

AMENDED IN ASSEMBLY MARCH 16, 2017

AMENDED IN ASSEMBLY MARCH 6, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 414**

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**Introduced by Assembly Member Medina**

February 9, 2017

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An act to add Section 69614.6 to the Government Code, relating to judgeships.

LEGISLATIVE COUNSEL'S DIGEST

AB 414, as amended, Medina. Suspension and allocation of vacant 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 ~~5~~ 4 vacant judgeships, as defined, from superior courts with more authorized judgeships than their assessed judicial need and would require the allocation of ~~5~~ 4 judgeships to superior courts with fewer authorized judgeships than their assessed judicial need. 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. and allocation of judgeships to be based on a superior court's assessed judicial need in accordance with the uniform standards described above. The bill would require the Judicial Council, if a vacant judgeship is eligible for suspension, to promptly notify the applicable courts, court with the vacant judgeship, the Legislature, and the Governor that the judgeship will be suspended. is subject to suspension, provide an adequate opportunity for public comment, and, after consideration of any comments received, determine if the vacant judgeship should be suspended. The bill would require the Judicial Council to promptly notify the court with the vacant judgeship, the Legislature, and the Governor of its decision regarding suspension of the judgeship.~~ The bill would provide that a court in which a vacant judgeship is suspended will not have its funding allocation reduced or any of its funding shifted or transferred as a result of, or in connection with, the suspension of a vacant judgeship.

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 69614.6 is added to the Government Code, to  
13 read:  
14 69614.6. (a) To provide for a more equitable distribution of  
15 judgeships and ~~upon notice to the applicable courts, five pursuant~~  
16 ~~to the process set forth in subdivision (b), four vacant judgeships~~

1 shall be suspended in superior courts with more authorized  
2 judgeships than their assessed judicial need and ~~five~~ *four*  
3 judgeships shall be allocated to superior courts with fewer  
4 authorized judgeships than their assessed judicial need.

5 (b) (1) The suspension of vacant judgeships *and the allocation*  
6 *of judgeships* pursuant to subdivision (a) shall be ~~in accordance~~  
7 ~~with a methodology approved by the Judicial Council after~~  
8 ~~solicitation of public comments. The determination of~~ *based on a*  
9 superior court's assessed judicial need ~~shall be~~ in accordance with  
10 the uniform standards for factually determining additional judicial  
11 need in each county, as updated and approved by the Judicial  
12 Council, pursuant to the Update of Judicial Needs Study, based  
13 on the criteria set forth in subdivision (b) of Section 69614.

14 (e)  
15 (2) If a judgeship in a superior court becomes vacant, the Judicial  
16 Council shall determine whether the judgeship is eligible for  
17 suspension under the ~~methodology, standards, and criteria~~  
18 *standards and criteria* described in ~~subdivision (b), paragraph~~  
19 *(1)*. If the judgeship is eligible for suspension, the Judicial Council  
20 shall promptly notify the ~~applicable courts, court with the vacant~~  
21 *judgeship*, the Legislature, and the Governor that the vacant  
22 judgeship ~~shall be suspended. is subject to suspension, provide an~~  
23 *adequate opportunity for public comment, and, after consideration*  
24 *of any comments received, determine if the vacant judgeship should*  
25 *be suspended. The Judicial Council shall promptly notify the court*  
26 *with the vacant judgeship, the Legislature, and the Governor of*  
27 *its decision regarding suspension of the judgeship.*

28 (d)  
29 (c) (1) For purposes of this section only, a judgeship shall  
30 become "vacant" when an incumbent judge relinquishes the office  
31 through resignation, retirement, death, removal, or confirmation  
32 to an appellate court judgeship during either of the following:

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

36 (B) After the deadline to file a declaration of intention to become  
37 a candidate for a judicial office pursuant to Section 8023 of the  
38 Elections Code if no candidate submits qualifying nomination  
39 papers by the deadline pursuant to Section 8020 of the Elections  
40 Code.

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

4 (e)

5 (d) For purposes of this section only, the “suspension” of a  
6 vacant judgeship means that the vacant judgeship may not be filled  
7 by appointment or election, notwithstanding any other law, unless  
8 an appropriation by the Legislature is made for the judgeship.

9 (f)

10 (e) A court in which a vacant judgeship is suspended shall not  
11 have its funding allocation reduced or any funding shifted or  
12 transferred as a result of, or in connection with, the suspension of  
13 a vacant judgeship pursuant to this section.