

RESOLUTION 7-01-2002

DIGEST

Judges: Converting Subordinate Judicial Officer Positions into Judgeships

Adds section 69616 to the Government Code to authorize the conversion of some subordinate judicial officer positions into judgeships.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

Identical to Assembly Bill 1698, which as of June 2002 was pending in the Senate Judiciary Committee.

Reasons:

This resolution adds section 69616 to the Government Code to authorize the conversion of some subordinate judicial officer positions into judgeships. This resolution should be approved in principle because it increases the ratio of judges to subordinate judicial officers.

As caseloads have increased over the last few decades, the Legislature has tended to create more positions for subordinate judicial officers than for judges. As a result, an ever-increasing percentage of the total number of bench officers are commissioners and other subordinate judicial officers. As their numbers have grown, those commissioners increasingly have been assigned to preside, not merely over the calendars traditionally assigned to subordinate judicial officers, but over criminal and civil trials as well.

This resolution seeks to reverse that trend by authorizing the conversion of existing subordinate judicial officer positions into judgeships. Up to 10 conversions per year could occur as subordinate judicial officer positions become vacant. Additional conversions would occur if the Governor appointed a sitting subordinate judicial officer to the superior court bench.

Where possible, cases should be presided over and decided by judges, not by subordinate judicial officers. By allowing for limited conversions, this resolution moves us closer to that goal.

TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates recommends that legislation be sponsored to add section 69616 to the Government Code to read as follows:

- 1 § 69616
- 2 (a) At the beginning of each fiscal year, the Judicial Council shall provide to the Secretary of State and
- 3 the Governor a list containing the number of subordinate judicial officer positions in each county for which all
- 4 of the following factors are true:
- 5 (1) The Judicial Council has consulted with the court in which the subordinate judicial officer position
- 6 exists and certifies that the workload and judicial resources of the court are such that, to effectively and fairly
- 7 administer justice, the court assigns the subordinate judicial officer to act as a temporary superior court judge
- 8 more often than to perform other duties; and that an additional superior court judge position will enable the
- 9 court to assign a judge to perform judicial duties that were previously performed by the subordinate judicial
- 10 officer acting as a temporary judge.
- 11 (2) The subordinate judicial officer position is a full-time position or the equivalent of a full-time
- 12 position and existed on January 1, 2001.
- 13 (3) The subordinate judicial officer position is not a commissioner position established under Section
- 14 4251 of the Family Code.
- 15 (b) In a superior court with at least one subordinate judicial officer position on the list provided by the
- 16 Judicial Council under subdivision (a), the number of authorized superior court judges shall be increased by
- 17 one, and the number of authorized subordinate judicial officer positions shall be decreased by one, when either
- 18 of the following occurs:
- 19 (1) A vacancy occurs in any subordinate judicial officer position in the court and the Judicial Council
- 20 files notice of the vacancy with the Secretary of State. The Judicial Council may file with the Secretary of State
- 21 notice of no more than 10 such positions in any fiscal year, which shall be the positions in those counties
- 22 having vacancies that the Judicial Council has determined to have the greatest need for an increase in the
- 23 number of judges.

24 (2) The Governor appoints any full-time subordinate judicial officer for a superior court as a superior
25 court judge for that court and notifies the Secretary of State that the appointment is made pursuant to this
26 paragraph. The judge position established by this paragraph shall come into existence simultaneously with the
27 Governor's appointment.
28 (c) For purposes of paragraph (1) of subdivision (a), a subordinate judicial officer performing the
29 duties of a juvenile referee under Sections 247 to 254, inclusive, of the Welfare and Institutions Code shall be
30 considered to be performing the duties of a superior court judge.
31 (d) For purposes of this section, "subordinate judicial officer" means an officer appointed under the
32 authority of Section 22 of Article VI of the California Constitution.
33 (e) It is the intent of the Legislature that no subordinate judicial officer shall involuntarily lose his or
34 her position solely due to the operation of this section. Nothing in this section shall be construed to change the
35 employment relationship established by law between a subordinate judicial officer and the superior court.
36 (f) This section does not entitle a court to an increase in funding.
37 (g) The operation of this section shall neither increase nor decrease the total number of judicial and
38 subordinate judicial officer positions or court support positions for which a county is responsible by law.
39 (h) Nothing in this section limits the authority of the Governor to appoint a person pursuant to Section
40 16 of Article VI of the California Constitution. Nothing in this section creates a preference for a commissioner
41 over any other eligible person to be appointed a judge.
42 (i) The list filed by the Judicial Council pursuant to subdivision (a) expires when a new list is
43 provided by the council.
44 (j) No more than 250 superior court judge positions may be established by the operation of this
45 section.

(Proposed new language underlined; language to be deleted stricken.)

PROPOSERS: James Aguirre, Marc Sallus, Laura Goldin, Linda Mazur, Robin Levine, Patricia Teunisse, Stephen Ruben, Charles Kim, George Wailes, Randi Saul Olsen, Nedra Austin, and Vivian Kral.

STATEMENT OF REASONS

Existing Law: There is currently no provision of California law that permits subordinate judicial officers (“SJOs”) to be elevated to superior court judges.

This Resolution: Adds Government Code section 69616 to permit the Judicial Council to consult with trial courts in each county and recommend to the Secretary of State and the Governor a list of qualified SJOs who spend a majority of their time performing judicial functions. The Governor may then appoint eligible incumbent SJOs (or nominate new candidates if the eligible SJO position is vacant) as superior court judges.

The Problem: Historically, subordinate judicial officers (SJOs) have provided auxiliary support to alleviate the pressure and delays caused by expanding superior court dockets. Indeed, SJOs can and do perform many of the same functions as superior court judges, and particularly in larger counties, devote as much as 75 - 80 percent of their time to duties of superior court judges. In addition, from 1989 to 1999, the number of SJO’s has increased by 60 percent, while the number of judges has increased by only 1 percent. Today, some 22 percent of all judicial officers statewide are SJO’s. As a result of the shortage of judges, residents of different counties may not have the benefit of a full-time judge to hear their cases—no matter how serious or complex the claims and issues presented.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

AUTHOR AND/OR PERMANENT CONTACT: James Aguirre, 2601 S. Figueroa St., 2nd floor, Los Angeles, Ca. 90007, (213)741-4598, aguirre.james@aaa-calif.com

RESPONSIBLE FLOOR DELEGATE: James Aguirre