

RESOLUTION 02-06-2017

DIGEST

Judicial Districts: Deletion of Obsolete References

Amends Code of Civil Procedure section 38 to delete obsolete references to municipal courts.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

Similar to Resolution 11-05-2014, which was approved in principle.

Reasons:

This resolution amends Code of Civil Procedure section 38 to delete obsolete references to municipal courts. This resolution should be approved in principle because it removes references to municipal courts and municipal court districts, neither of which exists in California.

In 1998, California voters passed Proposition 220 (June 1998 Primary Election), which amended the California Constitution and made additional conforming changes that permitted the judges of superior and municipal courts in a county to consolidate if a majority of the judges voted to consolidate. By 2002, the courts in all 58 counties were consolidated and California voters approved Proposition 48 (Nov. 2002 Gen. Election) amending the California Constitution to delete references to the municipal courts as obsolete due to consolidation.

This resolution deletes obsolete references to the municipal courts and municipal court districts that remain in Code of Civil Procedure section 38. The deletion is consistent with the structure of the California judicial branch as determined by California voters who eliminated municipal courts in California.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 38 to read as follows:

- 1 § 38
- 2 Unless the provision or context otherwise requires, a reference in a statute to a judicial
- 3 district means:
- 4 (a) As it relates to a court of appeal, the court of appeal district.
- 5 (b) As it relates to a superior court, the county.
- 6 ~~(c) As it relates to a municipal court, the municipal court district.~~
- 7 ~~(d) As it relates to a county in which there is no municipal court, the county.~~

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of Northern San Diego County

STATEMENT OF REASONS

The Problem: Currently, Code of Civil Procedure section 38, in its provisions regarding Judicial Districts, refers to municipal court, when there are no longer such courts, such that subdivisions (c) and (d) thereof are surplusage.

The Solution: This resolution would eliminate the subdivisions of section 38 that refer to municipal court.

IMPACT STATEMENT

The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR RELATED LEGISLATION

None known.

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