

**ASSEMBLY BILL**

**No. 1208**

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**Introduced by Assembly Member Charles Calderon**

February 18, 2011

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An act to add Section 77001.1 to the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1208, as introduced, Charles Calderon. Trial courts: administration.

The California Constitution provides that the judicial power of this state is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record. The Constitution provides for a superior court of one or more judges in each county. The Constitution establishes the Judicial Council, and requires the council, to improve the administration of justice, to survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and the Legislature, adopt rules for court administration, practice, and procedure, and perform other functions prescribed by statute. The Constitution requires judges to report to the council as the Chief Justice directs concerning the condition of judicial business in their courts, and to cooperate with the council and hold court as assigned.

This bill would enact the Trial Court Rights Act of 2011. The bill would provide that each trial court of this state is an independent constitutional and statutory court, with the independent right and duty to manage its administrative and financial affairs in accordance with its own policies, as provided by its trial court management, if the court is in reasonable compliance with accounting, audit, and budgetary

standards established by law. The bill would provide that each trial court shall be independently empowered with enumerated powers.

The bill would provide that, except as otherwise provided by law, all funds allocated for trial court operations, once appropriated, shall be fully allocated among the trial courts, and that no deductions shall take place without the consent of the affected courts. The bill would authorize each trial court to move funds, once budgeted and allocated, between functions or line items or programs as directed by that court’s trial court management. The bill would require the trial court management’s written consent to impose, implement, or share any case or accounting information system, or to contribute any portion of the trial court’s budget to a statewide information system, or to undertake the construction of a court facility in that county. The bill would require the Judicial Council to consider, and revise or adopt, rules and policies consistent with these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Trial Court Rights Act of 2011.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) While the Legislature has previously affirmed, recognized,
- 5 and established that the funding of trial court operations is a
- 6 function of the state for greater efficiency and accountability in
- 7 the allocation of state resources for the local trial courts, the
- 8 Legislature has also previously affirmed the need for strong and
- 9 independent local county court management.
- 10 (b) The common law structure of our judiciary is constitutionally
- 11 and statutorily implemented in California through the county trial
- 12 court system, as courts of general jurisdiction.
- 13 (1) The California Constitution states: “In each county there is
- 14 a superior court of one or more judges” (Section 4 of Article VI
- 15 of the California Constitution; see Section 914.1 of the Penal Code
- 16 (referring to “the superior court of the county”); *Dineen v. City*
- 17 *and County of San Francisco* (1940) 38 Cal.App.2d 486, 490
- 18 (“While the superior court is, in one sense, a state court, it is also
- 19 a county court.”).

1 (2) The correct view, therefore, is that the California  
2 Constitution mandates that there are 58 superior courts in  
3 California, one in each of the 58 counties.

4 (3) Each judge of every superior court conducts a “session” as  
5 a “court of record,” and the judgments, orders, and proceedings  
6 of each judge are as effective as if conducted by all of the judges  
7 of the court (see Section 69741.5 of the Government Code).

8 (c) The importance of having decentralized management of the  
9 trial courts was recognized by the Legislature in adopting the  
10 Lockyer-Isenberg Trial Court Funding Act of 1997 (Chapter 850  
11 of the Statutes of 1997). The Legislature stated in subdivision (I)  
12 of Section 3 of that act that the Judicial Council shall adopt a Trial  
13 Courts Bill of Financial Management Rights, to be approved no  
14 later than January 1, 1998, and provided the standards to be  
15 followed by the Judicial Council in Section 77001 of the  
16 Government Code.

17 (d) In fact, the Judicial Council never adopted the Trial Courts  
18 Bill of Financial Management Rights.

19 (e) Accordingly, the Legislature hereby enacts a Trial Court  
20 Bill of Rights to ensure the management principles recognized by  
21 the Legislature in adopting the Lockyer-Isenberg Trial Court  
22 Funding Act of 1997.

23 SEC. 3. Section 77001.1 is added to the Government Code, to  
24 read:

25 77001.1. Each trial court of this state is recognized as an  
26 independent constitutional and statutory court according to, and  
27 subject to, the following provisions:

28 (a) Each trial court shall be considered, and is hereby established  
29 and denominated, an independent county trial court within the  
30 historic geographic boundaries of the counties of this state, in  
31 accordance with the traditional rules of jurisdiction and venue.  
32 The Judicial Council does not govern the trial courts. The Judicial  
33 Council’s authority and functions are expressly provided for, and  
34 limited by, the California Constitution and statute.

35 (b) Each judge of each trial court is an independent constitutional  
36 officer of the state, empowered to conduct the sessions of the trial  
37 court assigned to that judge with independent authority, subject to  
38 state and federal law.

39 (c) Each trial court shall have the independent right and duty to  
40 manage its administrative and financial affairs in accordance with

1 its own policies, as provided by its trial court management, if the  
2 court is in reasonable compliance with the accounting, audit, and  
3 budgetary standards established by law.

4 (d) Each trial court of this state shall be independently  
5 empowered with all of the following powers, including, but not  
6 limited to:

7 (1) To elect and maintain its own presiding judge, and assistant  
8 presiding judge, according to the majority vote of the active judges  
9 of that trial court, in accordance with its own policies established  
10 by majority vote of its active judges from time to time.

11 (2) To hire, maintain, compensate, and supervise its own  
12 executive officer, subordinate officers, court administrators, clerks  
13 of the court, jury commissioner, chief probation officer, and  
14 employees, and to employ, compensate, negotiate with, and  
15 supervise those employees in its own discretion, in accordance  
16 with law, and to maintain its own personnel plans and policies  
17 consistent with law.

18 (3) To enter into its own contracts and agreements to provide  
19 for the security of its court sessions, including negotiating and  
20 maintaining contracts with local law enforcement agencies.

21 (4) To retain and employ its own administrative legal counsel  
22 to assist with the administration of court affairs, and to represent  
23 the court with respect to its rights, duties, and obligations.

24 (5) To assign its judges to any session and to any facility within  
25 its geographic boundaries within the sole discretion of its presiding  
26 judge and in accordance with policies as may be established by its  
27 trial court management.

28 (6) Except as otherwise required by law, to maintain the  
29 schedule of its own sessions at times and places as deemed prudent  
30 by its presiding judge and trial court management, and to open or  
31 close the court facilities within its geographic boundaries as  
32 deemed prudent by its presiding judge and trial court management.

33 (e) Except as necessary to otherwise carry out the constitutional  
34 or other established statutory authority of the Judicial Council, a  
35 trial court shall not be required to coordinate or combine its  
36 operations with any other trial court, except as the trial court  
37 management of that trial court consents, including the assignment  
38 of its judges to any other court.

39 (f) Except as otherwise provided by law, all funds allocated for  
40 trial court operations, once appropriated, shall be fully allocated

1 among the trial courts, and no deductions shall take place without  
2 the consent of the affected courts. Funds, once allocated to a trial  
3 court, shall be the funds of that court, subject to reserve by that  
4 court, and shall not be reallocated without the consent of that  
5 court's trial court management.

6 (g) Each trial court may move funds, once budgeted and  
7 allocated, between functions or line items or programs as directed  
8 by that court's trial court management. Notwithstanding Section  
9 68085, an allocation of funds from the Trial Court Trust Fund shall  
10 not be made without the consent of the trial court management of  
11 the affected court or courts.

12 (h) A trial court shall not be required to impose, implement, or  
13 share any case or accounting information system, or to contribute  
14 any portion of its budget to a statewide case or accounting  
15 information system, except with the written consent of its trial  
16 court management. Each trial court shall have full operational  
17 control of its financial information, case files, and all file and  
18 calendar information, electronic or otherwise. The Judicial Council  
19 shall ensure that any data management controls, such as software  
20 compilation codes, are provided to each trial court for that purpose.

21 (i) The design or construction of a court facility shall not be  
22 undertaken in a county without the prior and final written consent  
23 and approval of that court's trial court management. The location  
24 of a court facility construction project shall be approved by that  
25 court's trial court management. A pending construction project  
26 that is not yet under construction at the time this section is enacted  
27 shall be submitted for approval of the trial court management of  
28 the affected court as soon as possible. All court facilities within  
29 each county shall prominently display the name of the county in  
30 substantially the following manner: "Superior Court of the State  
31 of California in and for the County of [name of county]." A court  
32 facility shall not be named except by, or with the written consent  
33 of, that court's trial court management.

34 (j) No rule or policy established or adopted by the Judicial  
35 Council shall conflict with this section. The Judicial Council shall  
36 consider, and revise or adopt, rules and policies consistent with  
37 this section. In the event of a conflict between any rule or policy  
38 of the Judicial Council and this section, this section shall prevail.

- 1 (k) For purposes of this section, “trial court management” means
- 2 the presiding judge and any executive committee of the judges of
- 3 the trial court.

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