

Assembly Bill No. 2763

Passed the Assembly August 23, 2010

Chief Clerk of the Assembly

Passed the Senate August 20, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 69614 and 69615 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL’S DIGEST

AB 2763, Committee on Judiciary. Judgeships.

(1) Existing law requires the Judicial Council to 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 specified uniform criteria for the allocation of judgeships.

This bill would require the Judicial Council, on or before November 30, 2011, to provide to the Legislature a special assessment of the need for new judgeships in the family law and juvenile law assignments for each superior court.

(2) Existing law provides that 16 subordinate judicial officer positions in eligible superior courts, as determined by the Judicial Council, shall be converted to judgeships. Beginning in the 2008–09 fiscal year, existing law provides that, upon subsequent authorization by the Legislature, 146 subordinate judicial officer positions in eligible superior courts, as determined by the Judicial Council, shall be converted to judgeships, upon the occurrence of specified conditions, including that the proposed action is ratified by the Legislature, either in the annual Budget Act or another legislative measure, except that no more than 16 positions may be converted to judgeships in any fiscal year.

This bill would provide, notwithstanding the above provisions, that up to 10 additional subordinate judicial officer positions in eligible superior courts may be converted to judgeships in any fiscal year, commencing with the 2010–11 fiscal year. Each additional position would be converted to a judgeship only if the conversions will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer. Legislative ratification would be required, either in the annual Budget Act or by statutory enactment, for the conversion of any of the 146 subordinate judicial officer positions, and by statutory enactment other than the annual Budget

Act for the conversion of the 10 additional subordinate judicial officer positions. The bill would require the Judicial Council to report, beginning with the above-described report due to the Legislature on November 1, 2012, on the implementation and effect of this provision.

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

SECTION 1. Section 69614 of the Government Code is amended 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 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) (1) 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 years' filings.

(2) On or before November 30, 2011, the Judicial Council shall provide to the Legislature a special assessment of the need for new judgeships in the family law and juvenile law assignments for each superior court.

(3) The Judicial Council shall report, beginning with the report due to the Legislature on November 1, 2012, on the implementation

and effect of subparagraph (C) of paragraph (1) of subdivision (c) of Section 69615.

SEC. 2. Section 69615 of the Government Code is amended to read:

69615. (a) It is the intent of the Legislature in enacting this section to restore an appropriate balance between subordinate judicial officers and judges in the trial courts by providing for the conversion, as needed, of subordinate judicial officer positions to judgeships in courts that assign subordinate judicial officers to act as temporary judges. The Legislature finds that these positions must be converted to judgeships in order to ensure that critical case types, including family, probate, and juvenile law matters, can be heard by judges.

(b) (1) The Legislature finds that because of the unique nature of family and juvenile law matters, including the long-lasting impact of decisions in these cases, particularly on vulnerable children, whenever possible, these cases should be presided over by judges, who are accountable to the public.

(2) The Legislature also finds that a Judicial Council study concluded that public trust and confidence in the courts are strongest when the public believes that the decisionmaking processes used by the court are fair and allow each litigant a reasonable opportunity to be heard by the court. In order to improve the public perception of procedural fairness in family law and juvenile law matters, it is necessary that cases be heard by judges whenever possible.

(3) It is therefore the intent of the Legislature, in allowing the conversion of up to 10 additional subordinate judicial officer positions, as provided in subparagraph (C) of paragraph (1) of subdivision (c), to expedite the timeline for ensuring that family and juvenile law matters are presided over by judges.

(c) (1) (A) Sixteen subordinate judicial officer positions in eligible superior courts, as determined and approved by the Judicial Council on February 23, 2007, pursuant to uniform criteria for determining the need for converting existing subordinate judicial officer positions to superior court judgeships, shall be converted to judgeships as set forth in paragraph (2).

(B) Upon subsequent authorization by the Legislature, 146 subordinate judicial officer positions in eligible superior courts, as determined by the Judicial Council pursuant to uniform criteria

for determining the need for converting existing subordinate judicial officer positions to superior court judgeships, shall be converted to judgeships as set forth in paragraphs (2) and (3), except that no more than 16 subordinate judicial officer positions may be converted in any fiscal year.

(C) Notwithstanding subparagraph (B), up to 10 additional subordinate judicial officer positions in eligible superior courts may be converted to superior court judgeships in any fiscal year. Each additional position may be converted to a judgeship only if the conversion will result in a judge being assigned to a family law or juvenile law assignment previously presided over by a subordinate judicial officer. The additional conversions authorized by this subparagraph are subject to the requirements of paragraph (3).

(2) The positions for conversion shall be allocated each fiscal year pursuant to uniform allocation standards to be developed by the Judicial Council for factually determining the relative judicial need for conversion of a subordinate judicial officer position that becomes vacant to a superior court judgeship position.

(3) Beginning in the 2010–11 fiscal year, a subordinate judicial officer position shall be converted to a judgeship when all of the following conditions are met:

(A) A vacancy occurs in a subordinate judicial officer position in an eligible superior court as determined by the uniform allocation standards described in paragraph (2).

(B) The Judicial Council files notice of the vacancies and allocations with the Chairperson of the Senate Committee on Rules, the Speaker of the Assembly, and the Chairpersons of the Senate and Assembly Committees on Judiciary.

(C) Except for proposed actions authorized pursuant to subparagraph (C) of paragraph (1), the proposed action is ratified by the Legislature, either in the annual Budget Act or by statutory enactment. Because of the unique nature of the need for judges as expressed in subdivision (b), a proposed action under subparagraph (C) of paragraph (1) shall be ratified by the Legislature by statutory enactment other than the annual Budget Act.

(4) Section 12011.5 shall apply to an appointment to a superior court judgeship converted from a subordinate judicial officer position.

(d) For purposes of this section, “subordinate judicial officer” means an officer appointed under the authority of Section 22 of Article VI of the California Constitution. This section shall not apply to a subordinate judicial officer position established by Section 4251 of the Family Code.

(e) It is the intent of the Legislature that no subordinate judicial officer shall involuntarily lose his or her position solely due to operation of this section. This section does not change the employment relationship between subordinate judicial officers and the trial courts established by law.

(f) This section does not limit the authority of the Governor to appoint a person to fill a vacancy pursuant to subdivision (c) of Section 16 of Article VI of the California Constitution.

(g) This section does not entitle a court to an increase in funding.

(h) The operation of this section shall neither increase nor decrease the number of judicial and subordinate judicial officer positions and court support positions for which a county is responsible by law.

Approved _____, 2010

Governor