

1982

## Unifying Superior, Municipal, And Justice Courts.

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## Official Title and Summary Prepared by the Attorney General

**UNIFYING SUPERIOR, MUNICIPAL, AND JUSTICE COURTS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Provides Legislature may authorize a county to unify municipal and justice courts within superior court upon approval by majority vote of county electors. Upon unification, provides for municipal and, unless Legislature provides otherwise, justice court judges to become superior court judges; authorizes Legislature to provide powers and duties of former municipal and justice court judges during balance of terms; requires Legislature to prescribe number and compensation of judges and court enforcement officers and provide for clerk, other officers, and employees; establishes original and appellate jurisdiction of superior court; specifies other matters. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: No impact until implemented by legislation and approval vote in county. When implemented, depending on legislative action, there would be state and/or county increased salary and retirement costs due to higher salaries of judges elevated. There could be unknown administrative costs or savings, depending on implementation. Fiscal impact could vary substantially from county to county.

## FINAL VOTE CAST BY THE LEGISLATURE ON ACA 36 (PROPOSITION 10)

Assembly—Ayes, 69  
Noes, 0

Senate—Ayes, 28  
Noes, 4

## Analysis by the Legislative Analyst

**Background:**

The State Constitution currently provides for superior, municipal, and justice courts.

Superior courts have jurisdiction over cases involving family law (for example, divorce cases), juvenile law, probate matters (for example, settling an estate), civil suits involving more than \$15,000, felonies, and appeals from municipal and justice court decisions. Each of the state's 58 counties has a superior court. The number of superior court judgeships ranges from 1 in several counties to 206 in Los Angeles County.

*Justice and municipal courts* generally have jurisdiction over misdemeanors and infractions and most civil actions involving amounts under \$15,000. Counties are divided into municipal and justice court districts. Municipal courts are required in districts with more than 40,000 residents; justice courts are required in districts with 40,000 or fewer residents.

As of July 1, 1982, there were 640 superior court judgeships, 496 municipal court judgeships, and 95 justice court judgeships in California.

**Proposal:**

This measure would permit the Legislature to authorize a county to unify (or "combine") its municipal and justice courts within its superior court. Unification of these courts could not take effect, however, unless a majority of the county's voters approved the unification at an election called for that purpose. Unification would then take effect July 1 of the following year. At that time all municipal court judges would become superior court judges and, unless the Legislature provides otherwise, all justice court judges would become superior court judges. The Legislature would be authorized to designate the powers and duties of the former municipal and

justice court judges during the balance of their terms and until their election by the voters to the superior court.

A unified superior court would have original jurisdiction in all matters currently falling under the jurisdiction of superior, municipal, and justice courts. The court also would have appellate jurisdiction in all cases currently appealable to a superior court. The Legislature would be required to prescribe the number and compensation of judges and court enforcement officers and provide for the clerk and other officers and employees of the superior court for each county with a unified court.

**Fiscal Effect:**

By itself this measure would have no direct fiscal effect on either the state or local governments. This is because no changes in the counties' court structure could occur until the Legislature acted to authorize a unified court in a particular county and until the voters of that county approved the unification proposal. Any additional costs, savings, or revenues resulting from court unification would depend on the provisions of the authorizing legislation.

Superior, municipal, and justice court costs are funded primarily by the counties. The state provides funds to cover most of each superior court judge's salary, a portion of certain superior court's administrative costs, and the employer's contributions to the Judges' Retirement Fund (equal to 8 percent of each judge's annual salary) for superior and municipal court judges. Justice court judges generally are covered by county retirement systems, and the costs of their retirement benefits are funded locally.

In the event the Legislature authorizes and the vot-

ers approve unification of a county's court system, the fiscal impact would be as follows:

1. **Increased salary costs.** Depending on legislative action, the state and/or the counties would incur additional costs as a result of elevating municipal and justice court judges to the superior court. This is due to the fact that salaries for superior court judges (\$63,267 per year) are higher than salaries for either justice court judges (an average of \$25,000 per year) or municipal court judges (\$57,776 per year). In addition, some justice court judgeships are part time, whereas all superior court judgeships are full time.

2. **Increased retirement costs.** Depending on legislative action, the state and/or the county would incur additional costs due to the fact that municipal court judges who are elevated to the superior court would

receive a higher salary and therefore would receive higher retirement benefits. Retirement costs for justice court judges elevated to the superior court would be higher as well.

3. **Unknown administrative costs or savings.** The impact of court unification on the cost of operating the courts cannot be determined in advance. It would depend on how implementation of an individual county's unification proposal affects the administrative efficiency of the court system.

The impact of this proposal on total court costs and the distribution of any resulting costs or savings between the counties and the state is not known and would depend on the specific provisions of subsequent implementing legislation. The fiscal effect could vary substantially from county to county.

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### Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 36 (Statutes of 1982, Resolution Chapter 67) expressly amends the Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE VI, SECTION 5

SEC. 5. (a) Each county shall be divided into municipal court and justice court districts as provided by statute, but a city may not be divided into more than one district. Each municipal and justice court shall have one or more judges.

There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.

The Legislature shall provide for the organization and prescribe the jurisdiction of municipal and justice courts. It shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees.

(b) Notwithstanding the provisions of subdivision (a), any city in San Diego County may be divided into more than one municipal court or justice court district if the Legislature determines that unusual geographic conditions warrant such division.

(c) (1) *Notwithstanding the provisions of subdivisions (a) and (b), the Legislature may authorize a county to unify the municipal courts and justice courts*

*within the superior court. This unification shall be made after approval by a majority vote of the electors of the county voting on the issue at an election called for that purpose by the county's board of supervisors.*

(2) *On the first of July in the year next following approval by the electors of such a provision, all superior court and municipal court judges then in office shall become superior court judges, and all justice court judges shall become superior court judges unless the Legislature has provided otherwise. The former municipal court and justice court judges shall retain the same balance to their terms as though they had been originally appointed or elected to the superior court. However, the Legislature may provide for the powers and duties of the former municipal and justice court judges during the balance of their term and until their election to the superior court.*

(3) *The superior court in a unified county shall have original jurisdiction in all causes.*

(4) *The superior court in a unified county shall have appellate jurisdiction in the same causes as are appealable to the superior court in nonunified counties.*

(5) *The board of supervisors of a unified county may provide for branches of the superior court throughout the county.*

(6) *The Legislature shall prescribe the number and compensation of judges and court enforcement officers, and provide for the clerk and other officers and employees of the superior court in a unified county.*

(7) *All other provisions of this article not inconsistent with this subdivision shall apply to the superior court of such a county.*

## Argument in Favor of Proposition 10

California's trial courts are inefficient, inaccessible, and far too costly. Our court system, which was developed when there were far fewer cases than there are today, has not changed to meet the needs of modern times. Its artificial levels and divisions result in duplication and delay that are costly for people who use the courts and for the taxpayers.

Proposition 10 will simply permit each county, *at its option*, to reduce court costs by unifying its justice, municipal, and superior courts within one unified system. In a unified court, judges, court employees, and court facilities can be assigned freely to handle the workload in the most efficient way.

It is not uncommon today to have one courtroom empty while another, right next door, is overflowing and congested. This amendment will force the different courts to work with each other so that the workload is distributed equally. Court delays would thereby be reduced and justice administered more swiftly.

In a unified court there will be one filing system, one accounting system, and one set of records, in place of the many that exist in every county today. A unified court will be more efficient, which means that the public will have to pay for fewer judges and fewer courtrooms in the future.

The unified court concept has been tested. A major judicial district in San Diego County has experimented successfully with unification for the past five years. The statistics clearly show that judges are hearing more cases in a shorter period of time in a unified court.

Proposition 10 will only *permit* counties to unify their courts. It does *not force* them to do so. For a county to unify its courts under Proposition 10, the Legislature must first pass a bill authorizing unification in that county. Then, the board of supervisors must put the question on the ballot. Finally, *the people themselves* must vote for unification of the courts.

Therefore, under Proposition 10, the people of each county, **NOT THE POLITICIANS OR THE JUDGES**, will have the final say with respect to whether or not their courts are unified.

The County Supervisors Association of California and the California Taxpayers' Association support Proposition 10 because it will **SAVE TAXPAYERS MONEY**.

The California Trial Lawyers Association supports Proposition 10 because a unified court system will be **MORE EFFICIENT**.

The authors believe that an independent study supports the conclusion that court unification offers the taxpayer the potential for a 15% savings. The authors believe this amounts to potential savings of millions of dollars per year to California taxpayers.

The people of the State of California have the right to expect their courts to be efficient and accessible and to be administered in a financially responsible manner. This is not now the case. Scholars, court administrators, and *every neutral study done on this issue over the last thirty years have concluded that money can be saved, delay can be reduced, and justice can be enhanced through court unification.*

**FOR A MORE EFFICIENT AND LESS EXPENSIVE COURT SYSTEM, VOTE YES ON PROPOSITION 10.**

**EDMUND G. "PAT" BROWN**  
*Formerly Governor and Attorney General  
State of California*

**OMER L. RAINS**  
*State Senator, 18th District  
Chairman, Senate Judiciary Committee*

**G. DENNIS ADAMS**  
*Judge, Superior Court of San Diego County*

## Rebuttal to Argument in Favor of Proposition 10

Don't be fooled. It is not possible to pay judges more money, keep the same support staff, and save any money.

The proponents of Proposition 10 are asking you to visit havoc upon the very trial court to which the people have the most ready access and ignore the fact that every dollar they claim to save can be saved today—without Proposition 10.

California's Constitution already permits the Legislature to designate the county clerks as clerks of the municipal courts as well as the superior court. Thus all recordkeeping duplication can be eliminated. Already the Chief Justice may designate municipal court judges to sit, as available, as superior court judges, thus permitting maximum efficiency and preventing congestion in some courtrooms while other courtrooms are idle.

What does this cost the taxpayer? Nothing. Every dollar of real savings can be achieved without any expense, without any pay raise, and without Proposition 10.

The "independent study" the proponents cite is not a study

of Proposition 10. That study, proposing state financing of courts at an extra \$30,000,000 annual cost, proposed to "save" state money by usurping local revenue used to support law enforcement.

We all want lean, efficient, effective courts. Proposition 10 does not help.

It does claim to give you an "option." Your options are to **PAY** for local studies and **PAY** for local elections so you can **PAY** judges more money. Or you can opt to **SAVE** money and vote **NO** on Proposition 10.

**ANTHONY MURRAY**  
*President, State Bar of California*

**EDWIN L. MILLER, JR.**  
*District Attorney, County of San Diego*

**PETER MEYER**  
*President, County Clerks Association of California, Inc.*

## Argument Against Proposition 10

Masquerading as a "streamlining" of California courts, Proposition 10 is a hoax which will give each affected municipal court judge a \$5,931 raise in annual salary and benefits. In return for this generosity, the California public will see the step-by-step destruction of the municipal court, the "people's court" to which they now have ready access for the resolution of disputes.

The Legislature considered this proposal, but no legislative fiscal committee studied the costs to the people. Certain costs are known. There are 487 municipal court judges who now each receive \$57,776 per year. Under this proposal each judge can receive an annual salary of \$63,267 plus \$440 per judge additional public contributions to the Judges' Retirement Fund. If each affected county adopts court unification, this means a known higher cost of \$2,888,397 just so municipal court judges can call themselves superior and collect a bigger paycheck.

That's not all. Each affected municipal court judge will eventually receive an increased retirement check from the already underfunded Judges' Retirement Fund. This is an undetermined cost increase to all state taxpayers. There are substantial unknown additional costs for additional support personnel. The elimination of the elected county clerk as clerk of the unified court removes voter control over this vital function and invites "cronyism" with its added cost.

Proposition 10 will "reform" the California courts only by allowing counties to dismantle a proven, effective, and efficient two-tier court system by destroying the municipal court. The municipal court is truly the "people's court," providing speedy resolution of most of the public disputes and expediting hearings in criminal cases. To eliminate such an important court in order to elevate municipal court judges to a perceived *higher* status at higher pay is not court reform but

court destruction.

Californians demand more accountability from their judges. This proposal offers less. Under court unification, our proven system of superior court judges reviewing the action of municipal court judges is all but destroyed. A judge cannot and should not be expected to review the work of a colleague, knowing that perhaps next week their roles will be reversed. The appearance and substance of justice will be questioned, and public confidence in the courts will be eroded.

In San Diego County, where a pilot court unification experiment was authorized by the Chief Justice and conducted at no added cost to the taxpayer, the fundamentals of this proposition have been studied. As a result, Proposition 10 is opposed by the San Diego District Attorney, the Criminal Defense Bar Association of San Diego, the San Diego County Bar Association, a majority of superior court judges, and many in law enforcement.

This proposition is also opposed by the State Bar of California, the California District Attorneys Association, and the California Attorneys for Criminal Justice.

Experts will differ as to the methods of meaningful court reform. Pay raises to judges is not court reform. Proposition 10 proposes a fiscal fiasco that must be defeated.

Vote against more expensive courts. *Vote NO!*

**JOHN G. SCHMITZ**  
*State Senator, 36th District*

**STEVE WHITE**  
*Executive Director*  
*California District Attorneys Association*

**THOMAS H. AULT**  
*President, San Diego County Bar Association*

## Rebuttal to Argument Against Proposition 10

The argument in opposition to Proposition 10 is deceitfully written to convey the false impression that it is simply a pay raise for municipal court judges. The **FACTS** are that Proposition 10 will **SAVE MONEY, INCREASE JUDICIAL ACCOUNTABILITY, INCREASE EFFICIENCY, AND GIVE YOU—THE CITIZEN—MORE SAY IN HOW YOUR COURTS ARE RUN.**

For the most part, those opposed to Proposition 10 are those who wish to maintain the status quo because they have learned how to "play the system," seeking delays and postponements, and thus preventing a swift and sure delivery of justice.

Unlike what the opponents suggest, California's courts are no longer efficient. The front page of your newspaper tells you that. Just ask yourself: "Are you satisfied with today's costly, congested, and overstaffed court system?" If you are, then do as the opponents suggest and vote against this proposition.

**BUT**, if you're not satisfied with "business as usual" and

want a **LESS COSTLY** court system—one that will help our courts to more effectively address, for example, the problems of crime and criminal conduct—then you should vote **YES** on Proposition 10.

After all, shouldn't you—the citizen—have some say in the way in which the courts are run in your own county? We think you should, over two-thirds of the Legislature—Republicans and Democrats alike—agree, and so do all independent authorities who have studied the question of court unification.

**VOTE YES ON PROPOSITION 10.**

**OMER L. RAINS**  
*State Senator, 18th District*  
*Chairman, Senate Judiciary Committee*

**LARRY STIRLING**  
*Member of the Assembly, 77th District*  
*Member, Assembly Judiciary Committee*

**JOHN GARDENAL**  
*President, California Trial Lawyers Association*