims against the
6 deposit.

7 **Comment.** Subdivision (a) of Section 11102.1 is amended to reflect unification of the
8 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

9 **Note: Comment Requested**

10 Vehicle Code Section 11102.1 does not specify the procedure for seeking a court order
11 requiring return of a deposit. Would it be helpful to address this point? Is it necessary to provide
12 guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a)
13 (case at law in which demand or value of property in controversy is \$25,000 or less is limited
14 civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The
15 Commission solicits comment on the proper treatment of this provision.

16 **Veh. Code § 11203 (amended). Deposit in lieu of bond**

17 SEC. ____ . Section 11203 of the Vehicle Code is amended to read:

18 11203. In lieu of the bond otherwise required by paragraph (3) of subdivision (a) of
19 Section 11202, the applicant may make a deposit pursuant to Article 7 (commencing with
20 Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure. The
21 director may order the deposit returned at the expiration of three years from the date a
22 traffic violator school licensee has ceased to do business, or three years from the date a
23 licensee has ceased to be licensed, if the director is satisfied that there are no outstanding
24 claims against the deposit. A municipal or superior court may, upon petition, order the
25 return of the deposit prior to the expiration of three years upon evidence satisfactory to
26 the court that there are no outstanding claims against the deposit. If either the director,
27 department, or state is a defendant in any civil action instituted to recover all or any part
28 of the deposit, or any civil action is instituted by the director, department, or state to
29 determine those entitled to any part of the deposit, the director, department, or state shall
30 be paid reasonable attorney fees and costs from the deposit. Costs shall include those
31 administrative costs incurred in processing claims against the licensee recoverable from
32 the deposit.

33 **Comment.** Section 11203 is amended to reflect unification of the municipal and superior courts
34 pursuant to Article VI, Section 5(e), of the California Constitution.

35 **Note: Comment Requested**

36 Vehicle Code Section 11203 does not specify the procedure for seeking a court order requiring
37 return of a deposit. Would it be helpful to address this point? Is it necessary to provide guidance
38 regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a) (case at
39 law in which demand or value of property in controversy is \$25,000 or less is limited civil case);
40 see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The Commission
41 solicits comment on the proper treatment of this provision.

42 **Veh. Code § 11205 (unchanged). List of traffic violator schools (as amended by Section**
43 **455.5 of Chapter 931 of the Statutes of 1998)**

44 Text of section operative until subdivision (d) or (e) of this version of Section 11205, or
45 application thereof, is held unconstitutional under the terms of subdivision (n).

1 11205. (a) The department shall publish a traffic violator school referral list of all the
2 approved locations of traffic violator school classes, by school name, to be transmitted to
3 each municipal court in the state, and to each superior court in a county in which there is
4 no municipal court, in sufficient quantity to allow the courts to provide a copy to each
5 person referred to traffic violator school. The list shall be revised at least twice annually
6 and transmitted to the courts by the first day of January and the first day of July. It shall
7 include all of the following:

8 (1) The name of each traffic violator school or, pursuant to subdivision (d), the general
9 term “traffic violator school” followed by its traffic violator school license number.

10 (2) A phone number used for student information.

11 (3) The county and the judicial district.

12 (4) The cities where classes are available.

13 (b) Each traffic violator school owner shall be permitted one school name in a judicial
14 district.

15 (c) The list shall be organized alphabetically in sections for each county and
16 subsections for each judicial district within the county. The order of the names within
17 each judicial district shall be random pursuant to a drawing or lottery conducted by the
18 department.

19 (d) On the list prepared by the department under subdivision (c), each traffic violator
20 school shall appear by name unless a court determines, pursuant to subdivision (e), that a
21 name is inappropriate and directs the department to delete the name and instead list the
22 school by the term “traffic violator school” followed by its license number. The deletion
23 of the name of a school from the list for a judicial district shall not affect whether that
24 school appears by name on the list for any other judicial district within the state. In
25 making a determination under this subdivision regarding the deletion of a name from the
26 list, the court shall use as its criteria whether the name is misleading to the public,
27 undignified, or implies that the school offers inducements or premiums which derogate or
28 distort the instructional intent of the traffic safety program.

29 (e) When the department transmits any referral list pursuant to subdivision (a), each
30 court shall do all of the following:

31 (1) Within 30 days of receipt of the list, notify the school owner of any school name
32 that the court intends to remove from the referral list.

33 (2) Within 60 days of receipt of the list, make every effort to schedule, conduct, and
34 complete a hearing for the school owner, or a representative, if requested, at which the
35 sole issue shall be whether the name violates the standards set forth in subdivision (d). A
36 substitute name may be submitted to the court at the conclusion of the hearing, pursuant
37 to subdivision (h).

38 (3) Within 10 days of the completion of that hearing, notify the department and school
39 owner of any school names it intends to remove from the referral list.

40 (f) In order for a court action to delete a school name from the next referral list
41 published by the department, the department shall receive court notification no later than
42 90 days prior to publication of the next referral list and, absent a direct order by the
43 appellate division of the superior court or a court of higher jurisdiction, the department
44 shall not fail to publish a referral list on the grounds that there exists pending litigation or
45 appeals concerning the lists.

46 (g) Any court notifying the department of a school name it intends to remove from the
47 list, pursuant to this section, shall provide the school owner with the name of the judge
48 making those findings.

1 (h) When a court informs a school owner, pursuant to subdivision (e), of its decision to
2 delete the name of a traffic violator school from that judicial district's subsection of the
3 department's traffic violator school referral list, the owner may, on a form approved by
4 the department, submit a substitute name to the court and request approval of that name.
5 The court shall, within 30 days of receipt of the request for approval of the substitute
6 name, inform the department and the school owner, on a form approved by the
7 department, of its approval or rejection of the substitute name. The school owner may
8 continue this appeal process for approval of a substitute name until the court determines
9 that the name does not violate the standard set forth in subdivision (d). A name approval
10 in a judicial district shall not affect the school's name or listing in any other district in the
11 state. The department shall not impose any fee or license requirement under this
12 subdivision.

13 (i) If a court fails to act within 30 days on a request of a traffic violator school owner,
14 pursuant to subdivision (h), the proposed substitute name shall be deemed approved by
15 the court for the purposes of the traffic violator school referral list.

16 (j)(1) Every application filed with the department on and after June 1, 1991, for an
17 original license by a traffic school owner or for approval to conduct classes in a judicial
18 district not previously approved, shall be accompanied by the approval of the court in
19 each judicial district proposed for those operations of the name of the school, on a form
20 approved by the department for that purpose. For the approved name to be included in the
21 traffic violator school referral list, the form shall be received by the department no later
22 than 90 days prior to publication.

23 (2) When a court disapproves a school name pursuant to this subdivision, the court
24 shall notify the school owner within 30 days of its disapproval and schedule a hearing for
25 that school owner, or a representative, if requested, at which the sole issue shall be
26 whether the name violates the standards set forth in subdivision (d). A substitute name
27 may be submitted to the court at the conclusion of the hearing, pursuant to subdivision
28 (h).

29 (3) The court shall make every effort to schedule, conduct, and complete a hearing
30 within 60 days of receipt of the school owner's request for a school name approval. A
31 name approval in a judicial district shall not affect the school's name or listing in any
32 other district in the state. A change in physical location by a school within a judicial
33 district shall not require approval pursuant to this subdivision.

34 (k) The department shall publish a list of the owners of traffic violator schools. One
35 copy shall be provided to each municipal court in the state, and to each superior court in a
36 county in which there is no municipal court. This list shall be revised at least twice
37 annually and transmitted to the courts by the first day of January and the first day of July.
38 This list shall include all of the following:

- 39 (1) The name of each school, grouped by owner.
- 40 (2) The business office address.
- 41 (3) The business office telephone number.
- 42 (4) The license number.
- 43 (5) The owner's name.
- 44 (6) The operator's name.

45 (l) Except as otherwise provided in subdivision (d) of Section 42005, the court shall use
46 either the current list of traffic violator schools published by the department when it
47 orders a person to complete a traffic violator school pursuant to subdivision (a) or (b) of
48 Section 42005 or, when a court utilizing a nonprofit agency for traffic violator school
49 administration and monitoring services in which all traffic violator schools licensed by

1 the department are allowed the opportunity to participate, a statewide referral list may be
2 published by the nonprofit agency and distributed by the court. The agency shall monitor
3 each classroom location situated within the judicial districts in which that agency
4 provides services to the courts and is represented on its referral list. The monitoring shall
5 occur at least once every 90 days with reports forwarded to the department and the
6 respective courts on a monthly basis.

7 (m) The court may charge a traffic violator a fee to defray the costs incurred by the
8 agency for the monitoring reports and services provided to the court. The court may
9 delegate collection of the fee to the agency. Fees shall be approved and regulated by the
10 court. Until December 31, 1996, the fee shall not exceed the actual cost incurred by the
11 agency or five dollars (\$5), whichever is less.

12 (n) If any provision of subdivision (d) or (e), as added by Section 4 of Assembly Bill
13 185 of the 1991-92 Regular Session, or the application thereof to any person, is held to be
14 unconstitutional, this section is repealed on the date the decision of the court so holding
15 becomes final.

16 **Note: Comment Requested**

17 Subdivisions (a) and (k) of Vehicle Code Section 11205 need to be revised to delete references
18 to the municipal court. The provision also uses judicial districts as the geographic unit for
19 organizing traffic violator schools. This approach needs to be reconsidered in light of trial court
20 unification and the consequent elimination of municipal court districts. The Commission solicits
21 comment on the proper treatment of the section.

22 **Veh. Code § 11205 (unchanged). List of traffic violator schools (as amended by Section 456**
23 **of Chapter 931 of the Statutes of 1998)**

24 Text of section operative if subdivision (d) or (e) of the other version of Section 11205, or
25 application thereof, is held unconstitutional under the terms of subdivision (f).

26 11205. (a) The department shall publish semiannually, or more often as necessary to
27 serve the purposes of this act, a list of all traffic violator schools which are licensed
28 pursuant to this section. The list shall identify classroom facilities within a judicial
29 district that are at a different location from a licensed school's principal facility. The
30 department shall transmit the list to each municipal court and to each superior court in a
31 county in which there is no municipal court, with a sufficient number of copies to allow
32 the courts to provide one copy to each person referred to a licensed traffic violator school.
33 The department shall, at least semiannually, revise the list to ensure that each court has a
34 current list of all licensed traffic violator schools.

35 (b) Each licensed traffic violator school owner shall be permitted one school name per
36 judicial district.

37 (c) The referral list shall be organized alphabetically, in sections for each county, and
38 contain subsections for each judicial district within the county. The order of the names
39 within each judicial district shall be random pursuant to a drawing or lottery conducted
40 by the department.

41 (d) Except as otherwise provided in subdivision (d) of Section 42005, the court shall
42 use either the current referral list of traffic violator schools published by the department
43 when it orders a person to complete a traffic violator school pursuant to subdivision (a) or
44 (b) of Section 42005 or, when a court utilizing a nonprofit agency for traffic violator
45 school administration and monitoring services in which all traffic violator schools
46 licensed by the department are allowed the opportunity to participate, a statewide referral
47 list may be published by the nonprofit agency and distributed by the court. The agency

1 shall monitor each classroom location situated within the judicial districts in which that
2 agency provides services to the courts and is represented on its referral list. The
3 monitoring shall occur at least once every 90 days with reports forwarded to the
4 department and the respective courts on a monthly basis.

5 (e) The court may charge a traffic violator a fee to defray the costs incurred by the
6 agency for the monitoring reports and services provided to the court. The court may
7 delegate collection of the fee to the agency. Fees shall be approved and regulated by the
8 court. Until December 31, 1996, the fee shall not exceed the actual cost incurred by the
9 agency or five dollars (\$5), whichever is less.

10 (f) If any provision of subdivision (d) or (e) of Section 11205, as added by Section 4 of
11 Assembly Bill 185 of the 1991-92 Regular Session, or the application thereof to any
12 person, is held to be unconstitutional, that Section 11205 is repealed on the date the
13 decision of the court so holding becomes final, and on that date, this section shall become
14 operative.

15 **Note: Comment Requested**

16 Subdivision (a) of Vehicle Code Section 11205 needs to be revised to delete references to the
17 municipal court. The provision also uses judicial districts as the geographic unit for organizing
18 traffic violator schools. This approach needs to be reconsidered in light of trial court unification
19 and the consequent elimination of municipal court districts. The Commission solicits comment on
20 the proper treatment of the section.

21 **Veh. Code § 11301.5 (amended). Return of deposit of vehicle verifier**

22 SEC. ____ . Section 11301.5 of the Vehicle Code is amended to read:

23 11301.5. If a deposit is given instead of the bond required by Section 11301:

24 (a) The Director of Motor Vehicles may order the refund of the deposit three years
25 from the date a vehicle verifier has ceased to be licensed, if the director is satisfied that
26 there are no outstanding claims against the deposit. A judge of a ~~municipal~~ or superior
27 court may order the return of the deposit prior to the expiration of three years from the
28 date a vehicle verifier has ceased to be licensed if there is evidence satisfactory to the
29 court that there are no outstanding claims against the deposit.

30 (b) If the director, department, or state is a defendant in any action instituted to recover
31 all or any part of the deposit, or any action is instituted by the director, department, or
32 state to determine those entitled to any part of the deposit, the director, department, or
33 state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include
34 those administrative costs incurred in processing claims against the deposit.

35 **Comment.** Subdivision (a) of Section 11301.5 is amended to reflect unification of the
36 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

37 **Note: Comment Requested**

38 Vehicle Code Section 11301.5 does not specify the procedure for seeking a court order
39 requiring return of a deposit. Would it be helpful to address this point? Is it necessary to provide
40 guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a)
41 (case at law in which demand or value of property in controversy is \$25,000 or less is limited
42 civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The
43 Commission solicits comment on the proper treatment of this provision.

44 **Veh. Code § 11710.2 (amended). Return of deposit of dealer**

45 SEC. ____ . Section 11710.2 of the Vehicle Code is amended to read:

1 11710.2. If a deposit is given instead of the bond required by Section 11710 both of the
2 following apply:

3 (a) The director may order the deposit returned at the expiration of three years from the
4 date an applicant for a dealer's license who has operated a business of selling vehicles
5 under a temporary permit has ceased to do business, or three years from the date a
6 licensee has ceased to be licensed, if the director is satisfied that there are no outstanding
7 claims against the deposit. A judge of a ~~municipal~~ or superior court may order the return
8 of the deposit prior to the expiration of three years upon evidence satisfactory to the judge
9 that there are no outstanding claims against the deposit.

10 (b) If either the director, department, or state is a defendant in any action instituted to
11 recover all or any part of the deposit, or any action is instituted by the director,
12 department, or state to determine those entitled to any part of the deposit, the director,
13 department, or state shall be paid reasonable attorney fees and costs from the deposit.
14 Costs shall include those administrative costs incurred in processing claims against the
15 deposit.

16 **Comment.** Subdivision (a) of Section 11710.2 is amended to reflect unification of the
17 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

18  **Note: Comment Requested**

19 Vehicle Code Section 11710.2 does not specify the procedure for seeking a court order
20 requiring return of a deposit. Would it be helpful to address this point? Is it necessary to provide
21 guidance regarding the jurisdictional classification of such a request? See Code Civ. Proc. § 86(a)
22 (case at law in which demand or value of property in controversy is \$25,000 or less is limited
23 civil case); see also Code Civ. Proc. §§ 85 (limited civil cases), 88 (unlimited civil cases). The
24 Commission solicits comment on the proper treatment of this provision.

25 **Veh. Code § 14607.6 (amended). Vehicle driven by unlicensed driver**

26 SEC. ____ . Section 14607.6 of the Vehicle Code is amended to read:

27 14607.6. (a) Notwithstanding any other provision of law, and except as provided in this
28 section, a motor vehicle is subject to forfeiture as a nuisance if it is driven on a highway
29 in this state by a driver with a suspended or revoked license, or by an unlicensed driver,
30 who is a registered owner of the vehicle at the time of impoundment and has a previous
31 misdemeanor conviction for a violation of subdivision (a) of Section 12500 or Section
32 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5.

33 (b) A peace officer shall not stop a vehicle for the sole reason of determining whether
34 the driver is properly licensed.

35 (c)(1) If a driver is unable to produce a valid driver's license on the demand of a peace
36 officer enforcing the provisions of this code, as required by subdivision (b) of Section
37 12951, the vehicle shall be impounded regardless of ownership, unless the peace officer
38 is reasonably able, by other means, to verify that the driver is properly licensed. Prior to
39 impounding a vehicle, a peace officer shall attempt to verify the license status of a driver
40 who claims to be properly licensed but is unable to produce the license on demand of the
41 peace officer.

42 (2) A peace officer shall not impound a vehicle pursuant to this subdivision if the
43 license of the driver expired within the preceding 30 days and the driver would otherwise
44 have been properly licensed.

45 (3) A peace officer may exercise discretion in a situation where the driver without a
46 valid license is an employee driving a vehicle registered to the employer in the course of
47 employment. A peace officer may also exercise discretion in a situation where the driver
48 without a valid license is the employee of a bona fide business establishment or is a

1 person otherwise controlled by such an establishment and it reasonably appears that an
2 owner of the vehicle, or an agent of the owner, relinquished possession of the vehicle to
3 the business establishment solely for servicing or parking of the vehicle or other
4 reasonably similar situations, and where the vehicle was not to be driven except as
5 directly necessary to accomplish that business purpose. In this event, if the vehicle can be
6 returned to or be retrieved by the business establishment or registered owner, the peace
7 officer may release and not impound the vehicle.

8 (4) A registered or legal owner of record at the time of impoundment may request a
9 hearing to determine the validity of the impoundment pursuant to subdivision (n).

10 (5) If the driver of a vehicle impounded pursuant to this subdivision was not a
11 registered owner of the vehicle at the time of impoundment, or if the driver of the vehicle
12 was a registered owner of the vehicle at the time of impoundment but the driver does not
13 have a previous conviction for a violation of subdivision (a) of Section 12500 or Section
14 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5, the vehicle shall be released
15 pursuant to this code and is not subject to forfeiture.

16 (d)(1) This subdivision applies only if the driver of the vehicle is a registered owner of
17 the vehicle at the time of impoundment. Except as provided in paragraph (5) of
18 subdivision (c), if the driver of a vehicle impounded pursuant to subdivision (c) was a
19 registered owner of the vehicle at the time of impoundment, the impounding agency shall
20 authorize release of the vehicle if, within three days of impoundment, the driver of the
21 vehicle at the time of impoundment presents his or her valid driver's license, including a
22 valid temporary California driver's license or permit, to the impounding agency. The
23 vehicle shall then be released to a registered owner of record at the time of impoundment,
24 or an agent of that owner authorized in writing, upon payment of towing and storage
25 charges related to the impoundment, and any administrative charges authorized by
26 Section 22850.5, providing that the person claiming the vehicle is properly licensed and
27 the vehicle is properly registered. A vehicle impounded pursuant to the circumstances
28 described in paragraph (3) of subdivision (c) shall be released to a registered owner
29 whether or not the driver of the vehicle at the time of impoundment presents a valid
30 driver's license.

31 (2) If there is a community property interest in the vehicle impounded pursuant to
32 subdivision (c), owned at the time of impoundment by a person other than the driver, and
33 the vehicle is the only vehicle available to the driver's immediate family that may be
34 operated with a class C driver's license, the vehicle shall be released to a registered owner
35 or to the community property interest owner upon compliance with all of the following
36 requirements:

37 (A) The registered owner or the community property interest owner requests release of
38 the vehicle and the owner of the community property interest submits proof of that
39 interest.

40 (B) The registered owner or the community property interest owner submits proof that
41 he or she, or an authorized driver, is properly licensed and that the impounded vehicle is
42 properly registered pursuant to this code.

43 (C) All towing and storage charges related to the impoundment and any administrative
44 charges authorized pursuant to Section 22850.5 are paid.

45 (D) The registered owner or the community property interest owner signs a stipulated
46 vehicle release agreement, as described in paragraph (3), in consideration for the
47 nonforfeiture of the vehicle. This requirement applies only if the driver requests release of
48 the vehicle.

1 (3) A stipulated vehicle release agreement shall provide for the consent of the signator
2 to the automatic future forfeiture and transfer of title to the state of any vehicle registered
3 to that person, if the vehicle is driven by a driver with a suspended or revoked license, or
4 by an unlicensed driver. The agreement shall be in effect for only as long as it is noted on
5 a driving record maintained by the department pursuant to Section 1806.1.

6 (4) The stipulated vehicle release agreement described in paragraph (3) shall be
7 reported by the impounding agency to the department not later than 10 days after the day
8 the agreement is signed.

9 (5) No vehicle shall be released pursuant to paragraph (2) if the driving record of a
10 registered owner indicates that a prior stipulated vehicle release agreement was signed by
11 that person.

12 (e)(1) The impounding agency, in the case of a vehicle that has not been redeemed
13 pursuant to subdivision (d), or that has not been otherwise released, shall promptly
14 ascertain from the department the names and addresses of all legal and registered owners
15 of the vehicle.

16 (2) The impounding agency, within two days of impoundment, shall send a notice by
17 certified mail, return receipt requested, to all legal and registered owners of the vehicle, at
18 the addresses obtained from the department, informing them that the vehicle is subject to
19 forfeiture and will be sold or otherwise disposed of pursuant to this section. The notice
20 shall also include instructions for filing a claim with the district attorney, and the time
21 limits for filing a claim. The notice shall also inform any legal owner of its right to
22 conduct the sale pursuant to subdivision (g). If a registered owner was personally served
23 at the time of impoundment with a notice containing all the information required to be
24 provided by this paragraph, no further notice is required to be sent to a registered owner.
25 However, a notice shall still be sent to the legal owners of the vehicle, if any. If notice
26 was not sent to the legal owner within two working days, the impounding agency shall
27 not charge the legal owner for more than 15-days' impoundment when the legal owner
28 redeems the impounded vehicle.

29 (3) No processing charges shall be imposed on a legal owner who redeems an
30 impounded vehicle within 15 days of the impoundment of that vehicle. If no claims are
31 filed and served within 15 days after the mailing of the notice in paragraph (2), or if no
32 claims are filed and served within five days of personal service of the notice specified in
33 paragraph (2), when no other mailed notice is required pursuant to paragraph (2), the
34 district attorney shall prepare a written declaration of forfeiture of the vehicle to the state.
35 A written declaration of forfeiture signed by the district attorney under this subdivision
36 shall be deemed to provide good and sufficient title to the forfeited vehicle. A copy of the
37 declaration shall be provided on request to any person informed of the pending forfeiture
38 pursuant to paragraph (2). A claim that is filed and is later withdrawn by the claimant
39 shall be deemed not to have been filed.

40 (4) If a claim is timely filed and served, then the district attorney shall file a petition of
41 forfeiture with the appropriate juvenile, ~~municipal~~, or superior court within 10 days of the
42 receipt of the claim. The district attorney shall establish an expedited hearing date in
43 accordance with instructions from the court, and the court shall hear the matter without
44 delay. The court filing fee, not to exceed fifty dollars (\$50), shall be paid by the claimant,
45 but shall be reimbursed by the impounding agency if the claimant prevails. To the extent
46 practicable, the civil and criminal cases shall be heard at the same time in an expedited,
47 consolidated proceeding. A proceeding in the civil case is a limited civil case.

48 (5) The burden of proof in the civil case shall be on the prosecuting agency, by a
49 preponderance of the evidence. All questions that may arise shall be decided and all other

1 proceedings shall be conducted as in an ordinary civil action. A judgment of forfeiture
2 does not require as a condition precedent the conviction of a defendant of an offense
3 which made the vehicle subject to forfeiture. The filing of a claim within the time limits
4 specified in paragraph (3) is considered a jurisdictional prerequisite for the availing of the
5 action authorized by that paragraph.

6 (6) All right, title, and interest in the vehicle shall vest in the state upon commission of
7 the act giving rise to the forfeiture.

8 (f) Any vehicle impounded that is not redeemed pursuant to subdivision (d) and is
9 subsequently forfeited pursuant to this section shall be sold once an order of forfeiture is
10 issued by the district attorney of the county of the impounding agency or a court, as the
11 case may be, pursuant to subdivision (e).

12 (g) Any legal owner who is a motor vehicle dealer, bank, credit union, acceptance
13 corporation, or other licensed financial institution legally operating in this state, or the
14 agent of that legal owner, may take possession and conduct the sale of the forfeited
15 vehicle if the legal owner or agent notifies the agency impounding the vehicle of its intent
16 to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (e).
17 Sale of the vehicle after forfeiture pursuant to this subdivision may be conducted at the
18 time, in the manner, and on the notice usually given for the sale of repossessed or
19 surrendered vehicles. The proceeds of any sale conducted by or on behalf of the legal
20 owner shall be disposed of as provided in subdivision (i). A notice pursuant to this
21 subdivision may be presented in person, by certified mail, by facsimile transmission, or
22 by electronic mail.

23 (h) If the legal owner or agent of the owner does not notify the agency impounding the
24 vehicle of its intent to conduct the sale as provided in subdivision (g), the agency shall
25 offer the forfeited vehicle for sale at public auction within 60 days of receiving title to the
26 vehicle. Low value vehicles shall be disposed of pursuant to subdivision (k).

27 (i) The proceeds of a sale of a forfeited vehicle shall be disposed of in the following
28 priority:

29 (1) To satisfy the towing and storage costs following impoundment, the costs of
30 providing notice pursuant to subdivision (e), the costs of sale, and the unfunded costs of
31 judicial proceedings, if any.

32 (2) To the legal owner in an amount to satisfy the indebtedness owed to the legal owner
33 remaining as of the date of sale, including accrued interest or finance charges and
34 delinquency charges, providing that the principal indebtedness was incurred prior to the
35 date of impoundment.

36 (3) To the holder of any subordinate lien or encumbrance on the vehicle, other than a
37 registered or legal owner, to satisfy any indebtedness so secured if written notification of
38 demand is received before distribution of the proceeds is completed. The holder of a
39 subordinate lien or encumbrance, if requested, shall furnish reasonable proof of its
40 interest and, unless it does so upon request, is not entitled to distribution pursuant to this
41 paragraph.

42 (4) To any other person, other than a registered or legal owner, who can reasonably
43 establish an interest in the vehicle, including a community property interest, to the extent
44 of his or her provable interest, if written notification is received before distribution of the
45 proceeds is completed.

46 (5) Of the remaining proceeds, funds shall be made available to pay any local agency
47 and court costs, that are reasonably related to the implementation of this section, that
48 remain unsatisfied.

1 (6) Of the remaining proceeds, half shall be transferred to the Controller for deposit in
2 the Vehicle Inspection and Repair Fund for the high-polluter repair assistance and
3 removal program created by Article 9 (commencing with Section 44090) of Chapter 5 of
4 Part 5 of Division 26 of the Health and Safety Code, and half shall be transferred to the
5 general fund of the city or county of the impounding agency, or the city or county where
6 the impoundment occurred. A portion of the local funds may be used to establish a
7 reward fund for persons coming forward with information leading to the arrest and
8 conviction of hit- and-run drivers and to publicize the availability of the reward fund.

9 (j) The person conducting the sale shall disburse the proceeds of the sale as provided in
10 subdivision (i) and shall provide a written accounting regarding the disposition to the
11 impounding agency and, on request, to any person entitled to or claiming a share of the
12 proceeds, within 15 days after the sale is conducted.

13 (k) If the vehicle to be sold pursuant to this section is not of the type that can readily be
14 sold to the public generally, the vehicle shall be conveyed to a licensed dismantler or
15 donated to an eleemosynary institution. License plates shall be removed from any vehicle
16 conveyed to a dismantler pursuant to this subdivision.

17 (l) No vehicle shall be sold pursuant to this section if the impounding agency
18 determines the vehicle to have been stolen. In this event, the vehicle may be claimed by
19 the registered owner at any time after impoundment, providing the vehicle registration is
20 current and the registered owner has no outstanding traffic violations or parking penalties
21 on his or her driving record or on the registration record of any vehicle registered to the
22 person. If the identity of the legal and registered owners of the vehicle cannot be
23 reasonably ascertained, the vehicle may be sold.

24 (m) Any owner of a vehicle who suffers any loss due to the impoundment or forfeiture
25 of any vehicle pursuant to this section may recover the amount of the loss from the
26 unlicensed, suspended, or revoked driver. If possession of a vehicle has been tendered to
27 a business establishment in good faith, and an unlicensed driver employed or otherwise
28 directed by the business establishment is the cause of the impoundment of the vehicle, a
29 registered owner of the impounded vehicle may recover damages for the loss of use of the
30 vehicle from the business establishment.

31 (n)(1) The impounding agency, if requested to do so not later than 10 days after the
32 date the vehicle was impounded, shall provide the opportunity for a poststorage hearing
33 to determine the validity of the storage to the persons who were the registered and legal
34 owners of the vehicle at the time of impoundment, except that the hearing shall be
35 requested within three days after the date the vehicle was impounded if personal service
36 was provided to a registered owner pursuant to paragraph (2) of subdivision (e) and no
37 mailed notice is required.

38 (2) The poststorage hearing shall be conducted not later than two days after the date it
39 was requested. The impounding agency may authorize its own officer or employee to
40 conduct the hearing if the hearing officer is not the same person who directed the storage
41 of the vehicle. Failure of either the registered or legal owner to request a hearing as
42 provided in paragraph (1) or to attend a scheduled hearing shall satisfy the poststorage
43 hearing requirement.

44 (3) The agency employing the person who directed the storage is responsible for the
45 costs incurred for towing and storage if it is determined that the driver at the time of
46 impoundment had a valid driver's license.

47 (o) As used in this section, "days" means workdays not including weekends and
48 holidays.

1 (p) Charges for towing and storage for any vehicle impounded pursuant to this section
2 shall not exceed the normal towing and storage rates for other vehicle towing and storage
3 conducted by the impounding agency in the normal course of business.

4 (q) The Judicial Council and the Department of Justice may prescribe standard forms
5 and procedures for implementation of this section to be used by all jurisdictions
6 throughout the state.

7 (r) The impounding agency may act as the agent of the state in carrying out this section.

8 (s) No vehicle shall be impounded pursuant to this section if the driver has a valid
9 license but the license is for a class of vehicle other than the vehicle operated by the
10 driver.

11 (t) This section does not apply to vehicles subject to Sections 14608 and 14609, if there
12 has been compliance with the procedures in those sections.

13 (u) As used in this section, “district attorney” includes a city attorney charged with the
14 duty of prosecuting misdemeanor offenses.

15 (v) The agent of a legal owner acting pursuant to subdivision (g) shall be licensed, or
16 exempt from licensure, pursuant to Chapter 11 (commencing with Section 7500) of
17 Division 3 of the Business and Professions Code.

18 **Comment.** Subdivision (e)(4) of Section 14607.6 is amended to reflect unification of the
19 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

20 **Note.** In 1998, Vehicle Code Section 14607.6 was amended by two bills: (1) SB 117 (Kelley),
21 1998 Cal. Stat. ch. 117, § 6, and (2) SB 2139 (Lockyer), 1998 Cal. Stat. ch. 931, §§ 457, 457.5,
22 506. The latter bill (the Commission’s bill implementing trial court unification) contained a
23 double-jointing provision to ensure that the amendments made by both bills became operative.
24 But the double-jointing provision erroneously referred to Section 14607.5, instead of Section
25 14607.6, creating confusion regarding whether the double-jointing provision was effective and
26 which version of Section 14607.6 was the law.

27 The Commission sought to address this problem in its trial court unification clean-up bill in
28 1999. Legislative Counsel’s office took the position that the Commission’s proposed legislation
29 on this point was unnecessary, because the double-jointing provision in SB 2139 was effective
30 despite the mistaken reference to Section 14607.5. Thus, although West’s Annotated California
31 Codes and Westlaw include two versions of Section 14607.6, the only version shown here is the
32 version made operative by that double-jointing provision (1998 Cal. Stat. ch. 931, § 457.5).

33 The Commission is investigating whether further action should be taken to eliminate confusion
34 regarding which version of Vehicle Code Section 14607.6 is in effect. The Commission solicits
35 comment on this point.

36 **Veh. Code § 27360 (amended). Child passenger restraint system for children under six years**
37 **old or under 60 pounds**

38 SEC. ____ . Section 27360 of the Vehicle Code is amended to read:

39 27360. (a) No parent or legal guardian, when present in a motor vehicle, as defined in
40 Section 27315, shall permit his or her child or ward to be transported upon a highway in
41 the motor vehicle without providing and properly securing the child or ward, in a child
42 passenger restraint system meeting applicable federal motor vehicle safety standards
43 unless the child or ward is at least one of the following:

- 44 (1) Six years of age or older.
45 (2) Weighs 60 pounds or more.

46 (b) No driver shall transport on a highway any child in a motor vehicle, as defined in
47 Section 27315, without providing and properly securing the child in a child passenger

1 restraint system meeting applicable federal motor vehicle safety standards unless the
2 child is at least one of the following:

- 3 (1) Six years of age or older.
- 4 (2) Weighs 60 pounds or more.

5 This subdivision does not apply to a driver if the parent or legal guardian of the child is
6 also present in the vehicle and is not the driver.

7 (c)(1) A first offense under this section is punishable by a fine of one hundred dollars
8 (\$100), except that the court may reduce or waive the fine if the defendant establishes to
9 the satisfaction of the court that he or she is economically disadvantaged, and the court,
10 instead, refers the defendant to a community education program that includes, but is not
11 limited to, education on the proper installation and use of child passenger restraint
12 systems for children of all ages, and provides certification to the court of completion of
13 that program. Upon completion of the program, the defendant shall provide proof of
14 participation in the program. If an education program on the proper installation and use of
15 a child passenger restraint system is not available within 50 miles of the residence of the
16 defendant, the requirement to participate in that program shall be waived. If the fine is
17 paid, waived, or reduced, the court shall report the conviction to the department pursuant
18 to Section 1803.

19 The court may, at its discretion, require any defendant described under this section to
20 attend an education program that includes demonstration of proper installation and use of
21 child passenger restraint systems and provides certification to the court that the defendant
22 has presented for inspection a child passenger restraint system that meets applicable
23 federal safety standards.

24 (2) A second or subsequent offense under this section is punishable by a fine of two
25 hundred fifty dollars (\$250), no part of which may be waived by the court, except that the
26 court may reduce or waive the fine if the defendant establishes to the satisfaction of the
27 court that he or she is economically disadvantaged, and the court, instead refers the
28 defendant to a community education program that includes, but is not limited to,
29 education on the proper installation and use of child passenger restraint systems for
30 children of all ages, and provides certification to the court of completion of that program.
31 Upon completion of the program, the defendant shall provide proof of participation in the
32 program. If an education program on the proper installation and use of a child passenger
33 restraint system is not available within 50 miles of the residence of the defendant, the
34 requirement to participate in that program shall be waived. If the fine is paid, waived, or
35 reduced, the court shall report the conviction to the department pursuant to Section 1803.

36 The court may, at its discretion, require any defendant described under this section to
37 attend an education program that includes demonstration of proper installation and use of
38 child passenger restraint systems and provides certification to the court that the defendant
39 has presented for inspection a child passenger restraint system that meets applicable
40 federal safety standards.

41 (d) Notwithstanding any other provision of law, the fines collected for a violation of
42 this section shall be allocated as follows:

43 (1) Sixty percent to health departments of local jurisdictions, as defined in Section
44 16700 of the Welfare and Institutions Code, where the violation occurred, to be used for a
45 community education program that includes, but is not limited to, demonstration of the
46 installation of a child passenger restraint system for children of all ages and also assists
47 economically disadvantaged families in obtaining those restraint systems through low-
48 cost purchases or loans. The county or city health department shall designate a
49 coordinator to facilitate the creation of a special account and to develop a relationship

1 with the municipal superior court system to facilitate the transfer of funds to the program.
2 The county or city may contract for the implementation of the program. Prior to obtaining
3 possession of a child passenger restraint system pursuant to this section, a person shall
4 attend an education program that includes demonstration of proper installation and use of
5 child passenger restraint systems.


6 As the proceeds from fines become available, county or city health departments shall
7 prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner
8 programs in their counties, including a semiannual verification that all programs listed are
9 in existence. Each county or city shall forward the listing to the Office of Traffic Safety
10 in the Business, Transportation and Housing Agency and the courts, birthing centers,
11 community child health and disability prevention programs, county clinics, prenatal
12 clinics, women, infants, and children programs, and county hospitals in that county, who
13 shall make the listing available to the public. The Office of Traffic Safety shall maintain a
14 listing of all of the programs in the state.

15 (2) Twenty-five percent to the county or city for the administration of the program.

16 (3) Fifteen percent to the city, to be deposited in its general fund except that, if the
17 violation occurred in an unincorporated area, this amount shall be allocated to the county
18 for purposes of paragraph (1).

19 (e) This section shall become operative on January 1, 2002.

20 **Comment.** Subdivision (d)(1) of Section 27360 is amended to reflect unification of the
21 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

22  **Note.** Another version of Vehicle Code Section 27360 is operative until January 1, 2002. That
23 version is not shown here, because it will become inoperative by the time this proposed
24 legislation is introduced.

25 **Veh. Code § 27362 (amended). Sale or installation of nonconforming child restraint system**

26 SEC. ____ . Section 27362 of the Vehicle Code is amended to read:

27 27362. (a) No manufacturer, wholesaler, or retailer shall sell, offer for sale, or install in
28 any motor vehicle any child passenger restraint system not conforming to all applicable
29 federal motor vehicle safety standards on the date of sale or installation. Responsibility
30 for compliance with this section shall rest with the individual selling, offering for sale, or
31 installing the system. Every person who violates this section is guilty of a misdemeanor
32 and shall be punished as follows:

33 (1) Upon a first conviction, by a fine not exceeding four hundred dollars (\$400) or by
34 imprisonment in the county jail for a period of not more than 90 days, or both.

35 (2) Upon a second or subsequent conviction, by a fine not exceeding one thousand
36 dollars (\$1,000) or by imprisonment in the county jail for a period of not more than 180
37 days, or both.

38 (b) The fines collected for a violation of this section shall be allocated as follows:

39 (1) Sixty percent to county health departments where the violation occurred, to be used
40 for a child passenger restraint low-cost purchase or loaner program which shall include,
41 but not be limited to, education on the proper installation and use of a child passenger
42 restraint system. The county health department shall designate a coordinator to facilitate
43 the creation of a special account and to develop a relationship with the municipal superior
44 court system to facilitate the transfer of funds to the program. The county may contract
45 for the implementation of the program. Prior to obtaining possession of a child passenger
46 restraint system pursuant to this section, a person shall receive information relating to the
47 importance of utilizing that system.

1 As the proceeds from fines become available, county health departments shall prepare
2 and maintain a listing of all child passenger restraint low-cost purchase or loaner
3 programs in their counties, including a semiannual verification that all programs listed are
4 in existence. Each county shall forward the listing to the Office of Traffic Safety in the
5 Business, Transportation and Housing Agency and the courts, birthing centers,
6 community child health and disability prevention programs, and county hospitals in that
7 county, who shall make the listing available to the public. The Office of Traffic Safety
8 shall maintain a listing of all of the programs in the state.

9 (2) Twenty-five percent to the county for the administration of the program.

10 (3) Fifteen percent to the city, to be deposited in its general fund except that, if the
11 violation occurred in an unincorporated area, this amount shall be allocated to the county
12 for purposes of paragraph (1).

13 **Comment.** Subdivision (b)(1) of Section 27362 is amended to reflect unification of the
14 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

15 **Veh. Code § 40230 (amended). Judicial review of decision on parking violation**

16 SEC. ____ . Section 40230 of the Vehicle Code is amended to read:

17 40230. (a) Within 30 calendar days after the mailing or personal delivery of the final
18 decision described in subdivision (b) of Section 40215, the contestant may seek review
19 by filing an appeal to be heard by ~~the municipal court, or by the superior court in a county~~
20 ~~in which there is no municipal court~~, where the same shall be heard de novo, except that
21 the contents of the processing agency's file in the case shall be received in evidence. A
22 copy of the notice of parking violation or, if the citation was issued electronically, a true
23 and correct abstract containing the information set forth in the notice of parking violation
24 shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy
25 of the notice of appeal shall be served in person or by first-class mail upon the processing
26 agency by the contestant. For purposes of computing the 30-calendar-day period, Section
27 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this
28 subdivision is a limited civil case.

29 (b) ~~The Notwithstanding Section 72055 of the Government Code, the fee for filing the~~
30 notice of appeal is twenty-five dollars (\$25). The court shall request that the processing
31 agency's file on the case be forwarded to the court, to be received within 15 calendar
32 days of the request. The court shall notify the contestant of the appearance date by mail or
33 personal delivery. The court shall retain the twenty-five dollar (\$25) fee regardless of the
34 outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee
35 shall be reimbursed to the contestant by the processing agency. Any deposit of parking
36 penalty shall be refunded by the processing agency in accordance with the judgment of
37 the court.

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

41 (d) If no notice of appeal of the processing agency's decision is filed within the period
42 set forth in subdivision (a), the decision shall be deemed final.

43 (e) If the parking penalty has not been deposited and the decision is against the
44 contestant, the processing agency shall, after the decision becomes final, proceed to
45 collect the penalty pursuant to Section 40220.

46 **Comment.** Subdivision (a) of Section 40230 is amended to reflect unification of the municipal
47 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 Subdivision (b) is amended to make clear that the fee for seeking review pursuant to this
2 section is the amount specified in this section (\$25), not the usual fee for filing the first paper in a
3 limited civil case.

4 **Veh. Code § 40256 (amended). Judicial review of decision on toll evasion**

5 SEC. ____ . Section 40256 of the Vehicle Code is amended to read:

6 40256. (a) Within 20 days after the mailing of the final decision described in
7 subdivision (b) of Section 40255, the contestant may seek review by filing an appeal to
8 ~~the municipal court, or to the superior court in a county in which there is no municipal~~
9 ~~court~~, where the same shall be heard de novo, except that the contents of the processing
10 agency's file in the case on appeal shall be received in evidence. A copy of the notice of
11 toll evasion violation shall be admitted into evidence as prima facie evidence of the facts
12 stated therein. A copy of the notice of appeal shall be served in person or by first-class
13 mail upon the processing agency by the contestant. For purposes of computing the 20-day
14 period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding
15 under this subdivision is a limited civil case.

16 (b) ~~The Notwithstanding Section 70255 of the Government Code, the~~ fee for filing the
17 notice of appeal shall be twenty-five dollars (\$25). If the appellant prevails, this fee,
18 together with any deposit of toll evasion penalty, shall be promptly refunded by the
19 processing agency in accordance with the judgment of the court.

20 (c) The conduct of the hearing on appeal under this section is a subordinate judicial
21 duty which may be performed by commissioners and other subordinate judicial officials
22 at the direction of the presiding judge of the court.

23 (d) If no notice of appeal of the processing agency's decision is filed within the period
24 set forth in subdivision (a), the decision shall be deemed final.

25 (e) If the toll evasion penalty has not been deposited and the decision is adverse to the
26 contestant, the processing agency may, promptly after the decision becomes final,
27 proceed to collect the penalty under Section 40267.

28 **Comment.** Subdivision (a) of Section 40256 is amended to reflect unification of the municipal
29 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

30 Subdivision (b) is amended to make clear that the fee for seeking review pursuant to this
31 section is the amount specified in this section (\$25), not the usual fee for filing the first paper in a
32 limited civil case.

33 **Veh. Code § 40502 (amended). Place to appear**

34 SEC. ____ . Section 40502 of the Vehicle Code is amended to read:

35 40502. The place specified in the notice to appear shall be any of the following:

36 (a) Before a magistrate within the county in which the offense charged is alleged to
37 have been committed and who has jurisdiction of the offense and is nearest or most
38 accessible with reference to the place where the arrest is made.

39 (b) Upon demand of the person arrested, before a judge or other magistrate having
40 jurisdiction of the offense at the county seat of the county in which the offense is alleged
41 to have been committed. This subdivision applies only if the person arrested resides, or
42 the person's principal place of employment is located, closer to the county seat than to
43 the court or other magistrate nearest or most accessible to the place where the arrest is
44 made.

45 (c) Before a person authorized to receive a deposit of bail.

1 The clerk and deputy clerks of ~~the municipal court or of the superior court in a county~~
2 ~~in which there is no municipal court~~ are persons authorized to receive bail in accordance
3 with a schedule of bail approved by the judges of ~~those courts~~ that court.

4 (d) Before the juvenile court, a juvenile court referee, or a juvenile traffic hearing
5 officer within the county in which the offense charged is alleged to have been committed,
6 if the person arrested appears to be under the age of 18 years. The juvenile court shall by
7 order designate the proper person before whom the appearance is to be made.

8 In a county that has implemented the provisions of Section 603.5 of the Welfare and
9 Institutions Code, if the offense alleged to have been committed by a minor is classified
10 as an infraction under this code, or is a violation of a local ordinance involving the
11 driving, parking, or operation of a motor vehicle, the citation shall be issued as provided
12 in subdivision (a), (b), or (c); provided, however, that if the citation combines an
13 infraction and a misdemeanor, the place specified shall be as provided in subdivision (d).

14 If the place specified in the notice to appear is within a ~~judicial district or city and~~
15 ~~county where a department of the municipal court, or of the superior court in a county in~~
16 ~~which there is no municipal court,~~ is to hold a night session within a period of not more
17 than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a
18 statement notifying the person arrested that the person may appear before such a night
19 session of the court.

20 **Comment.** Section 40502 is amended to reflect unification of the municipal and superior courts
21 pursuant to Article VI, Section 5(e), of the California Constitution.

22 **Veh. Code § 40506.5 (amended). Request for continuance**

23 SEC. ____ . Section 40506.5 of the Vehicle Code is amended to read:

24 40506.5. Prior to the date upon which the defendant promised to appear and without
25 depositing bail, the defendant may request a continuance of the written promise to appear.
26 ~~The judge of a municipal court or of a~~ A judge of the superior court ~~in a county in which~~
27 ~~there is no municipal court~~ may authorize the clerk to grant the continuance.

28 **Comment.** Section 40506.5 is amended to reflect unification of the municipal and superior
29 courts pursuant to Article VI, Section 5(e), of the California Constitution.

30 **Veh. Code § 40508.6 (amended). Administrative assessments**

31 SEC. ____ . Section 40508.6 of the Vehicle Code is amended to read:

32 40508.6. ~~The Legislature hereby authorizes the establishment of the following program,~~
33 ~~to be implemented in any county, upon the adoption of a resolution by the board of~~
34 ~~supervisors authorizing it. For the superior court and each municipal court district in the~~
35 ~~county, a board of supervisors~~ The superior court in any county may establish
36 administrative assessments, not to exceed ten dollars (\$10), for clerical and administrative
37 costs incurred for the following activities:

38 (a) An assessment for the cost of recording and maintaining a record of the defendant's
39 prior convictions for violations of this code. The assessment shall be payable at the time
40 of payment of a fine or when bail is forfeited for any subsequent violations of this code
41 other than parking, pedestrian, or bicycle violations.

42 (b) An assessment for all defendants whose driver's license or automobile registration
43 is attached or restricted pursuant to Section 40509 or 40509.5, to cover the cost of
44 notifying the Department of Motor Vehicles of the attachment or restriction.

45 **Comment.** Section 40508.6 is amended to reflect unification of the municipal and superior
46 courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't
2 Code § 77001 (local trial court management).

3 **Veh. Code § 42003 (amended). Payment of fines and costs**

4 SEC. ____ . Section 42003 of the Vehicle Code is amended to read:

5 42003. (a) A judgment that a person convicted of an infraction be punished by a fine
6 may also provide for the payment to be made within a specified time or in specified
7 installments. A judgment granting a defendant time to pay the fine shall order that if the
8 defendant fails to pay the fine or any installment thereof on the date that it is due, he or
9 she shall appear in court on that date for further proceedings. Willful violation of the
10 order is punishable as contempt.

11 (b) A judgment that a person convicted of any other violation of this code be punished
12 by a fine may also order, adjudge, and decree that the person be imprisoned until the fine
13 is satisfied. In all of these cases, the judgment shall specify the extent of the
14 imprisonment which shall not exceed one day for every thirty dollars (\$30) of the fine,
15 nor extend in this case beyond the term for which the defendant might be sentenced to
16 imprisonment for the offense of which he or she was convicted.

17 (c) In any case when a person appears before a traffic referee or judge of the ~~municipal~~
18 ~~court or superior court~~ for adjudication of a violation of this code, the court, upon request
19 of the defendant, shall consider the defendant's ability to pay. Consideration of a
20 defendant's ability to pay may include his or her future earning capacity. A defendant
21 shall bear the burden of demonstrating lack of his or her ability to pay. Express findings
22 by the court as to the factors bearing on the amount of the fine shall not be required. The
23 reasonable cost of these services and of probation shall not exceed the amount determined
24 to be the actual average cost thereof. The court shall order the defendant to appear before
25 a county officer designated by the court to make an inquiry into the ability of the
26 defendant to pay all or a portion of those costs or the court or traffic referee may make
27 this determination at a hearing. At that hearing, the defendant shall be entitled to have,
28 but shall not be limited to, the opportunity to be heard in person, to present witnesses and
29 other documentary evidence, to confront and cross-examine adverse witnesses, to
30 disclosure of the evidence against him or her, and to a written statement of the findings of
31 the court or the county officer. If the court determines that the defendant has the ability to
32 pay all or part of the costs, the court shall set the amount to be reimbursed and order the
33 defendant to pay that sum to the county in the manner in which the court believes
34 reasonable and compatible with the defendant's financial ability; or, with the consent of a
35 defendant who is placed on probation, the court shall order the probation officer to set the
36 amount of payment, which shall not exceed the maximum amount set by the court, and
37 the manner in which the payment shall be made to the county. In making a determination
38 of whether a defendant has the ability to pay, the court shall take into account the amount
39 of any fine imposed upon the defendant and any amount the defendant has been ordered
40 to pay in restitution.

41 The court may hold additional hearings during the probationary period. If practicable,
42 the court or the probation officer shall order payments to be made on a monthly basis.
43 Execution may be issued on the order in the same manner as a judgment in a civil action.
44 The order to pay all or part of the costs shall not be enforced by contempt.

45 A payment schedule for reimbursement of the costs of presentence investigation based
46 on income shall be developed by the probation department of each county and approved
47 by the presiding ~~judges of the municipal and superior courts~~ judge of the superior court.

1 (d) The term “ability to pay” means the overall capability of the defendant to reimburse
2 the costs, or a portion of the costs, of conducting the presentence investigation, preparing
3 the presentence report, and probation, and includes, but is not limited to, all of the
4 following regarding the defendant:

5 (1) Present financial position.

6 (2) Reasonably discernible future financial position. In no event shall the court consider
7 a period of more than six months from the date of the hearing for purposes of determining
8 reasonably discernible future financial position.

9 (3) Likelihood that the defendant will be able to obtain employment within the six-
10 month period from the date of the hearing.

11 (4) Any other factors that may bear upon the defendant’s financial capability to
12 reimburse the county for the costs.

13 (e) At any time during the pendency of the judgment rendered according to the terms of
14 this section, a defendant against whom a judgment has been rendered may petition the
15 rendering court to modify or vacate its previous judgment on the grounds of a change of
16 circumstances with regard to the defendant’s ability to pay the judgment. The court shall
17 advise the defendant of this right at the time of rendering of the judgment.

18 **Comment.** Subdivision (c) of Section 42003 is amended to reflect unification of the municipal
19 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

20 **Veh. Code § 42008 (amended). County amnesty program for delinquent fines and bail**

21 SEC. ____ . Section 42008 of the Vehicle Code is amended to read:

22 42008. (a) Any county may operate an amnesty program for delinquent fines and bail
23 imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking
24 violations of the Vehicle Code and violations of Section 23103, 23104, 23152, or 23153.
25 The program shall be implemented by the courts in accordance with Judicial Council
26 guidelines, and shall apply to infraction or misdemeanor violations of the Vehicle Code,
27 except parking violations, upon which a fine or bail was delinquent on or before April 1,
28 1991.

29 (b) Under the amnesty program, any person owing a fine or bail due on or before April
30 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle
31 Code, except violations of Section 23103, 23104, 23152, or 23153 or parking violations,
32 may pay to the ~~municipal court or to the superior court in a county in which there is no~~
33 ~~municipal court~~ the amount scheduled by the court, which shall be either (1) 70 percent of
34 the total fine or bail or (2) the amount of one hundred dollars (\$100) for an infraction or
35 five hundred dollars (\$500) for a misdemeanor. This amount shall be accepted by the
36 court in full satisfaction of the delinquent fine or bail.

37 (c) No criminal action shall be brought against any person for a delinquent fine or bail
38 paid under this amnesty program and no other additional penalties shall be assessed for
39 the late payment of the fine or bail made under the amnesty program.

40 (d) Notwithstanding Section 1463 of the Penal Code, the total amount of funds
41 collected by the courts pursuant to the amnesty program created by this section shall be
42 deposited in the county treasury.

43 **Comment.** Subdivision (b) of Section 42008 is amended to reflect unification of the municipal
44 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

45 **Note: Comment Requested**

46 The Commission is reviewing whether county treasury provisions remain viable, given the
47 enactment of the Trial Court Funding Act, the Trial Court Employment Protection and
48 Governance Act, and other changes to the structure of the trial courts. See Gov’t Code §§ 77003

1 and Cal. R. Ct. 810 (“court operations” defined), 77009 (Trial Court Operations Fund), 77200
2 (state funding of trial court operations). These matters are also being examined by a Joint Court-
3 County Working Group on Trial Court Funding. The Commission solicits comment on the proper
4 treatment of Vehicle Code Section 42008.

5 **Veh. Code § 42008.5 (amended). One-time amnesty program**

6 SEC. ____ . Section 42008.5 of the Vehicle Code is amended to read:

7 42008.5. (a) A county may establish a one-time amnesty program for fines and bail that
8 have been delinquent for not less than six months as of the date upon which the program
9 commences and were imposed for an infraction or misdemeanor violation of this code,
10 except parking violations of this code and violations of Section 23103, 23104, 23152, or
11 23153.

12 (b) Any person owing a fine or bail that is eligible for amnesty under the program may
13 pay to the ~~municipal~~ superior or juvenile court the amount scheduled by the court, which
14 shall be accepted by the court in full satisfaction of the delinquent fine or bail and shall be
15 either of the following:

16 (1) Seventy percent of the total fine or bail.

17 (2) The amount of one hundred dollars (\$100) for an infraction or five hundred dollars
18 (\$500) for a misdemeanor.

19 (c) The amnesty program shall be implemented by the courts of the county on a one-
20 time basis and conducted in accordance with Judicial Council guidelines for a period of
21 not less than 120 days. The program shall operate not longer than six months from the
22 date the court initiates the program.

23 (d) No criminal action shall be brought against any person for a delinquent fine or bail
24 paid under the amnesty program and no other additional penalties, except as provided in
25 Section 1214.1 of the Penal Code, shall be assessed for the late payment of the fine or
26 bail made under the amnesty program.

27 (e) Notwithstanding Section 1463 of the Penal Code, the total amount of funds
28 collected by the courts pursuant to the amnesty program shall be deposited in the county
29 treasury until 150 percent of the cost of operating the program, excluding capital
30 expenditures, have been so deposited. Thereafter, 37 percent of the amount of the
31 delinquent fines and bail deposited in the county treasury shall be distributed by the
32 county pursuant to Section 1464 of the Penal Code, 26 percent of the amount deposited
33 shall be distributed by the county pursuant to Article 2 (commencing with Section 76100)
34 of Chapter 12 of Title 8 of the Government Code, and the remaining 37 percent of the
35 amount deposited shall be retained by the county.

36 (f) The deposit of fines and bails in the county treasury as described in subdivision (e)
37 is limited to the amnesty program described in this section, and it is the intent of the
38 Legislature that it shall not be considered a precedent with respect to affecting programs
39 that receive funding pursuant to Section 1463 of the Penal Code.

40 (g) Each county participating in the program shall file, not later than six months after
41 the termination of the program, a written report with the Assembly Committee on
42 Judiciary and the Senate Committee on Judiciary. The report shall summarize the amount
43 of money collected, operating costs of the program, distribution of funds collected, and
44 when possible, how the funds were expended.

45 **Comment.** Subdivision (b) of Section 42008.5 is amended to reflect unification of the
46 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

1 **Note: Comment Requested**

2 Vehicle Code Section 42008.5, enacted in 1996, allows each county to establish a one-time
3 amnesty program. The Commission solicits comment on whether this provision is obsolete.

4 Assuming that the provision continues to serve a useful purpose, a second issue is whether the
5 requirements relating to the county treasury require revision. The Commission is reviewing
6 whether county treasury provisions remain viable, given the enactment of the Trial Court Funding
7 Act, the Trial Court Employment Protection and Governance Act, and other changes to the
8 structure of the trial courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations"
9 defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).
10 These matters are also being examined by a Joint Court-County Working Group on Trial Court
11 Funding. The Commission solicits comment on the proper treatment of the county treasury
12 aspects of Vehicle Code Section 42008.5.

13 **Veh. Code § 42203 (amended). Disposition of fines and forfeitures for violations on certain**
14 **county owned premises**

15 SEC. ____ . Section 42203 of the Vehicle Code is amended to read:

16 42203. Notwithstanding Section 42201 or 42201.5, 50 percent of all fines and
17 forfeitures collected ~~in a municipal court, or in a superior court in a county in which there~~
18 ~~is no municipal court,~~ upon conviction or upon the forfeiture of bail for violations of any
19 provisions of the Vehicle Code, or of any local ordinance or resolution, relating to
20 stopping, standing, or parking a vehicle, that have occurred upon the premises of facilities
21 physically located in such county, but which are owned by another county, which other
22 county furnishes law enforcement personnel for the premises, shall be transmitted
23 pursuant to this section to the county which owns the facilities upon which the violations
24 occurred. The court receiving such moneys shall, once each month, transmit such moneys
25 received in the preceding month to the county treasurer of the county in which the court is
26 located. Once each month in which the county treasurer receives such moneys, the county
27 treasurer shall transmit to the county which owns such facilities an amount equal to 50
28 percent thereof. The county owning such facilities shall, upon receipt of such moneys
29 from the ~~municipal court or~~ superior court of the county in which the facilities are
30 physically located, deposit such moneys in its county treasury for use solely in meeting
31 traffic control and law enforcement expenses on the premises upon which the violations
32 occurred.

33 This section shall not apply when the county in which such facilities are located
34 performs all law enforcement functions with respect to such facilities.

35 **Comment.** Section 42203 is amended to reflect unification of the municipal and superior courts
36 pursuant to Article VI, Section 5(e), of the California Constitution.

37 WATER CODE

38 **Water Code § 310 (amended). Proper court**

39 SEC. ____ . Section 310 of the Water Code is amended to read:

40 310. All prosecutions for the violation of any of the provisions of this article shall be
41 instituted in the ~~municipal~~ superior court of the county in which the well is situated, ~~or in~~
42 ~~the superior court in a county in which there is no municipal court.~~

43 **Comment.** Section 310 is amended to reflect unification of the municipal and superior courts
44 pursuant to Article VI, Section 5(e), of the California Constitution.

Note: Comment Requested

Water Code Section 310 raises issues relating to local venue. The Commission and the Judicial Council are studying this area and may propose revisions to address local venue issues. The Commission solicits comment on the proper treatment of the section with regard to venue.

WELFARE AND INSTITUTIONS CODE

Welf. & Inst. Code § 246 (amended). Designation of juvenile court judge

SEC. ____ . Section 246 of the Welfare and Institutions Code is amended to read:

~~246. In counties having more than one judge of the superior court, the~~ The presiding judge of such the superior court ~~or the senior judge if there is no presiding judge~~ shall annually, in the month of January, designate one or more judges of the superior court to hear all cases under this chapter during the ensuing year, and he shall, from time to time, designate such additional judges as may be necessary for the prompt disposition of the judicial business before the juvenile court.

In all counties where more than one judge is designated as a judge of the juvenile court, the presiding judge of the superior court shall also designate one such judge as presiding judge of the juvenile court.

Comment. Section 246 is amended to reflect the fact that every superior court has at least two judgeships as a result of trial court unification. See Gov't Code § 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or otherwise, a reference to the "presiding judge" means the sole judge of the court. See Gov't Code § 69508.5 (presiding judge).

The section is also amended to delete language referring to the senior judge. Every superior court has a presiding judge. See Gov't Code §§ 69508, 69508.5.

Welf. & Inst. Code § 247 (repealed). Juvenile court referees

SEC. ____ . Section 247 of the Welfare and Institutions Code is repealed.

~~247. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more referees to serve on a full-time or part-time basis. A referee shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his order terminating the appointment of a referee, such referee shall continue to serve as such until the appointment of his successor. Except as otherwise provided by law, the amount and rate of compensation to be paid referees shall be fixed by the board of supervisors. Every referee first appointed on or after January 1, 1977, shall have been admitted to practice law in this state and, in addition, shall have been admitted to practice law in this state for a period of not less than five years or in any other state and this state for a combined period of not less than 10 years. Nothing in this section shall be construed to apply to the qualifications of any referee first appointed prior to January 1, 1977.~~

Comment. Section 247 is repealed to reflect enactment of the Trial Court Employment Protection and Governance Act. See Gov't Code §§ 71622 (subordinate judicial officers), 71623 (salaries).

Note. Repeal of Welfare and Institutions Code Section 247 would remove appointment authority from the presiding juvenile court judge in reliance on the general appointment authority of the court under Government Code Section 71622 (subordinate judicial officers).

1 **Welf. & Inst. Code § 255 (amended). Juvenile hearing officers**

2 SEC. ____ . Section 255 of the Welfare and Institutions Code is amended to read:

3 255. ~~The judge of the juvenile court, or in counties having more than one judge of the~~
4 ~~juvenile court the presiding judge of the juvenile court or the senior judge if there is no~~
5 ~~presiding judge, court~~ may appoint as subordinate judicial officers one or more persons of
6 suitable experience, who may be ~~judges of the municipal court, or of the superior court in~~
7 ~~a county in which there is no municipal court, or a probation officer or assistant or deputy~~
8 ~~probation officers, to serve as juvenile hearing officers on a full-time or part-time basis. A~~
9 ~~hearing officer shall serve at the pleasure of the appointing judge court, and unless the~~
10 ~~appointing judge court makes his or her an~~ order terminating the appointment of a
11 hearing officer, the hearing officer shall continue to serve until the appointment of his or
12 her successor. ~~The board of supervisors court~~ shall determine whether any compensation
13 shall be paid to hearing officers, not otherwise employed by a public agency or holding
14 another public office, and shall establish the amounts and rates thereof. An appointment
15 of a probation officer, assistant probation officer, or deputy probation officer as a juvenile
16 hearing officer may be made only with the consent of the probation officer. A juvenile
17 court shall be known as the Informal Juvenile and Traffic Court when a hearing officer
18 appointed pursuant to this section hears a case specified in Section 256.

19 **Comment.** Section 255 is amended to reflect unification of the municipal and superior courts
20 pursuant to Article VI, Section 5(e), of the California Constitution.

21 The section is also amended to reflect enactment of the Trial Court Funding Act. See Gov't
22 Code §§ 77001 (local trial court management), 77200 (state funding of trial court operations).

23 The section is also amended to reflect enactment of the Trial Court Employment Protection and
24 Governance Act. See Gov't Code § 71622(a) (each trial court may appoint subordinate judicial
25 officers as deemed necessary, subject to Judicial Council approval).

26 The section is also amended to delete language referring to the senior judge. Every juvenile
27 court with more than one juvenile court judge has a presiding judge. See Section 246
28 (appointment of presiding judge).

29 **Note: Comment Requested**

30 The Trial Court Funding Act contemplates a decentralized system of trial court management,
31 including trial court responsibility for funding allocations and local personnel systems. See Gov't
32 Code § 77001(c). The Commission would like to receive input on whether the superior court
33 should be the responsible entity for determining the compensation paid to juvenile hearing
34 officers who are not public employees or officers.

35 The proposed revision of Welfare and Institutions Code Section 255 would remove
36 appointment authority from the presiding juvenile court judge in reliance on the general
37 appointment authority of the court under Government Code Section 71622 (subordinate judicial
38 officers).

39 **Welf. & Inst. Code § 270 (amended). County officers**

40 SEC. ____ . Section 270 of the Welfare and Institutions Code is amended to read:

41 270. Except as provided in Section ~~69906~~ 69906.5 of the Government Code, there shall
42 be in each county the offices of probation officer, assistant probation officer, and deputy
43 probation officer. A probation officer shall be appointed in every county.

44 Probation officers in any county shall be nominated by the juvenile justice commission
45 or regional juvenile justice commission of such county in such manner as the judge of the
46 juvenile court in that county shall direct, and shall then be appointed by such judge.

47 The probation officer may appoint as many deputies or assistant probation officers as
48 he ~~the probation officer~~ desires; but such deputies or assistant probation officers shall not

1 have authority to act until their appointments have been approved by a majority vote of
2 the members of the juvenile justice commission, and by the judge of the juvenile court.
3 The term of office of each such deputy or assistant probation officer shall expire with the
4 term of the probation officer who appointed him the deputy or assistant probation officer,
5 but the probation officer, with the written approval of the majority of the members of the
6 juvenile justice commission and of the judge of the juvenile court, may, in his the
7 probation officer's discretion, revoke and terminate any such appointment at any time.

8 Probation officers may at any time be removed by the judge of the juvenile court for
9 good cause shown; and the judge of the juvenile court may in his the judge's discretion at
10 any time remove any such probation officer with the written approval of a majority of the
11 members of the juvenile justice commission.

12 **Comment.** Section 270 is amended to correct an erroneous reference to Section 69906.

13 **Welf. & Inst. Code § 601.4 (amended). Compulsory education violation**

14 SEC. ____ . Section 601.4 of the Welfare and Institutions Code is amended to read:

15 601.4. (a) The juvenile court judge may be assigned to sit as a ~~municipal court judge, or~~
16 ~~as a superior court judge in a county in which there is no municipal court,~~ to hear any
17 complaint alleging that a parent, guardian, or other person having control or charge of a
18 minor has violated Section 48293 of the Education Code. The jurisdiction of the juvenile
19 court granted by this section shall not be exclusive and the charge may be prosecuted
20 instead ~~in a municipal court, or in a superior court in a county in which there is no~~
21 ~~municipal court.~~ However, upon motion, that action shall be transferred to the juvenile
22 court.

23 (b) Notwithstanding Section 737 of the Penal Code, a violation of Section 48293 of the
24 Education Code may be prosecuted pursuant to subdivision (a), by written complaint filed
25 in the same manner as an infraction may be prosecuted. The juvenile court judge, sitting
26 ~~as a municipal court judge or as a superior court judge in a county in which there is no~~
27 ~~municipal court,~~ may coordinate the action involving the minor with any action involving
28 the parent, guardian, or other person having control or charge of the minor. Both matters
29 may be heard and decided at the same time unless the parent, guardian, other person
30 having control or charge of the minor, or any member of the press or public objects to a
31 closed hearing of the proceedings charging violation of Section 48293 of the Education
32 Code.

33 **Comment.** Section 601.4 is amended to reflect unification of the municipal and superior courts
34 pursuant to Article VI, Section 5(e), of the California Constitution.

35 **Welf. & Inst. Code § 603.5 (amended). Minor charged with Vehicle Code infraction or**
36 **violation of local ordinance relating to motor vehicle**

37 SEC. ____ . Section 603.5 of the Welfare and Institutions Code is amended to read:

38 603.5. (a) Notwithstanding any other provision of law, in counties which adopt the
39 provisions of this section, jurisdiction over the case of a minor alleged to have committed
40 only a violation of the Vehicle Code classified as an infraction or a violation of a local
41 ordinance involving the driving, parking, or operation of a motor vehicle, is with ~~the~~
42 ~~municipal court or the superior court in a county in which there is no municipal court,~~
43 except that the court may refer to the juvenile court for adjudication, cases involving a
44 minor who has been adjudicated a ward of the juvenile court, or who has other matters
45 pending in the juvenile court.

46 (b) The cases specified in subdivision (a) shall not be governed by the procedures set
47 forth in the juvenile court law.

1 (c) Any provisions of juvenile court law requiring that confidentiality be observed as to
2 cases and proceedings, prohibiting or restricting the disclosure of juvenile court records,
3 or restricting attendance by the public at juvenile court proceedings shall not apply. The
4 procedures for bail specified in Chapter 1 (commencing with Section 1268) of Title 10 of
5 Part 2 of the Penal Code shall apply.

6 (d) The provisions of this section shall apply in a county in which the trial courts make
7 the section applicable as to any matters to be heard and the court has determined that
8 there is available funding for any increased costs.

9 **Comment.** Subdivision (a) of Section 603.5 is amended to reflect unification of the municipal
10 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

11 **Note: Comment Requested**

12 The Commission solicits comment on whether Welfare and Institutions Code Section 603.5
13 should be revised to reflect enactment of Vehicle Code Section 40215(c), which provides for an
14 administrative hearing of a parking violation by a minor. See also Veh. Code § 40230 (review of
15 decision rendered in administrative hearing of parking violation).

16 In Welfare and Institutions Code Section 603.5(a), should the reference to “parking” be
17 deleted? Should the reference to Vehicle Code infractions be revised to exclude parking
18 violations? Are other revisions in order to make clear how the two provisions interrelate?

19 Welfare and Institutions Code Section 603.5 reflects legislative changes made in AB 1700
20 (Steinberg & Frommer). See 2001 Cal. Stat. ch. 824, § 38.

21 **Welf. & Inst. Code § 656 (amended). Petition to declare minor a ward of the court**

22 SEC. ____ . Section 656 of the Welfare and Institutions Code is amended to read:

23 656. A petition to commence proceedings in the juvenile court to declare a minor a
24 ward of the court shall be verified and shall contain all of the following:

25 (a) The name of the court to which it is addressed.

26 (b) The title of the proceeding.

27 (c) The code section and subdivision under which the proceedings are instituted.

28 (d) The name, age, and address, if any, of the minor upon whose behalf the petition is
29 brought.

30 (e) The names and residence addresses, if known to the petitioner, of both of the
31 parents and any guardian of the minor. If there is no parent or guardian residing within
32 the state, or if his or her place of residence is not known to the petitioner, the petition
33 shall also contain the name and residence address, if known, of any adult relative residing
34 within the county, or, if there are none, the adult relative residing nearest to the location
35 of the court.

36 (f) A concise statement of facts, separately stated, to support the conclusion that the
37 minor upon whose behalf the petition is being brought is a person within the definition of
38 each of the sections and subdivisions under which the proceedings are being instituted.

39 (g) The fact that the minor upon whose behalf the petition is brought is detained in
40 custody or is not detained in custody, and if he or she is detained in custody, the date and
41 the precise time the minor was taken into custody.

42 (h) A notice to the father, mother, spouse, or other person liable for support of the
43 minor child, that: (1) Section 903 may make that person, the estate of that person, and the
44 estate of the minor child, liable for the cost of the care, support, and maintenance of the
45 minor child in any county institution or any other place in which the child is placed,
46 detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 may
47 make that person, the estate of that person, and the estate of the minor child, liable for the
48 cost to the county of legal services rendered to the minor by a private attorney or a public

1 defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 may
2 make that person, the estate of that person, and the estate of the minor child, liable for the
3 cost to the county of the probation supervision of the minor child by the probation officer
4 pursuant to the order of the juvenile court; and (4) the liabilities established by these
5 sections are joint and several.

6 (i) In a proceeding alleging that the minor comes within Section 601, notice to the
7 parent, guardian, or other person having control or charge of the minor that failure to
8 comply with the compulsory school attendance laws is an infraction, which may be
9 charged and prosecuted before the juvenile court judge sitting as a ~~municipal court judge~~
10 ~~or as a superior court judge in a county in which there is no municipal court.~~ In those
11 cases, the petition shall also include notice that the parent, guardian, or other person
12 having control or charge of the minor has the right to a hearing on the infraction before a
13 judge different than the judge who has heard or is to hear the proceeding pursuant to
14 Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil
15 Procedure.

16 (j) If a proceeding is pending against a minor child for a violation of Section 594.2,
17 640.5, 640.6, or 640.7 of the Penal Code, a notice to the parent or legal guardian of the
18 minor that if the minor is found to have violated either or both of these provisions that (1)
19 any community service which may be required of the minor may be performed in the
20 presence, and under the direct supervision, of the parent or legal guardian pursuant to
21 either or both of these provisions, and (2) if the minor is personally unable to pay any fine
22 levied for the violation of either or both of these provisions, that the parent or legal
23 guardian of the minor shall be liable for payment of the fine pursuant to those sections.

24 (k) A notice to the parent or guardian of the minor that if the minor is ordered to make
25 restitution to the victim pursuant to Section 729.6, as operative on or before August 2,
26 1995, Section 731.1, as operative on or before August 2, 1995, or Section 730.6, or to pay
27 fines or penalty assessments, the parent or guardian may be liable for the payment of
28 restitution, fines, or penalty assessments.

29 **Comment.** Subdivision (i) of Section 656 is amended to reflect unification of the municipal
30 and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

31 **Welf. & Inst. Code § 661 (amended). Notice and citation**

32 SEC. ____ . Section 661 of the Welfare and Institutions Code is amended to read:

33 661. In addition to the notice provided in Sections 658 and 659, the juvenile court may
34 issue its citation directing any parent, guardian, or foster parent of the person concerning
35 whom a petition has been filed to appear at the time and place set for any hearing or
36 financial evaluation under the provisions of this chapter, including a hearing under the
37 provisions of Section 257, and directing any person having custody or control of the
38 minor concerning whom the petition has been filed to bring the minor with him or her.
39 The notice shall in addition state that a parent, guardian, or foster parent may be required
40 to participate in a counseling or education program with the minor concerning whom the
41 petition has been filed. If the proceeding is one alleging that the minor comes within the
42 provisions of Section 601, the notice shall in addition contain notice to the parent,
43 guardian, or other person having control or charge of the minor that failure to comply
44 with the compulsory school attendance laws is an infraction, which may be charged and
45 prosecuted before the juvenile court judge sitting as a ~~municipal court judge~~ or as a
46 superior court judge ~~in a county in which there is no municipal court.~~ In those cases, the
47 notice shall also include notice that the parent, guardian, or other person having control or
48 charge of the minor has the right to a hearing on the infraction before a judge different

1 than the judge who has heard or is to hear the proceeding pursuant to Section 601. The
2 notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure.
3 Personal service of the citation shall be made at least 24 hours before the time stated
4 therein for the appearance.

5 **Comment.** Section 661 is amended to reflect unification of the municipal and superior courts
6 pursuant to Article VI, Section 5(e), of the California Constitution.

7 **Welf. & Inst. Code § 742.16 (amended). Clean up, repair, replacement, or restitution**

8 SEC. ____ . Section 742.16 of the Welfare and Institutions Code is amended to read:

9 742.16. (a) If a minor is found to be a person described in Section 602 by reason of the
10 commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6 or 640.7 of
11 the Penal Code, and the court does not remove the minor from the physical custody of the
12 parent or guardian, the court as a condition of probation, except in any case in which the
13 court makes a finding and states on the record its reasons why that condition would be
14 inappropriate, shall require the minor to wash, paint, repair, or replace the property
15 defaced, damaged, or destroyed by the minor or otherwise pay restitution to the probation
16 officer of the county for disbursement to the owner or possessor of the property or both.
17 In any case in which the minor is not granted probation or in which the minor's cleanup,
18 repair, or replacement of the property will not return the property to its condition before it
19 was defaced, damaged, or destroyed, the court shall make a finding of the amount of
20 restitution that would be required to fully compensate the owner and possessor of the
21 property for their damages. The court shall order the minor or the minor's estate to pay
22 that restitution to the probation officer of the county for disbursement to the owner or
23 possessor of the property or both, to the extent the court determines that the minor or the
24 minor's estate have the ability to do so, except in any case in which the court makes a
25 finding and states on the record its reasons why full restitution would be inappropriate. If
26 full restitution is found to be inappropriate, the court shall require the minor to perform
27 specified community service, except in any case in which the court makes a finding and
28 states on the record its reasons why that condition would be inappropriate.

29 (b) If a minor is found to be a person described in Section 602 by reason of the
30 commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of
31 the Penal Code, and the graffiti or other material inscribed by the minor has been
32 removed, or the property defaced by the minor has been repaired or replaced by a public
33 entity that has elected, pursuant to Section 742.14, to have the probation officer of the
34 county recoup its costs through proceedings in accordance with this section and has made
35 cost findings in accordance with subdivisions (c) or (d) of Section 742.14, the court shall
36 determine the total cost incurred by the public entity for said removal, repair, or
37 replacement, using, if applicable, the cost findings most recently adopted by the public
38 entity pursuant to subdivision (c) or (d) of Section 742.14. The court shall order the minor
39 or the minor's estate to pay those costs to the probation officer of the county to the extent
40 the court determines that the minor or the minor's estate have the ability to do so.

41 (c) If the minor is found to be a person described in Section 602 by reason of the
42 commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of
43 the Penal Code and the minor was identified or apprehended by the law enforcement
44 agency of a city or county that has elected, pursuant to Section 742.14, to have the
45 probation officer of the county recoup its costs through proceedings in accordance with
46 this section, the court shall determine the cost of identifying or apprehending the minor,
47 or both, using, if applicable, the cost findings adopted by the city or county pursuant to
48 subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to

1 pay those costs to the probation officer of the county to the extent the court determines
2 that the minor or the minor's estate have the ability to do so.

3 (d) If the court determines that the minor or the minor's estate is unable to pay in full
4 the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the
5 minor's parent or parents have been cited into court pursuant to Section 742.18, the court
6 shall hold a hearing to determine the liability of the minor's parent or parents pursuant to
7 Section 1714.1 of the Civil Code for those costs and damages. Except when the court
8 makes a finding setting forth unusual circumstances in which parental liability would not
9 serve the interests of justice, the court shall order the minor's parent or parents to pay
10 those costs and damages to the probation officer of the county to the extent the court
11 determines that the parent or parents have the ability to pay, if the minor was in the
12 custody or control of the parent or parents at the time he or she committed the act that
13 forms the basis for the finding that the minor is a person described in Section 602. In
14 evaluating the parent's or parents' ability to pay, the court shall take into consideration
15 the family income, the necessary obligations of the family, and the number of persons
16 dependent upon this income.

17 (e) The hearing described in subdivision (d) may be held immediately following the
18 disposition hearing or at a later date, at the option of the court.

19 (f) If the amount of costs and damages sought to be recovered in the hearing pursuant to
20 subdivision (d) is five thousand dollars (\$5,000) or less, the parent or parents may not be
21 represented by counsel and the probation officer of the county shall be represented by his
22 or her nonattorney designee. The court shall conduct such a hearing in accordance with
23 Sections 116.510 and 116.520 of the Code of Civil Procedure. Notwithstanding the
24 foregoing, if the court determines that a parent cannot properly present his or her defense,
25 the court may, in its discretion, allow another individual to assist that parent. In addition,
26 a husband or wife may appear and participate in the hearing on behalf of his or her spouse
27 if the representative's spouse has given his or her consent and the court determines that
28 the interest of justice would be served thereby.

29 (g) If the amount of costs and damages sought to be recovered in the hearing pursuant
30 to subdivision (d) exceeds five thousand dollars (\$5,000), the parent or parents may be
31 represented by counsel of his or her or their own choosing, and the probation officer of
32 the county shall be represented by the district attorney or an attorney or nonattorney
33 designee of the probation officer. The parent or parents shall not be entitled to court-
34 appointed counsel or to counsel compensated at public expense.

35 (h) At the hearing conducted pursuant to subdivision (d), there shall be a presumption
36 affecting the burden of proof that the findings of the court made pursuant to subdivisions
37 (a), (b), and (c) represent the actual damages and costs attributable to the act of the minor
38 that forms the basis of the finding that the minor is a person described in Section 602.

39 (i) If the parent or parents, after having been cited to appear pursuant to Section 742.18,
40 fail to appear as ordered, the court shall order the parent or parents to pay the full amount
41 of the costs and damages determined by the court pursuant to subdivisions (a), (b), and
42 (c).

43 (j) Execution may be issued on an order issued by the court pursuant to this section in
44 the same manner as on a judgment in a civil action, including any balance unpaid at the
45 termination of the court's jurisdiction over the minor.

46 (k) At any time prior to the satisfaction of a judgment entered pursuant to this section, a
47 person against whom the judgment was entered may petition the rendering court to
48 modify or vacate the judgment on the showing of a change in circumstances relating to
49 his or her ability to pay the judgment.

1 (l) For purposes of a hearing conducted pursuant to subdivision (d), the judge of the
2 juvenile court shall have the jurisdiction of a judge of the ~~municipal court~~ or of the
3 superior court in a limited civil case, and where the amount of the demand is five
4 thousand dollars (\$5,000) or less, the judge of the juvenile court shall have the powers of
5 a judge presiding over the small claims court.

6 (m) Nothing in this section shall be construed to limit the authority of a juvenile court
7 to provide conditions of probation.

8 (n) The options available to the court pursuant to subdivisions (a), (b), (c), (d), and (k),
9 to order payment by the minor and his or her parent or parents of less than the full costs
10 described in subdivisions (a), (b), and (c), on grounds of financial inability or for reasons
11 of justice, shall not be available to a ~~municipal~~ superior court in an ordinary civil
12 proceeding pursuant to subdivision (b) of Section 1714.1 of the Civil Code, except that in
13 any proceeding pursuant to either subdivision (b) of Section 1714.1 of the Civil Code or
14 this section, the maximum amount that a parent or a minor may be ordered to pay shall
15 not exceed twenty thousand dollars (\$20,000) for each tort of the minor.

16 **Comment.** Subdivisions (l) and (n) of Section 742.16 are amended to reflect unification of the
17 municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution.

18 **Note: Comment Requested**

19 Welfare and Institutions Code Section 742.16(d) directs the court in specified circumstances to
20 “hold a hearing to determine the liability of the minor’s parent or parents pursuant to Section
21 1714.1 of the Civil Code.” With exceptions, Section 742.16(n) makes the payment options of
22 Section 742.16(a), (b), (c), (d), and (k) inapplicable in “an *ordinary* civil proceeding pursuant to
23 subdivision (b) of Section 1714.1 of the Civil Code.” (Emphasis added.) The word “ordinary”
24 apparently serves to differentiate between (1) a hearing under the circumstances specified in
25 Welfare and Institutions Code Section 742.16(d), and (2) other proceedings pursuant to Civil
26 Code Section 1714.1 (i.e., “ordinary” proceedings pursuant to that provision). The Commission
27 solicits comment on whether revisions should be made to express this distinction more clearly.

28 **Welf. & Inst. Code § 872 (amended). Transfer to juvenile hall outside county**

29 SEC. ____ . Section 872 of the Welfare and Institutions Code is amended to read:

30 872. Where there is no juvenile hall in the county of residence of minors, or when the
31 juvenile hall becomes unfit or unsafe for detention of minors, the presiding or sole
32 juvenile court judge may, with the recommendation of the probation officer of the
33 sending county and the consent of the probation officer of the receiving county, by
34 written order filed with the ~~county~~ clerk of the court, designate the juvenile hall of any
35 county in the state for the detention of an individual minor for not to exceed 60 days. The
36 court may, at any time, modify or vacate the order and shall require notice of the transfer
37 to be given to the parent or guardian. The county of residence of a minor so transferred
38 shall reimburse the receiving county for costs and liability as agreed upon by the two
39 counties in connection with the order.

40 As used in this section, the terms “unfit” and “unsafe” shall include a condition in
41 which a juvenile hall is considered by the juvenile court judge, the probation officer of
42 that county, or the Board of Corrections to be too crowded for the proper and safe
43 detention of minors.

44 **Comment.** Section 872 is amended to reflect elimination of the county clerk’s role as ex officio
45 clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk of
46 superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as
47 ex officio clerk of the court are delegated to the court administrative or executive officer, and the

1 county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§ 69840
2 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

3 **Welf. & Inst. Code § 1737 (amended). Commitment recall and resentencing**


4 SEC. ____ . Section 1737 of the Welfare and Institutions Code is amended to read:
5 1737. When a person has been committed to the custody of the authority, if it is
6 deemed warranted by a diagnostic study and recommendation approved by the director,
7 the judge who ordered the commitment or, if the judge is not available, the presiding or
8 sole judge of the court, within 120 days of the date of commitment on his or her own
9 motion, or the court, at any time thereafter upon recommendation of the director, may
10 recall the commitment previously ordered and resentence the person as if he or she had
11 not previously been sentenced. The time served while in custody of the authority shall be
12 credited toward the term of any person resented pursuant to this section.

13 As used in this section, "time served while in custody of the authority" means the
14 period of time during which the person was physically confined in a state institution by
15 order of the Youth Authority or the Youthful Offender Parole Board.

16 **Comment.** Section 1737 is amended to delete language referring to the sole judge. Every
17 superior court has at least two judgeships as a result of trial court unification. See Gov't Code §
18 69580 *et seq.* (number of judges). Where a court has only one judge due to a vacancy or
19 otherwise, the reference to the "presiding judge" means the sole judge of the court. See Gov't
20 Code § 69508.5 (presiding judge).

21 **Welf. & Inst. Code § 5205 (amended). Petition**

22 SEC. ____ . Section 5205 of the Welfare and Institutions Code is amended to read:
23 5205. The petition shall be in substantially the following form:

24  **Note.** A portion of the statutory form has been omitted to conserve resources.

25 That the person is _____ years of age; that he the person is ____ (sex); and that
26 he the person is ____ (single, married, widowed, or divorced); and that ____
27 occupation is ____ .

28 That the facts upon which the allegations of the petition are based are as follows:
29 That he the person, at ____ in the county, on the ____ day of ____, 19 20 __,
30 _____

31 That petitioner's interest in the case is _____
32 That the person responsible for the care, support, and maintenance of the person, and
33 their relationship to the person are, so far as known to the petitioner, as follows:
34 (Give names, addresses, and relationship of persons named as respondents)
35 Wherefore, petitioner prays that evaluation be made to determine the condition of
36 _____, alleged, as a result of mental disorder, to be a danger to others, or to
37 himself,
38 or to be gravely disabled.

39 _____
40 Petitioner
41 Subscribed and sworn to before me this ____ day of _____ 19 20 __.
42 _____, County Clerk of the Court
43 By _____ Deputy

44 **Comment.** Section 5205 is amended to reflect elimination of the county clerk's role as ex
45 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
46 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk

1 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
2 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
3 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

4 **Welf. & Inst. Code § 6251 (amended). Petition**

5 SEC. ____ . Section 6251 of the Welfare and Institutions Code is amended to read:
6 6251. Wherever, on the basis of a petition, provision is made in this code for issuing
7 and delivering an order for examination and detention directing that a person be
8 apprehended and taken before a judge of a superior court for a hearing and examination
9 on an allegation of being a person subject to judicial commitment, the petition shall be in
10 substantially the following form:

11 **Note.** A portion of the statutory form has been omitted to conserve resources.

12 _____, residing at _____ (tel. _____), being duly sworn deposes and says:
13 That there is now in the county in the City or Town of _____ a
14 person named _____, who resides at _____, and who is believed to be a ____ . That the
15 person is ____ years of age; that ~~he~~ the person is ____ (sex) and that ~~he~~ the person is
16 ____ (single, married, widowed, or divorced); and that ____ occupation is ____ . That the
17 facts because of which petitioner believes that the person is a ____ are as follows: That ~~he~~
18 the person, at _____ in the county, on the ____ day of _____, 19 20 __,
19 _____ That petitioner's interest in and case is
20 _____

21 That petitioner believes that said person is ____ as defined in Section ____ . That the
22 persons responsible for the care, support, and maintenance of the _____, and their
23 relationship to the person are, so far as known to the petitioner, as follows: (Give names,
24 addresses, and relationship of persons named as respondents) Wherefore, petitioner prays
25 that examination be made to determine the state of the mental health of _____, alleged to
26 be _____, and that such measures be taken for the best interest and protection of said _____,
27 in respect to ~~his~~ the person's supervision, care and treatment, as may be necessary and
28 provided by law.

29 _____
30 Petitioner
31 Subscribed and sworn to before me this ____ day of _____, 19 20 __.
32 _____, County Clerk of the Court
33 By _____ Deputy

34 **Comment.** Section 6251 is amended to reflect elimination of the county clerk's role as ex
35 officio clerk of the superior court. See former Gov't Code § 26800 (county clerk acting as clerk
36 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
37 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
38 the county clerk is relieved of those powers, duties, and responsibilities. See Gov't Code §§
39 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

40 **Welf. & Inst. Code § 14172 (amended). Health care overpayment recovery**

41 SEC. ____ . Section 14172 of the Welfare and Institutions Code is amended to read:
42 14172. (a) Except as provided in subdivision (b), if any amount is due and payable and
43 unpaid as the result of an overpayment to a provider of health care services, durable
44 medical equipment, or incontinence supplies identified through an audit or examination
45 conducted by or on behalf of the director, and the findings of the audit or examination are
46 completed and no appeal is taken or the director has issued a final decision on the appeal

1 pursuant to Section 14171, and 90 days has elapsed from the completion of that audit or
2 examination or issuance of that final decision on appeal, the director may, not later than
3 three years after the payment became due and owing, file in the office of the County
4 Clerk of the Superior Court of Sacramento County, and with the ~~county~~ clerk of the
5 superior court of the county in which the provider has his its principal place of business, a
6 certificate containing the following:

7 (1) Interest, as prescribed by Section 14171.

8 (2) A statement that the director has complied with this article prior to the filing of the
9 certificate.

10 (3) A request that judgment be entered against the provider in the amount set forth in
11 the certificate.

12 The ~~county~~ clerk immediately upon the filing of the certificate shall enter a judgment
13 for the State of California against the provider in the amount set forth in the certificate.
14 The judgment may be filed by the ~~county~~ clerk in a looseleaf book entitled “Health Care
15 Overpayment Recovery Judgments.”

16 (b) If the provider seeks judicial review of the final decision of the director pursuant to
17 subdivision (k) of Section 14171 and notice of that action is properly served on the
18 director within 90 days of the issuance of the final decision of the director, the director
19 shall not file any certificate as provided in subdivision (a).

20 If the provider does not seek judicial review of the final decision of the director
21 pursuant to subdivision (k) of Section 14171 and does not properly serve notice within 90
22 days from the date of the final decision of the director, the director may file the certificate
23 provided in subdivision (a). If the provider seeks judicial review of the final decision of
24 the director more than 90 days from the date of the decision in accordance with
25 subdivision (k) of Section 14171, the director shall within 10 days after receiving notice
26 of that action release any lien imposed pursuant to this article and any judgment entered
27 is for all purposes null and void.

28 **Comment.** Section 14172 is amended to reflect elimination of the county clerk’s role as ex
29 officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk
30 of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk
31 as ex officio clerk of the court are delegated to the court administrative or executive officer, and
32 the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§
33 69840 (powers, duties, and responsibilities of clerk of court), 71620 (trial court personnel).

34 UNCODIFIED

35 **Uncodified (added). Saving clause — rights and benefits**

36 SEC. ____ . If a right, privilege, duty, authority, or status (including but not limited to a
37 qualification for office, salary range, or employment benefit) is based on a provision of
38 law repealed by this act, and if a statute, order, rule of court, memorandum of
39 understanding, or other legally effective instrument provides that the right, duty,
40 authority, or status continues for a period beyond the effective date of the repeal, that
41 provision of law continues in effect for that purpose, notwithstanding its repeal by this
42 act.

43 **Uncodified (added). Effect of act — court reporting services**

44 SEC. ____ . Nothing in this act is intended to change the extent to which official reporter
45 services or electronic reporting may be used in the courts.