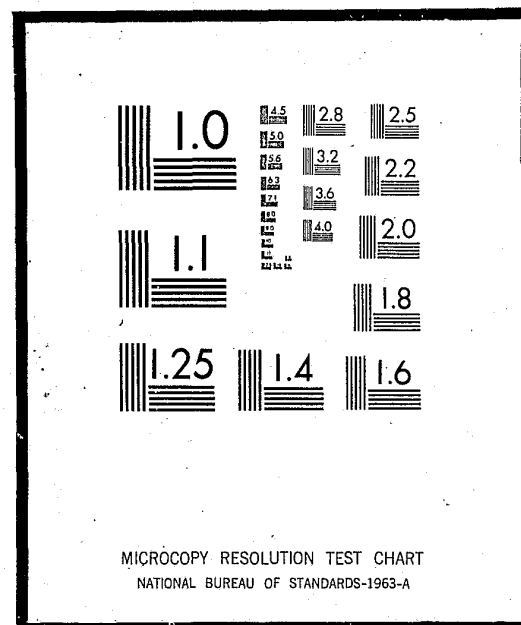


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Los Angeles County Municipal Courts Planning & Research

ANALYSIS:

CALIFORNIA COURT REORGANIZATION LEGISLATION

THROUGH 1973

014194

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I N T R O D U C T I O N

This material consists of excerpts from a major volume entitled Resource Materials On Court Reorganization, compiled by the Los Angeles County Municipal Courts Planning and Research Unit.

Court reorganization is of great interest to judges county-wide and hearings in the Judiciary Committee are upcoming in November, 1973. The Planning and Research Unit was asked to assemble materials to give the reader a review and in-depth analysis of the pending legislation.

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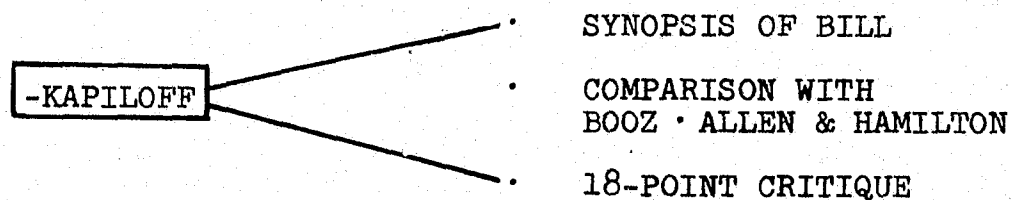
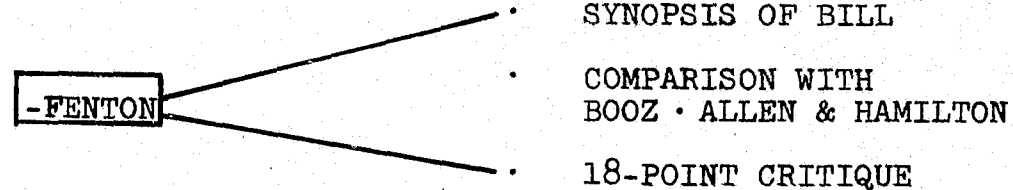
SECTION I. CHART - FORM COMPARISON:

- a comparison, by diagram, of 18 crucial points of 1972 and 1973 legislative proposals.

SECTION II. LEGISLATION: 18 POINT COMPARISON

- each Bill is analyzed according to the exact position taken on each of its 18 crucial points.

SECTION III. PENDING LEGISLATION



*NOTE: The Major work, Resource Materials On Court Reorganization, from which these materials are drawn, is available for review by any interested party by contacting the Los Angeles County Municipal Courts Planning and Research Unit.

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SCHEMATIC ANALYSIS OF 1972 AND 1973
LEGISLATION ON COURT REORGANIZATION

D [DIFFERENT] S [SIMILAR] --- [NOT COVERED]

SECTION I.

INTRODUCTION:

This section contains a schematic comparison of all of the 1972 and 1973 Legislative proposals relating to trial court reorganization. The Bills can be compared according to the position taken on each of eighteen major points. The following key is used in making comparisons:

- [D] indicates that the position taken by a particular Bill is different from the others
- [S] indicates that similar position was taken by the Bills on that point
- [---] indicates that the Bill does not take a position on this item

Each Bill is analyzed according to its position on these 18 points:

- I. MANDATE
- II. AUTHORITY
- III. JURISDICTION
- IV. FINANCING
- V. PERSONNEL TRANSFER
- VI. PERSONNEL BENEFITS
- VII. OFFICE OF MARSHAL
- VIII. RECORDING
- IX. FEES
- X. VENUE
- XI. SESSIONS
- XII. OPERATIVE DATE
- XIII. RULES
- XIV. FUNCTION OF JUDICIAL COUNCIL
- XV. DIVISIONS OF SUPERIOR COURT
- XVI. CREATION OF MULTI-COUNTY COURTS
- XVII. COURT FACILITIES
- XVIII. CREATION OF ADMINISTRATIVE AREAS

POINTS OF COMPARISON	FENTON	KAPILOFF	HAYES	GRUNSKY	SONG	HOLMDAHL
I. MANDATE	D	S	S	S	S	S
II. AUTHORITY	D	S	S	S	S	S
III. JURISDICTION A. Original B. Appellate	S S	D D	S D	S S	S ---	D D
IV. FINANCING	D	D	D	D	---	D
V. PERSONNEL TRANSFER A. Judges B. Personnel	S S	D D	D S	S D	S D	D D
VI. PERSONNEL BENEFITS	S	S	S	---	---	---
VII. OFFICE OF MARSHAL	D	---	D	D	D	---
VIII. RECORDING	S	S	D	---	D	---
IX. FEES	S	S	D	D	---	---
X. VENUE	D	D	D	---	---	---
XI. SESSIONS	D	D	D	S	S	---
XII. OPERATIVE DATE	D	D	D	D	D	D
XIII. RULES	---	D	D	D	---	---
XIV. FUNCTION OF JUDICIAL COUNCIL	S	S	D	D	D	D
XV. DIVISION OF SUPERIOR COURT	---	D	D	---	---	---
XVI. CREATION OF MULTI-COUNTY COURTS	D	---	---	S	S	S
XVII. COURT FACILITIES	---	D	S	D	---	S
XVIII. CREATION OF ADMINISTRATIVE AREAS	---	---	---	D	---	D

SECTION II.

INTRODUCTION

In this section all '72 and '73 trial court reorganization proposals have been outlined according to their exact position on each of the 18 points used in the schematic in Section I.

18 POINT COMPARISON

- I. MANDATE Permitted, not mandatory
- II. AUTHORITY
1. County board or boards of supervisor, or voters of the county or counties, or
 2. Legislature
- III. JURISDICTION
- A. Original In all causes, including those given to other trial courts
- B. Appellate to Appellate Department, Superior Court appellate jurisdiction over any action which would have been within the jurisdiction of a superseded justice or municipal court
- IV. FINANCING Unclear
Does not provide for transfer of fees, fines, etc., except for such transfer from municipal or justice court to superior court after consolidation.
Implies that all court personnel will be state employees after consolidation, but does not mention judicial salaries
- V. PERSONNEL TRANSFER
- A. Judges
1. Judges of municipal or justice court who are members of State Bar become judges of superior court
 2. All judges of justice courts who are not members of State Bar become commissioners of superior court
 3. Stand for election at expiration of term in judicial district identical to district in which previously required to be elected.
- B. Other Court Personnel Provides for transfer of commissioners,

attaches, all other employees of municipal or justice court to the same or similar position in superior court

- VI. PERSONNEL BENEFITS Provides for:
1. seniority based on date of original permanent employment in court system.
 2. fully protected employment rights at time of transfer.
 3. optional, i.e., county or state, retirement systems.
- VII. OFFICE OF MARSHAL
1. office established by Board or Boards of Supervisors.
 2. Marshal appointed by and responsible to a majority of judges of superior court.
- VIII. RECORDING Requirement for official reporter to be based on requirement of original lower court under which the trial would have been held prior to consolidation.
- IX. FEES Same fee schedule as was in force prior to unification for cases which would have been under jurisdiction of municipal or justice court.
- X. VENUE For purposes of determining venue, municipal and justice court boundaries in effect immediately prior to consolidation continue to apply.
- XI. SESSIONS Provides for one session in each municipal court district operative prior to unification.

XII.	OPERATIONAL DATE	Upon ratification by Legislature or action of board or boards of supervisors or upon legislative action.
XIII.	COURT RULES	-----
XIV.	FUNCTIONS OF JUDICIAL COUNCIL	<ol style="list-style-type: none"> 1. Prescribes job titles, pay rates for each officer and employee of superior court. 2. On or after one year from operative date of unification, Legislature shall prescribe the number of employees of the superior court upon recommendation of the Judicial Council.
XV.	DIVISIONS OF SUPERIOR COURT	-----
XVI.	CREATION OF MULTI-COUNTY SUPERIOR COURTS	<ol style="list-style-type: none"> 1. Boards of supervisors of more than one contiguous county may create a superior court district. 2. Legislature may create for more than one contiguous county a multi-county superior court district.
XVII.	COURT FACILITIES	-----
XVIII.	CREATION OF ADMINISTRATIVE AREA	-----

I.	MANDATE	Mandatory
II.	AUTHORITY	Legislature
III.	JURISDICTION	
	A. Original	Supreme Court, courts of appeal, superior courts have original jurisdiction in habeas corpus proceedings and proceedings for extraordinary relief in nature of mandamus, certiorari and prohibition. Superior Courts have original jurisdiction in all other causes.
	B. Appellate	<p>Supreme Court - where sentence of death has been pronounced.</p> <p>Courts of appeal - when superior courts have original jurisdiction and in other causes prescribed by statute.</p> <p>Superior courts - in causes prescribed by statute.</p>
IV.	FINANCING	<p>Unclear. Implies that officers, attache's and other court employees will be state employees after consolidation, but does not mention judicial salaries.</p> <p>Provides that expenses for court personnel for travel to other assignments are to be paid by the county and implies in another section that retired judges on assignment may be paid by other than state funds.</p>
V.	PERSONNEL TRANSFER	
	A. Judges	<ol style="list-style-type: none"> 1. All municipal and justice court judges become superior court judges for remainder of term except they may perform only those functions they could perform as judge of former court unless appointed to full status by the Governor as superior court

judges. Another section provides that superior court judges must have been members of State Bar for ten years other than those transferred from lower courts.

2. The number of superior court judgeships are to be increased to accommodate all superseded judges, but when a vacancy occurs in such a judgeship, the position is to be abolished and the number of judges decreased.

3. Transferred superior court judges stand for re-election in identical election districts in which they were originally elected, but when a vacancy occurs in such a district, the office is to be abolished.

B. Other Court Personnel

1. Transferred to same or similar positions with no reduction in salary in superior court, such positions to be considered additions to personnel otherwise provided for the county.

2. -----

VI. PERSONNEL BENEFITS

Provides for:

1. seniority based on date of original permanent employment in court system.
2. full protected employment rights at time of transfer.
3. optional, i.e., county or state retirement systems.

VII. OFFICE OF MARSHAL

VIII. RECORDING

Requirement for official reporter to be based on requirement of original lower court under which the trial would have been held prior to consolidation.

IX. FEES

Same fee schedule as was in force prior to unification for cases which would have been under jurisdiction of municipal or justice court

X. VENUE

See XV

XI. SESSIONS

Established by judges with approval of Board of Supervisors. The Board of Supervisors may also establish or terminate sessions with recommendation and advice of Judicial Council

XII. OPERATIONAL DATE

July 1, 1974 (if ACA 74 is passed).

XIII. RULES

Rules for superior court to be adopted by Judicial Council or other authority

XIV. FUNCTIONS OF JUDICIAL COUNCIL

1. Prescribes job titles, pay rates for each officer and employees of superior court.
2. On or after one year from operative date of unification, Legislature shall prescribe the number of employees of the superior court upon recommendation of the Judicial Council

XV. DIVISIONS OF SUPERIOR COURT

Provides that each superior court shall establish small claims and traffic divisions. Additional divisions may be established by the Legislature. Each division may be divided into districts. The boundaries of division districts shall determine venue within the county for cases within the subject matter of the division

XVI. CREATION OF MULTI-COUNTY COURTS

XVII. COURT FACILITIES Provided by Board of Supervisors

XVIII. CREATION OF ADMINISTRATIVE AREAS -----

ACA 20/AB 159 and 160 - Assemblyman James A. Hayes

- I.

MANDATE

Mandatory by Constitutional Amendment
- II.

AUTHORITY

Legislature
- III.

JURISDICTION

A. Original

In all causes which would have been in jurisdiction of municipal court, justice or superior court prior to consolidation.

B. Appellate

To appellate department, superior courts, appellate jurisdiction over:

1. small claims

2. traffic convictions

3. misdemeanor convictions

4. civil cases, in law or equity where the amount in controversy is not more than \$5,000.
- IV.

FINANCING

All fees, fines, etc., to be transferred from superior court to state court fund through State Treasurer. All capital and non-capital expenses of superior courts to be paid by the State.
- V.

PERSONNEL TRANSFER

A. Judges

1. All judges of superior or municipal court become judges of superior court.

2. All judges of justice courts become magistrates of superior court. May handle only misdemeanor, traffic, small claims and civil cases as assigned by superior court presiding judge.

3. Provisions of Election Code relating to nomination and election of

		judicial officers applies for election of above at expiration of term.
		4. Provides for salaries and retirement benefits of judges.
	B. Other Court Personnel	Provides for transfer of commissioners, attache's all other employees of municipal or justice court to the same or similar position in superior court.
VI.	PERSONNEL BENEFITS	Provides for: <ol style="list-style-type: none"> 1. seniority based on date of original permanent employment in court system. 2. fully protected employment rights at time of transfer. 3. optional retirement systems
VII.	OFFICE OF MARSHAL	Provides for: <ol style="list-style-type: none"> 1. office of State marshal, Superior Court 2. State Marshal to be appointed by Governor 3. State Marshal appoints deputy and other assisting personnel as authorized by Judicial Council
VIII.	RECORDING	All courts to be courts of record
IX.	FEES	Provides uniform fee schedule for all courts
X.	VENUE	Presiding judge of superior court may

		divide a county into not more than nine superior court districts. Such division to be based on population
XI.	SESSIONS	Provides detailed rules regarding sessions, regular and extra
XII.	OPERATIONAL DATE	Immediately upon passage of Assembly Bill 159
XIII.	COURT RULES	Each superior court may make rules for its own government if not inconsistent with rules of Judicial Council.
XIV.	FUNCTIONS OF JUDICIAL COUNCIL	<ol style="list-style-type: none"> 1. Appoint court administrator for each superior court and regulate his duties. Duties shall include those referred to in law as pertaining to county clerk if such duties relate to operation and function of courts. 2. Transfer judges and other court personnel as workload dictates. 3. Set up advisory committees. 4. Run educational institutes. 5. Standardize forms. 6. Appoint all officers and employees of superior court who regularly perform duties in courtroom. One year after consolidation, such appointment must be concurred with by presiding judge, superior court.
XV.	DIVISIONS OF SUPERIOR COURT	Provides for various divisions of superior court. Provides regulations for small claims division.

- XVI. CREATION OF MULTI-COUNTY SUPERIOR COURTS -----
- XVII. COURT FACILITIES Provided by county for which it is reimbursed by the State.
- XVIII. CREATION OF ADMINISTRATIVE AREA -----

SCA 15/SB's 296 and 297 - Senator Grunsky

- I. MANDATE Mandatory
- II. AUTHORITY Legislature
- III. JURISDICTION
- A. Original Same jurisdiction as was held by municipal court prior to consolidation as established by Legislature
- B. Appellate Superior courts have appellate jurisdiction in causes that arise in county courts in their counties
- IV. FINANCING State financing of judicial (including commissioners) salaries. Other salaries not specified
- county funds - capital expenses
- V. PERSONNEL TRANSFER
- A. Judges
1. Municipal and justice court judges to become county court judges if members of State Bar
 2. Justice court judges who are not members of State Bar become county court commissioners
 3. Judges who are transferred to county courts stand for election in same judicial election district as that in which they were previously elected. Vacancies are filled by county-wide elections
- B. Other Court personnel
1. Provides specifically for transfer of commissioners and referees, court clerks, marshals and constables, reporters. All others to transfer

to substantially equivalent position as held prior to consolidation in county courts.

2. Chief Justice has power to appoint clerk, marshal and other officers and employees.

VI.	PERSONNEL BENEFITS	-----
VII.	OFFICE OF MARSHAL	Provides for county marshal to be appointed by chief judge
VIII.	RECORDING	-----
IX.	FEEES	Provides fee schedule for Supreme Court and court of appeal only
X.	VENUE	-----
XI.	SESSIONS	Determined by district judges
XII.	OPERATIVE DATE	If SCA 15 is passed, operational 1/1/74
XIII.	RULES	Provisions previously applicable to municipal courts are applicable to county courts insofar as they are not inconsistent with SB 296 or rules of Judicial Council.
XIV.	FUNCTIONS OF JUDICIAL COUNCIL	<ol style="list-style-type: none">1. Adopt rules of court administration for employees of county courts regarding classification, qualification, etc.2. Standardize forms

		<ol style="list-style-type: none">3. Conduct educational institutes4. Appoint advisory committees <p>See also XVIII</p>
XV.	DIVISIONS OF SUPERIOR COURT	N/A
XVI.	CREATION OF MULTI-COUNTY COURTS	<ol style="list-style-type: none">1. Provides for optional creation of multi-county administrative units for those counties with insufficient workload based on standards established by Judicial Council2. Provides that L. A. County may be divided into several administrative areas under on chief judge3. Provides for chief judge for each district to be elected by district judges4. Provides that each administrative district shall have court administrator appointed by chief judge and paid by State
XVII.	COURT FACILITIES	County Boards of Supervisors
XVIII.	CREATION OF ADMINISTRATIVE AREAS	<ol style="list-style-type: none">1. Five trial court administrative areas to be established based on recommendation of Judicial Council. Each area to be one or more counties2. Each area to have area administrative judge appointed by Administrative Director of Courts, and approved by

Area Administrative Judge. Salary to be paid with funds appropriated for Judicial Council

3. Duties and responsibilities of area administrative judge and area court administrator prescribed by Judicial Council

I.	MANDATE	Mandatory
II.	AUTHORITY	Legislature
III.	JURISDICTION	
	A. Original	Same jurisdiction as municipal courts had prior to consolidation and civil cases in which prayer does not exceed \$10,000
	B. Appellate	-----
IV.	FINANCING	-----
V.	PERSONNEL TRANSFER	
	A. Judges	<ol style="list-style-type: none">1. Municipal and justice court judges to become county court judges if members of State Bar2. Justice court judges who are not members of State Bar become county court commissioners3. Judicial election districts to remain the same as before consolidation
	B. Other Court Personnel	<ol style="list-style-type: none">1. Provides specifically for transfer of commissioners and referees, court clerks, marshals and constables, reporters. All others to transfer to substantially equivalent position as held prior to consolidation in county courts2. -----
VI.	PERSONNEL BENEFITS	-----

VII.	OFFICE OF MARSHAL	Sheriff of each county will become bailiff of county court
VIII.	RECORDING	All courts to be courts of record
IX.	FEEES	-----
X.	VENUE	-----
XI.	SESSIONS	Determined by district judges
XII.	OPERATIONAL DATE	If SCA 57 is passed, operational 1/1/74.
XIII.	RULES	-----
XIV.	FUNCTIONS OF JUDICIAL COUNCIL	See XVI
XV.	DIVISIONS OF SUPERIOR COURT	N/A
XVI.	CREATION OF MULTI-COUNTY COURTS	<ol style="list-style-type: none"> 1. Provides for optional creation of multi-county administrative units for those counties with insufficient workload based on standards established by Judicial Council 2. Provides that L.A. County may be divided into several administrative areas under one chief judge 3. Provides for Chief Judge for each district to be elected by district judges 4. Provides that each administrative district shall have court administrator appointed by chief judge; does not specify salary source

XVII.	COURT FACILITIES	-----
XVIII.	CREATION OF ADMINISTRATIVE AREAS	-----

I.	MANDATE	Mandatory by Constitutional Amendment
II.	AUTHORITY	Legislature
III.	JURISDICTION	
	A. Original	Supreme Court, courts of appeal, superior courts and their judges have original jurisdiction in habeas corpus proceedings and in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. Superior Courts have original jurisdiction in all other causes
	B. Appellate	<ol style="list-style-type: none">1. Supreme Court - in all cases where the death penalty has been pronounced.2. Appellate Court - in all other except that3. Superior Court, Appellate Division-jurisdiction in those cases determined by a commissioner of the Superior Court
IV.	FINANCING	Provides for state financing of all non-capital expenses of court system
V.	PERSONNEL TRANSFER	
	A. Judges	<ol style="list-style-type: none">1. Municipal court judges who have been members of the State Bar for five years will become associate superior court judges and are qualified to become superior court judges. None other than the above may become associate superior court judges; no new associate superior court judgeships may be created, and when vacancies occur, they will not be filled.2. Justice Court judges who are not members of the State Bar will become superior court commissioners.

	B. Commissioners	Must be members of State Bar except for juvenile court referees, traffic court referees and commissioners who had these positions at the time of consolidation.
	C. Other Court Personnel	See trial court Administrative Areas - XVIII
VI.	PERSONNEL BENEFITS	-----
VII.	OFFICE OF MARSHAL	-----
VIII.	RECORDING	-----
IX.	FEES	-----
X.	VENUE	-----
XI.	SESSIONS	-----
XII.	OPERATIONAL DATE	Specific operational dates of various phases based upon passage of constitutional amendment.
XIII.	COURT RULES	-----
XIV.	FUNCTIONS OF JUDICIAL COUNCIL	Judicial Council to appoint Chief Judge of Superior Court. See also Area Administration XVIII

XV. DIVISIONS OF
SUPERIOR COURT -----

XVI. CREATION OF MULTI-
COUNTY SUPERIOR
COURTS

Judicial Council may determine multi-
county superior court districts if one
or more counties has an insufficient
workload for a superior court

XVII. COURT FACILITIES

Provided by County

XVIII. CREATION OF
ADMINISTRATIVE
AREA

1. Judicial Council to create five or
more trial court administrative
areas.
2. Judicial Council to appoint area
administrative judge.
3. Administrative Director of Court
to appoint Area Administrative
Director.
4. All salaries to be paid from funds
of Judicial Council.
5. Administrative Office of Courts to
be set up to assist Judicial
Council.
6. Administrative Office of Courts
to submit to Legislature a plan of
employee classification, qualification,
selection, etc. Such plan, if
approved, would be administered by
the Administrative Office of Courts.

SECTION III.

INTRODUCTION:

Because the Fenton and Kapiloff Bills are pending in the State Legislature, this section involves an in-depth analysis of the two proposals. The following format is used:

- 1 - A Synopsis is provided to highlight major provisions of each Bill
- 2 - A Comparison of each Bill with the form of court organization suggested by Booz · Allen & Hamilton is included
- 3 - A Critique of each Bill is provided to illustrate selected problem areas

SYNOPSIS: ACA 71/AB 1900 - Assemblyman Fenton

This legislation provides for the establishment of a single level trial court to be called the superior court. The decision to consolidate the municipal, justice and superior courts is optional and is left to the discretion of the Boards of Supervisors or the voters of one or more contiguous counties or to the Legislature.

Municipal and justice court judges who are members of the State Bar are to become superior court judges for the remainder of their terms, at which time they may stand for re-election in the same judicial district in which they were previously elected. Vacancies occurring in judgeships so created are to be filled as provided by law. Non-attorney justice court judges are to become commissioners of the superior court and may remain as such until retirement unless removed for cause.

The legislation provides for succession of court commissioners, traffic commissioners, referees and similar officers to the same position in the superior

court at the same salary level. Other court officers, attache's and employees are to be transferred to the same or similar positions with no reduction in salary.

The bill implies that all personnel of the superior court will become State employees.

The superior courts are given original jurisdiction in all causes including those given by statute to other trial courts with the exception of those proceedings delegated to other courts by the State Constitution. The appellate department of the superior court has appellate jurisdiction over actions or proceedings where the original jurisdiction would have been within that of a superseded municipal or justice court.

The Board of Supervisors may establish an office of marshal to assume the court functions of the sheriff. The marshal is to be appointed by and responsible to a majority of the superior court judges.

Venue, sessions, fees and the services of a court reporter are to be determined based on the practice of the superseded municipal or justice courts if a case would have been under the jurisdiction of such

court prior to consolidation.

The Judicial Council is given the authority to establish pay rates and job titles and to recommend to the Legislature the number of employees of the superior court on or after one year from consolidation.

COMPARISON OF FENTON BILL

WITH

BOOZ · ALLEN & HAMILTON ORGANIZATIONAL ALTERNATIVE III

The firm of Booz · Allen & Hamilton, Inc., in their Final Report On The Unified Trial Court Feasibility Study analyzed three major alternative approaches for unifying the courts of limited and general trial jurisdiction:

- I - retaining a superior court and a unified lower court within each county, with both courts under the direction of a single chief judge and having centralized administrative support services.
- II - complete merger of all present trial courts into a single trial court with two types of judges and under the direction of a single chief judge with centralized administrative support services.
- III - complete merger of all present trial courts into a single trial court with only one type of judge and under the direction of a single chief judge with centralized administrative support services.

After summarizing the relative advantages and disadvantages of the above alternatives, Booz · Allen & Hamilton concluded that Alternative III was the most desirable form of

trial court organization.

The Fenton Bill is thus compared with Alternative III according to organization, administration, staffing and financing. This comparison is made to indicate the relative conformity or non-conformity of the Fenton Bill to the trial court structure preferred by Booz • Allen & Hamilton.

B.A.H III
ORGANIZATION:

1. The present Superior, Municipal and Justice Courts would be merged completely to form a single level trial court on a county-wide basis with a uniform criminal and civil jurisdiction equivalent to that of the present Superior and Municipal Courts. Depending of the size of the single level trial court, divisions would be created within each court to handle different types of cases, such as criminal, civil, small claims, traffic, probate, and family relations.
2. The county-wide trial court organization would be part of a state administered court system and removed from county districting, staffing, and budgeting considerations.

FENTON
ORGANIZATION:

1. Provides for merger of Superior, Municipal and Justice Courts to form single level trial court on county or multi-county basis with uniform civil and criminal jurisdiction equivalent to that of present Superior, Municipal and Justice Courts. Does not make

specific provision for divisions of Superior Court to handle different types of cases. Not mandatory and unification may be exercised at discretion of County Boards of Supervisors or Legislature.

2. Would be county-administered, not part of state-wide system.

B.A.H III
ADMINISTRATION:

1. The Judicial Council would be responsible for the administration of the county-wide trial court organization providing centralized policy direction over staffing, facilities, fiscal matters, and court operating policies and practices.
2. All court operating practices and procedures of the single level trial court would be uniform throughout each county.
3. A Chief Judge, appointed by and responsible to the Chief Justice, would direct the operations of the Superior Court within each county. The administrative responsibilities and authorities of the Chief Judge would be sufficiently broad to permit centralized management, including the assignment of judicial and non-judicial personnel anywhere within the county-wide trial court organization and the assignment of cases from one location to another.
4. All non-judicial court functions in each county, including those performed by court clerks, bailiffs, court reporters, and other administrative support personnel would be consolidated and directed by a single court administrator, working under the supervision of the Chief Judge.
5. The staff of the Administrative Office of the Courts would be expanded to include an adequate number of persons with the necessary court administration skills to

provide technical support and direction
to the county-wide trial court organization.

FENTON
ADMINISTRATION:

1. Judicial Council would provide for pay rates and job titles for superior courts and would recommend to Legislature the number of employees of the Superior Courts. Unclear on any other changes in administration.
2. Does not make provision for standardization of procedures county-wide except by implication of consolidation itself.
3. Does not make provision for any change in procedure for election of Chief Judge nor does it change his administrative authority or responsibility.
4. Does not provide for county-wide consolidation of court functions other than bailiffing. This would be handled by county marshal, an office to be established by the Board of Supervisors and appointed by and responsible to a majority of the superior court judges. Does not provide for court administrator.
5. Does not provide for any expansion of authority of Administrative Office of the Courts.

B.A.H III
STAFFING:

1. A single judicial position would be created to handle those cases which fall under the jurisdiction of the single level trial court, except those cases or duties which, by law, can be handled by subordinate judicial officers (Commissioners). The pay and qualifications for this position would be equivalent to that for a Superior

Court Judge. Present Municipal Court judges would be elevated to this position. Attorney Justice Court judges also would be elevated to this position for the remainder of their terms provided that they meet the present qualifications of Municipal Court judge and agree to devote full-time to their judicial duties.

2. Present non-attorney Justice Court judges and attorney Justice Court judges who do not meet the five-year requirement or who wished to serve only part-time would be blanketed-in as subordinate judicial officers (Commissioners) for the remainder of their present terms of office. Upon expiration of such terms of office, all subordinate judicial officers would be appointed and hold their positions at the pleasure of the county-wide trial court organization.
3. Judges would be assigned at the discretion of the Chief Judge to meet the needs of the unified trial court.
4. Subordinate judicial officers would be used extensively to handle lesser judicial matters such as minor traffic, small claims and low-grade misdemeanor cases.
5. A court administrator for each county would be responsible for all the non-judicial business of the county-wide trial court organization rather than the present lower court clerks and County Clerk serving as Ex-officio Clerk of the Superior Court. This administrator would be appointed by the Chief Judge from a list of qualified personnel selected by the Director of the Administrative Office of the Courts.

FENTON
STAFFING:

1. Provides for single level trial court judge for commissioners. Does not delineate

responsibility for cases. Provides for elevation of municipal and justice court judges to superior court judges for the remainder of their terms provided they are members of the State Bar. Does not mention need to serve full-time. Provides for subsequent election based on original election districts.

2. Same as Booz . Allen & Hamilton except that it does not mention full-time service.
3. Does not give Chief Judge any power of assignemtn other than that already held.
4. Does not provide for county court administrator.

B.A.H III
FINANCING:

The state would assume the total operating and capital costs of the county-wide trial court system.

FENTON
FINANCING:

Does not discuss financing.

ACA 71/AB 1900: 18 POINT CRITIQUE

POINT I.

MANDATE

THE OPTION TO UNIFY IS OPEN TO QUESTION

The Fenton legislation provides for single county and/or multi-county trial court unification, at the discretion of the county boards of supervisors, county voters, or the Legislature. In making it discretionary, its author felt that the Bill would stand a better chance of becoming law by enhancing its ability to muster needed support. Further, the Bill vests a degree of control over the decision to consolidate in the local county governments.

An apparent weakness in allowing a county or contiguous counties the option of unifying their courts, lies in the possibility that such legislation will further fragment the court structure within the State until such time as the trial courts of California all become unified. It creates the possibility that both unified trial courts and the present three-level trial courts will co-exist within the State structure.

The Bill further creates the possibility of a conflict or confrontation between county government and the Legislature to unify courts in a county which is not predisposed to unification.

POINT III.

APPELLATE JURISDICTION

THE STANDARDS OF APPELLATE JURISDICTION
OF THE SUPERIOR COURT SHOULD BE PRECISELY
SET FORTH IN THE BILL

Appellate jurisdiction of the superior court is based on conditions existing prior to unification and is not spelled out in precise language (AB 1900, p.4, lines 9-15). The Bill requires reference back to "actions or proceedings which would have been within the jurisdiction of a superseded municipal or justice court" prior to unification.

A SUPERIOR COURT APPELLATE DEPARTMENT MAY
CREATE MORALE PROBLEMS AMONG JUDGES OF
THAT COURT

The Judiciary Committee, in analyzing last year's Hayes Bill, noted that an appellate department within the unified superior court could possibly affect judicial morale as well as the quality of justice. The point was made that superior court judges might resent a review of their decisions by their peers in the superior court.

POINT IV. FINANCING

A DEFINITIVE STATEMENT AS TO WHO WILL
ASSUME THE COSTS OF THE SINGLE TRIAL
COURT SHOULD BE INCLUDED IN THE BILL

The Chief Administrative Officer raised the following questions with reference to financing of the proposed single trial court system under the Fenton Bill:

- Will the State assume the costs of the single trial courts?
- If the State does absorb current County court cost and revenue, will that also include court-related services (e.g., County Clerk, Probation Dept. Juvenile and Adult Investigation, the Marshal and the Sheriff's Civil Division, etc.)?
- Would the State purchase and/or lease court and related facilities from the county?

The only references to State financing are contained in the sections dealing with employee benefits and retirement benefits (AB 1900, p.5, lines 10-23; p.6, lines 1-27). At best, these sections would imply State fiscal responsibility for the single trial court.

Further, although the bill implies State salaries for all employees of the single trial court, it fails to provide for any transfer of revenue from the superior court to the State (as was provided in the 1972 Hayes legislation).

POINT V. PERSONNEL TRANSFER

JUDGES A DISPARITY IS CREATED AMONG
SUPERIOR COURT JUDGES

A disparity is created among superior court judges by this bill, insofar as some will be required to run for re-election in larger districts than others (AB 1900, p.3, lines 17-22).

THE BILL IS UNCLEAR AS TO
PROCEDURES FOR REMOVAL OF
JUSTICE COURT JUDGES

The Bill further provides for removal for cause by the County Court of justice court judges who are blanketed in as superior court commissioners (AB 1900, p.3, lines 26-29). The Bill neglects to specify who within the county court structure has authority for processing such removal, and what avenues of appeal are open to a commissioner so removed.

OTHER COURT PERSONNEL

THE GRANDFATHER CLAUSE IS OF
TEMPORARY DURATION

There is a provision in this Bill which allows for streamlining each unified system after one year has elapsed from the date of unification. At this time, the Legislature is entitled to determine the number of employees of the single trial court based on recommendations of the Judicial Council (AB 1900, p.4, lines 36-40). This makes the grandfather clause of temporary duration, insofar as employee cut-backs may be scheduled one year after unification.

THE BILL FAILS TO SPECIFICALLY
PROVIDE FOR TRANSFER OF COURT
CLERKS

The Bill fails to specifically mention transfer of municipal court clerks. If such clerks are intended to fall within the definition of the terms "officers, attaches, and employees" (AB 1900, p.5, line 25), it is unclear how they will be assimilated into the

superior court structure. Will they become deputy superior court clerks? Is the County Clerk to remain ex-officio clerk of the superior court? If not, no provision exists in the Bill to delete this office from existing legislation. Assuming that the County Clerk is intended to retain his position within the single trial court, it is unclear how a Municipal Court Clerk of a particular judicial district can be transferred to a substantially equivalent position in the unified court, as provided by this legislation (AB 1900, p.5, lines 24-31).

POINT VII. OFFICE OF MARSHAL

THE OPTION TO CREATE AN OFFICE OF MARSHAL
WITHIN EACH UNIFIED COUNTY CREATES PROBLEMS

The Board of Supervisors of a county which has unified its trial courts has discretion to establish the office of marshal of the superior court to assume the powers and duties imposed by law upon the sheriff with respect to superior court proceedings (AB 1900, p.6, lines 31-35). Should a county board of supervisors elect not to create such an office, who will handle the bailiffing functions, service of process, etc.? The discretionary aspect of this provision creates a strong likelihood of a confrontation between the office of the Sheriff and that of the Marshal, in counties failing to establish the Marshal's Office as provided in this section.

POINT VIII. RECORDING

A CLEAR DELINEATION OF NEW REQUIREMENTS
FOR SERVICES OF COURT REPORTERS SHOULD
BE INCLUDED IN THE BILL

This Bill provides that no reporter shall be required during an action or proceeding which would have been within the jurisdiction of a superseded municipal or justice court prior to the operative date of the single trial court, and in which an official reporter would not have been required (AB 1900, p.7, lines 16-23). A clear delineation of new requirements for the services of a court reporter should be included, so as to preclude the necessity of referring back to procedures previously in force prior to unification.

POINT IX.

FEEES

A NEW FEE SCHEDULE FOR THE SINGLE TRIAL
COURT SHOULD BE INCORPORATED INTO THE BILL

Again, the Bill refers back to fee schedules in effect immediately prior to the operative date of the single trial court. Reference back to a prior fee schedule is both tedious and unnecessary (AB 1900, p.7, lines 27-33).

POINT X.

VENUE

THE BILL SHOULD LEAVE OPEN THE OPTION
OF CREATING NEW VENUE DISTRICTS

This legislation presently provides for utilization of the same venue districts which existed for municipal and justice courts prior to unification (AB 1900, p.4, lines 16-19). The Bill fails to leave open the option of merging or creating new venue districts in cases of multi-county unification.

POINT XII.

OPERATIONAL DATE

THE BILL DOES NOT PROVIDE A TIMETABLE
FOR PHASING IN OF THE SINGLE TRIAL COURT

The operational date of the single trial court as set forth in this Bill, is to be specified by the Legislature in legislation ratifying the establishment of such trial court (ACA 71, p.3, lines 2-5). There is no provision for the phasing in of a unified court system on a gradual and systematic basis.

POINT XIII.

COURT RULES

THE BILL SHOULD SPECIFY WHICH COURT
RULES WILL APPLY TO THE SINGLE TRIAL COURT

There is no mention in the Fenton legislation of which court rules are to be used in the single trial court. Prior Bills allow for the single trial courts drafting of rules for its own government, provided that such rules are not inconsistent with the rules of the Judicial Council.

XIV.

FUNCTIONS OF JUDICIAL COUNCIL

THE JUDICIAL COUNCIL IS NOT DESIGNATED AS
HAVING ADMINISTRATIVE RESPONSIBILITY OVER
THE COUNTY SINGLE TRIAL COURTS

The Judicial Council is given authority to establish job titles and pay rates (AB 1900, p.4., lines 32-35) and to prescribe the number of employees of the single trial courts (AB 1900, p.4, lines 36-40).

However, the Bill fails to designate the Judicial Council as the administrative agency to provide centralized policy direction over staffing, facilities, fiscal matters, and court operating policies and practices. Thus, there is no provision to ensure that all court operating practices and procedures would be uniform among the single trial court counties.

XV.

DIVISIONS OF SUPERIOR COURT

THE BILL IS SILENT AS TO CREATION OF
SPECIFIC DIVISIONS WITHIN THE SINGLE
TRIAL COURTS

There is no mention of the internal structure of the single trial courts. The Hayes Bill made provision for various divisions of the superior court and also provided regulations for the small claims division. Kapiloff provides for both a small claims and a traffic division within the single trial court.

XVII.

COURT FACILITIES

THE BILL IS SILENT AS TO ANY FINANCIAL
ARRANGEMENT RELATING TO COURT FACILITIES

As already indicated in the Chief Administrative Officer's Report, it is unclear whether the State would purchase and/or lease court and related facilities from the county.

Under the Hayes Bill it was specified that court facilities would be provided by the county for which

it would be reimbursed by the State. However, under Kapiloff, court facilities are to be provided by the County Board of Supervisors, and expenses incurred for same are to be a charge against the County Treasury to be paid out of the general fund.

XVIII.

CREATION OF ADMINISTRATIVE AREA

THE BILL FAILS TO CREATE A STATEWIDE
ADMINISTRATIVE STRUCTURE

There is no mention in this Bill of an overall administrative structure statewide to guarantee centralized management and uniformity among the single trial court counties. As previously mentioned, the Bill fails to designate the Judicial Council as the responsible administrative agency to provide centralized policy direction.

Although the Bill allows for the various counties within the State to create single trial courts, there is no provision guaranteeing uniform operating practices and procedures among these courts. Therefore there is no assurance that the maximum efficiency desired from unification will be achieved through this Bill.

SYNOPSIS: ACA 74/AB 2072 - Assemblyman Kapiloff

This legislation provides for mandatory creation of a single level trial court, consolidating municipal, justice and superior courts.

All municipal and justice court judges would become superior court judges for the remainder of their terms, but they may perform only those functions which they were previously able to perform unless appointed to full superior court judge status by the Governor. Each judge blanketed-in in this manner stands for election at the expiration of his term in the same election district in which he was previously elected, but when a vacancy occurs in a judgeship so created, the position is to be abolished. The number of superior court judgeships is to be increased to accommodate all superseded judges.

The implication of the bill is that court officers and employees will be state employees. Court facilities will be furnished by the County.

All officers, attache's and employees of the superseded courts are to be transferred to the same or similar

positions in the superior court with no reduction in salary. Such personnel is to be considered an increase to personnel otherwise provided for each county.

Each superior court is to establish a small claims and traffic division to which judges may be assigned on a rotating basis by the presiding judge. The Legislature may establish other superior court divisions.

Fee schedules are based on those which were operative in the superseded courts prior to consolidation. The requirement for service of a court reporter is likewise based on the requirement of the superseded courts.

Sessions are to be established by the judges; the Legislature may establish and terminate sessions after consultation with the Judicial Council.

The Judicial Council is to establish job titles and pay rates for the superior court and is to recommend to the Legislature the number of superior court employees one year after consolidation.

COMPARISON OF KAPILOFF BILL

WITH

BOOZ . ALLEN & HAMILTON ORGANIZATIONAL ALTERNATIVE III

The firm of Booz . Allen & Hamilton, Inc., in their Final Report On The Unified Trial Court Feasibility Study analyzed three major alternative approaches for unifying the courts of limited and general trial jurisdiction:

- I - retaining a superior court and a unified lower court within each county, with both courts under the direction of a single chief judge and having centralized administrative support services.
- II - complete merger of all present trial courts into a single trial court with two types of judges and under the direction of a single chief judge with centralized administrative support services.
- III - complete merger of all present trial courts into a single trial court with only one type of judge and under the direction of a single chief judge with centralized administrative support services.

After summarizing the relative advantages and disadvantages of the above alternatives, Booz . Allen & Hamilton concluded that Alternative III was the most desirable form of

trial court organization. The Kapiloff Bill is thus compared with Alternative III according to organization, administration, staffing and financing. This comparison is made to indicate the relative conformity or non-conformity of the Kapiloff Bill to the trial court structure preferred by Booz . Allen & Hamilton.

B·A·H III
ORGANIZATION:

1. The present Superior, Municipal and Justice Courts would be merged completely to form a single level trial court on a county-wide basis with a uniform criminal and civil jurisdiction equivalent to that of the present Superior and Municipal Courts. Depending on the size of the single level trial court, divisions would be created within each court to handle different types of cases, such as criminal, civil, small claims, traffic, probate, and family relations.
2. The county-wide trial court organization would be part of a state administered court system and removed from county districting, staffing, and budgeting considerations.

KAPILOFF
ORGANIZATION:

1. The present superior, municipal and justice courts would be merged to form a single level trial court on a county-wide basis with a uniform criminal and civil jurisdiction equivalent to that of the present superior and lower courts. Provides for creation of two divisions: small claims and traffic. Other divisions may be established at the discretion of the Legislature.

2. Does not provide for state administered court system. It appears that budgeting, staffing and districting functions would remain with the county.

B·A·H III
ADMINISTRATION:

1. The Judicial Council would be responsible for the administration of the county-wide trial court organization providing centralized policy direction over staffing, facilities, fiscal matters, and court operating policies and practices.
2. All court operating practices and procedures of the single level trial court would be uniform throughout each county.
3. A Chief Judge, appointed by and responsible to the Chief Justice, would direct the operations of the Superior Court within each county. The administrative responsibilities and authorities of the Chief Judge would be sufficiently broad to permit centralized management, including the assignment of judicial and non-judicial personnel anywhere within the county-wide trial court organization and the assignment of cases from one location to another.
4. All non-judicial court functions in each county, including those performed by court clerks, bailiffs, court reporters, and other administrative support personnel would be consolidated and directed by a single court administrator, working under the supervision of the Chief Judge.
5. The staff of the Administrative Office of the Courts would be expanded to include an adequate number of persons with the necessary court administration skills to provide technical support and direction to the county-wide trial court organization.

KAPILOFF
ADMINISTRATION:

1. The Judicial Council would prescribe job titles and pay rates for the superior courts and recommend the number of employees to the Legislature. The Judicial Council is not given other authority except as granted in the Constitution.
2. There is no provision for establishment of uniform practices and procedures county-wide.
3. There is no provision for change in the manner of election of the chief judge, nor his responsibilities except that he may assign judges on a rotating basis to any superior court division.
4. There is no provision for coordination of court functions under a single administrator.
5. There is no provision for expanding the staff or responsibilities of the Administrative Office of the Courts.

B.A.H III
STAFFING:

1. A single judicial position would be created to handle those cases which fall under the jurisdiction of the single level trial court, except those cases or duties which, by law, can be handled by subordinate judicial officers (Commissioners). The pay and qualifications for this position would be equivalent to that for a superior court judge. Present Municipal Court judges would be elevated to this position. Attorney Justice Court judges also would be elevated to this position for the remainder of their terms provided that they meet the present qualifications of Municipal Court judge and agree to devote full-time to their judicial duties.

2. Present non-attorney Justice Court judges and attorney Justice Court judges who do not meet the five-year requirement or who wished to serve only part-time would be blanketed-in as subordinate judicial officers (Commissioners) for the remainder of their present terms of office. Upon expiration of such terms of office, all subordinate judicial officers would be appointed and hold their positions at the pleasure of the county-wide trial court organization.
3. Judges would be assigned at the discretion of the Chief Judge to meet the needs of the unified trial court.
4. Subordinate judicial officers would be used extensively to handle lesser judicial matters such as minor traffic, small claims and low-grade misdemeanor cases.
5. A court administrator for each county would be responsible for all the non-judicial business of the county-wide trial court organization rather than the present lower court clerks and County Clerk serving as ex-officio Clerk of the Superior Court. This administrator would be appointed by the Chief Judge from a list of qualified personnel selected by the Director of the Administrative Office of the Courts.

KAPILOFF
STAFFING:

1. All municipal and justice court judges will be blanketed-in as superior court judges with the provision that they may only perform those functions they were previously able to perform unless appointed to full status by the Governor. Such judgeship will be abolished as vacancies occur.
2. There is no distinction made between attorney and non-attorney judges for purposes of blanketing-in.

3. The chief judge may assign judges on a rotating basis to any division of the superior court.
4. There is no specific delineation of duties of subordinate judicial officers.
5. There is no provision for the appointment of a court administrator.

B.A.H. III
FINANCING:

The state would assume the total operating and capital costs of the county-wide system.

KAPILOFF
FINANCING:

Financing provisions are not discussed.

ACA 74/AB 2072: 18 POINT CRITIQUE

POINT I.

MANDATE

THE MANDATORY NATURE OF THIS BILL
PRECLUDES THE POSSIBILITY OF FURTHER
FRAGMENTING THE STATE COURT STRUCTURE

The Kapiloff Bill provides for mandatory unification of the trial courts of California by the Legislature. Thus, should the Bill become law, the trial courts of the entire State would be unified, as opposed to the situation occurring under optional unification wherein some counties could elect to maintain three types of trial courts.

A NEW JUDICIAL CODE SHOULD BE CREATED
RATHER THAN REPEAL AND REENACTMENT OF
TITLE 8 GOVERNMENT CODE

Because the Kapiloff Bill requires a mandatory restructuring of California's trial courts, existing legislation (Government Code, Title 8) must be revised in order to permit such reorganization. The Assembly Committee on the Judiciary which reviewed the mandatory Bill proposed by Assemblyman Hayes last year, commented that it would be easier to create a new Judicial Code rather than repeal and reenact of Title 8, in order to avoid conflicts.

POINT III.

APPELLATE JURISDICTION

A SUPERIOR COURT APPELLATE DEPARTMENT
MAY CREATE MORALE PROBLEMS AMONG
JUDGES OF THAT COURT

Under a unified trial court system, appellate jurisdiction would be prescribed to the superior court by statute

(ACA 74, p.5, lines 3-4). This would involve the appellate department of the superior court in reviewing decisions made by judges of the same superior court.

The Judiciary Committee Analysis of a similar provision in the Hayes Bill (1972) raises questions of the effect on judicial morale and the quality of justice when a panel of peers sits as a review court.

POINT IV.

FINANCING

A DEFINITIVE STATEMENT AS TO WHO WILL
ASSUME THE COSTS OF THE SINGLE TRIAL
COURT SHOULD BE INCLUDED IN THE BILL

The Kapiloff Bill is silent on the point of financing of the single trial court. Therefore, the same questions raised by the chief administrative officer in his analysis of the Fenton Bill apply to this Bill:

- Will the State assume the costs of the single trial courts?
- If the State does absorb current County court cost and revenue, will that also include court-related services (e.g., County Clerk, Probation Dept. Juvenile and Adult Investigation, the Marshal and the Sheriff's Civil Division, etc.)?
- Would the State purchase and/or lease court and related facilities from the county?

References to State financing are contained in the sections dealing with employee benefits and retirement benefits (AB 2072, p.13, lines 11-40; p.14, lines 1-38). At best, these sections would imply State salarizing of employees.

Another section implies that judicial salaries for retired judges serving on an active basis may come from other than State funds (AB 2072, p.9, lines 1-3), while reference is made at another point to reimbursement by the county of expenses incurred by court personnel traveling on court assignment (AB 2072, p.7, lines 31-38).

Both the constitutional amendment and the assembly Bill make reference to money to be reimbursed to local agencies for costs incurred by them pursuant to the legislation (ACA 74, p.6, lines 20-25; AB 2072, p.17, lines 4-9). It is unclear to what costs this section refers.

Further, although the Bill implies state salaries for all employees of the single trial court, it fails to provide for any transfer of revenue from the superior court to the State (as was provided in the 1972 Hayes Legislation).

POINT V.

PERSONNEL TRANSFER

Judges ALTHOUGH MUNICIPAL AND JUSTICE COURT JUDGES
BECOME JUDGES OF THE SUPERIOR COURT, THEY
ARE NOT GIVEN FULL STATUS BY THIS LEGISLATION

The Bill provides that all municipal and justice court judges are to succeed to the status of superior court judge with limitations on their particular functions based on prior responsibilities (AB 2072, p.9, lines 25-33). Given the limitations imposed, these newly created judgeships take on a lesser status than that held by presently existing superior court judges.

Further, while the Governor may grant "full status" to judges blanketed in with limited powers (AB 2072, p.9, lines 32-33), no criteria for the Governor's use are delineated.

THE BILL SHOULD PROVIDE FOR CREATION OF
NEW COUNTY-WIDE SUPERIOR COURT JUDGESHIPS
AS THE NEED ARISES

Judgeships created by blanketing in of municipal and justice court judges shall be abolished, according to the Bill, when a vacancy occurs in such a position (AB 2072, p.9, lines 34-39). No provision is made for creation of new county-wide superior court judgeships, however.

RECENT AMENDMENTS TO THE GOVERNMENT CODE
REGARDING SUPERIOR COURT JUDGE SALARY
SHOULD BE REFLECTED IN THE BILL

The Bill provides that each judge of a superior court shall

have an annual salary of twenty-five thousand dollars (AB 2072, p.7, lines 8-9). This provision fails to reflect recent amendments to the Government Code regarding superior court judge salary.

A DISPARITY IS CREATED AMONG SUPERIOR COURT JUDGES

A disparity is created among superior court judges by this Bill, insofar as some will be required to run for re-election in larger districts than others (AB 2072, p.9, lines 34-37).

Other Court Personnel

THE GRANDFATHER CLAUSE IS OF TEMPORARY DURATION

There is a provision in this Bill which allows for streamlining each unified system after one year has elapsed from the date of unification. At this time, the Legislature is entitled to determine the number of employees of the single trial court based on recommendations of the Judicial Council (AB 2072, p.13, lines 4-8). This makes the grandfather clause of temporary duration, insofar as employee cut-backs may be scheduled one year after unification.

THE BILL FAILS TO SPECIFICALLY PROVIDE FOR TRANSFER OF COURT CLERKS

The Bill fails to specifically mention transfer of municipal court clerks to the superior court. If such clerks are intended to fall within the definition of the terms, "officers, attaches and employees" (AB 2072, p.13, line 35), it is unclear how they will be assimilated into the superior court structure.

The Bill makes specific reference to "county clerks and clerks of all courts" (AB 2072, p.7, lines 12-18). Assuming that the county clerk is intended to retain his position within the single trial court, it is unclear how a municipal court clerk of a particular judicial district can be transferred to a substantially equivalent position in the unified court, as provided by this legislation (AB 2072, p.13, lines 34-40; p.14, lines 1-9).

POINT VII.

OFFICE OF MARSHAL

THE BILL SHOULD SPECIFY WHO WILL BE RESPONSIBLE FOR BAILIFFING AND SERVICE OF PROCESS FOR THE SINGLE TRIAL COURT

At present the Sheriff's Office is responsible to the superior court to handle bailiffing and service of process, while the Marshal handles these matters for the municipal courts. The Bill provides for all existing court personnel to become employees of the State with no alteration of salaries, employment conditions, rights and benefits, etc. (AB 2072, p.13, lines 34-40; p.14, lines 1-9). Thus, members of both offices will continue to serve the single trial court. The Bill fails to specify which office will accept primary responsibility for serving the court, however. This omission creates a possibility of a conflict between the marshals and sheriffs.

POINT VIII.

RECORDING

A CLEAR DELINEATION OF NEW REQUIREMENTS FOR SERVICES OF COURT REPORTERS SHOULD BE INCLUDED IN THE BILL

The Bill provides that if the services of an official reporter would not have been required during the action or proceeding in the superseded court, then the services of a reporter shall not be required during the action or proceeding in the single trial court (AB 2072, p.15, lines 10-19). A clear delineation of new requirements for the services of a court reporter should be included, so as to preclude the necessity of referring back to procedures previously in force prior to unification.

POINT IX.

FEEES

A NEW FEE SCHEDULE FOR THE SINGLE TRIAL COURT SHOULD BE INCORPORATED INTO THE BILL

Again, the Bill refers back to fee schedules in effect immediately prior to the operative date of the single trial court. Reference back to a prior fee schedule is both tedious and unnecessary (AB 2072, p.10, lines 23-28).

POINT X.

VENUE

THE BILL SHOULD INCLUDE A MORE SPECIFIC
STATEMENT OF VENUE DISTRICTS

The only mention of venue districts in this Bill is with reference to venue for cases within the subject matter jurisdiction of the small claims and traffic divisions (AB 2072, p.11, lines 5-10). There is no provision relating to venue districts for cases which do not fall within the above two divisions. The Fenton Bill provides for utilization of the same venue districts which existed for municipal and justice courts prior to unification.

POINT XII.

OPERATIONAL DATE

THE BILL DOES NOT PROVIDE A TIMETABLE FOR
PHASING IN OF THE SINGLE TRIAL COURT

The operational date of the single trial court as set forth in this Bill is stated to be at the same time ACA 74 is passed (AB 2072, p.17, lines 10-14). There is no provision for the phasing in of a unified trial court system on a gradual and systematic basis.

POINT XIV.

FUNCTIONS OF JUDICIAL COUNCIL

THE JUDICIAL COUNCIL IS NOT DESIGNATED AS HAVING
ADMINISTRATIVE RESPONSIBILITY OVER THE COUNTY
SINGLE TRIAL COURTS

The Judicial Council is given authority to establish job titles and pay rates (AB 2072, p.12, lines 39-40; p.13, lines 1-3) and to prescribe the number of employees of the single trial courts (AB 2072, p.13, lines 4-8).

However, the Bill fails to designate the Judicial Council as the administrative agency to provide centralized policy direction over staffing, facilities, fiscal matters, and court operating policies and practices. Thus, there is no provision to ensure that all court operating practices and procedures would be uniform among the single trial court counties.

POINT XVII.

COURT FACILITIES

WHETHER THE COUNTIES SHOULD BEAR THE COSTS
OF PROVIDING COURT FACILITIES IS OPEN TO
QUESTION

The Bill provides that the board of supervisors of a county must provide suitable rooms for holding the superior court. The county must provide for chambers of judges and court attendants, in addition to providing furniture, furnishings, heat, light, equipment, etc., to be charged against the county treasury (AB 2072, p.4, lines 1-12). Other Bills, notably Hayes, allow for reimbursement by the State to the counties for providing court facilities.

However, it should also be noted that Booz . Allen . Hamilton recommended that capital costs of the trial court system should continue to be funded by the counties.

XVIII.

CREATION OF ADMINISTRATIVE AREAS

THE BILL FAILS TO CREATE A STATEWIDE ADMINISTRATIVE
STRUCTURE

There is no mention in this Bill of an overall administrative structure statewide to guarantee centralized management and uniformity among the single trial court counties. As previously mentioned, the Bill fails to designate the Judicial Council as the responsible administrative agency to provide centralized policy direction (as was suggested by the Booz . Allen . Hamilton Report).

Although the Bill mandates that all counties within the State create single trial courts, there is no provision guaranteeing uniform operating practices and procedures among these courts. Therefore, there is no assurance that the maximum efficiency desired from unification will be achieved through this Bill.

Further, the Bill fails to create an administrative structure to direct the individual county single trial courts. The Booz . Allen . Hamilton Report on Trial Court Unification suggests that a chief judge be appointed by and responsible to the Chief Justice, to direct the operations of the superior court within each county. The administrative responsibilities and authorities of the Chief Judge would be sufficiently broad to permit centralized management, including assignment of judicial and non-judicial personnel anywhere within the county-wide trial court organization and the assignment of

END