

## Senate Bill No. 56

### CHAPTER 390

An act to add Section 6009.5 to the Business and Professions Code, and to amend Section 12011.5 of, and to add Sections 69614 and 77001.5 to, the Government Code, relating to trial court judges and officers.

[Approved by Governor September 22, 2006. Filed with  
Secretary of State September 22, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 56, Dunn. Trial court judges and officers.

(1) Existing law requires a member of the State Bar to maintain specified information on the official membership records of the State Bar.

This bill would require the State Bar to adopt procedures to facilitate reporting of mandatory and voluntary information by providing members with a centralized mechanism for reporting information online at the State Bar Internet Web site.

(2) Existing law requires the Governor to submit to a designated agency of the State Bar of California the names of all potential appointees or nominees for a vacant judicial office for evaluation of their judicial qualifications. Existing law requires the State Bar to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the judicial duties of the office and to report its recommendation in confidence to the Governor within 90 days.

This bill would require, on or before March 1, 2007, and annually on or before each March 1 thereafter, all of the following: (a) the Governor to disclose aggregate statewide demographic data provided by all judicial applicants relative to ethnicity and gender, (b) the designated agency of the State Bar responsible for evaluation of judicial candidates to collect and release statewide demographic data provided by judicial applicants reviewed and the statewide summary of the recommendations of the designated agency by ethnicity and gender, and (c) the Administrative Office of the Courts to collect and release the demographic data provided by justices and judges relative to ethnicity and gender by specific jurisdiction. The bill would make other technical, nonsubstantive changes to these provisions.

(3) Existing law specifies the number of judges of the superior court for each county.

This bill would authorize 50 additional judges to be allocated, upon appropriation by the Legislature in the 2006–07 fiscal year, to the various county superior courts, pursuant to uniform criteria approved by the Judicial Council. The bill would require the Judicial Council to report

biennially to the Legislature and the Governor on the factually determined need for new judgeships in each superior court, as specified.

The bill would require the Judicial Council, on or before November 1, 2007, to adopt, and report to the Legislature annually thereafter upon, judicial administration standards and measures that promote the fair and efficient administration of justice.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6009.5 is added to the Business and Professions Code, to read:

6009.5. The State Bar shall adopt procedures to facilitate reporting of mandatory and voluntary information by providing members with a centralized mechanism for reporting information online at the State Bar Internet Web site, including, but not limited to, data required to be provided pursuant to the State Bar Act, or by other statutes, rules, and case law, and demographic information. Any demographic data collected shall be used only for general purposes and shall not be identified to any individual member or his or her State Bar record.

SEC. 2. Section 12011.5 of the Government Code is amended to read:

12011.5. (a) In the event of a vacancy in a judicial office to be filled by appointment of the Governor, or in the event that a declaration of candidacy is not filed by a judge and the Governor is required under subdivision (d) of Section 16 of Article VI of the Constitution to nominate a candidate, the Governor shall first submit to a designated agency of the State Bar of California the names of all potential appointees or nominees for the judicial office for evaluation of their judicial qualifications.

(b) The membership of the designated agency of the State Bar responsible for evaluation of judicial candidates shall consist of attorney members and public members with the ratio of public members to attorney members determined, to the extent practical, by the ratio established in Sections 6013.4 and 6013.5 of the Business and Professions Code. It is the intent of this subdivision that the designated agency of the State Bar responsible for evaluation of judicial candidates shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. The further intent of this subdivision is to establish a selection process for membership on the designated agency of the State Bar responsible for evaluation of judicial candidates under which no member of that agency shall provide inappropriate, multiple representation for purposes of this subdivision.

(c) Upon receipt from the Governor of the names of candidates for judicial office and their completed personal data questionnaires, the State Bar shall employ appropriate confidential procedures to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the judicial duties of the office to which the

appointment or nomination shall be made. Within 90 days of submission by the Governor of the name of a potential appointee for judicial office, the State Bar shall report in confidence to the Governor its recommendation whether the candidate is exceptionally well qualified, well qualified, qualified, or not qualified and the reasons therefor, and may report, in confidence, other information as the State Bar deems pertinent to the qualifications of the candidate.

(d) In determining the qualifications of a candidate for judicial office, the State Bar shall consider, among other appropriate factors, his or her industry, judicial temperament, honesty, objectivity, community respect, integrity, health, ability, and legal experience.

(e) The State Bar shall establish and promulgate rules and procedures regarding the investigation of the qualifications of candidates for judicial office by the designated agency. These rules and procedures shall establish appropriate, confidential methods for disclosing to the candidate the subject matter of substantial and credible adverse allegations received regarding the candidate's health, physical or mental condition, or moral turpitude which, unless rebutted, would be determinative of the candidate's unsuitability for judicial office. No provision of this section shall be construed as requiring that any rule or procedure be adopted that permits the disclosure to the candidate of information from which the candidate may infer the source, and no information shall either be disclosed to the candidate nor be obtainable by any process that would jeopardize the confidentiality of communications from persons whose opinion has been sought on the candidate's qualifications.

(f) All communications, written, verbal, or otherwise, of and to the Governor, the Governor's authorized agents or employees, including, but not limited to, the Governor's Legal Affairs Secretary and Appointments Secretary, or of and to the State Bar in furtherance of the purposes of this section are absolutely privileged from disclosure and confidential, and any communication made in the discretion of the Governor or the State Bar with a candidate or person providing information in furtherance of the purposes of this section shall not constitute a waiver of the privilege or a breach of confidentiality.

(g) If the Governor has appointed a person to a trial court who has been found not qualified by the designated agency, the State Bar may make public this fact after due notice to the appointee of its intention to do so, but that notice or disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the State Bar concerning the qualifications of the appointee.

(h) If the Governor has nominated or appointed a person to the Supreme Court or court of appeal in accordance with subdivision (d) of Section 16 of Article VI of the California Constitution, the Commission on Judicial Appointments may invite, or the State Bar's governing board or its designated agency may submit to the commission its recommendation, and the reasons therefor, but that disclosure shall not constitute a waiver of

privilege or breach of confidentiality with respect to communications of or to the State Bar concerning the qualifications of the nominee or appointee.

(i) No person or entity shall be liable for any injury caused by any act or failure to act, be it negligent, intentional, discretionary, or otherwise, in the furtherance of the purposes of this section, including, but not limited to, providing or receiving any information, making any recommendations, and giving any reasons therefor. As used in this section, the term “State Bar” means its governing board and members thereof, the designated agency of the State Bar and members thereof, and employees and agents of the State Bar.

(j) At any time prior to the receipt of the report from the State Bar specified in subdivision (c) the Governor may withdraw the name of any person submitted to the State Bar for evaluation pursuant to this section.

(k) No candidate for judicial office may be appointed until the State Bar has reported to the Governor pursuant to this section, or until 90 days have elapsed after submission of the candidate’s name to the State Bar, whichever occurs earlier. The requirement of this subdivision shall not apply to any vacancy in judicial office occurring within the 90 days preceding the expiration of the Governor’s term of office, provided, however, that with respect to those vacancies and with respect to nominations pursuant to subdivision (d) of Section 16 of Article VI of the California Constitution, the Governor shall be required to submit any candidate’s name to the State Bar in order to provide it an opportunity, if time permits, to make an evaluation.

(l) Nothing in this section shall be construed as imposing an additional requirement for an appointment or nomination to judicial office, nor shall anything in this section be construed as adding any additional qualifications for the office of a judge.

(m) The Board of Governors of the State Bar shall not conduct or participate in, or authorize any committee, agency, employee, or commission of the State Bar to conduct or participate in, any evaluation, review, or report on the qualifications, integrity, diligence, or judicial ability of any specific justice of a court provided for in Section 2 or 3 of Article VI of the California Constitution without prior review and statutory authorization by the Legislature, except an evaluation, review, or report on potential judicial appointees or nominees as authorized by this section.

The provisions of this subdivision shall not be construed to prohibit a member of the State Bar from conducting or participating in an evaluation, review, or report in his or her individual capacity.

(n) (1) Notwithstanding any other provision of this section, on or before March 1, 2007, and on or before March 1 of each year thereafter, all of the following shall occur:

(A) The Governor shall disclose aggregate statewide demographic data provided by all judicial applicants relative to ethnicity and gender.

(B) The designated agency of the State Bar responsible for evaluation of judicial candidates shall collect and release both of the following on an aggregate statewide basis:

(i) Statewide demographic data provided by judicial applicants reviewed relative to ethnicity and gender.

(ii) The statewide summary of the recommendations of the designated agency of the State Bar by ethnicity and gender.

(C) The Administrative Office of the Courts shall collect and release the demographic data provided by justices and judges described in Article VI of the California Constitution relative to ethnicity and gender, by specific jurisdiction.

(2) Any demographic data disclosed or released pursuant to this subdivision shall disclose only aggregated statistical data and shall not identify any individual applicant, justice, or judge.

(o) If any provision of this section other than a provision relating to or providing for confidentiality or privilege from disclosure of any communication or matter, or the application of the provision to any person or circumstances, is held invalid, the remainder of this section to the extent it can be given effect, or the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this section are severable. If any other act of the Legislature conflicts with the provisions of this section, this section shall prevail.

SEC. 3. Section 69614 is added to the Government Code, to read:

69614. (a) Upon appropriation by the Legislature in the 2006–07 fiscal year, there shall be 50 additional judges allocated to the various county superior courts pursuant to the uniform criteria described in subdivision (b) for determining the need for additional superior court judges.

(b) The judges shall be allocated, in accordance with the uniform standards for factually determining additional judicial need in each county, as approved by the Judicial Council in August, 2001, and as modified and approved by the Judicial Council in August, 2004, pursuant to the Update of Judicial Needs Study, based on the following criteria:

(1) Court filings data averaged over a period of three years.

(2) Workload standards that represent the average amount of time of bench and nonbench work required to resolve each case type.

(3) A ranking methodology that provides consideration for courts that have the greatest need relative to their current complement of judicial officers.

(c) The Judicial Council shall report to the Legislature and the Governor on or before November 1 of every even-numbered year on the factually determined need for new judgeships in each superior court using the uniform criteria for allocation of judgeships described in subdivision (b), as updated and applied to the average of the prior three calendar years' filings.

SEC. 4. Section 77001.5 is added to the Government Code, to read:

77001.5. On or before November 1, 2007, the Judicial Council shall adopt, and shall report to the Legislature annually thereafter upon, judicial administration standards and measures that promote the fair and efficient

administration of justice, including, but not limited to, the following subjects:

- (1) Providing equal access to courts and respectful treatment for all court participants.
- (2) Case processing, including the efficient use of judicial resources.
- (3) General court administration.