



JUDICIAL COUNCIL OF CALIFORNIA

770 L Street, Suite 1240 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

MEMORANDUM

Date	Action Requested
February 8, 2016	Recommend for Judicial Council Sponsorship
To	Deadline
Members of the Policy Coordination and Liaison Committee	N/A
From	Contact
Laura Speed, Assistant Director, Governmental Affairs	Laura Speed, 916-323-3121 laura.speed@jud.ca.gov Charles Martel, 415-865-4967 charles.martel@jud.ca.gov
Subject	
Proposal for Judicial Council-Sponsored Legislation: Disposition of the Corning Courthouse and Chico Courthouse	

Executive Summary

The State of California, acting by and through the Judicial Council of California, Administrative Office of the Courts, is the record title holder of both the Chico and Corning Courthouses which were acquired through the SB 1732 transfer process. The state holds 100% equity and title to the two courthouses. Both of the facilities have been permanently closed by their respective courts and are unsuitable to the needs of the judicial branch. The Superior Court of Butte County and Superior Court of Tehama County have expressed support for the disposition (sale) of the facilities.

On February 5, 2016, the Facilities Policies Working Group (FPWG) reviewed the status of the two Courthouses and relevant law. The FPWG voted to move the matter to the Judicial Council

with the recommendation that the council authorize and approve the sale of the Corning Courthouse to Tehama County and the Chico Courthouse to Butte County in fair market value transactions with the final form of the legislation authorizing sale of these court facilities conforming to the final form of legislation authorizing disposition of the San Pedro Courthouse. A copy of the report to the Judicial Council on this matter is attached hereto.

Because of the two Counties' desire to purchase the Courthouses, the proposed legislative language is being brought to the Policy Coordination and Liaison Committee (PCLC) before the February 26, 2016 Judicial Council meeting to keep legislation for the dispositions moving in as timely a manner as possible, with the understanding that the earliest date that legislation could go into effect would be January 1, 2017.

Recommendation

Contingent on Judicial Council action on the Facilities Policies Working Group (FPWG) recommendation with respect to the Chico and Corning Courthouses, the FPWG recommends the Judicial Council sponsor legislation authorize the disposition of the Chico and Corning Courthouses in conformance with the final form of legislation authorizing disposition of the San Pedro Courthouse.

Previous Council Action

In April 2015 the Judicial Council declared the San Pedro Courthouse as surplus with proceeds from its sale deposited in the Special Fund for Economic Uncertainties (SFEU), and authorized its disposition and sponsorship of legislation to accomplish that goal.

In October 2015 the Judicial Council approved a short term lease of the Corning Courthouse to the County of Tehama pending the sale of the courthouse to the county.

In December 2015, the Judicial Council approved sponsorship of an alternative proposal to authorize the disposition of the San Pedro Courthouse as non-surplus to allow the judicial branch to retain the proceeds of its sale in the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund.

Comments, Alternatives Considered, and Policy Implications

No alternatives were considered given that the authorizing legislation is required by statute.

Further Discussion

For further background and discussion of the recommended action, please see the attached copy of the draft report prepared for Judicial Council review.

Attachment

Report to the Judicial Council re: Court Facilities: Disposition of Chico and Corning Courthouses dated January 28, 2016.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 26, 2016

Title	Agenda Item Type
Court Facilities: Disposition of Chico and Corning Courthouses	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	February 26, 2016
Recommended by	Date of Report
Facilities Policies Working Group	January 28, 2016
Hon. Douglas P. Miller, Chair	Contact
Hon. Marla O. Anderson, Vice-Chair	Eunice Calvert-Banks, 415-865-4048 eunice.calvert-banks@jud.ca.gov
	Charles Martel, 415-865-4967 charles.martel@jud.ca.gov

Executive Summary

Two court facilities in northern California, the Corning Courthouse in Tehama County, and the Chico Courthouse in Butte County, have been permanently closed by their respective courts and are unsuitable to the needs of the judicial branch. In each case, local county government has expressed a strong interest in acquiring the closed court facility, and the local court supports such a disposition. To eliminate the council's continuing liability and expense in holding these permanently closed court facilities, and to realize the value of those assets in fair market value sales transactions, the Facilities Policies Working Group recommends that the council authorize and approve the sale of the Corning Courthouse to Tehama County and the Chico Courthouse to Butte County as non-surplus properties, or, in the alternative, as surplus properties depending on how the Legislature frames the disposition of the San Pedro Courthouse the disposition of which was approved by the Judicial Council in 2015.

Recommendation

The Facilities Policies Working Group recommends that the Judicial Council, effective February 26, 2016:

1. Authorize and approve the sale of the Corning Courthouse to Tehama County and the Chico Courthouse to Butte County in fair market value transactions with the final form of the legislation authorizing sale of these court facilities conforming to the final form of legislation authorizing disposition of the San Pedro Courthouse;
2. Direct council staff to take all actions necessary to obtain statutory authorization to dispose of these facilities, and to draft and negotiate purchase and sale agreements with the counties; and
3. Delegate to the Administrative Director the authority to sign a real property purchase and sales agreement for each facility, contingent on legislative authorization for the sale of the properties.

Previous Council Action

In April 2015 the Judicial Council declared the San Pedro Courthouse as surplus with proceeds from its sale deposited in the Special Fund for Economic Uncertainties (SFEU), and authorized its disposition and sponsorship of legislation to accomplish that goal.

In October 2015 the Judicial Council approved a short term lease of the Corning Courthouse to the County of Tehama pending the sale of the courthouse to the county.

In December 2015, the Judicial Council approved sponsorship of an alternative proposal to authorize the disposition of the San Pedro Courthouse as non-surplus to allow the judicial branch to retain the proceeds of its sale in the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund.

Background and Rationale for Recommendation

The State of California, acting by and through the Judicial Council of California, Administrative Office of the Courts, is the record title holder of both the Chico and Corning Courthouses which it acquired through the SB 1732 transfer process.¹ The state holds 100 percent equity interests in both facilities.

¹ The Judicial Council in the past referred to its staff as “the Administrative Office of the Courts.” Rule 10.81(b)(4) of the California Rules of Court provides as follows:

The Judicial Council will continue to perform all duties, responsibilities, functions, or other obligations, and bear all liabilities, and exercise all rights, powers, authorities, benefits, and other privileges attributed to the “Administrative Office of the Courts” or “AOC” arising from contracts, memorandums of understanding, or other legal agreements, documents, proceedings, or transactions. The Judicial Council may be substituted for the “Administrative Office of the Courts” or “AOC” wherever necessary, with no prejudice to the substantive rights of any party.

The Chico Courthouse is located at 655 Oleander in Chico and is an approximate 12,390 square foot building situated on 1.25+/- acres. The building contains two courtrooms (one large and one small), two chambers, clerk and administrative space. It is located between two county buildings, and the county's IT system is located in a large closet in the courthouse to which the county has access rights. The Superior Court of Butte County closed the Chico Courthouse to the public in March, 2015 when it moved to the new North Butte Courthouse. The Capital Outlay Budget Change Proposal (COBCP) for the New North Butte Courthouse provided that operations in the Chico Courthouse would be consolidated into the new North Butte Courthouse. In an appraisal dated May, 2015, the fair market value of the Chico Courthouse was \$830,000. The council continues to remain responsible for the costs of operations and maintenance of the Chico courthouse.

The Corning Courthouse is located at 720 Hoag Street in Corning and is an approximate 4,300 square foot building situated on a half-acre parcel of real property. The Superior Court of Tehama County closed the Corning Courthouse to the public in July 2013 due to budget cuts. The COBCP for the new Red Bluff Courthouse provided that operations in the Corning Courthouse would be consolidated into the new Red Bluff Courthouse. Pursuant to council action in October 2015, the council leased the Corning Courthouse to the County of Tehama. That lease shifted to the County all cost of operating and maintaining the building and includes language wherein the council acknowledges the County's right under Government Code section 70391(c)(2) to purchase the property at its fair market value subject to prior legislative authorization. The lease further recites that the fair market value at the time of the lease was \$275,000 which was based on a February, 2014 appraisal.

Both of the facilities are unsuitable to the needs of the judicial branch, and in each case, the court supports the sale of the facility back to the respective county (see attachments) and both counties are eager to proceed. The council and judicial branch as a whole will benefit from the transactions because of the elimination of operations and maintenance costs and liability risks associated with the closed facilities. The judicial branch also benefits from the sales to the extent proceeds are deposited into the ICNA.

Legal Authority

Every sale of state owned real property including these two closed court facilities must be specifically authorized by statute.² The language of the legislation will determine whether proceeds from those sales stay within the judicial branch in the ICNA or are diverted outside the branch to the SFEU. The final form of the legislation authorizing sale of these court facilities will be determined by the Legislature with input from the judicial and executive branches. To date, no sale of any court facility has been finally approved by the Legislature though legislation for the sale of the San Pedro Courthouse, referenced above, is currently in process. The final form of the San Pedro legislation will serve as precedent for the legislation required for the

² People v. Chambers, 37 Cal.2d 552.

Chico and Corning Courthouses. A brief discussion of the legal authority for each of the two main alternatives³ follows.

Under the preferred and recommended alternative, the disposition is framed as an exchange whereby an unsuitable court facility is exchanged for one or more other suitable court facilities, a position supported by existing legislation. The Government Code⁴ contains several provisions (sections 14673.3, 14673.9, 14673.10 and 14673.11) authorizing disposition of state-owned property by the Department of General Services that appear to rely on this principle and that are declared to be not surplus. In reliance on the grant of general authority under 70391(a), and the fact that disposition of a non-surplus court facility is not expressly prohibited, disposition of a court facility through an exchange for a replacement court facility should therefore not be subject to Article III, section 9 of the Constitution. If the Legislature authorizes the sales of the Chico and Corning courthouses in a manner similar to those sections of the Government Code, proceeds from those sales would be deposited in the ICNA and retained for use by and for the judicial branch.

In the alternative, if the sales of the Chico and Corning court facilities are treated as surplus, then pursuant to section 70391(c) and Article III, section 9 of the Constitution, proceeds from those sales would be directed outside the judicial branch to the SFEU.⁵

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for comment. Staff has received written communication from both the Superior Court of Butte County and Superior Court of Tehama County stating that the respective facility is no longer being used for court operations, the court does not intend to resume court operations at this location, and the court supports the disposition of the facility through a sale to the transferring county (see attachments).

Implementation Requirements, Costs, and Operational Impacts

In informal discussions with the counties, staff has been informed that the counties are very interested in reacquiring the facilities. If for some reason either county changes its position and is no longer interested in reacquiring the facility after staff has obtained legislative authorization, the facility will then be offered to other state and local government agencies before staff considers other methods of disposition.

³ Note that some variation of these alternatives may emerge as the San Pedro legislation is finalized.

⁴ All future code references in this report are to the Government Code, unless otherwise noted.

⁵ Article III, section 9 of the Constitution provides that proceeds from the sale of surplus state property shall be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act authorized at the March 2, 2004, statewide primary election, and that after those bonds are fully paid off, the proceeds shall be deposited into the SFEU, or any successor fund. The 2015-16 budget provided for full repayment of the bonds, and so proceeds from the sale of state property that has been declared surplus, such as the Courthouse, would be deposited into the SFEU

Out-of-pocket costs will be incurred in the disposition process including costs of appraisals and title and escrow fees. Any such costs incurred by the council will, however, be offset by the sale proceeds.

Attachments and Links

Attachments

1. Email from Caryn A. Downing, Court Executive Officer, Superior Court of California, County of Tehama.
2. Email from Kimberly Flener, Court Executive Officer, Superior Court of California, County of Butte.

Links

1. [Government Code section 14673.3:](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.3)
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.3.
2. [Government Code section 14673.9:](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.9)
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.9.
3. [Government Code section 14673.10:](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.10)
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.10.
4. [Government Code section 14673.11:](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.11)
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=14673.11.
5. [Government Code section 70391:](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=70391)
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=70391.
6. [California Constitution Article III, section 9:](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SEC.%209.&article=III)
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SEC.%209.&article=III