
California State Assembly



Proceedings
in
Joint Convention

STATE OF THE JUDICIARY

Address by

The Honorable Ronald M. George
Chief Justice of California

Assembly Chamber
February 23, 2010

STATE OF THE JUDICIARY
ADDRESS TO A JOINT SESSION
OF THE CALIFORNIA LEGISLATURE

FEBRUARY 23, 2010

CHIEF JUSTICE RONALD M. GEORGE

Good afternoon. I would like to thank your leadership, Senate President pro Tem Darrell Steinberg and Assembly Speaker Karen Bass, for their invitation to address you today.

I am pleased to be joined here today by Justices Werdegar, Chin, and Corrigan; unfortunately, my other colleagues are out of state or had in-state commitments they could not reschedule. Also present are members of the Judicial Council—the constitutional body I chair that is charged with responsibility for the statewide administration of justice, comprised of judges, court administrators, and lawyers from across the state, as well as two legislative members. Our very capable Administrative Director of the Courts, Bill Vickrey, is present with his Chief Deputy, Ron Overholt, the director of our Office of Governmental Affairs, Curt Child, and others from the Administrative Office of the Courts, which serves as the staff arm of the Judicial Council.

Several lawyers and judges from the Bench Bar Coalition also are here. Some have visited your offices in the past several weeks, and others will be meeting with you during the months ahead. These meetings are meant to provide you with information about what the judicial branch is doing with the resources you provide to us, and about the actions we are taking to fulfill the mission of our courts to provide fair, accessible, and impartial justice for all Californians.

My visit with you this afternoon marks my 15th annual State of the Judiciary Address to the Legislature, and my service of almost 38 years as a judge on all levels of the California court system—service that has spanned times good and bad for California's economy.

Like all areas of public and private life, our court system has been severely affected by the recent economic downturn and the fiscal crisis facing state government. We managed to get through this difficult year with a combination of spending reductions, redirections of one-time funding, and the use of reserves—which will not continue to be available. But at this critical juncture I can report that although the state of the judicial branch is significantly challenged, the branch remains robust and resilient. Because of the structural changes we have undergone, our courts are better able to deliver on the promise of equal justice under law than at any other time in my service as Chief Justice of California, and perhaps than at any other time in our state's history.

In difficult economic times when resources are insufficient to meet the needs of the public, it has become commonplace to question the

achievements of all aspects of state government. To those skeptics who see no progress, I would offer as contrary evidence a comparison of the court system we had 15 years ago and the system we have today. With the support and assistance of our sister branches of government, we have achieved unprecedented improvements in the structure of the judicial branch that benefit millions of Californians.

The first of these structural reforms was breakthrough legislation enacted in 1997 that provided statewide funding for the trial courts. The transition to statewide funding was a giant leap forward in creating a state judicial branch of government in reality as well as in name, in function as opposed to mere theory.

The following year—in 1998—California voters approved a constitutional amendment that you placed on the ballot at our urging, permitting the unification of the state's 220 superior and municipal courts into 58 trial courts, one in each county. Unification has allowed greater flexibility in the use of judicial, staff and courthouse resources, has eliminated duplicative services, and has led to the creation of new court programs serving the public.

Finally, the Trial Court Facilities Act of 2002 initiated the transfer of ownership and management responsibility for the state's 532 court facilities from the counties to the state, under judicial branch management.

These historic reforms—trial court funding, court unification, and the transfer of court facilities—have enabled us to provide better service to the public, have strengthened the fundamental role of the judiciary as a co-equal branch of government, and have resulted in a greater degree of accountability to you—the legislative branch of government—and to the public.

But although the state of the judiciary is fundamentally strong, our courts are increasingly hard-pressed to meet their obligation to provide accessible justice. In these difficult times, with so many needs and demands facing you and the Governor, I do not, of course, come to you with a list of new initiatives requiring your support. I do ask, however, that you appreciate and protect the progress we together have made in building a strong and accessible system of justice—an accomplishment that is among the state's greatest achievements in recent years. I urge you to enable us to continue on our path of progress, even if at a somewhat slower pace because of the economic realities that confront us.

Our branch is keenly aware of the financial outlook for the state both now and for the next few years. The judicial branch is bearing our share—and possibly more than our share—of the widespread sacrifices being undertaken by all branches of government to address the current fiscal crisis.

With your authorization, the Judicial Council, at an emergency public meeting last July, instituted a one-day-per-month closure of all courts across the state—the Superior Courts, the Courts of Appeal, and the Supreme Court—the third Wednesday of each month. The decision to close the courts for a total of 10 days during the fiscal year was made with great reluctance by Council members. After examining other

solutions and seeking input from court leaders around the state, we determined that court closures were the only feasible option available to us. The closures allowed us to adequately address year-end budget reductions while at the same time providing important statewide consistency for the public, protecting our employees from major layoffs, and avoiding other piecemeal cutbacks in service on a court-by-court basis—cutbacks that would have more drastically affected the public's access to justice and created disparities in the administration of justice from county to county.

The unintended yet inevitable symbolism of “Closed” signs on our courthouses—institutions that embody our nation's most revered democratic ideals—is a graphic indication of the severity of California's economic crisis. These statewide closures must not continue into the next fiscal year.

For many Californians the courts represent their primary—and sometimes their most important—interaction with state government. Yet the entire judicial branch budget accounts for only about two percent of the state budget. The current budget now proposed for the courts includes triggers related to federal funding and new revenue from traffic violations—contingencies that are uncertain. We look to you not for increases, but for sufficient and secure funding in the coming fiscal year, including an extension of temporary revenue enhancements that are due to sunset next year.

At that emergency meeting of the Judicial Council last July, I pledged to reduce my own salary in an amount equivalent to the reduction in staff pay resulting from the furloughs, and asked judges statewide to similarly acknowledge the sacrifice we have asked of the more than 20,000 men and women who work in California's judicial branch—despite the constitutional protection judges receive from diminution of their salaries during their term in office. I am pleased to report that the vast majority of judges and justices in California—between 80 and 90 percent—have pledged to participate in a voluntary salary waiver program amounting to a 4.6% percent pay reduction, or have otherwise made equivalent donations to their courts to help preserve access to justice in their communities. Other judges are making donations to court-related programs. At some courts, including the one on which I serve, 100% of the judges are participating in voluntary salary reductions.

Court closures are far from the only measures taken by the judicial branch. At the statewide level, early last year the Administrative Office of the Courts instituted a hiring freeze on all except critical positions and reduced operating expenses in many areas. It also imposed on its staff a mandatory furlough on court closure days, with related reduction in salary, suspended annual salary step increases, and eliminated more than six dozen positions, leaving dozens more unfilled. Last month, the California Supreme Court closed its Clerk's Office in Los Angeles to achieve greater cost savings and efficiencies.

At the same time that courts have had their resources cut, they have experienced a rapid rise in case filings in several areas. Legislative action on new judicial positions—desperately needed, especially in fast-growing areas of the Central Valley and the Inland Empire—has

been deferred because of the state's fiscal crisis. At a more opportune time, we shall press for authorization and funding for these new judgeships.

While keeping our focus on maintaining the courts' day-to-day operations, we cannot retreat from our mutual commitment to investing in the judicial branch's infrastructure. I refer specifically to the California Court Case Management System (CCMS) and the court facility construction and management program—each of which is as vital a part of California's infrastructure as our bridges and highways and fundamental to administering justice. These endeavors cannot be shelved when we encounter bad times—the welfare and safety of Californians depend upon proper investment in the long-term future of our state, and our plans will enhance California's economy to benefit us all.

Californians are living in an increasingly seamless digital age, yet their courts are mired in a much earlier technological time. California's courts currently operate more than 70 different case management systems with about 130 variations. These systems do not connect with one another and often fail to provide vital, accurate, and up-to-date information to judges and court staff across court and county jurisdictions, much less to our justice-system partners. Many trial court case management systems operate on platforms designed in the 1970's and 1980's. Antiquated information systems require costly maintenance and too often crash. One of your members, in a conversation with me last week, likened the situation to constantly having to pay for repairs to an old car that belongs in the junkyard.

Because of our outdated and incompatible information systems, judges in the courtroom and law enforcement officers in the field too often lack current information about the past criminal history of violent offenders, outstanding warrants, and domestic violence restraining orders, and may be equally unaware that other warrants executed against individuals were previously recalled. Judges, prosecutors, and defense counsel cannot obtain timely information about current or past proceedings that would affect charging and sentencing decisions.

The good news is that development and testing of our comprehensive new case management system, undertaken at the urging of two governors and this Legislature and in coordination with our justice system partners, is nearly complete. When fully deployed, the new system will deliver the services, efficiencies, and access to information that the public has a right to expect. Already, completed portions of the system are in full use at several courts. I have received unsolicited correspondence from presiding judges extolling its benefits.

Attracted by the sophistication of the new system and its enhanced law enforcement capabilities, Department of Homeland Security officials have expressed interest in assisting our efforts and recently sent a team from Washington, D.C. to California to inspect our program. The AOC also is exploring interest the private sector may have in investing in the California system.

This current year, we have slowed the implementation of CCMS by diverting some of the funding dedicated to this system to assist in operational short falls. But further delay will compromise our ability to

effectively use what has been developed thus far, and will only increase the costs in the future.

I am pleased that at a hearing last week of the Joint Legislative Audit Committee, there was recognition of the need for a comprehensive statewide case management system for the courts. Under a budget trailer bill enacted last year, the State's Chief Information Officer is required to review and make recommendations concerning this system and report her recommendations to the Joint Legislative Budget Committee. Because of this newly enacted provision, we felt it was premature to require the State Auditor also to conduct what may be a duplicative review, but we will of course cooperate fully and provide any and all information that may be requested by the Legislature.

And now, I would like to turn to the other major component of our current infrastructure efforts. The Trial Court Facilities Act of 2002 put in place a multi-year process for transferring the ownership of California's court facilities from the counties to the state under judicial branch management. This task has been long and complex, but I am pleased to be able to report to you that we have completed the transfer process.

On December 29, 2009, the Glenn County Board of Supervisors voted unanimously to transfer responsibility for the courthouse in Willows to the Judicial Council, thereby completing the transfer of the last of the state's 532 courthouses and other court facilities from the counties to the state. The transfer marks the successful conclusion of one of the largest real estate transactions in our state's history. This monumental effort would not have been possible without the sustained support of the Legislature and our partnership with representatives of state and local government.

Judicial branch oversight of court facilities provides significant benefits for the public: increased safety and security, greater operational efficiencies, savings through statewide purchasing power, and enhanced delivery of programs and services.

The critical task before us now is to achieve the objective you identified in enacting Senate Bill 1407—which was to begin the urgent task of repairing and replacing the most dilapidated and dangerous facilities without using a single dollar of the state's general fund.

SB 1407 authorizes the expenditure of up to \$5 billion to construct or renovate 41 courthouses in 34 counties—the most critically needed projects required to remedy severe seismic, asbestos, mold, and security deficiencies. These projects will be financed through lease revenue bonds supported by increased court fees, penalties, and assessments—increases agreed to by many of those affected, because of the intended use of the money for court construction purposes.

This homegrown stimulus package affects more than just the judicial branch. It could not have come at a better time for the California construction industry and the men and women employed in the building trades. Estimates are that as many as 105,000 jobs will be created by the projects authorized by this measure.

Some have suggested that the fees designated for the court construction program should be redirected to day-to-day court operations for the duration of the economic downturn. For many

reasons, I—and at least 54 of the state’s 58 superior court presiding judges—believe this shortsighted approach would have severe negative consequences for public safety and the well-being of the men and women who work in our courts. It also would be financially costly to the state in the long run; each year of delay is estimated to cost the state \$300 million in lost purchasing power.

We are not alone in this view. As an editorial in the Los Angeles Times observed earlier this month: “There almost certainly will never be a time when courts are so knee-deep in money that judges, court administrators and Sacramento lawmakers will lose all temptation to grab the construction funds.”

Noting arguments to divert to other uses the funds allocated for this purpose, the editorial continued: “Today’s court operations funding problem could well be severe, but so is the need to replace or repair dozens of ramshackle, outmoded, unsafe and just plain inconveniently located courtrooms in many of California’s 58 counties, including Los Angeles. The funds—authorized by legislation known as SB 1407—should finally be allowed to do their work.”

The progress the judicial branch has made in meeting the public’s needs would not have been possible without the governance structure we have in this state—a constitutional body, the Judicial Council of California, supported by a highly competent professional staff agency, the Administrative Office of the Courts.

As required by the California Constitution, I as Chief Justice select the members of the Judicial Council. The Council’s Executive Committee recommends candidates—judges and court executives who are nominated by others, self-nominated, or recruited by the Executive Committee, and who come from diverse backgrounds and viewpoints, with demonstrated commitment to the administration of justice. Hundreds of judges serve on the Judicial Council’s advisory committees and task forces, providing input on all the actions it takes. The Administrative Office of the Courts (or AOC) is the staff responsible for carrying out the policies adopted by the Judicial Council.

Some have questioned the growth in the AOC’s budget, but that growth primarily reflects responsibilities transferred at your direction from county government and local courts, in addition to the AOC’s assumption of other duties mandated by the Legislature. The AOC’s budget, excluding the newly imposed responsibility for courthouse facilities construction and management in California’s 58 counties, amounts to a small fraction of the allocations to the courts—just over 3-1/2% of the total judicial branch budget. Compared to its counterparts in the federal system and in many other states, and proportionately to population, California’s AOC does far more with far fewer staff.

The judicial branch’s operations are more open to public scrutiny than ever before, as provided by Rules of Court adopted by the Judicial Council last December, clarifying the public’s right to access administrative records maintained by the AOC and the superior courts. It has been AOC policy for several years to adhere to the spirit of the California Public Records Act, but there was no express approach

regarding public access to records of our branch. The new rules approved by the Council provide that structure and establish access provisions applicable to judicial administrative records maintained by state trial and appellate courts, the Judicial Council, and the AOC.

According to the First Amendment Coalition, whose praise of government actions is infrequent, the new rules (which took effect January 1, 2010) “[make] California the first state to adopt a legally enforceable ‘freedom of information’ mandate for its judiciary.”

There are several other areas in which California’s judicial branch has made remarkable progress during the past year. Time permits me only to name a few of them, without describing them at any length. These include the Judicial Council’s task force on family law proceedings, focused on unrepresented litigants; our commission on children in foster care; our commission for impartial courts; and the “Civil Gideon” pilot project legislation authored by Assembly Member Mike Feuer, providing counsel for low-income individuals in critical-needs civil cases. Reports are available on the judicial branch website or through our Office of Governmental Affairs.

As I close, I want to observe that a primary source of the judicial branch’s strength lies in the fact that the vast majority of the state’s approximately 1,700 judges plus hundreds of subordinate judicial officers—whatever their personal or local differences—are firmly committed, along with court staff, to engaging in healthy debate and working together in a constructive manner to resolve the funding and access-to-justice issues challenging the courts today. These judges recognize that the judiciary comprises a single judicial branch, serving the diverse population of our entire state while leaving to individual courts the determination of how best to meet local needs. These judges also recognize that they do not reign over individual judicial fiefdoms intent on hoarding for each court the resources that you provide to us to meet the needs of the public.

As you seek and receive input from California’s judiciary—the largest in the United States and, in the view of many across the nation, the finest—I urge you not to lose sight of the fact that it is the constitutional body, the Judicial Council of California, and its historic partner, the California Judges Association, the dues-supported voluntary organization representing more than 2,000 active and retired judges and justices, that speak for California’s co-equal judicial branch of government even though these two entities may not always be in total agreement.

The judiciary is not represented by the few strident and uninformed voices that occasionally emerge as e-mail strings on the fringe of the judiciary. Their efforts reflect nothing less than a thinly disguised agenda to dismantle the statewide administration of justice that all three branches of government have developed over the past several years. The vast majority of judges do not wish to engage in finger-pointing among individual courts and factions, and instead are prepared to remain fully accountable to you—the Legislature—and to the executive branch for the resources you allocate to the Judicial Council for the statewide administration of justice for the benefit of all Californians.

One simple truth prevails. Courts are not a luxury to be funded in good times and ignored in bad times. Justice cannot be available only when it is convenient to pay for it. We shall attempt to address and absorb the reductions in our budget during these difficult times. But all of us—in each of the three branches of government—must remain committed to continuing the progress we have made toward meeting the goal of a fair and accessible system of justice.

I thank you for your support and for your leadership, and look to you to protect the investment you have made in building a judicial branch that is committed to preserving and enhancing access to justice for all Californians.

I hope you will join me and other representatives of the judicial branch at the reception that will begin shortly on the second-floor level of the Capitol rotunda.