



SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

August 13, 2003

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS and
COUNTY COUNSEL (03211)

FROM: _____
STEPHEN N. TROUT
ELECTIONS COUNSEL

SUBJECT: ELECTIONS TO FILL SUPERIOR COURT VACANCIES

This information is for elections officials, county counsel, judges and others seeking clarification of laws affecting elections to fill vacancies in the offices of Superior Court judge for terms set to end in the year 2004. Recognizing that the Secretary of State no longer certifies judicial elections for superior courts, the following information is being provided to elections officials and others to assist in enhancing their understanding of the applicable election laws.

In 1999, the Governor's Office, the Secretary of State's office, the Attorney General's office, the Judicial Council and the Legislative Counsel, reached a consensus on the appropriate application of (then) new laws affecting the election of Superior Court judges. Since Municipal Courts no longer exist, all references are to the Superior Court judicial offices.

Each of the agencies named above agrees that for presently existing vacancies that arose in 2003, the election will occur in 2006 and not in 2004. A brief synopsis of possible circumstances follows:

1. If the vacancy occurs in 2003, prior to November 10, 2003, the next election will be held in the year 2006. This will be true whether or not the vacancy is filled by the Governor.
2. If the vacancy occurs after the close of the filing period for the 2004 election and the incumbent is unopposed, the election to fill the vacancy will be held in 2006. (This occurs because the election process cannot be properly completed.)

An exception to this general rule is if the vacancy occurs in 2003 but occurs after a candidate has qualified for a particular office (i.e., an election is scheduled to be held at its

normal time and the incumbent office holder is still in office when another candidate qualifies), the election will be held in 2004.

The preceding refer to vacancies occurring in 2003. For offices that became vacant in 2001 or 2002, the election will occur in 2004.

Following is a list of opinions that support this memo. Copies of these opinions are available if you need them.

Department of Justice informal opinion re: Judicial Vacancies (Sept. 23, 1999)
Legislative Counsel opinion Superior Court Vacancies (July 26, 1999)
Judicial Council opinion Effect of Court Unification on Judicial Elections (June 28, 1999)

If you have any questions concerning this, please feel free to call me at 916-657-2182.