

**Introduced by Senator Roth**December 5, 2016

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An act to add Section 69614.5 to the Government Code, relating to judgeships.

## LEGISLATIVE COUNSEL'S DIGEST

SB 39, as introduced, Roth. Suspension and allocation of judgeships.

Existing law specifies the number of judges for the superior court of each county. Existing law allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on specified criteria, including, among others, workload standards that represent the average amount of time of bench and nonbench work required to resolve each case type.

This bill would require the suspension of 4 vacant judgeships, as defined, in superior courts with more authorized judgeships than their assessed judicial need. The bill would require the allocation of 4 judgeships to superior courts with fewer authorized judgeships than their assessed judicial need and would require the judgeships to be funded using existing appropriations for the compensation of superior court judges. The bill would require the suspension to be in accordance with a methodology approved by the Judicial Council, as specified, and would require the determination of a superior court's assessed judicial need to be in accordance with the above uniform standards and be based on the criteria described above. The bill would require the Judicial Council, if a vacant judgeship is eligible for suspension, to promptly notify the applicable courts, the Legislature, and the Governor that the judgeship will be suspended, subject to approval by the Governor.

This bill would also make a statement of legislative intent regarding the authority of the Legislature, the Governor, and the Chief Justice of California.

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. It is the intent of the Legislature that this act shall  
2 not be construed to limit any of the following:

3 (a) The authority of the Legislature to create and fund new  
4 judgeships pursuant to Section 4 of Article VI of the California  
5 Constitution.

6 (b) The authority of the Governor to appoint a person to fill a  
7 vacancy pursuant to subdivision (c) of Section 16 of Article VI of  
8 the California Constitution.

9 (c) The authority of the Chief Justice of California to assign  
10 judges pursuant to subdivision (e) of Section 6 of Article VI of the  
11 California Constitution.

12 SEC. 2. Section 69614.5 is added to the Government Code, to  
13 read:

14 69614.5. (a) To provide for a more equitable distribution of  
15 judgeships, and pursuant to the requirements described in  
16 subdivision (d), both of the following actions shall occur:

17 (1) Four vacant judgeships shall be suspended in superior courts  
18 with more authorized judgeships than their assessed judicial need  
19 pursuant to subdivision (c).

20 (2) Four judgeships shall be allocated to superior courts with  
21 fewer authorized judgeships than their assessed judicial need  
22 pursuant to subdivision (c). The four judgeships shall be funded  
23 using existing appropriations for the compensation of superior  
24 court judges.

25 (b) The suspension of vacant judgeships pursuant to subdivision  
26 (a) shall be in accordance with a methodology approved by the  
27 Judicial Council after solicitation of public comments.

28 (c) The determination of a superior court's assessed judicial  
29 need shall be in accordance with the uniform standards for factually  
30 determining additional judicial need in each county, as updated  
31 and approved by the Judicial Council, pursuant to the Update of

1 Judicial Needs Study, based on the criteria set forth in subdivision  
2 (b) of Section 69614.

3 (d) If a judgeship in a superior court becomes vacant, the Judicial  
4 Council shall determine whether the judgeship is eligible for  
5 suspension under the methodology, standards, and criteria  
6 described in subdivisions (b) and (c). If the judgeship is eligible  
7 for suspension, the Judicial Council shall promptly notify the  
8 applicable courts, the Legislature, and the Governor that the vacant  
9 judgeship shall be suspended, subject to approval by the Governor  
10 in compliance with subdivision (c) of Section 16 of Article VI of  
11 the California Constitution.

12 (e) (1) For purposes of this section only, a judgeship shall  
13 become “vacant” when an incumbent judge relinquishes the office  
14 through resignation, retirement, death, removal, or confirmation  
15 to an appellate court judgeship during either of the following:

16 (A) At any time before the deadline to file a declaration of  
17 intention to become a candidate for a judicial office pursuant to  
18 Section 8023 of the Elections Code.

19 (B) After the deadline to file a declaration of intention to become  
20 a candidate for a judicial office pursuant to Section 8023 of the  
21 Elections Code if no candidate submits qualifying nomination  
22 papers by the deadline pursuant to Section 8020 of the Elections  
23 Code.

24 (2) For purposes of this section, a judgeship shall not become  
25 “vacant” when an incumbent judge relinquishes the office as a  
26 result of being defeated in an election for that office.

27 (f) For purposes of this section only, the “suspension” of a  
28 vacant judgeship means that the vacant judgeship may not be filled  
29 by appointment or election, notwithstanding any other law, unless  
30 an appropriation by the Legislature is made for the judgeship.

31 (g) A court in which a vacant judgeship is suspended shall not  
32 have the court’s funding allocation reduced or any of its funding  
33 shifted or transferred as a result of, or in connection with, the  
34 suspension of a vacant judgeship pursuant to this section.