COURT FACILITIES LEGISLATION ✖ SB 1732 (Escutia)

Chapter 1082, Statutes of 2002

Including Amendments Pursuant to

- **SB 256 (Escutia) Chapter 592, Statutes of 2003**
- **SB 749 (Escutia) Chapter 249, Statutes of 2004**
- **AB 1435 (Evans) Chapter 410, Statutes of 2005**
- **SB 10 (Dunn) Chapter 444, Statutes of 2006**
- **SB 82 (Committee on Budget and Fiscal Review) Chapter 176, Statutes of 2007**
- **AB 1491 (Jones) Chapter 9, Statutes of 2008**
- **SB 1407 (Perata) Chapter 311, Statutes of 2008**
- **SB 4 (Cogdill) Chapter 2, Statutes of 2009**
- **SB 12 (Steinberg) Chapter 10, Statutes of 2009**
- **AB 1164 (Tran) Chapter 140, Statutes of 2009**
- **SB 1330 (Committee on Judiciary) Chapter 328, Statutes of 2010**
- **SB 1062 (Strickland) Chapter 709, Statutes of 2010**
- **SB 857 (Committee on Budget and Fiscal Review) Chapter 720, Statutes of 2010**
- **AB 1620 (Committee on Budget) Chapter 726, Statutes of 2010**
- **SB 82 (Committee on Budget and Fiscal Review) Chapter 12, Statutes of 2011**
- **SB 428 (Strickland) Chapter 304, Statutes of 2011**
- **SB 1021 (Committee on Budget and Fiscal Review) Chapter 41, Statutes of 2012**

Index to Provisions

SECTION 1 – LEGISLATIVE FINDINGS AND DECLARATIONS 1

Legislative findings and declarations; restatement of task force recommendations; guiding principles 1
Further legislative findings and declarations accompanying SB 82 (2007) 3

SECTION 2: APPELLATE COURT FACILITIES
[CHAPTER 4.2 APPELLATE COURT FACILITIES
[GOV. CODE, §§ 69202–69206] 4

Section 69202 – AOC and Judicial Council authority over appellate court facilities 4
Section 69204 – AOC and Judicial Council authority over appellate court facilities 4
Section 69206 – AOC and Judicial Council authority over appellate court facilities 5

SECTION 3 – COUNTY RESPONSIBILITY FOR COURT FACILITIES
[CHAPTER 5.7 SUPERIOR COURT FACILITIES]
[ARTICLE 2. RESPONSIBILITY FOR COURT FACILITIES] 5

Section 70311 – County responsibility for court facilities; specification of state responsibility for facilities associated with new judgeships (replaces and updates Section 68073) 5

SECTION 4 – SUPERIOR COURT FACILITIES
["TRIAL COURT FACILITIES ACT OF 2002"]
[GOV. CODE, §§ 70301–70404] 6

ARTICLE 1. GENERAL PROVISIONS 6

Section 70301 – Definition of relevant terms; citation of Trial Court Facilities Act of 2002 **(operative until 1/1/2010)** 6
Section 70301 – Definition of relevant terms; citation of Trial Court Facilities Act of 2002 **(operative 1/1/2010)** 8
Section 70303 – Creation of Court Facilities Dispute Resolution Committee (CFDRC) 9

ARTICLE 2. RESPONSIBILITY FOR COURT FACILITIES 10

Section 70311 – County responsibility for court facilities (restated for ease of reference) 10
Section 70312 – County relief from deferred and ongoing maintenance responsibilities for transferred facilities 10
Section 70313 – Restatement of responsibility for official court reporting services 11

ARTICLE 3. AGREEMENTS TRANSFERRING RESPONSIBILITY FOR COURT FACILITIES 11

Section 70321 – Timeline for negotiations and transfers 11
~~Section 70322 – Separate agreements for each building transferred ..... 13~~
Section 70322 – Separate agreements not required 13
Section 70323 – Options regarding titles of transferred buildings 13
~~Section 70324 – Provisions for transfer of facilities with level V seismic ratings~~ **(repealed effective 1/1/2010)** 14
Section 70325 – Process for handing buildings with bonded indebtedness; retention of revenue source for bonded indebtedness 15
Section 70326 – Effect of deficiencies on transfers; specification of grounds for rejection of buildings 16
Section 70327 – Seismic safety inspections 17
Section 70328 – County appeal of unacceptable seismic safety rating or rejection of deficient building to CFDRC 18
Section 70329 – Historic buildings 18
Section 70330 – Parking spaces 18
Section 70331 – Pending facilities projects 18
Section 70332 – Development of procedures for implementing transfer of responsibility by Judicial Council and CSAC 19
Section 70333 – CFDRC review of and determination in disputed transfers 19

ARTICLE 4. ADMINISTRATION OF SHARED USE BUILDING 19

Section 70341 – User rights of shared use buildings 19
Section 70342 – Adjustment of space in shared use buildings 19
Section 70343 – Rights and responsibilities of parties in shared use building agreements 20
Section 70344 – Title of shared use buildings; majority (80 percent or more) occupants; rights of displaced parties 20

ARTICLE 5. COUNTY FACILITIES PAYMENT 21

Section 70351 – Legislative intent regarding county facilities payment 21
Section 70351.5 – Alternative methods for calculating county facilities payment 21
Section 70352 – Establishment of Court Facilities Trust Fund 21
Section 70353 – Payment schedule; penalties for delinquent payments 22
Section 70354 – General components of county facilities payments 22
Section 70355 – Inflation adjustments to date of transfer 22
Section 70356 – Basis of county facilities payment: five-year average of expenditures from FY 1995–96 to 1999–2000 22
Section 70357 – Method of calculating utility costs 23
Section 70358 – Method of calculating insurance costs 24
Section 70359 – Method of calculating rental and lease costs 25
Section 70360 – Items excluded from county facilities payment 25
Section 70361 – Administrative Office of the Courts (AOC) and CSAC joint preparation of forms and instructions for county facilities payment 26
Section 70362 – Department of Finance (DOF) provision of base inflation index figures to AOC 26
Section 70363 – Process for establishing county facilities payment 27
Section 70365 – Process for transmitting mailed documents regarding appeals 27
Section 70366 – Process and basis for county appeal of a county facilities payment to CFDRC 27
Section 70367 – Process for Administrative Director of the Courts to appeal county facilities payment to CFDRC 28
Section 70368 – Process for computing initial and separate county facilities payment for each building transferred 29
Section 70369 – Specifications for transmitting notice or documents 29
Section 70370 – Adjustment of county facilities payments 29

ARTICLE 6. STATE COURT FACILITIES CONSTRUCTION FUND 29

Section 70371 – Establishment of State Court Facilities Construction Fund 29
Section 70371.5 – Immediate and Critical Needs Account of the State Court Facilities Construction Fund 30
Section 70371.6 – Authorization to acquire replacement site 31
Section 70371.7 – Report to Joint Legislative Budget Committee; oversight by State Public Works Board 31
Section 70371.8 – Report on status of projects 32
Section 70371.9 – Pilot program; construction field employees; subcontractor paid health care expenditures 32
Section 70372 – **Surcharge for criminal offenses** 35
Section 70373 – Court facilities funding; assessments on criminal convictions 37
~~Section 70373.5 – Limit on amount of surcharge authorized for civil actions specified in Section 70373~~ **(repealed effective 7/19/2005)** 38
Section 70374 – **Required annual report by Judicial Council to Governor and Legislature** 38
Section 70374.2 – No expenditures from State Court Facilities Fund absent increase in fund revenues 39
Section 70375 – **Operative date and specifications for applying surcharges** 39
Section 70376 – **Legislative intent for funding courthouse alteration, construction, and renovation** 41
Section 70377 – **Transmission of revenue to State Controller; penalties for delinquent transmission of funds** 41
Section 70378 – **Investment of funds into Surplus Money Investment Fund; distribution of interest** 41
Section 70379 – **Establishment of Court Facilities Architecture Revolving Fund; sources and uses of moneys in fund** 41

ARTICLE 7. AUTHORITY AND RESPONSIBILITY 42

Section 70391 – Responsibilities and authorities of Judicial Council 42
Section 70391.5 – Performance expectations and benchmark criteria; Finance Director and Joint Legislative Budget Committee review 44
Section 70391.7 – Contracting and procurement of court facilities; design-build entities 45
Section 70392 – Responsibilities and authorities of AOC 51
Section 70393 – Responsibilities and authorities of counties 51
Section 70394 – Task force on county law libraries 51

ARTICLE 8. TRANSITIONAL FUNDING 52

~~Section 70401 – Establishment of Transitional State Court Facilities Construction Fund~~ **(repealed effective 1/1/2011)** 52
Section 70402 – Transfer of local county courthouse construction funds upon transfer or retirement of bond indebtedness 52
Section 70403 – County report of receipts and expenditures from local funds to Administrative Director of the Courts and Director of Finance; county repayment of improper expenditures 53
~~Section 70404 – Approval by Administrative Director of the Courts of requests to expend/encumber courthouse construction funds; exceptions~~ **(repealed effective 1/1/2008)** 53

SECTION 5 – LOCAL PENALTY ASSESSMENTS
[CHAPTER 12. COUNTY PENALTIES]
[ARTICLE 1. PENALTIES]
[GOV. CODE, § 76000] 55

Section 76000 – Authorization to collect new penalty assessments 55

SECTION 6 – COURTHOUSE CONSTRUCTION FUND
[CHAPTER 12. COUNTY PENALTIES]
[ARTICLE 2. ALLOCATION OF PENALTIES]
[GOV. CODE, §§ 76100–76110] 57

Section 76100 – Elimination of sunset provisions on existing authority to maintain local courthouse construction fund 57

SECTION 7 – CRIMINAL JUSTICE FACILITIES CONSTRUCTION FUND [CHAPTER 12. COUNTY PENALTIES] [ARTICLE 2. ALLOCATION OF PENALTIES] [GOV. CODE, §§ 76100–76110] 58

Section 76101 – Elimination of sunset provisions on existing authority to maintain criminal justice facilities construction fund 58

SECTION 8 – MERCED COUNTY COURT FACILITIES CONSTRUCTION [CHAPTER 12. COUNTY PENALTIES] [ARTICLE 3. COUNTY PROVISIONS] [GOV. CODE, §§ 76200–76252] 58

Section 76223 – Recognition of Merced County authority to continue use of specified revenues for local project 58

SECTION 9 – OPERATIVE LANGUAGE 59

Technical provisions regarding application of Section 70373.5 59

SECTION 10 – STATE-LOCAL MANDATE PROVISION 59

Standard state-local mandate claim provision 59

SECTION 1 – LEGISLATIVE FINDINGS AND DECLARATIONS

The Legislature finds and declares the following:

Legislative findings and declarations; restatement of task force recommendations; guiding principles

(a) The Lockyer-Isenberg Trial Court Funding Act (hereafter act) provides that court operations are to be funded by the state, rather than primarily by the counties, as they had been prior to the enactment of the act. Although the counties continue to contribute to trial court funding through maintenance-of-effort obligations, the restructuring of court funding ends a dual system of county and state funding and provides a more stable and consistent funding source for trial court operations. Counties, however, continue to bear primary responsibility for trial court facilities.

(b) The act also created the Task Force on Court Facilities (hereafter task force) to deal with the question of facilities that has been left as the responsibility of the counties by the act. The purpose of this act is to transfer the responsibility for trial court facilities funding and operation to the state in a manner generally consistent with the recommendations of the task force.

restatement of recommendations of Task Force on Court Facilities ***[Emphasis added.]***

(c) ***The overarching recommendation of the task force is that responsibility for trial court facilities funding and operation be shifted from the counties to the state.*** The primary reasons for that recommendation are as follows:

(1) ***The judicial branch of government is now wholly responsible for its programs and operations, with the exception of trial court facilities. The judiciary should have the responsibility for all of its functions related to its operations and staff, including facilities.***

(2) ***Uniting responsibility for operations and facilities increases the likelihood that operational costs will be considered when facility decisions are made, and enhances economical, efficient, and effective court operations.***

(3) ***The state, being solely responsible for creating new judicial positions, drives the need for new court facilities.***

(4) ***Equal access to justice is a key underpinning of our society and the rule of law. It is also a paramount goal of the Judicial Council, the policymaking body of the judicial branch. The state can best ensure uniformity of access to all court facilities in California.***

(d) Specific provisions for carrying out this transfer of responsibility for trial court facilities from the counties to the state are contained in this act. The guiding principles for the transition are as follows:

(1) The transfer shall occur as expeditiously as possible and be completed by June 30, 2007.

(2) The transfer shall be negotiated on a building-by-building basis between the state and the counties. Negotiations shall be consummated in an agreement governing each facility.

(3) ***The Judicial Council shall represent the state's interests in negotiations with counties.***

(4) Generally, fee title to court facilities shall be transferred to the state when possible. However, in the case of joint-use facilities or historic facilities, title may remain with a county as provided for in the governing agreement. In those cases, ***the principal guiding negotiations shall be the preservation of the respective equity interests of the county and the state in a joint-use or historic facility.***

(5) Generally, the Judicial Council and the county shall agree to the transfer of responsibility for each court facility in that county unless transfer of responsibility is rejected.

(6) ***Counties shall not be entitled to compensation for any equity value of court facilities transferred to the state.***

(7) ***Generally, the state shall be expected to accept responsibility for facilities in an as-is condition.*** However, the state may reject facilities that are seriously deficient, and require counties to continue financial responsibility for those facilities.

(8) Counties shall provide funding for facilities operation and maintenance costs based on historic funding patterns through a county facilities payment to the state. An amount shall be calculated for each facility and that amount shall be agreed to prior to the transfer of responsibility for the facility to which it pertains. This funding shall be provided in perpetuity, but not indexed to increase with inflation over time.

(9) A method shall be created to resolve disputes between the Judicial Council and a county if those parties fail to reach agreement for a facility or the appropriate calculation of the county facilities payment amount.

(e) The same responsibility for appellate court facilities, including the responsibility for planning and construction of new facilities, shall be transferred to the Judicial Council.

(f) The task force recommendations concerning money collected for court facilities consist of the following:

(1) That money collected for trial court facilities operation and maintenance through the county facilities payment, as deposited in the Court Facilities Trust Fund, which represents "funds historically spent by counties to maintain existing court facilities," should continue to be used "to fund or offset the management, operations, and maintenance of all existing facilities."

(2) That the money collected for court facilities construction through filing fee surcharges and the State Court Construction Penalty Assessment, as deposited in the State Court Facilities Construction Fund, should be "dedicated to the capital facilities' needs of the judicial branch."

Further legislative findings and declarations accompanying SB 82 (2007):

The Legislature finds and declares all of the following:

(1) The transfer of responsibility for court facilities from the counties to the state requires that court facilities be efficiently and economically provided to the court system.

(2) The State of California stands to benefit from the consideration and implementation of efficient and contemporary methods of developing and managing major capital infrastructure improvements. Significant cost increases in the real estate and construction sectors make it imperative that the state proceed with capital construction in a timely manner to best mitigate those increases.

(3) The costs of maintaining and operating a building over its life span are greater than the initial construction costs, so the control of these maintenance and operations costs must be factored into any responsible infrastructure development method.

(4) Project delivery methods that implement these cost control considerations should include development by an entity that provides all capital activities, including the financing, design, construction, maintenance, and operation of a building. Those methods may include some or all of the following:

(A) Putting existing property to a higher and better use and leveraging redevelopment proceeds to reduce the state's cost of new replacement court projects.

(B) Combining new court facilities with other appropriate and compatible noncourt uses that would provide a subsidy to reduce the state's maintenance and operation costs.

(C) Utilizing competitive bids to give the state the best financing terms and possible subsidies from redevelopment of current court properties and development of new facilities.

(D) Using a lease-purchase with the option to acquire any noncourt space for future growth needs.

(5) The Judicial Council has established a detailed, multiyear court facilities capital infrastructure plan to acquire court facilities and provide necessary improvements for the judicial branch in the most economically feasible manner.

In order to implement the findings and declarations above, the Legislature hereby enacts Section 70391.5 of the Government Code.

SECTION 2: APPELLATE COURT FACILITIES [CHAPTER 4.2 APPELLATE COURT FACILITIES] [GOV. CODE, §§ 69202 – 69206]

Judicial Council annual recommendation for spending on appellate court facilities

Section 69202 . (a) The Judicial Council shall annually recommend to the Governor and the Legislature the amount proposed to be spent for the planning, renovation, and building of facilities for the appellate courts.

(b) Facilities shall be subject to the State Building Construction Act of 1955 (commencing with Section 15800) and the Property Acquisition Law (commencing with Section 15850), except, notwithstanding any other provision of law, the Administrative Office of the Courts shall serve as the implementing agency upon the approval of the Department of Finance.

responsibilities and authorities of Judicial Council regarding appellate court facilities

Section 69204. The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to appellate court facilities, in addition to any other authority or responsibilities established by law:

(a) Exercise full responsibility, jurisdiction, control, and authority as an owner would have over appellate court facilities, including, but not limited to, the acquisition and development of facilities.

(b) Exercise the full range of policymaking authority over appellate court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not otherwise limited by the law.

(c) Establish policies, procedures, and guidelines for ensuring that the appellate courts have adequate and sufficient facilities, including, but not limited to, facilities' planning, acquisition, construction, design, operation, and maintenance.

(d) Allocate appropriated funds for appellate court facilities maintenance and construction, subject to the other provisions of this chapter.

(e) Prepare funding requests for appellate court facility construction, repair, and maintenance.

(f) Implement the design, bid, award, and construction of all appellate court construction projects, except as delegated to others.

(g) Provide for capital outlay projects that may be built with funds appropriated or otherwise available for these purposes, as follows:

(1) Approve five year and master plans for each appellate court.

(2) Establish priorities for construction.

(3) Submit the cost of projects proposed to be funded to the Department of Finance for inclusion in the Governor's budget.

(h) Keep funding for appellate court facilities, whether for operation, planning, or construction, separate from funding for trial court facilities.

Section 69206. The Administrative Office of the Courts shall have the following responsibilities and authority in addition to other responsibilities and authority granted by law or delegated by the Judicial Council:

responsibilities and authorities of AOC regarding appellate court facilities

(a) Carry out the policies of the Judicial Council in regard to appellate court facilities, except as otherwise limited by the law.

(b) Develop for Judicial Council approval the master plans for appellate court facilities in each court.

(c) Construct appellate court buildings, including, but not limited to, selection of architects and contractors, except as otherwise limited by the law.

SECTION 3 – COUNTY RESPONSIBILITY FOR COURT FACILITIES
[CHAPTER 5.7 SUPERIOR COURT FACILITIES]
[ARTICLE 2. RESPONSIBILITY FOR COURT FACILITIES]

Section 68073 of the Government Code is amended and renumbered to read:

Section 70311. (a) Commencing July 1, 1997, and each year thereafter, no county or city and county is responsible to provide funding for "court operations," as defined in Section 77003 and Rule 10.810 of the California Rules of Court, as it read on January 1, 2007.

replacement for Government Code Section 68073

(b) Except as provided in Section 70312, commencing as of July 1, 1996, and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. In determining whether facilities are necessary and suitable, the reasonable needs of the court and the fiscal condition of the county or city and county shall be taken into consideration.

state responsibility for new facilities needs

(c) If a county or city and county fails to provide necessary and suitable facilities as described in subdivision (b), the court shall give notice of a specific deficiency. If the county or city and county then fails to provide necessary and suitable facilities pursuant to this section, the court may direct the appropriate officers of the county or city and county to provide the necessary and suitable facilities. The expenses incurred, certified by the judges to be correct, are a charge against the county or city and county treasury and shall be paid out of the general fund.

(d) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, a county or city and county shall solicit the review and comment of the judges of the court affected regarding the adequacy and standard of design, and that review and comment shall not be disregarded without reasonable grounds.

(e) Any reference in the statutes enacted prior to January 1, 2003, that refers to Section 68073 shall be deemed to refer to this section.

SECTION 4 – SUPERIOR COURT FACILITIES
["TRIAL COURT FACILITIES ACT OF 2002"]
[GOV. CODE, §§ 70301-70404]

ARTICLE 1. GENERAL PROVISIONS

NOTE: Purple colored revisions to Section 70301 remained in effect until January 1, 2010. See below for version of Section 70301 operative January 1, 2010.

Section 70301 [operative until January 1, 2010]. This chapter shall be known and may be cited as the "Trial Court Facilities Act of 2002."

As used in this chapter: **definition of terms**

(a) "Bonded indebtedness" includes any financial encumbrance, including, but not limited to, bonds, lease revenue bonds, certificates of participation, mortgages, liens, or loans, on a building. **bonded indebtedness**

(b) "Building" means a single structure or connected structures. A building may include related structures. **building**

(c) "County facilities payment" means the amount established by Article 5 of this chapter to be paid by a county in partial exchange for relief from the responsibility for providing court facilities. **county facilities payment**

(d) "Court facilities" consist of all of the following: **court facilities**

(1) Rooms for holding superior court.

(2) The chambers of the judges of the court.

(3) Rooms for the attendants of the court, including, but not limited to, rooms for accepting and processing documents filed with the court.

(4) Heat, ventilation, air-conditioning, light, and fixtures for those rooms and chambers.

(5) Common and connecting space to permit proper and convenient use of the rooms.

(6) Rooms for secure holding of a prisoner attending court sessions, together with secure means of transferring the prisoner to the courtroom.

(7) Any other area within a building required or used for court functions.

(8) Grounds appurtenant to the building containing the rooms.

(9) Parking spaces historically made available to one or more users of court facilities.

(e) "Deferred maintenance" means a backlog of projects that occurs when ongoing maintenance and repair of court facilities or a building is not sustained at an appropriate level in quality, quantity, or frequency to support the designed level of service of the building or special repair projects are not accomplished as needed. **deferred maintenance**

(f) "Historical building" means a building that is identified as a historical building by the county board of supervisors and is either a "qualified historical building or structure," as defined in Section 18955 of the Health and Safety Code, or is a building eligible for inclusion on the National Register of Historic Places under Section 470a of Title 16 of the United States Code.

historical building

(g) "Level IV or lower seismic rating" means a rating of level I, level II, level III, or level IV under the Seismic Risk Table.

Revisions made per SB 10

level IV or lower seismic rating

(h) "Level V seismic rating" means a rating of substantial risk (level V) under the Seismic Risk Table, using the engineering evaluating criteria that are in effect on September 1, 2005. That rating will not in itself be considered a significant threat to life, safety, or health.

level V seismic rating

~~(g)~~ **(i)** "Maintenance" means the ongoing upkeep of buildings, equipment, grounds, and utilities required to keep a building and its systems in a condition adequate to support its designed level of service.

maintenance

~~(h)~~ **(j)** "Responsibility for facilities" means the obligation of providing, operating, maintaining, altering, and renovating a building that contains the facilities.

responsibility for facilities

(k) "Seismic Risk Table" means the Risk Acceptability Table of the State Building Seismic Program as developed by the Division of the State Architect, as of April 1994, p. II-2.

~~(i)~~ **(l)** "Shared use" refers to a building which is used for both court and noncourt purposes.

shared use

~~(j)~~ **(m)** "Special improvement" means any modification that increases the designed level of services of a building, or a one-time modification of a building that is not expected to be repeated during the lifetime of the building.

special improvement

~~(k)~~ **(n)** "Special repair" means modifications that maintain the designed level of services of a building and does not include a special improvement.

special repair

~~(l)~~ **(o)** "Unacceptable seismic safety rating" means a rating of either ~~"substantial risk" (level V),~~ "extensive but not imminent risk" (level VI), or "imminent risk" (level VII) under the **Seismic** Risk ~~Acceptability Table of the State Building Seismic Program as developed by the Division of the State Architect, April 1994, p.II-2.~~

unacceptable seismic safety rating

~~(m)~~ **(p)** "Usable space" means space that an occupier of a facility can actually use and may allocate to house personnel and furniture.

usable space

~~(n)~~ **(q)** "User rights" means the right to exclusive use of the noncommon area within a building allocated to that use as well as shared use of the common areas of the building and the appurtenant grounds and parking.

user rights

Section 70301 [operative January 1, 2010]. This chapter shall be known and may be cited as the "Trial Court Facilities Act of 2002."

As used in this chapter: **definition of terms**

(a) "Bonded indebtedness" includes any financial encumbrance, including, but not limited to, bonds, lease revenue bonds, certificates of participation, mortgages, liens, or loans, on a building. **bonded indebtedness**

(b) "Building" means a single structure or connected structures. A building may include related structures. **building**

(c) "County facilities payment" means the amount established by Article 5 of this chapter to be paid by a county in partial exchange for relief from the responsibility for providing court facilities. **county facilities payment**

(d) "Court facilities" consist of all of the following: **court facilities**

(1) Rooms for holding superior court.

(2) The chambers of the judges of the court.

(3) Rooms for the attendants of the court, including, but not limited to, rooms for accepting and processing documents filed with the court.

(4) Heat, ventilation, air-conditioning, light, and fixtures for those rooms and chambers.

(5) Common and connecting space to permit proper and convenient use of the rooms.

(6) Rooms for secure holding of a prisoner attending court sessions, together with secure means of transferring the prisoner to the courtroom.

(7) Any other area within a building required or used for court functions.

(8) Grounds appurtenant to the building containing the rooms.

(9) Parking spaces historically made available to one or more users of court facilities.

(e) "Deferred maintenance" means a backlog of projects that occurs when ongoing maintenance and repair of court facilities or a building is not sustained at an appropriate level in quality, quantity, or frequency to support the designed level of service of the building or special repair projects are not accomplished as needed. **deferred maintenance**

(f) "Historical building" means a building that is identified as a historical building by the county board of supervisors and is either a "qualified historical building or structure," as defined in Section 18955 of the Health and Safety Code, or is a building eligible for inclusion on the National Register of Historic Places under Section 470a of Title 16 of the United States Code. **historical building**

(g) "Maintenance" means the ongoing upkeep of buildings, equipment, grounds, and utilities required to keep a building and its systems in a condition adequate to support its designed level of service. **maintenance**

(h) "Responsibility for facilities" means the obligation of providing, operating, maintaining, altering, and renovating a building that contains the facilities.

responsibility for facilities

(i) "Shared use" refers to a building which is used for both court and noncourt purposes.

shared use

(j) "Special improvement" means any modification that increases the designed level of services of a building, or a one-time modification of a building that is not expected to be repeated during the lifetime of the building.

special improvement

(k) "Special repair" means modifications that maintain the designed level of services of a building and does not include a special improvement.

special repair

(l) "Unacceptable seismic safety rating" means a rating of either "substantial risk" (level V), "extensive but not imminent risk" (level VI), or "imminent risk" (level VII) under the Risk Acceptability Table of the State Building Seismic Program as developed by the Division of the State Architect, April 1994, p.II-2.

unacceptable seismic safety rating

(m) "Usable space" means space that an occupier of a facility can actually use and may allocate to house personnel and furniture.

usable space

(n) "User rights" means the right to exclusive use of the noncommon area within a building allocated to that use as well as shared use of the common areas of the building and the appurtenant grounds and parking.

user rights

This section shall become operative on January 1, 2010.

Section 70303. (a) The Court Facilities Dispute Resolution Committee is hereby created to hear and determine disputes between a county and the Judicial Council as specified by this chapter.

Court Facilities Dispute Resolution Committee (CFDRC)

(b) The committee shall consist of the following members:

(1) One person selected by the California State Association of Counties.

CFDRC composition

(2) One person selected by the Judicial Council.

(3) One person selected by the Director of Finance.

(c) The committee shall hear and make recommendations to the Director of Finance for determinations in disputes involving the following matters:

resolutions of disputes

(1) Buildings rejected for transfer of responsibility because of deficiencies as provided in Section 70328.

rejection of transfer due to deficiency

(2) Failure to reach agreement on transfer of responsibility for a building as provided in Section 70333.

failure to reach agreement on transfer

(3) Disputes regarding the appropriateness of expenditures from a local courthouse construction fund as provided in Section 70403.

appropriateness of expenditures

(4) County appeal of a county facilities payment amount as provided in ~~**subdivision (e) of**~~ Section 70366.

Revisions made per SB 256

appeal of county facilities payment

(5) Administrative Office of the Courts appeal of a county facilities payment amount as provided in ~~subdivision (e) of~~ Section 70367.

(d) Upon receipt of the recommendation from the committee, the Director of Finance shall make the final determination of the issue in dispute.

(e) The expenses of members of the committee shall be paid for by the agency or organization selecting the member.

(f) The Judicial Council, the California State Association of Counties, and the Department of Finance shall jointly provide for staff assistance to the committee.

(g) Regulations and rules adopted by the committee shall be exempt from review and approval or other processing by the Office of Administrative Law required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

ARTICLE 2. RESPONSIBILITY FOR COURT FACILITIES

Section 70311. (a) Commencing July 1, 1997, and each year thereafter, no county or city and county is responsible to provide funding for "court operations," as defined in Section 77003 and Rule 10.810 of the California Rules of Court, as it read on January 1, 2007.

(b) Except as provided in Section 70312, commencing as of July 1, 1996, and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. In determining whether facilities are necessary and suitable, the reasonable needs of the court and the fiscal condition of the county or city and county shall be taken into consideration.

(c) If a county or city and county fails to provide necessary and suitable facilities as described in subdivision (b), the court shall give notice of a specific deficiency. If the county or city and county then fails to provide necessary and suitable facilities pursuant to this section, the court may direct the appropriate officers of the county or city and county to provide the necessary and suitable facilities. The expenses incurred, certified by the judges to be correct, are a charge against the county or city and county treasury and shall be paid out of the general fund.

(d) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, a county or city and county shall solicit the review and comment of the judges of the court affected regarding the adequacy and standard of design, and that review and comment shall not be disregarded without reasonable grounds.

(e) Any reference in the statutes enacted prior to January 1, 2003, that refers to Section 68073 shall be deemed to refer to this section.

Section 70312. If responsibility for court facilities is transferred from the county to the Judicial Council pursuant to this chapter, the county is relieved of any responsibility under Section 70311 for providing those

county relief from deferred and ongoing maintenance

facilities. The county is also relieved of any responsibility for deferred or ongoing maintenance for the facility transferred, except for the county facilities payment required by Section 70353. Except as otherwise provided by this chapter, or by the agreement between the Judicial Council and the county under this chapter, the Judicial Council shall have ongoing responsibility for providing trial court facilities. If responsibility for all court facilities within a county has been transferred pursuant to this chapter, that county shall have no responsibility for providing court facilities. This section does not relieve a county of its obligation under Article 5 (commencing with Section ~~70341~~ 70351) or its obligations under any agreement entered into pursuant to this chapter.

Correction made per AB 1435

Section 70313. This chapter may not be construed as authorizing a county, a city and county, a court, the Judicial Council, or the state to supply to the official reporters of the courts stenography, stenotype, or other shorthand machines, or as authorizing the supply to the official reporters of the courts, for use in the preparation of transcripts, of typewriters, transcribing equipment, supplies, or other personal property. The enactment of this provision is a statement of existing law under former subdivision (f) of Section 68073 and is not a modification of the prior law.

ongoing responsibility to provide official court reporting services

ARTICLE 3. AGREEMENTS TRANSFERRING RESPONSIBILITY FOR COURT FACILITIES

Section 70321. (a) The Judicial Council, in consultation with the superior court of each county and the county shall enter into agreements ~~concerning~~ regarding the transfer of responsibility for court facilities from that county to the Judicial Council. The agreements shall be ~~negotiated between July 1, 2003, and June 30, 2007, inclusive~~ executed no later than December 31, 2009. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than ~~June 30, 2007~~ December 31, 2009. On or before July 1, 2003, each county shall designate those persons who shall negotiate the agreements on behalf of the county and shall give the Judicial Council the names of those persons. The name of a person designated by a county to negotiate on its behalf may be changed by the county at any time by providing written notice to the Judicial Council.

timeline for transfers

Revisions made per AB 1491

(b) (1) Notwithstanding any other provision of law and except as provided in paragraph (2) ~~of this subdivision~~, any transfer agreement that is executed on or after October 1, 2008, and on or before March 31, 2009, shall contain a requirement that the county pay, in addition to the county facility payment established pursuant to Article 5 (commencing with Section 70351), a continuing amount from the date of transfer calculated by multiplying the county facilities payment by the percentage change in the National Implicit Price Deflator for State and Local Government Purchases, as published by the Department of Finance, for the fiscal year in which the transfer agreement is executed as compared to the prior fiscal year.

Revisions made per AB 1164

(2) (A) Prior to September 30, 2008, the Administrative Office of the Courts and a county may jointly declare all of the following:

(i) ŧThat extraordinary circumstances exist that have prohibited successful execution of a transfer agreement~~;~~.

(ii) ŧThat all relevant transfer documents have been timely submitted and reviewed by the county~~;~~.

(iii) ŧThat the failure to execute a transfer agreement prior to September 30, 2008, is not caused by the action, inaction, or delay on the part of the county.~~; and~~

(iv) ŧThat the agreement can reasonably be executed on or before December 31, 2008.

(B) If ~~such a~~ that declaration is signed pursuant to subparagraph (A), the application of the multiplier described in paragraph (1) shall be tolled through December 31, 2008. If the transfer agreement is executed by December 31, 2008, the multiplier shall not apply. Justification for a joint declaration shall be limited to either of the following:

(i) The failure to execute the transfer agreement was caused by the action, inaction, or delay of a third party, or a party to the transaction other than the county.~~; or~~

(ii) The Administrative Office of the Courts and the county have agreed to pursue an alternative method for complying with a seismic liability obligation under the provisions of Section 70324 and failure to execute the transfer agreement was caused by unique circumstances directly connected to the implementation of the alternative method authorized by the section.

(3) In exercising the authority provided under paragraph (2), a county shall not arbitrarily or capriciously request a joint declaration without a good faith belief that the conditions for ~~such a~~ that declaration are met, and the Administrative Office of the Courts shall not arbitrarily or capriciously decline to sign a joint declaration described in paragraph (2) if the conditions for ~~such a~~ that declaration are otherwise met.

(4) Copies of any ~~such~~ joint declarations described in paragraph (2) will be transmitted upon their signing by both parties to the ~~chairs~~ chairpersons of the Senate and Assembly Committees on Budget, Appropriations, and Judiciary ~~Committees~~.

(c) Notwithstanding any other provision of law, any transfer agreement that is executed on or after April 1, 2009, shall contain a requirement that the county pay, in addition to the county facility payment established pursuant to Article 5 (commencing with Section 70351), a continuing amount from the date of transfer calculated by multiplying the county facilities payment by the year-to-year percentage change in the annual state appropriations limit as described in Section 3 of Article XIII B of the California Constitution for the year in which the transfer agreement is executed.

Revisions made per AB 1164

~~**Section 70322. The transfer of responsibility for court facilities in each building shall be subject to a separate agreement.**~~

Section 70322. Agreements for the transfer of responsibility for court facilities from the county to the Judicial Council may include multiple buildings within the county, and need not require a separate agreement for each building.

Revisions made per AB 1491

~~**separate agreements for each building**~~

separate agreements not required

Section 70323. Subject to the provisions of Section 70325 concerning a building subject to a bonded indebtedness, and Section 70329 concerning historic buildings, transfer of responsibility for court facilities shall be evidenced by the following change in title to the building containing those facilities:

options for titles to transferred buildings

(a) If the building is currently owned by the county and used solely for court functions, the building shall be transferred to the state which shall hold title to and use of the entire building. This subdivision may not apply to buildings that are deficient as provided in subdivision (b) of Section 70326. Unless bonded indebtedness, including the legal obligation to pay the indebtedness, is transferred to the state, this subdivision does not apply so long as a court facility is subject to bonded indebtedness. Title shall transfer to the state when the bonded indebtedness is paid. For the purposes of this subdivision, bonded indebtedness includes only the bonded indebtedness existing at the time of transfer of responsibility, and any refunding of the existing bonded indebtedness issued to achieve monetary savings to the county. Any refunding under this subdivision does not extend the original maturity date of the bonded indebtedness and may not increase the original principal amount of the indebtedness, except to pay costs relating to the refunding of the bonded indebtedness.

buildings with solely court functions

(b) If the building is currently owned by the county and used for court and other county functions, title to the building may be held in one of three ways, each of which shall be considered a transfer of responsibility for the court facilities for purposes of Section 70312:

shared-use facilities

(1) The county may continue to hold title to the building.

(2) The county may transfer title to the building to the state.

(3) The county may transfer title to the building to joint ownership between the county and the state.

(c) If the building is currently owned by a third party and leased by the county, any of the following apply:

leased facilities

(1) If the lessor consents to transfer of the lease to the state either without modification of the lease or on modification terms acceptable to the county and the Judicial Council, the county shall transfer its rights and responsibilities under the lease to the state. The court shall then occupy the building under the terms of the lease.

(2) If the lessor does not consent to the transfer of the lease to the state or the lessor's new terms for transfer of the lease to the state are unacceptable to either the county or the Judicial Council, the county shall continue to provide facilities to the court under the terms of the lease and the amount of the lease payments shall be excluded from the county facilities payment provided by Section 70359. Upon expiration of

the lease, the amount of the lease payments shall then be included in the county facilities payment in the same manner provided by Section 70359, as if the lease were transferred to the state.

(3) If the lessor does not consent to the transfer of the lease to the state or the lessor's new terms for transfer of the lease to the state are unacceptable to either the county or the Judicial Council, the county and the Judicial Council may agree that the provisions of paragraph (2) of subdivision (c) shall not apply, the court shall find alternative facilities, and the amount of the lease payments due under the lease shall be included in the county facilities payment as provided by Section 70359. The agreement under this subdivision may include an agreement for a different lease payment amount to be included in the county facilities payment.

provisions for transfer of facilities with level V seismic ratings

Section 70324 added per SB 10 and repealed by its own terms, effective January 1, 2010

~~**Section 70324. (a) If responsibility for court facilities is transferred from the county to the state pursuant to a negotiated agreement, and the building containing those court facilities is rated as a level V seismic rating, the following provisions shall apply to the transfer.**~~

~~**(1) Except as provided in paragraph (3), the county shall be responsible for any seismic-related damage and injury, including, but not limited to, damage and injury to real property, personal property, and persons, only to the same extent that the county would be liable for that damage and injury if responsibility was not transferred to the state, and the county shall indemnify, defend, and hold the state harmless from those claims.**~~

~~**(2) Except as provided in paragraph (3), in the event that seismic-related damage occurs to a building containing court facilities for which the county retains liability under this section, the county either shall make repairs to the damage or provide funds to the state sufficient to make those repairs, in order to bring the damaged portions of the building containing court facilities back to the condition in which they existed before the seismic-related event. The county may postpone the making of repairs to the damage or providing funds to the state for those repairs, if it provides the court, at county expense, with necessary and suitable temporary facilities, subject to the agreement of the Judicial Council.**~~

~~**(3) The county shall not be liable for any damage or injury sustained in a seismic event to the extent the damage or injury is attributable to actions or conditions created by or under the control of the state. The state shall indemnify, defend, and hold the county harmless from any liability resulting from that damage or injury. The state does not have a duty to make changes or repairs to improve the seismic condition of the building.**~~

~~**(4) As part of, or subsequent to, the transfer agreement, the county and the Judicial Council may agree on a method to address the seismic issue so that the state does not have a financial burden greater than it would have had if the court facilities initially transferred were court facilities in buildings rated as a level IV seismic rating.**~~

~~**(b) This section shall not apply to events occurring on or after the earliest of the following dates:**~~

~~**(1) The facilities covered by this section are seismically-rated at any level lower than level V.**~~

~~**(2) The facilities are no longer used as court facilities.**~~

~~**(3) Thirty-five years from the date of transfer of the facilities.**~~

~~**(4) The county has complied with the conditions for relief from liability contained in an agreement pursuant to paragraph (4) of subdivision (a) addressing the seismic issue with regard to the facility, and the agreement has been approved by the Director of Finance.**~~

~~**(c) The provisions of this section shall prevail over any conflicting provisions of this chapter in regard to transfer of responsibility for court facilities in buildings rated as a level V seismic rating.**~~

~~**(d) This section shall not be deemed to impose greater liability on a county for seismic-related damage to third parties other than it would have if the responsibility for court facilities had not transferred to the state.**~~

~~**(e) Nothing in this chapter shall require the transfer of responsibility for court facilities in a building that is rated as a level V seismic rating.**~~

~~**(f) The terms of this section in effect at the time an agreement is executed for transfer of responsibility shall continue to govern that agreement for transfer, notwithstanding any subsequent repeal of this section.**~~

~~**(g) This section shall remain in effect only until January 1, 2010, and, as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends that date.**~~

buildings with bonded indebtedness

Section 70325. (a) (1) If title to a building proposed to be transferred pursuant to this chapter is subject to a bonded indebtedness, the county shall retain the revenue sources used to pay the bonded indebtedness in which case the county shall be required to continue to make the payments on the bonded indebtedness.

(2) As an alternative to paragraph (1), the county and the state may agree that the county shall transfer the revenue sources to the state, in which case, the state shall be required to make the payments on the bonded indebtedness in the amount of the revenue received. If the amount payable on the bonded indebtedness exceeds the amount of the revenue transferred to the state, the county shall be responsible for paying the remaining amount. If a revenue source is used to pay the bonded indebtedness on several buildings and not all of those buildings are being transferred to the state, the county shall transfer the proportion of the revenue used to pay the bonded indebtedness on the buildings transferred to the state. Except for revenue sources subject to Section 70375, any revenue source transferred by the county to the state under this paragraph shall be transferred back to the county by the state when the bonded indebtedness on the building is retired.

Revisions made per AB 1435

(b) Except in the case of a shared use building or historical ~~facility~~ **building** whose title is not being transferred from the county, the agreement concerning transfer of responsibility for court facilities contained in a building subject to bonded indebtedness shall specify when title to the building will transfer, which shall not be later than the date of final payment of the bonded indebtedness on the building. A county shall not extend the term of the final maturity date of, or increase the amount of, any bonded indebtedness on a building containing court facilities whose responsibility has been transferred to the state without the consent of the Administrative Director of the Courts. For the purposes of this subdivision, the amount of the bonded indebtedness shall not be deemed to be increased if the amount is refunded for an amount not greater than the original principal amount of the indebtedness plus any costs relating to the refunding of the bonded indebtedness.

(c) Notwithstanding any provision to the contrary in this chapter, during the period and to the extent which bonded indebtedness is outstanding with respect to any court facility, the state shall not have any equity or other ownership rights in, to, or with respect to, the court facility. A county may not sell, assign, or transfer any rights or interests in that facility, or otherwise further encumber the facility, other than those rights, interests, or encumbrances required by legal documents establishing the bonded indebtedness. If, during the period of bonded indebtedness outstanding with respect to a court facility, the state is required to vacate the facility through the operation or enforcement of the legal documents establishing the bonded indebtedness, the county shall be responsible for providing the state with suitable and necessary court facilities at least equal to those occupied by the state immediately prior to the date on which the state was compelled to vacate the facility.

effect of deficiencies on potential transfers

Section 70326. (a) Except as provided in this section, the agreement may not require any payment from the county to the state for any deficiencies in the court facilities being transferred caused by deferred maintenance.

grounds for rejecting a building

(b) A building and the court facilities in it shall be deemed deficient if any of the following exist:

(1) A deficiency or deficiencies that constitute a significant threat to life, safety, or health.

(2) A deficiency or deficiencies that include seismically hazardous conditions with an unacceptable seismic safety rating.

(3) Deficiencies that in their totality are significant to the functionality of the facility.

corrections required prior to transfer

(c) Neither title to a deficient building nor responsibility for the court facilities in that building shall transfer to the state or the Judicial Council under this chapter, and Section 70312 does not apply to the court facilities in a deficient building, unless provision is made in the agreement for correction of the deficient items.

pending maintenance projects

(d) If one or more phases of a maintenance project are pending on the court facilities prior to the date of the agreement under this article, the agreement shall specify whether the county shall complete those phases of the project, to the extent approved, or shall transfer funds to the state to permit completion of those phases of the project. As used in this section, a phase of a project is to be deemed pending to the extent that the board of supervisors has either approved the phase in whole or in part at a board of supervisors meeting, and either allocated or appropriated money for the phase in whole or in part, or executed a contract for the phase in whole or in part.

seismic safety inspection and evaluation

Section 70327. (a) Prior to the completion of the negotiations concerning the transfer of responsibility for court facilities in a building, the state shall provide for a licensed structural engineer to inspect and evaluate the building containing the court facilities for seismic safety if the building was built under a building code prior to the 1988 Uniform Building Code and the building has not been upgraded since 1988 for seismic safety. The inspection shall be made using the method and criteria for seismic safety developed by the Department of General Services' Real Estate Services Division. Any repair required to the damage caused by the exploratory inspection shall be paid for by the state.

(b) The county shall assist the state in the inspection by providing the following:

(1) Access to the facility for inspection purposes.

(2) Drawings and design documents for the building, if available.

(3) Any reports on structural or seismic evaluations of the building.

(c) If a building is given an unacceptable seismic safety rating and the county subsequently performs seismic upgrade work, the state may, upon the request of the county and at the county's expense, contract with a licensed structural engineer to reinspect and reevaluate the building.

(d) Neither title to a building with an unacceptable seismic safety rating nor responsibility for the court facilities in that building shall transfer to the state or the Judicial Council under this chapter, and Section 70312 does not apply to the court facilities in that building, unless provision is made in the agreement for correction of the unacceptable seismic safety items.

waiver of inspection

(e) The Administrative Director of the Courts, in his or her discretion, with the approval of the Director of Finance or his or her designee, may waive the inspection required by subdivision (a) upon his or her finding of either of the following:

(1) The ratio of court facilities to other facilities in the building is minimal and title to the building is not being transferred to the state.

(2) The amount of court space in the building does not exceed 10,000 square feet.

Section 70328. If a building receives an unacceptable seismic safety rating under Section 70327, or is rejected as deficient under Section 70326, the county may appeal that action to the Court Facilities Dispute Resolution Committee. The state has the burden of proving by a preponderance of the evidence the unacceptable seismic safety rating or deficient rating.

county appeal of unacceptable seismic rating or building rejection

Section 70329. (a) Title to a historical building containing court facilities may not be transferred to the state without the express consent of the county's board of supervisors.

historical buildings

(b) If title to a historical building containing court facilities is not transferred to the state, the county may still be relieved of its responsibility to fund court facilities under Section 70312 if the county as part of its agreement under this article either:

(1) Makes the court facilities within the historical building available to the Judicial Council for court use.

(2) Provides, with the consent of the Judicial Council, alternative court facilities of at least comparable size, condition, and utility.

(c) Court facilities provided under this section shall meet all requirements for transfer of court facilities under this chapter, and the court and the Judicial Council shall have all the rights to that building that they have under this chapter to other court facilities whose responsibility is transferred to the Judicial Council.

(d) A county shall not prevent a court from using court facilities traditionally used by that court in a historical building, except with the consent of the Administrative Director of the Courts.

Section 70330. The agreement shall provide for parking spaces for the court of comparable convenience, number, and type, as was made available for court use as of October 1, 2001. For purposes of this section, parking spaces for the court includes, but is not limited to, spaces for judges, court employees, other court staff, witnesses, and jurors.

parking spaces

Section 70331. (a) If there are one or more pending phases of a project involving court facilities and the responsibility for the facility is to be transferred to the Judicial Council, the Judicial Council may, as part of the agreement under this article, require the completion of those phases of the project, to the extent that county funds or property have been allocated, approved, appropriated, or committed to those phases of the project by resolution or ordinance as a condition of transfer of responsibility to the Judicial Council.

pending court facilities projects

(b) This section applies irrespective of whether title to the building containing the court facilities is to be transferred to the state.

(c) As used in this section, a phase of a project is to be deemed pending to the extent that the board of supervisors has either approved the phase in whole or in part at a board of supervisors meeting, and allocated or appropriated money for the phase in whole or in part, or executed a contract for the phase in whole or in part.

(d) The Judicial Council may request the county to implement design changes relating to the project if either the overall effect of the changes do not increase the costs of the project to the county, or the Judicial Council agrees to pay any extra costs caused by the changes.

procedures for implementing the transfer of responsibility

Section 70332. The Judicial Council, in consultation with the Department of Finance and the trial courts, and the California State Association of Counties, in consultation with the Department of Finance and the counties, shall develop the procedures for implementing the transfer of responsibility for court facilities from the counties to the state as set forth in this article.

failure to reach an agreement on transfer of facility

Section 70333. If the Judicial Council and the county fail to reach agreement on any facility, each shall present its position to the Court Facilities Dispute Resolution Committee which shall render its determination concerning that transfer of responsibility for that facility.

ARTICLE 4. ADMINISTRATION OF SHARED USE BUILDING

user rights in shared use building

Section 70341. (a) The user rights of the court and the county are based on the proportional allocation of exclusive use facilities within the building for the court and for the county as specified in the agreement, regardless of the entity holding title to the building.

(b) The court and the county shall each have exclusive use of the facilities in the building currently used by it, together with the shared use of the common areas, indefinitely and at no cost, subject to the terms of any lease with a third-party lessor.

adjustment of space in shared use buildings

Section 70342. (a) If the county holds title to a shared use building and the court wishes to have additional space in the building, if the county agrees to allocate additional space, the county may charge the state reasonable rent for any space as may be agreed between the county and the Judicial Council.

(b) If the state holds title to a shared use building and the county wishes to have additional space in the building, if the state agrees to allocate additional space, the state may charge the county reasonable rent for any space as may be agreed to between the county and the Judicial Council.

(c) If the state and the county jointly hold title to a shared use building and either the court or the county wishes to have additional space in the building, the Judicial Council and the county may agree to modify the amount of space and the charges made for that space.

(d) If the state or the county is a lessee in a shared use building owned by a third party and the court or the county wishes to have additional space in the building, the Judicial Council or the county may negotiate with the lessor concerning the amount of space and the charges made for that space. This subdivision does not permit either the state or the county to occupy space in the building leased by the other party without the consent of that party.

(e) Unless the Judicial Council and the county agree otherwise, if either the Judicial Council or the county desires to decrease the

amount of space it occupies in a shared use building, it may do so only after offering the other party the space on the same terms and conditions as to which it has proposed to transfer the space to a third party. Notwithstanding the transfer of space pursuant to this subdivision or the failure to use the space, the Judicial Council and the county are not relieved of their rights and responsibilities under the agreement entered into pursuant to Section 70343, unless that agreement is superseded by a subsequent agreement. As used in this subdivision, a "third party" means an entity other than the court or the county.

Section 70343. (a) Notwithstanding the manner of holding title to a shared use building:

agreements regarding rights and responsibilities in shared use buildings

(1) The rights and responsibilities of the Judicial Council, the court, and the county in a shared use building shall be established by an agreement between the Judicial Council and the county which may be modified by the consent of both the Judicial Council and the county. The agreement shall include, but not be limited to:

(A) The liability and responsibility for ongoing maintenance and administration of the building.

(B) Any agreed-upon conditions involving the ongoing administration of the building.

(C) Any agreements concerning general liability for the building, building planning, engineering, design, maintenance, repair, construction, failure to maintain common use areas, and dispute resolution.

(D) A provision involving resolution of disputes that may arise under the agreement between the county and the Judicial Council.

(2) Unless otherwise specifically provided by agreement between the Judicial Council and the county, the Judicial Council and the county shall share operation and maintenance costs in a shared use building as follows:

(A) Each entity is responsible for the operation and normal day-to-day maintenance costs of that space in the building exclusively used by the entity.

(B) Each entity shall share the operating and normal day-to-day maintenance costs for the common space in the building based on the proportionate amount of space exclusively used by each entity.

(C) Each entity shall share the major building repairs and maintenance affecting the entire building, including, but not limited to, common areas, based on the proportionate amount of space exclusively used by each entity.

(b) The use of space in a joint-use building by both the court and the county shall be compatible with the building and shall not deteriorate or diminish the ability of either the county or the court to use the remaining space effectively.

Section 70344. (a) The entity holding title to a shared use building, except a third-party lessor, shall not transfer any right to a third party of the part of the building used by the other entity or place further bonded indebtedness on it, except as already required by operation of the legal

title of shared use buildings

documentation related to bonded indebtedness or as agreed to by the Judicial Council and the county, if the result of the action would be a further delay in transfer of title to the building to the other party pursuant to subdivision (b) of Section 70325.

majority occupant

(b) If either the court or the county occupies 80 percent or more of a shared use building, the Judicial Council, on behalf of the court, or the county may require the other entity to vacate the building. The entity vacating the building shall be given reasonable notice and shall be compensated by the other entity for its equity in the facility and for relocation costs at the fair market rate.

rights of displaced parties

(c) Except as provided in subdivision (b), if the court or the Judicial Council is required to vacate a shared use building owned by the county, in whole or in part, the county shall provide the court or the Judicial Council with suitable and necessary facilities at least equal to those previously occupied by the court. The failure of the county to provide those facilities shall make the county responsible to the court under Section 70311 for the facilities not provided.

ARTICLE 5. COUNTY FACILITIES PAYMENT

county facilities payment (legislative intent)

Section 70351. It is the intent of the Legislature in enacting this section to provide a source of funding for the ongoing operations and maintenance of court facilities by requiring each county to pay to the state the amount that county historically expended for operation and maintenance of court facilities. It is further the intent of the Legislature that funding for the ongoing operations and maintenance of court facilities that are in excess of the county facilities payments be provided by the state.

alternative methods for calculating county facilities payment

Added per SB 10

Section 70351.5. Notwithstanding any other provision of this chapter, the California State Association of Counties, the Judicial Council, and the Director of Finance may agree to alternative methods for calculating the county facilities payment amount to be used by any county meeting the criteria set forth in those alternative methods. In the absence of an agreement, the other provisions of this article shall apply.

establishment of Court Facilities Trust Fund

Section 70352. (a) There is hereby established the Court Facilities Trust Fund.

(b) Money deposited in this fund and appropriated by the Legislature shall be administered by the Judicial Council for the operation, repair, and maintenance of court facilities and other purposes provided by statute. The Judicial Council may delegate the administration of the fund to the Administrative Director of the Courts.

(c) The Judicial Council shall recommend to the Governor and the Legislature each fiscal year on the proposed expenditures from the fund and submit a report on actual expenditures after the end of each fiscal year.

Section 70353. (a) Each county shall remit the county facilities payment determined by this article to the Controller, for deposit into the Court Facilities Trust Fund. One-quarter of each county's facilities payment shall be remitted to the Controller quarterly on October 1, January 1, April 1, and July 1. Any payment that is not made when required by this subdivision shall be considered delinquent, and subject to the penalties specified in subdivision (b).

penalties for delinquent payments

(b) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to 11/2 percent per month for the number of days the payment is delinquent. Penalty amounts calculated pursuant to this subdivision shall be paid by the county to the Court Facilities Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(c) The Judicial Council shall provide the Controller with a schedule of the county facility payments at the beginning of each fiscal year. If the amount of the county facility payment changes pursuant to this article, the Judicial Council shall provide the Controller with a new schedule of payments within 30 days of the change.

Section 70354. The components of the county facilities payment are based on the actual annual direct and indirect county expenditures on court facilities. In the case of a shared use building, the amounts are prorated for the court's usable space in the building as a percentage of total usable space in the building. The determination of the court's usable space and the total usable space shall be made by the standard methodology used for determining usable space by the Department of General Services.

general components of county facilities payment

actual direct and indirect county expenditures

prorated amounts in shared use buildings

Section 70355. **(a)** Except for the value computed under Section 70359, all values listed in this article shall be adjusted from the fiscal year of the expenditure to the **month of the** effective date of transfer for inflation using, as the inflation index, the average of the following three indices from the Bureau of Labor Statistics Producer Price Index**, all rebased to equal 100 as of January 1996**:

inflationary adjustments

Revisions made per SB 256

(~~a~~ **1**) Building cleaning and maintenance services (Series Id PCU 7349).

(~~b~~ **2**) Operators and lessors of nonresidential buildings (Series Id PCU 6512).

(~~c~~ **3**) Maintenance and repair constructions (Series Id PCU BMRP).

(b) For purposes of this section, "rebasing" means dividing all the values of the price index for the period to which the values are to be rebased, and multiplying the results by 100.

Section 70356. The following items shall be included in the county facilities payment based on a five-year average of expenditures made by the county for facility operation and maintenance. This amount shall be computed by multiplying the value for each of the five fiscal years from 1995-96 to 1999-2000, inclusive, by the ~~increase~~ **change** in the inflation index **specified in Section 70355** from January ~~1~~ of that fiscal year to the **month of the** date of transfer of responsibility for the court

expenditures in county facilities payment

five-year average

inflationary increases until transfer

Revisions made per SB 256

facilities from the county to the state, **inclusive,** and then averaging the five ~~inflated~~ **adjusted** yearly values:

(a) Maintenance and repair, including, but not limited to, maintenance and repair of the building and its components, utility systems, security equipment, and interior and exterior lighting.

(b) Purchase, installation, modernization, and maintenance of major building systems not of an ongoing nature, including, but not limited to, plumbing, HVAC (heating, ventilation, and air-conditioning), electrical, and vertical transportation.

(c) A special repair.

(d) Landscaping and grounds maintenance services for court facilities.

(e) Maintenance of parking spaces or garages dedicated to the court or for jurors.

(f) County facility management and administrative costs directly or indirectly associated with trial court facilities, including, but not limited to, management, supervision, planning, design, department administration, payroll, finance, procurement, and program management.

utility costs

Revisions made per SB 749

Revisions made per SB 256

Section 70357. (a) The cost of utilities shall be included in the county facilities payment by calculating the average consumption of utilities for the fiscal years 1995-96 to 1999-2000, inclusive, ~~and~~ multiply**ing** the consumption averages by the 1999-2000 rates, and multiplying the value by the increase in the inflation index **specified in Section 70355** from January 2000, to the **month of the** date of transfer of responsibility for the court facilities from the county **to the state, inclusive**. ~~As used in this section, utility costs include, but are not limited to, natural gas, heating oil, electricity, water, sewage, and garbage.~~ The consumption rates for 1999-2000 shall be the average of the rates for each month of that fiscal year.

(b) If the county states in its county facilities payment calculation under Section 70363 that either utility consumption amounts or rates are not reasonably available for any court facility for any or all of the 1995-96 to 1999-2000, inclusive, fiscal years after a good faith effort to obtain those consumption amounts or rates, then the cost of utilities for that facility shall be included in the county facilities payment by calculating the five-year average of the utility costs incurred in connection with the operation of the building for the 1995-96 to 1999-2000, inclusive, fiscal years. This amount shall be calculated by multiplying the yearly utility costs for each court facility for each of the five fiscal years from 1995-96 to 1999-2000, inclusive, by the change in the inflation index specified in Section 70355 from January of that fiscal year to the month of the date of transfer of responsibility for the court facility from the county to the state, inclusive, and then averaging the five inflation-adjusted yearly values.

(c) If the county states in its county facility payment calculation under Section 70363 that the utility cost information described in subdivisions (a) and (b) is not reasonably available for any court

facilities for any or all of the fiscal years 1995-96 to 1999-2000, inclusive, after a good faith effort to obtain that information, then the cost of the utilities for those facilities shall be calculated using all relevant information available to the county and to the Administrative Office of the Courts.

(d) For purposes of any good faith statement made pursuant to subdivision (b) or (c), the county shall include a detailed description of all activities it undertook to obtain the information and the results of each activity.

(e) If the county implemented a special improvement to increase energy efficiency during the 1995-96 fiscal year or thereafter, and that special improvement resulted in measurable and ongoing net cost savings, then the county may include a description of the special improvement and the resulting cost savings as part of its county facilities payment calculation under Section 70363. The amount of any reduction in the county facilities payment calculation shall be limited to the demonstrable ongoing costs savings to the state directly resulting from the special improvement only to the extent not already reflected in the cost or consumption data used to determine utilities costs. The county shall document or demonstrate the savings and the fact that the savings are not already reflected.

(f) As used in this section, "utility costs" include, but are not limited to, natural gas, heating oil, electricity, water, sewage, and garbage.

Utility costs shall be included without regard to whether payment of the costs was made by the county, the court, or another entity, except that the amount of specific utility costs may not be included in the county facilities payment if all of the following conditions are satisfied:

~~(a)~~ **(1)** A lease expressly provides that the utilities are to be paid by the lessor.

~~(b)~~ **(2)** There is no payment by the lessee for the utilities, except as part of the lease payment.

~~(c)~~ **(3)** The lease payment is included in the county facilities payment.

Section 70358. Insurance costs shall be included in the county facilities payment. If the actual expenditures made by the county are used to determine the amount, the expenditures shall be based on the1999-2000 fiscal year multiplied by the increase in the inflation index **specified in Section 70355** from January ~~1~~, 2000, to the **month of the** date of the transfer of responsibility for the court facilities from the county to the state**, inclusive**.

The amount of insurance may not include the cost of any insurance required by any agreement involving bonded indebtedness on the facility to the extent that the cost of insurance is greater than the cost of commercial insurance coverage on the building.

insurance costs

Revisions made per SB 256

The determination of the insurance costs may consider the costs of commercial insurance coverage for a fair and reasonable level of insurance and the costs of self-insurance. The amount of the insurance costs shall be subject to negotiation between the Judicial Council and the county.

To the extent the responsibility for grounds is transferred, the insurance costs for court facilities shall include, but not be limited to, the cost of liability insurance relating to the grounds.

rental and lease costs

Section 70359. (a) Court facilities rental or leasing, except to the extent included as a court operation in Rule 10.810 of the California Rules of Court, shall be included in the county facilities payment using as the initial amount the annual amount for the lease for the fiscal year of the date of transfer of those court facilities to the state.

(b) The amount computed under subdivision (a) shall be adjusted annually for each remaining year in the lease to reflect the changed annualized amount for the lease for each year remaining on the lease. A lease amount in the final year of any lease entered into or renewed on or after October 2, 2001, shall represent a good faith relationship to the fair market value of the facilities either at the time of the making of the lease or the time of determination of the final year lease amount.

(c) The adjustment of the amount pursuant to subdivision (b) shall not permit either the county or the Judicial Council to appeal the county facilities payment amount under Section 70366 or 70367, except as to any issues directly related to the adjustment made by subdivision (b).

(d) The amount of any lease included in the county facilities payment amount shall, unless otherwise agreed to by the Administrative Director of the Courts and the county, be paid by the county from the county's courthouse construction fund, if the lease was originally entered into prior to July 1, 2002, and to the extent the lease was funded in whole or in part by the courthouse construction fund prior to July 1, 2002. The length of time payment that may be made from the courthouse construction fund is to be calculated by the length of the lease entered into before July 1, 2002, plus any one renewal or extension of not more than five years entered into on or after July 2, 2002. The Administrative Director of the Courts may agree to a longer time for payment from the courthouse construction fund.

exclusions from county facilities payment calculation

Section 70360. Calculation of the county facilities payment may not include any of the following:

(a) Purchase of land and buildings.

(b) Construction and construction services.

(c) Maintenance of parking for the general public whose responsibility is not transferred and that may also be used by the courts or jurors.

(d) Depreciation of court facilities.

(e) Costs associated with court facilities or a portion of the facilities that is not transferred to the state or that remains a county responsibility.

(f) A capital project that alters the facilities' function or capacity.

(g) Any county payments resulting from bonded indebtedness and not normally a cost of building operation.

(h) A special improvement.

forms and instructions for calculation of county facilities payment

Section 70361. The Administrative Office of the Courts, in consultation with the courts, and the California State Association of Counties, in consultation with the counties, shall jointly prepare forms and instructions for calculating the county facilities payment in compliance with this section and submit those forms and instructions to the Director of Finance for approval. In the event that the Administrative Office of the Courts and the California State Association of Counties are unable to agree on forms and instructions, they shall present their positions of agreement and disagreement to the Director of Finance who shall make the final determination on the forms and instructions. The proposed forms and instructions or positions of each party shall be provided to the Director of Finance no later than June 30, 2003. Upon approval by the Director of Finance, the Administrative Office of the Courts shall provide the counties and the courts with the approved forms and instructions.

provision of base inflation index figures

Revisions made per SB 256

Section 70362. (a) The Department of Finance shall provide the Administrative Office of the Courts with the base inflation index figures specified in Section 70355 for January ~~1,~~ 1996, January ~~1,~~ 1997, January ~~1~~, 1998, January ~~1,~~ 1999, and January ~~1,~~ 2000, to be included in the approved instructions. ~~When the proposed date of transfer~~

(b) During the period from July, 2003, to June, 2007, inclusive, on a monthly basis, the department shall provide the Administrative Office of the Courts with a forecast of ~~responsibility is determined for a~~ the monthly inflation index figures specified in Section 70355, using a methodology mutually agreed upon by the department, Administrative Office of the Courts, and California State Association of Counties. This forecast may be used to make a preliminary determination of the county facility~~, the~~ payment based on the proposed and final month of transfer.

(c) The department shall provide the Administrative Office of the Courts with the final revised inflation index figures ~~for that county for the proposed date of transfer.~~ specified in Section 70355 when the final data is available from the Bureau of Labor Statistics Producer Price Index. If the ~~actual date of transfer~~ final inflation index figures for the month when a facility transferred from the county to the state is different than the ~~proposed date~~ figure used to calculate the county facility payment at the time of the transfer, ~~the department shall provide~~ the Administrative Office of the Courts ~~with~~ shall recalculate the county facilities payment based on the final inflation index figures ~~for that actual date of transfer~~.

(d) Notwithstanding subdivision (c) of Section 70353, any change in the final county facilities payment made pursuant to subdivision (c) shall be reflected as an adjustment to the schedule of county facilities payments at the beginning of the next fiscal year. In addition, any over or underpayment resulting from the difference between the final calculation made pursuant to

subdivision (c) and the county facility payment calculation made at the time of transfer shall be reflected as a one-time adjustment to the amount of the first county facility payment owed at the beginning of the next fiscal year.

process for establishing county facilities payment

Revisions made per AB 1491

Section 70363. Each county shall calculate the county facilities payment for each facility **pursuant to Section 70351.5 or** using the forms and instructions as approved and distributed pursuant to Section 70361. The county shall mail the Judicial Council and local court the actual expenditure figures and adjustments at least 90 days prior to the proposed date of transfer of responsibility for that facility. The county auditor **or, at the discretion of the board of supervisors, the board** shall certify the reported expenditures and indexed calculations.

(a) Prior to the transfer of responsibility of each court facility from the county to the state, the Administrative Office of the Courts shall review the accuracy of the calculations.

(b) The Administrative Office of the Courts and the county shall meet and discuss any differences they have concerning the calculations in an effort to reduce or eliminate any areas of disagreement. Following the discussions, the Administrative Office of the Courts shall mail the Department of Finance the proposed county facility payment and any necessary background information, including the calculations and the reported county expenditures and a summary of any disagreements between the Administrative Office of the Courts and the county regarding the payment.

(c) The Department of Finance shall within 30 days of the receipt of the proposed county facilities payment from the Administrative Office of the Courts do any of the following:

(1) Approve the proposed payment.

(2) Approve a modified payment.

(3) Request additional information from either the county or the Administrative Office of the Courts.

(d) When the department has approved a county facilities payment for that facility, it shall mail the Administrative Director of the Courts the approved county facilities payment. The Administrative Office of the Courts shall mail a copy of the Department of Finance notification to the county administrative officer and the court executive officer.

transmitting documents regarding appeals of county facilities payment

Section 70365. The parties to any appeal of the determination of the county facilities payment, for purposes of the mailing of documents, are the county administrative officer, on behalf of the county, and the Administrative Director of the Courts, on behalf of both the state and the court.

process and basis for county appeal of county facilities payment

Revisions made per SB 256

Section 70366. (a) Within 30 days after the Administrative Office of the Courts has mailed the county the approved county facilities payment, pursuant to **subdivision (d) of** Section ~~70364~~ **70363**, the county may submit a declaration to the Court Facilities Dispute Resolution Committee, with the mailing of copies to the other parties, that the amount is incorrect for one or more of the following reasons:

(1) Expenditure data is reported incorrectly or calculated incorrectly

and causes an approved county facilities payment amount that is higher than the payment should be.

(2) The approved county facilities payment includes amounts that were specifically appropriated, funded, and expended by the county to fund extraordinary one-time expenditures. Extraordinary one-time expenditures do not include periodic major facility repair or maintenance including, but not limited to, reroofing or replacement of a major system component. Extraordinary one-time expenditures do include, but are not limited to, abatement of asbestos and seismic structural upgrades.

(3) The approved county facilities payment includes expenses funded from grants or subventions that would not have been funded without these grants or subventions.

(b) The Administrative Director of the Courts shall mail comments to the Court Facilities Dispute Resolution Committee on the county's declaration within 30 days of the mailing of the county's declaration, with the mailing to the other parties.

(c) Within 90 days of receipt of comments pursuant to subdivision (b), the Court Facilities Dispute Resolution Committee shall review the declarations and comments received, and make its recommendation to the Director of Finance concerning correction of any errors and, if necessary, adjustment of the amount of the county facilities payment. The Court Facilities Dispute Resolution Committee shall mail a copy of its recommendation to all the parties.

(d) The Director of Finance or his or her designee shall review the recommendations of the Court Facilities Dispute Resolution Committee and make his or her determination concerning any correction of errors and, if necessary, adjustment of the amount of the county facilities payment. The director shall mail a copy of his or her determination on all the parties.

Section 70367. (a) Within 30 days after the Administrative Director of the Courts has mailed to the county, ~~under~~ **pursuant to subdivision (d) of** Section ~~70363~~ **70363**, the approved county facilities payment, the Administrative Director of the Courts may submit a declaration to the Court Facilities Dispute Resolution Committee, with copies mailed to the other parties, that the amount is incorrect because the county failed to report court facilities expenses paid by the county which reduced the amount of the approved county facilities payment.

process and basis for court appeal of county facilities payment

Revisions made per SB 256

(b) The county shall mail its comments to the Court Facilities Dispute Resolution Committee on the administrative director's declaration within 30 days of the mailing of the administrative director's declaration, with copies mailed to the other parties.

(c) Within 90 days of receipt of comments pursuant to subdivision (b), the Court Facilities Dispute Resolution Committee shall review the declarations and comments received, and make its recommendation to the Director of Finance concerning correction of any errors and, if necessary, an adjustment of the amount of the county facilities payment. The Court Facilities Dispute Resolution Committee shall mail a copy of its recommendation to all the parties.

(d) The Director of Finance or his or her designee shall review the recommendations of the Court Facilities Dispute Resolution Committee and make his or her determination concerning any correction of errors and, if necessary, an adjustment of the amount of the county facilities payment. The director shall serve a copy of his or her determination on all the parties.

process for computing separate county facilities payment for each building to be transferred

Section 70368. The county shall initially compute a separate county facilities payment for each building containing court facilities whose responsibility is transferred to the Judicial Council using the proposed date of transfer of responsibility for those court facilities as the date for computing inflation under Sections 70356, 70357, and 70358. The county's responsibility for the county facilities payment for those facilities commences upon the actual date of transfer of responsibility for those facilities. If the actual date of transfer of responsibility for a facility is different than the proposed date of transfer, upon which the county facilities payment is calculated, the Administrative Office of the Courts shall adjust the amount of the county facilities payment by applying the inflation index figures for that county for the actual date of transfer, as provided in Section 70362, to the approved county facilities payment. The amount of any county facilities payment that takes effect after the beginning of a fiscal year shall be prorated for the amount remaining in that fiscal year. In no event shall a county have any responsibility for a court facility payment prior to the effective date of the transfer of responsibility for a facility.

specifications for transmitting notice or documents

Section 70369. Where mail of notice or any other document is required by this article, any method of mailing equivalent to first-class mail may be used. The computation of time based on mailing under this article is based on the date the item was deposited in the mail.

adjustments of county facilities payments

Section 70370. If the amount computed by the county under Section 70368 is increased pursuant to this article, the county shall pay the state the difference relating back to the initial date payment was due under Section 70368. If the amount computed by the county under Section 70368 is reduced pursuant to this article, the state shall pay the county the difference relating back to the initial date payment was due under Section 70368. Upon agreement between the county and state, any amount due under this section may be made by an addition or reduction in the next scheduled county facilities payment.

ARTICLE 6. STATE COURT FACILITIES CONSTRUCTION FUND

establishment of State Court Facilities Construction Fund

Section 70371. There is hereby established the State Court Facilities Construction Fund, the proceeds of which shall be subject to the provisions of this article. Improvement of the court facilities and the construction funds generated by this article are intended to further reasonable access to the courts and judicial process throughout the state for all parties.

Immediate and Critical Needs Account of the State Court Facilities Construction Fund

Added per SB 1407

Section 70371.5. (a) There is hereby established the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, the proceeds of which shall only be used for any of the following:

(1) The planning, design, construction, rehabilitation, renovation, replacement, or acquisition of court facilities.

(2) Repayment for moneys appropriated for lease of court facilities pursuant to the issuance of lease-revenue bonds.

Revisions made per SB 12

(3) Payment for lease or rental of court facilities or payment of service contracts, including those made for facilities in which one or more private sector participants undertake some of the risks associated with the financing, design, construction, or operation of the facility.

Revisions made per SB 1021

(4) For trial court operations, as defined in Section 77003.

(b) Any funds ~~moneys~~ expended from the Immediate and Critical Needs Account are not subject to Section 77202.

(c) Notwithstanding Section 13340, until July 1, 2012, the Immediate and Critical Needs Account is hereby continuously appropriated, without regard to fiscal year, only for the purposes of acquiring real property and completing preliminary plans.

(d) It is the intent of the Legislature that the money in the Immediate and Critical Needs Account ~~of the State Court Facilities Construction Fund~~ shall be used in part to pay the debt service of lease revenue bonds, notes, bond anticipation notes, or other appropriate financial instruments used to pay for the costs referred to in subdivision (a) in the amount of up to five billion dollars ($5,000,000,000). The total bonded indebtedness shall not exceed that amount for which fine and fee revenues may fully satisfy the debt service.

(e) The Judicial Council shall collect and make available upon request information regarding the moneys deposited in the Immediate and Critical Needs Account ~~of the State Court Facilities Construction Fund~~ resulting from new and increased fees, assessments, and penalties authorized by the act that added this section.

(f)(1) The Judicial Council shall make recommendations to the ~~Governor and the Legislature for~~ State Public Works Board before it undertakes projects based on its determination that the need for a project is most immediate and critical using the then most recent version of the Prioritization Methodology for Trial Court Capital-Outlay Projects originally adopted on August 26, 2006, subject to the availability of funds in the Immediate and Critical Needs Account. Any such recommendation shall be accompanied by a certification that there are sufficient funds in the Immediate and Critical Needs Account. The State Public Works Board shall establish the scope and cost for each individual project.

(2) The Legislature finds that there may not be enough resources to pay for the cost of the projects identified as

immediate and critical needs by the Judicial Council pursuant to its Prioritization Methodology for Trial Court Capital-Outlay Projects originally adopted on August 26, 2006, even after considering any bonded indebtedness that may be issued relying at least in part on those resources. Therefore, in choosing which projects shall be recommended to the ~~Governor and Legislature for the selection of projects~~ State Public Works Board to be funded from the Immediate and Critical Needs Account~~of the State Court Facilities Construction Fund~~, the Judicial Council shall consider and apply, as appropriate, the following factors, among others:

(A) Any economic opportunity that exists for a project.

(B) The effect on available resources of using alternative methods of project delivery as provided by Section 70391.5.

(3) Nothing in paragraph (2) shall authorize the Judicial Council to exceed the resources provided by the Immediate and Critical Needs Account~~of the State Court Facilities Construction Fund~~, together with other available resources, in undertaking projects identified as immediate and critical needs.

(4) As used in paragraph (2), "economic opportunity" includes, but is not limited to, free or reduced costs of land for new construction, viable financing partnerships with, or fund contributions by, other government entities or private parties that result in lower project delivery costs, cost savings resulting from adaptive reuse of existing facilities, operational efficiencies from consolidation of court calendars and operations, operational savings from sharing of facilities by more than one court, and building operational cost savings from consolidation of facilities.

(5) The Judicial Council shall not consider and apply an economic opportunity ~~in making a recommendation~~ unless it is reasonably assured that the economic opportunity is viable and will be realized. If a project is selected for funding based on an economic opportunity that is withdrawn after the project is approved, the Judicial Council may cancel the project.

(g) Notwithstanding any law, the Controller may use the funds in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

loans to General Fund

Added per SB 82 (2011)

Section 70371.6. The Judicial Council is authorized to acquire sites for the replacement of deficient court facilities within the Counties of Butte (New North County Courthouse), Los Angeles (New Southeast Los Angeles Courthouse), Tehama (New Red Bluff Courthouse), and Yolo (New Woodland Courthouse), as identified in the Immediate Needs Priority Group identified by the Judicial Branch Five-Year Infrastructure Plan, as adopted by the Judicial Council on April 25, 2008.

authorization to acquire sites for replacement of facilities

Added per SB 1407

Section 70371.7. (a) Prior to seeking the State Public Works Board establishment of the scope and cost, the Judicial Council shall submit a report to the Joint Legislative Budget Committee describing the scope, budget, schedule, number of courtrooms,

report to Joint Legislative Budget Committee

Added per SB 12

number of secure holding cells, and square footage of administrative support space to be constructed or renovated. If the Joint Legislative Budget Committee fails to take any action with respect to each report within 30 days after submittal, this inaction shall be deemed to be approval for the purposes of this section, and the Judicial Council is authorized to proceed to acquire real property and complete preliminary plans.

(b)(1) Upon certification of the availability of funds within the Immediate and Critical Needs Account, and the establishment of the project scope and cost by the State Public Works Board, notwithstanding any other provision of law, the Judicial Council is authorized to acquire real property and to complete preliminary plans for the superior court capital outlay projects adopted by the Judicial Council on October 24, 2008, identified in the Update to Trial Court Capital-Outlay Plan and Prioritization Methodology, or most recent version thereof.

(2) It is the intent of the Legislature that funding for working drawings and construction be appropriated in the next annual Budget Act following approval by the State Public Works Board of preliminary plans completed pursuant to paragraph (1).

(3) The scope and cost of the projects, including augmentations, authorized by this section shall be subject to approval and administrative oversight by the State Public Works Board pursuant to Section 13332.11 or 13332.19. For purposes of this section, the availability of an augmentation for each individual project shall be calculated based on the total capital outlay cost as established by the board.

oversight by State Public Works Board

Section 70371.8. The Judicial Council shall report to the Joint Legislative Budget Committee and chairs of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget by March 1 of each year on the status of each project established by the State Public Works Board under Section 70371.7. The report shall also include an accounting of the revenues generated and expenditures made in the Immediate and Critical Needs Account.

report on status of projects

Added per SB 12

Section 70371.9. (a) The Judicial Council shall conduct a pilot program until July 1, 2013, to assess the benefits and impacts of both of the following:

(1) Requiring all subcontractors with bids in excess of five hundred thousand dollars ($500,000) to pay for employee health care expenditures for their construction field employees working in California.

(2) Giving two quality points out of 100 quality points to a proposing construction manager at risk that pays for employee health care expenditures for its construction field employees working in California.

(b) The Judicial Council shall, after consulting with applicable stakeholders, select three courthouse construction projects from those funded by the Immediate and Critical Needs Account established by Section 70371.5 to implement the pilot program,

pilot program – subcontractor-paid health care expenditures for construction field employees

Added per SB 857

including one project with estimated construction costs in excess of two hundred million dollars ($200,000,000), one project with estimated construction costs between one hundred million dollars ($100,000,000) and two hundred million dollars ($200,000,000), and one project with estimated construction costs between seventy-five million dollars ($75,000,000) and one hundred million dollars ($100,000,000).

(c) The Administrative Office of Courts shall provide two quality points out of a total 100 quality points to construction managers at risk that submit proposals and certify that they are qualified.

(1) A proposer qualifies for the two quality points pursuant to this subdivision if, for the six-month period immediately preceding submission of the proposal, the proposer's aggregate California employee health care expenditures were equal to at least 6.5 percent of that proposer's aggregate California social security wages.

(2) A proposer shall receive two quality points by certifying that it qualifies for the two points on a form provided by the Administrative Office of the Courts.

(3) Any proposer that certifies that it qualifies for the two quality points shall provide to the Administrative Office of the Courts, upon request, sufficient records to show that the proposer is qualified. The failure to supply the records within a reasonable time, as specified by the Administrative Office of the Courts, may result in the proposer's disqualification.

(d)(1) A subcontractor shall not be awarded a subcontract in excess of five hundred thousand dollars ($500,000) on a project under the pilot program unless, for the six-month period immediately preceding the effective date of the subcontract, the subcontractor's aggregate California employee health care expenditures were equal to at least 6.5 percent of that subcontractor's aggregate California social security wages. The Administrative Office of the Courts may waive this requirement if no economically feasible bid is received.

(2) Each subcontractor awarded a subcontract in excess of five hundred thousand dollars ($500,000) on a project under the pilot program shall submit to the construction manager at risk, prior to execution of its subcontract, a statement on a form provided by the Administrative Office of the Courts certifying that it has complied with the requirement in paragraph (1).

(3) A subcontractor awarded a subcontract in excess of five hundred thousand dollars ($500,000) on a project under the pilot program shall provide to the construction manager at risk, upon request, sufficient records to show that the proposer has complied with paragraph (1).

(e) In order to evaluate the benefits of this pilot program, including the potential improvement of health care coverage for construction field employees, potential savings to the State of California from not having to pay for health care for uninsured workers and their dependents, and other impacts, including

potential increased project costs, the Administrative Office of the Courts shall collect and analyze data to assess the impact of subdivisions (b) and (c) and issue a report summarizing the data and analysis on or before July 1, 2015. The Administrative Office of the Courts may contract with third-party consultants in collecting and analyzing the data and preparing the report.

(f) For purposes of this section, the following terms have the following meanings:

(1) "Aggregate California employee health care expenditures" means all amounts paid by a proposer or subcontractor to its construction field employees in California or to a third party on behalf of a proposer's or subcontractor's construction field employees in California, for the purpose of providing health care services to the construction field employees or reimbursing the cost of those services for the construction field employees, including, but not limited to, all of the following:

(A) Contributions on behalf of employees to a health savings account, as defined under Section 223 of the Internal Revenue Code, or to any other account having substantially the same purpose or effect without regard to whether the contributions qualify for a tax deduction or are excludable from employee income.

(B) Reimbursement to employees for expenses incurred in the purchase of health care services.

(C) Payments to a third party for the purpose of providing health care services for employees.

(D) Payments pursuant to a collective bargaining agreement for the purpose of providing health care services for employees.

(E) Costs incurred in the direct delivery of health care services to employees.

(2) "Aggregate California social security wages" means the aggregate amount of wages paid to all of a proposer's or subcontractor's construction field employees in California, not including any wages that are above the federal social security contribution and benefit base, sometimes referred to as the social security wage base, for the year in which they are paid.

(3) "Construction field employees" means a proposer's or subcontractor's workers who perform construction labor at construction jobsites.

(4) "Health care services" means medical care, services, or goods that qualify as tax deductible medical care expenses under Section 213 of the Internal Revenue Code, or medical care, services, or goods having substantially the same purpose or effect as those deductible expenses.

(g) This section shall become inoperative on July 1, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute that is enacted before January 1, 2016, deletes or extend the dates on which it becomes operative and is repealed.

surcharge for criminal offenses

Revisions made per SB 428

Section 70372. (a)(1) Except as otherwise provided in ~~subdivision (b) of Section 70375 and in~~ this article, there shall be levied a state court construction penalty, in the amount of five dollars ($5) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including, but not limited to, all offenses involving a violation of a section of the Fish and Game Code, the Health and Safety Code, or the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. This penalty is in addition to any other state or local penalty, including, but not limited to, the penalty provided by Section 1464 of the Penal Code and Section 76000.

~~(2) The amount of the court construction penalty may be reduced by a county as provided in subdivision (b) of Section 70375.~~

~~(3)~~(2) This construction penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or Chapter 12 (commencing with Section 76000) of Title 8.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

~~(4)~~(3) Any bail schedule adopted pursuant to Section 1269b of the Penal Code or adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay the penalty established by this section, the penalties authorized by Section 1464 of the Penal Code and Chapter 12 (commencing with Section 76000) of Title 8, and the surcharge authorized by Section 1465.7 of the Penal Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine. After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it immediately to the county treasury and the county treasurer shall transmit these sums as provided in subdivision (f).

Revisions made per SB 1407

(b) In addition to the penalty provided by subdivision (a), for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added state court construction penalty of **four dollars** and fifty cents ($**4.50**) shall be included in the total penalty, fine, or forfeiture. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this **subdivision**. Each agency **that** elects to process parking violations shall pay to the county treasurer **four dollars** and fifty cents ($**4.50**) for the parking penalty imposed by this subdivision for each violation **that**

is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall transmit these sums as provided in **paragraph (2)** of subdivision (f). **In the event these payments were deposited in a local courthouse construction fund and expended pursuant to the provisions of Chapter 592 of the Statutes of 2003, no county or processing agency shall be liable for the failure to transmit the payments to the Controller during the 2008 calendar year.**

Added per SB 857

(c) **If** multiple offenses are involved, the state court construction penalty **under subdivision (a)** shall be based upon the total fine or bail for each case. **If** a fine is suspended, in whole or in part, the state court construction penalty **under subdivision (a)** shall be reduced in proportion to the suspension.

(d) **If** any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state court construction penalty prescribed by **subdivision (a)** for forfeited bail. If bail is returned, the state court construction penalty paid thereon pursuant to **subdivision (a)** shall also be returned.

(e) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state court construction penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(f)**(1)** Within 45 days after the end of the month that moneys are deposited in the county treasury pursuant to subdivision (a), the county treasurer shall transmit the moneys to the Controller, to be deposited **as follows**:

(A) The total to be deposited pursuant to subdivision (a) shall be multiplied by a fraction as follows:

Revisions made per SB 1407

(i) The numerator is the amount imposed as of January 1, 1998, as an additional penalty on every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture, if any, for deposit into the local courthouse construction fund in that county established pursuant to Sections 76000 and 76100. The numerator shall be expressed in whole dollars and fractions of a dollar.

Revisions made per SB 12

(ii) The denominator is five dollars ($5).

(B) The resulting amount shall be deposited in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5.

(C) The remaining amount of the deposit shall be deposited in the State Court Facilities Construction Fund.

(2) Within 45 days after the end of the month that moneys are deposited in the county treasury pursuant to subdivision (b), the county treasurer shall transmit the moneys to the Controller to be deposited as follows: one-third of the total amount shall be deposited in the State Court Facilities Construction Fund and two-thirds of the total amount shall be deposited in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5.

Section 70373. (a)(1) To ensure and maintain adequate funding for court facilities, an assessment shall be imposed on every conviction for a criminal offense, including a traffic offense, except parking offenses as defined in subdivision (i) of Section 1463 of the Penal Code, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. The assessment shall be imposed in the amount of thirty dollars ($30) for each misdemeanor or felony and in the amount of thirty-five dollars ($35) for each infraction.

(2) For the purposes of this section, "conviction" includes the dismissal of a traffic violation on the condition that the defendant attend a court-ordered traffic violator school, as authorized by Sections 41501 and 42005 of the Vehicle Code. This assessment shall be deposited in accordance with subdivision (d), and may not be included with the fee calculated and distributed pursuant to Section 42007 of the Vehicle Code.

(b) This assessment shall be in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code and may not be included in the base fine to calculate the state penalty assessment as specified in subdivision (a) of Section 1464 of the Penal Code. The penalties authorized by Chapter 12 (commencing with Section 76000), and the state surcharge authorized by Section 1465.7 of the Penal Code, do not apply to this assessment.

(c) When bail is deposited for an offense to which this section applies, and for which a court appearance is not necessary, the person making the deposit also shall deposit a sufficient amount to include the assessment prescribed by this section.

(d) Notwithstanding any other law, the assessments collected pursuant to subdivision (a) shall all be deposited in a special account in the county treasury and transmitted therefrom monthly to the Controller for deposit in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5.

(e) The Judicial Council shall provide for the administration of this section.

court facilities funding; assessments on criminal convictions

Added per SB 1407

~~**Section 70373.5**. (a) Notwithstanding paragraph (2) of subdivision (a) of Section 70373, a surcharge of eighteen dollars ($18) shall be added to the first appearance fee in all limited civil actions **in lieu of the twenty-five dollar ($25) fee provided by that section**.~~

~~(b) The surcharge provided for in this section and Section 70373 are not subject to the percentage surcharge authorized by Section 68087.~~

~~(c) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends that date.~~

specific limitations on amount of new civil surcharge

Revisions made per SB 256

NOTE: Section 70373.5 repealed effective January 1, 2005

Section 70374. (a) The Judicial Council shall annually recommend to the Governor and the Legislature the amount proposed to be spent for projects paid for with moneys in the State Court Facilities Construction Fund. The use of the appropriated moneys is subject to subdivision (l) of Section 70391.

annual recommendations to Governor and Legislature regarding State Court Facilities Construction Fund expenditures

(b) ~~**Facilities**~~ **Acquisition and construction of court facilities** shall be subject to the State Building Construction Act of 1955 **(Part 10b** (commencing with Section 15800) **of Division 3 of Title 2)** and the Property Acquisition Law **(Part 11** (commencing with Section 15850) **of Division 3 of Title 2)**, except that **(1)** notwithstanding any other provision of law, the Administrative Office of the Courts shall serve as an implementing agency upon approval of the Department of Finance**, and (2) the provisions of subdivision (e) shall prevail. Acquisition and construction of facilities are not subject to the provisions of the Public Contract Code, but shall be subject to facilities contracting policies and procedures adopted by the Judicial Council after consultation and review by the Department of Finance**.

Revisions made per SB 256

Revisions made per AB 1164

applicability of State Building Construction Act and Property Acquisition Law; exceptions

inapplicability of Public Contract Code; adoption of contracting policies and procedures

(c) Moneys in the State Court Facilities Construction Fund shall only be used for either of the following:

purposes for which money in SCFCF may be used

(1) ~~**To acquire, rehabilitate, construct, or finance**~~ **The planning, design, construction, rehabilitation, renovation, replacement, leasing, or acquisition of** court facilities, as defined by subdivision ~~**(e) of Section 70302. [sic]**~~ **(d) of Section 70301.**

Revisions made per SB 1407

Revisions made per AB 1491

(2) ~~**To rehabilitate**~~ **The rehabilitation of** one or more existing court facilities in conjunction with the construction, acquisition, or financing of one or more new court facilities.

(d) **(1)** ~~**Twenty-five**~~ **Except as provided in Section 70374.2 and paragraph (2) of this subdivision, 25** percent of all moneys collected for the State Court Facilities Construction Fund from any county shall be designated for implementation of trial court projects in that county. The Judicial Council shall determine the local projects after consulting with the trial court in that county and based on the locally approved trial court facilities master plan for that county.

25 percent of money collected designated for county in which it was collected

(2) Paragraph (1) shall not apply to moneys that ~~has~~ have been deposited in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5.

Revisions made per SB 1407

Revisions made per AB 1164

(e) The following provisions shall prevail over provisions of the State Building Construction Act of 1955 (Part 10.6 (commencing with Section 15800) of Division 3 of Title 2) in regard to buildings subject to this section.

AOC responsibility for operation of court facilities whose title held by state

(1) The Administrative Office of the Courts shall be responsible for the operation, including, but not limited to, the maintenance and repair, of all court facilities whose title is held by the state. ~~Notwithstanding Section 15807, t~~The operation of buildings under this section shall be the responsibility of the Judicial Council.

Revisions made per SB 256

Revisions made per AB 1620

(2) Notwithstanding Section 15808.1, the Judicial Council shall have the responsibility for determining whether a building under ~~this~~ the act shall be located within or outside of an existing public transit corridor.

Revisions made per AB 1164

(3) The buildings under this section are subject to Section 15814.12 concerning cogeneration and alternative energy sources at the request of, or with the consent of, the Judicial Council. Any building acquired by the state pursuant to this section on or before July 1, 2007, is not subject to subdivision (b) of Section 15814.12 concerning ~~acquiring~~ the acquisition of cogeneration or alternative energy equipment if the building when acquired, already had cogeneration or alternative energy equipment. Section 15814.17 only applies to buildings to which the Judicial Council has given its consent under subdivision (a) of Section 15814.12.

~~(e) Any money in the fund that is appropriated for use on a project that is not needed for completion of that project shall be returned to the fund. The amount shall then be divided between the fund and other state funds in the same proportion that the original sources of money for the project came from the fund and other state funds.~~

Section 70374.2. Notwithstanding subdivision (d) of Section 70374, in order to ensure that funding is available to support the construction of the new court facility projects approved in the Budget Act of 2007, the Judicial Council shall not commit to additional expenditures from the State Court Facilities Construction Fund above the amount appropriated in the Budget Act of 2007 unless the expenditures are replaced with increased funds to the fund.

No expenditures from State Court Facilities Fund absent increase in fund revenues

Added per SB 82 (2007)

Section 70375. (a) This article shall take effect on January 1, 2003, and the fund, penalty, and fee assessment established by this article shall become operative on January 1, 2003, except as otherwise provided in this article.

operative date and specifications for applying surcharges

~~(b) In each county, the five dollar ($5) penalty amount authorized by subdivision (a) of Section 70372 shall be reduced by the amount collected for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401 to the extent it is funded by money from the local courthouse construction fund.~~ ~~following:~~

Revisions made per SB 1330

Revisions made per SB 1407

~~(1) The amount collected for deposit into the local Courthouse Construction Fund established pursuant to Section 76100. If a county board of supervisors elects to distribute part of the county penalty authorized by Section 76000 into the local courthouse construction fund, the amount of the contribution for each seven dollars ($7) is the difference between seven dollars ($7) and the amount shown for the county penalty in subdivision (e) of Section 76000.~~

~~(2) The amount collected for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401 to the extent it is funded by money from the local Courthouse Construction Fund.~~

~~(c) The amount authorized by Section 70373 shall be reduced by the following in the following counties:~~

Revisions made per AB 1435

~~(1) In the County of Riverside, the amount collected pursuant to Section 26826.1 of the Government Code for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401.~~

~~(2) In the County of San Bernardino, the amount collected pursuant to Section 26826.4 76236 of the Government Code for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401.~~

Revisions made per SB 256

~~(3) In the City and County of San Francisco, the amount collected pursuant to Section 76238 of the Government Code for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401.~~

proportional expiration of authority for penalties and surcharges

~~(d)~~ ~~(c)~~ (b) The authority for all of the following shall expire proportionally ~~as of~~ on the June 30th following the date of transfer of responsibility for facilities from the county to the Judicial Council, except so long as money is needed to pay for construction provided for in those sections and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council:

(1) An additional penalty for a local ~~C~~courthouse ~~C~~construction ~~F~~fund established pursuant to Section 76100.

(2) A filing fee surcharge in the County of Riverside established pursuant to Section ~~26826.1~~ 70622.

(3) A filing fee surcharge in the County of San Bernardino established pursuant to Section ~~26826.4 76236~~ 70624.

(4) A filing fee surcharge in the City and County of San Francisco established pursuant to Section ~~76238~~ 70625.

~~(e)~~ ~~(d)~~ (c) For purposes of subdivision ~~(d)~~ (c), the term "proportionally" means that proportion of the fee or surcharge that shall expire upon the transfer of responsibility for a facility that is the same proportion as the square footage that facility bears to the total square footage of court facilities in that county.

funding for courthouse alteration, renovation and construction (legislative intent)

Section 70376. It is the intent of the Legislature that funding for courthouse alteration, renovation, and construction be funded by money in the State Court Facilities Construction Fund and additional money as necessary from the state.

transmission of revenue to state Controller

Section 70377. (a) Any amounts required to be transmitted by a county to the Controller pursuant to this article shall be remitted no later than 45 days after the end of the month in which the penalties were collected. Any remittance made later than this time shall be considered delinquent and subject to the penalties specified in this section.

(b) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to 11/2 percent per month for the number of days the payment is delinquent.

penalties for delinquent submissions

(c) Penalty amounts calculated pursuant to subdivision (b) shall be paid by the county to the Controller no later than 45 days after the end of the month in which the penalty was calculated. All money received by the Controller under this section shall be deposited in the State Court Facilities Construction Fund.

(d) If the penalty imposed by this section results from a court's failure to comply with the requirements for timely deposit of money with the county treasury, the court shall reimburse the county general fund in an amount equal to the actual penalty.

Notwithstanding Section 77009, the court may pay this penalty from money received from the Trial Court Trust Fund. This section does not require an increase in a court's allocation from the Trial Court Trust Fund.

investment of funds

distribution of interest

Section 70378. The State Court Facilities Construction Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the State Court Facilities Construction Fund semiannually and shall be allocated as otherwise provided in this article.

Court Facilities Architecture Revolving Fund established

Added per SB 749

Section 70379. (a) The Court Facilities Architecture Revolving Fund is hereby established in the State Treasury, and, notwithstanding Section 13340, the fund is continuously appropriated, without regard to fiscal years.

(1) With the approval of the Department of Finance, and except as otherwise specified in this section, there shall be transferred to, or deposited in, the fund all money appropriated, contributed, or made available from any source, including sources other than state appropriations, for the purposes described in paragraph (2).

(2) Moneys transferred to, or deposited in, the fund shall be those administered by the Administrative Office of the Courts

under subdivision (b) of Section 70374 for the construction, alteration, repair, and improvement of trial and appellate court buildings, including, but not limited to, services, new construction, major construction, minor construction, maintenance, improvements, and equipment, and other building and improvement projects.

(3) In addition to the approval of the Department of Finance, the transfer or deposit of moneys into the fund shall be authorized by the Administrative Office of the Courts, both with regard to funds appropriated for the purposes specified in paragraph (2) or, as to funds from sources other than state appropriations, subject to any written agreement between the contributor or contributors of funds and the Administrative Office of the Courts.

(b) Money from state sources transferred to, or deposited in, the fund for construction, services, equipment, repair, or improvement shall be an amount necessary based on the actual, known, or firm fixed price, upon approval of the Department of Finance.

Any amount available in the state appropriation that is in excess of the amount necessary based upon final actual costs of the completed contract shall be transferred immediately to the credit of the fund from which the appropriation was made.

(c) Money transferred or deposited in the fund pursuant to subdivision (a) shall be available for expenditure by the Administrative Office of the Courts for the purposes for which appropriated, contributed, or made available, without regard to fiscal years.

ARTICLE 7. AUTHORITY AND RESPONSIBILITY

responsibilities and authorities of Judicial Council

Section 70391. The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to court facilities, in addition to any other responsibilities or authorities established by law:

full responsibility, jurisdiction, control, and authority over transferred facilities

Revisions per SB 1330

(a) Exercise full responsibility, jurisdiction, control, and authority as an owner would have over trial court facilities ~~whose~~ the title of which is held by the state, including, but not limited to, the acquisition and development of facilities.

full policy-making authority

(b) Exercise the full range of policymaking authority over trial court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not expressly otherwise limited by law.

disposition of surplus court facilities

(c) Dispose of surplus court facilities following the transfer of responsibility under Article 3 (commencing with Section 70321), subject to all of the following:

(1) If the property was a court facility previously the responsibility of the county, the Judicial Council shall comply with the requirements of Section 11011, and as follows, except that, notwithstanding any other provision of law, the proportion of the net proceeds that represents the

proportion of other state funds used on the property other than for operation and maintenance shall be returned to the fund from which it came and the remainder of the proceeds shall be deposited in the State Court Facilities Construction Fund.

(2) The Judicial Council shall consult with the county concerning the disposition of the facility. **Notwithstanding any other law, including Section 11011, when requested by the transferring county, a surplus facility shall be offered to that county at fair market value prior to being offered to ~~any other~~ another state agency or ~~other~~ local government agency.**

Added per AB 1435

Revisions per SB 1330

(3) The Judicial Council shall consider whether the potential new or planned use of the facility:

(A) Is compatible with the use of other adjacent public buildings.

(B) Unreasonably departs from the historic or local character of the surrounding property or local community.

(C) Has a negative impact on the local community.

(D) Unreasonably interferes with other governmental agencies that use or are located in or adjacent to the building containing the court facility.

(E) Is of sufficient benefit to outweigh the public good in maintaining it as a court facility or building.

(4) All funds received for disposal of surplus court facilities shall be deposited by the Judicial Council in the State Court Facilities Construction Fund.

(5) If the facility was acquired, rehabilitated, or constructed, in whole or in part, with money**s** in the State Court Facilities Construction Fund that ~~was~~ **were** deposited in that fund from the state fund, any funds received for disposal of that facility shall be apportioned to the state fund and the State Court Facilities Construction Fund in the same proportion that the original cost of the building was paid from the state fund and other sources of the State Court Facilities Construction Fund.

(6) Submission of a plan to the Legislature for the disposition of court facilities transferred to the state, prior to, or as part of, any budget submission to fund a new courthouse that will replace the existing court facilities transferred to the state.

Submission of disposal plan to Legislature

Added per SB 82 (2007)

(d) Conduct audits of all of the following:

(1) The collection of fees by the local courts.

(2) The money**s** in local courthouse construction funds established pursuant to Section 76100.

audits of fees collected by courts and money in local courthouse construction funds

(3) The collection of moneys to be transmitted to the Controller for deposit in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5.

Added per SB 1407

(e) Establish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities, including, but not limited to, facilities planning, acquisition, construction, design, operation, and maintenance.

ensuring adequate and sufficient court facilities

(f) Establish and consult with local project advisory groups on the construction of new trial court facilities, including the trial court, the county, **the local sheriff,** state agencies, bar groups, **including, but not limited to, the criminal defense bar,** and members of the community. **Consultation with the local sheriff in design, planning, and construction shall include the physical layout of new facilities, as it relates to court security and other security considerations, including matters relating to the safe control and transport of in-custody defendants.**

local project advisory groups on new construction

(g) Manage court facilities in consultation with the trial courts.

management of court facilities

(h) Allocate appropriated funds for court facilities maintenance and construction, subject to the other provisions of this chapter.

allocation of appropriated funds

(i) Manage shared-use facilities to the extent required by the agreement under Section 70343.

management of shared-use facilities

(j) Prepare funding requests for court facility construction, repair, and maintenance.

funding requests

(k) Implement the design, bid, award, and construction of all court construction projects, except as delegated to others.

design, bid, award, and construction of court construction projects

(l) Provide for capital outlay projects that may be built with funds appropriated or otherwise available for these purposes as follows:

capital outlay projects

(1) Approve five-year and master plans for each district.

(2) Establish priorities for construction.

(3) Recommend to the Governor and the Legislature the projects to be funded ~~from~~ **by** the State Court Facilities Construction Fund.

Revisions made per SB 82 (2007)

(4) Submit the cost of projects proposed to be funded to the Department of Finance for inclusion in the Governor's ~~budget~~ **Budget**.

(m) In carrying out its responsibilities and authority under this section, the Judicial Council shall consult with the local court for:

consultation with local courts

(1) Selecting and contracting with facility consultants.

(2) Preparing and reviewing architectural programs and designs for court facilities.

(3) Preparing strategic master and five-year capital facilities plans.

(4) Major maintenance of any facility.

Section 70391.5. (a) The Judicial Council shall develop performance expectations for court facility proposals, including benchmark criteria for total project life-cycle costs, project cost comparisons to traditional delivery and financing options, project risk assessments and allocations, utility and energy conservation requirements that meet or exceed state standards, and court security operations cost controls and reduction goals. The

Added per SB 82 (2007)

Judicial Council required to develop performance expectations and benchmark criteria

performance expectations and benchmark criteria shall be consistent with Chapter 1016 of the Statutes of 2002, Chapter 488 of the Statutes of 2006, and consistent with all current state building practices.

(b) In reviewing any court facility proposal that includes a public-private partnership component, the Director of Finance shall take into consideration any terms in the proposal that could create long-term funding commitments and how those terms may be structured to minimize risk to the state's credit ratings. Following the approval of any court facility proposal of the Director of Finance, the Judicial Council shall notify the Joint Legislative Budget Committee of the performance expectations and benchmark criteria for the proposal at least 30 days prior to the release of initial solicitation documents for a court facility project. If the Joint Legislative Budget Committee does not express any opposition or concerns, the Judicial Council may proceed with the solicitation 30 days after giving that notice.

Finance Director and Joint Legislative Budget Committee review

Legislative Action Note

SB 77 (Budget Act of 2007) provides:

"Notwithstanding any other provision of law, the Administrative Office of the Courts shall gather information for a public-private partnership agreement for the Long Beach Court replacement, specify a process and criteria for developing alternative methods of project delivery, and identify variables that will be used to evaluate the alternative methods of delivery.

Pursuant to Section 70391.5 of the Government Code, the Judicial Council may enter into a lease- purchase agreement or other appropriate multiyear agreement, together with other related agreements, with one or more entities for the delivery of the new Los Angeles County—Long Beach Courthouse that will provide payments to the entity or entities for the state's proportional share of project costs, subject to notice to the Legislature and the Department of Finance approval that the agreements meet established performance expectations. This provision is contingent upon the execution of an agreement for transfer of responsibility of the existing Long Beach court facility to the state no later than June 30, 2007, and subsequent approval of the transfer of title by the State Public Works Board."

SB 77 (Budget Act of 2007)

Authority for Public Private Partnership

Section 70391.7. (a) For purposes of this section, the definitions in subdivision (a) of Section 13332.19 shall apply. For purposes of subdivision (a) of Section 13332.19, references to the Department of General Services shall be deemed to be references to the Judicial Council.

contracting and procurement of court facilities; design-build entities

Added per SB 4

(b) Notwithstanding any provision of the Public Contract Code or any other law, when the Legislature appropriates funds for a specific project, the Judicial Council may contract and procure court facilities pursuant to this section.

(c) Prior to contracting with a design-build entity for the procurement of a court facility under this section, the Judicial Council shall:

performance criteria

(1) Prepare a program setting forth the performance criteria for the design-build project. The performance criteria shall be prepared by a design professional duly licensed and registered in the State of California.

(2)(A) Establish a competitive prequalification and selection process for design-build entities, including any subcontractors listed at the time of bid, that clearly specifies the prequalification criteria, and states the manner in which the winning design-build entity will be selected.

prequalification

(B) Prequalification shall be limited to consideration of all of the following criteria:

(i) Possession of all required licenses, registration, and credentials in good standing that are required to design and construct the project.

(ii) Submission of evidence that establishes that the design-build entity members have completed, or demonstrated the capability to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(iii) Submission of a proposed project management plan that establishes that the design-build entity has the experience, competence, and capacity needed to effectively complete the project.

(iv) Submission of evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the Judicial Council that the design-build entity has the capacity to complete the project.

(v) Provision of a declaration certifying that applying members of the design-build entity have not had a surety company finish work on any project within the last five years.

(vi) Provision of information and a declaration providing detail concerning all of the following:

(I) Any construction or design claim or litigation totaling more than five hundred thousand dollars ($500,000) or 5 percent of the annual value of work performed, whichever is less, settled against any member of the design-build entity over the last five years.

(II) Serious violations of the California Occupational Safety and

Health Act of 1973, as provided in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, settled against any member of the design-build entity.

(III) Violations of federal or state law, including, but not limited to, those laws governing the payment of wages, benefits, or personal income tax withholding, or of Federal Insurance Contributions Act (FICA) withholding requirements, state disability insurance withholding, or unemployment insurance payment requirements, settled against any member of the design-build entity over the last five years. For purposes of this subclause, only violations by a design-build member as an employer shall be deemed applicable, unless it is shown that the design-build entity member, in his or her capacity as an employer, had knowledge of his or her subcontractor's violations or failed to comply with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code.

(IV) Information required by Section 10162 of the Public Contract Code.

(V) Violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations or complaints.

(VI) Any conviction of any member of the design-build entity of submitting a false or fraudulent claim to a public agency over the last five years.

(vii) Provision of a declaration that the design-build entity will comply with all other provisions of law applicable to the project, including, but not limited to, the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(C) The Judicial Council, when requested by the design-build entity, shall hold in confidence any information required by clauses (i) to (vi), inclusive, of subparagraph (B).

(D) Any declaration required under subparagraph (B) shall state that reasonable diligence has been used in its preparation and that it is true and complete to the best of the signer's knowledge. A person who certifies as true any material matter that he or she knows to be false is guilty of a misdemeanor and shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both the fine and imprisonment.

(3)(A) Determine, as the Judicial Council deems in the best interests of the state, which of the following methods listed in subparagraph (B) will be used as the process for the winning design-build entity. The Judicial Council shall provide a notification to the State Public Works Board, regarding the method selected for determining the winning design-build entity, at least 30 days prior to publicizing the design-build solicitation package.

methods for determination

(B) The Judicial Council shall make its determination by choosing one of the following methods:

(i) A design-build competition based upon performance, price, and other criteria set forth by the Judicial Council in the design-build solicitation package. The Judicial Council shall establish technical criteria and methodology, including price, to evaluate proposals and shall describe the criteria and methodology in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value in meeting the interests of the Judicial Council and meeting the objectives of the project. A project with an approved budget of ten million dollars ($10,000,000) or more may be awarded pursuant to this clause.

(ii) A design-build competition based upon performance and other criteria set forth by the Judicial Council in the design-build solicitation package. Criteria used in this evaluation of proposals may include, but need not be limited to, items such as proposed design approach, life-cycle costs, project features, and functions. However, any criteria and methods used to evaluate proposals shall be limited to those contained in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value, for the lowest price, meeting the interests of the Judicial Council and meeting the objectives of the project. A project with an approved budget of ten million dollars ($10,000,000) or more may be awarded pursuant to this clause.

(iii) A design-build competition based upon program requirements and a detailed scope of work, including any performance criteria and concept drawings set forth by the Judicial Council in the design-build solicitation package. Award shall be made on the basis of the lowest responsible bid. A project with an approved budget of two hundred fifty thousand dollars ($250,000) or more may be awarded pursuant to this clause.

definitions

(4) For purposes of this subdivision, the following definitions shall apply:

"best interest of the state"

(A) "Best interest of the state" means a design-build process that is projected by the Judicial Council to reduce the project delivery schedule and total cost of a project while maintaining a high level of quality workmanship and materials, when compared to the traditional design-bid-build process.

"best value"

(B) "Best value" means a value determined by objective criteria that may include, but are not limited to, price, features, functions, life-cycle costs, experience, and other criteria deemed appropriate by the Judicial Council.

(d) The Legislature recognizes that the design-build entity is charged with performing both design and construction. Because a design-build contract may be awarded prior to the completion of the design, it is often impracticable for the design-build entity to list all subcontractors at the time of the award. As a result, the subcontractor listing requirements contained in Chapter 4

(commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code can create a conflict with the implementation of the design-build process by requiring all subcontractors to be listed at a time when a sufficient set of plans may not be available. It is the intent of the Legislature to establish a clear process for the selection and award of subcontracts entered into pursuant to this section in a manner that retains protection for subcontractors while enabling design-build projects to be administered in an efficient fashion. Therefore, all of the following requirements shall apply to subcontractors, licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, that are employed on design-build projects undertaken pursuant to this section:

(1) The Judicial Council, in each design-build solicitation package, may identify types of subcontractors, by subcontractor license classification, that will be listed by the design-build entity at the time of the bid. In selecting the sub-contractors that will be listed by the design-build entity, the Judicial Council shall limit the identification to only those license classifications deemed essential for proper completion of the project. In no event, however, may the Judicial Council specify more than five licensed subcontractor classifications. In addition, at its discretion, the design-build entity may list an additional two subcontractors, identified by subcontractor license classification, that will perform design or construction work, or both, on the project. In no event shall the design-build entity list at the time of bid a total number of subcontractors that will perform design or construction work, or both, in a total of more than seven subcontractor license classifications on a project. All subcontractors that are listed at the time of bid shall be afforded all of the protection contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code. All subcontracts that were not listed by the design-build entity at the time of bid shall be awarded in accordance with paragraph (2).

(2) All subcontracts that were not to be performed by the design-build entity in accordance with paragraph (1) shall be competitively bid and awarded by the design-build entity, in accordance with the design-build process set forth by the Judicial Council in the design-build solicitation package. The design-build entity shall do all of the following:

(A) Provide public notice of the availability of work to be subcontracted in accordance with Section 10140 of the Public Contract Code.

(B) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with Section 10141 of the Public Contract Code.

(C) As authorized by the Judicial Council, establish reasonable prequalification criteria and standards, limited in scope to those detailed in paragraph (2) of subdivision (c).

(D) Provide that the subcontracted work shall be awarded to the lowest responsible bidder.

(e) This section shall not be construed and is not intended to extend or limit the authority specified in Section 19130.

(f) Any design-build entity that is selected to design and construct a project pursuant to this section shall possess or obtain sufficient bonding consistent with applicable provisions of the Public Contract Code. Nothing in this section shall prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(g) Any payment or performance bond written for the purposes of this section shall use a bond form developed by the Judicial Council. In developing the bond form, the Judicial Council shall consult with the surety industry to achieve a bond form that is consistent with surety industry standards, while protecting the interests of the state.

Judicial Council to submit report to Joint Legislative Budget Committee

(h) The Judicial Council shall submit to the Joint Legislative Budget Committee, before January 1, 2014, a report containing a description of each public works project procured through the design-build process described in this section that is completed after January 1, 2009, and before December 1, 2013. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.

(2) The gross square footage of the project.

(3) The design-build entity that was awarded the project.

(4) The estimated and actual project costs.

(5) An assessment of the prequalification process and criteria.

(6) An assessment of the effect of any retention on the project made under the law.

(7) A description of the method used to award the contract. If the best value method was used, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(i) The authority under this section and Section 14661.1 shall apply to a total of not more than five state office facilities, prison facilities, or court facilities, which shall be determined pursuant to this subdivision.

(1) In order to enter into a contract utilizing the procurement method authorized under this section, the Judicial Council shall submit a request to the Department of Finance.

(2) The Department of Finance shall make a determination whether to approve or deny a request made pursuant to paragraph (1) if the design-build project requested will not exceed the five facilities maximum set forth in this section and Section 14661.1.

(3) After receiving notification that the Department of Finance

has approved the request and that the Legislature has appropriated funds for a specific project, the Judicial Council may enter into a design-build contract under this section.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available under the law.

AOC's responsibilities and authorities

Revisions made per SB 256

Section 70392. ~~Pursuant to paragraph (2) of subdivision (b) of Section 70374,~~ Except as otherwise specifically provided by law, the Administrative Office of the Courts shall have the following responsibilities and authority in addition to other responsibilities and authority granted by law or delegated by the Judicial Council:

oversight, management, operation, and maintenance of trial court facilities

(a) Notwithstanding any other provision of law and subject to the appropriation of funds, provide the ongoing oversight, management, operation, and maintenance of facilities used by the trial courts, if the responsibility for the facility has been transferred to the Judicial Council pursuant to this chapter.

contractors

(b) Carry out the Judicial Council's policies with regard to trial court facilities, except as otherwise expressly limited by law.

master plans

(c) Develop for Judicial Council approval the master plans for trial court facilities in each district.

selection of architects and

(d) Construction of court buildings, including, but not limited to, selection of architects and contractors, except as otherwise expressly limited by law.

delegation to local courts

(e) Delegate its responsibilities and authority to the local trial court for court facilities used by that court.

county responsibilities and authorities

Section 70393. The county shall have the following authority and responsibilities with regard to court facilities in addition to any other authority or responsibilities established by law:

management of shared-use buildings when county retains title

(a) Manage the shared-use buildings whose title the county retains under subdivision (b) of Section 70323.

recommendations regarding location of new court facilities

(b) Make recommendations to the court and the Judicial Council for the location of new court facilities.

provision of services to local facilities

(c) Provide services to local court facilities as provided in the agreement entered into under Section 70322.

indemnifying state for liability regarding existing property conditions

(d) Indemnify the state for any liability imposed on the state pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), or related provisions for conditions that existed on the property at the time of transfer whether or not known to the county.

task force on county law libraries

Section 70394. (a) The Judicial Council shall establish a task force on county law libraries. The task force is charged with identifying the needs related to county law library operations and facilities, and identifying and making recommendations for funding county law library operations, facility improvements, and expansion.

(b) The task force shall consist of three representatives from the judicial branch of government, as selected by the Administrative Director of the Courts, three representatives of the counties, as

selected by the California State Association of Counties, and three county law library administrators, as selected by the Council of California County Law Librarians. The Administrative Director of the Courts shall designate one of these representatives as chairperson of the task force.

(c) The Administrative Office of the Courts shall provide staff support for the task force and shall develop guidelines for procedures and practices for the task force.

(d) The duties of the task force shall include all of the following:

(1) Review the state of existing county law libraries.

(2) Examine existing standards for county law library operations.

(3) Document the funding mechanisms currently available for the maintenance and operation of county law library facilities.

(4) Recommend funding sources and financing mechanisms for support of county law library operations and facility maintenance.

(e) The task force shall be appointed on or before March 1, 2004. The task force shall submit its report and recommendations to the Judicial Council and the Legislature on or before January 1, 2005.

(f) The Judicial Council shall implement this section using existing resources. Any costs for counties and county law librarians to assist in the implementation of this section shall be at county or county law librarians' expense, respectively.

ARTICLE 8. TRANSITIONAL FUNDING

~~**Section 70401. There is hereby established in the State Treasury the Transitional State Court Facilities Construction Fund. For each facility transferred to the state that is subject to bonded indebtedness and for which a revenue source is also transferred to the state, pursuant to subdivision (b) of Section 70325, a separate account shall be established in the fund to receive and disburse moneys for that facility. The county shall continue to collect and transmit to the Controller for deposit in the fund the moneys transferred to service the debt on the facility. The fund shall cease to exist when all debt transferred to the state pursuant to section 70325 has been paid.**~~

~~**establishment of Transitional State Court Facilities Construction Fund**~~

~~Section 70401 repealed by SB 1062, effective January 1, 2011~~

Section 70402. (a) Any amount in ~~either~~ a county's courthouse construction fund established by Section 76100, a fund established by Section ~~26826.1~~ **70622** in the County of Riverside, a fund established by Section ~~26826.4~~ ~~76236~~ **70624** in the County of San Bernardino, and a fund established by Section ~~76238~~ **70625** in the City and County of San Francisco, shall be transferred to the State Court Facilities Construction Fund at the later of the following **dates**:

transfer of local county courthouse construction funds upon retirement of debt

Revisions made per AB 1491

Revisions made per SB 256

(1) The date of the last transfer of responsibility for court facilities from the county to the Judicial Council or ~~June 30, 2007~~ **December 31, 2009**, whichever is earlier.

(2) The date of the final payment of the bonded indebtedness for any court facility that is paid from that fund is retired.

(b) If the responsibility for one or more facilities does not transfer, the county's courthouse construction fund shall retain that portion of the total money in the fund as the square footage of the facilities that do not transfer bears to the total square footage of court facilities in that county.

Section 70403. (a) Each county shall submit a report to the Administrative Director of the Courts and the Director of Finance accounting for all receipts and expenditures from the local courthouse construction fund established pursuant to Section 76100 for the period from January 1, 1998, to the date of transfer of the fund pursuant to subdivision (a) of Section 70402 or December 31, 2005, whichever is earlier.

county reporting of receipts and expenditures from local courthouse construction funds

(b) If the county retains the fund under subdivision (a) of Section 70325 for payment on existing bonded indebtedness of a courthouse facility, the county shall submit annual updates on all receipts and expenditures from the local courthouse construction fund, within 90 days of the end of each fiscal year, to the Administrative Director of the Courts and the Director of Finance.

county repayment of local courthouse construction funds not properly used

(c) Any expenditures made from the fund for a purpose other than those specified in Section 76100 must be repaid to the state for deposit in the State Court Facilities Construction Fund pursuant to Section 70402. Either the Administrative Director of the Courts or the Director of the Department of Finance may provide the county with notice that an expenditure made from the fund was for a purpose other than as specified in Section 76100. If the county disagrees with the determination, it may appeal the determination to the Court Facilities Dispute Resolution Committee pursuant to Section 70303.

(d) On or before January 1, 2007, and on or before each January 1, thereafter, the Judicial Council shall submit a report to the budget and fiscal committees of the Legislature based on the information received from counties pursuant to this section, including any amounts required to be repaid by counties.

Revisions made per AB 1435

~~**Section 70404. (a) Except as specified in subdivision (b) and notwithstanding any other provision of law, no county may make any expenditure or encumber any future funds from the county courthouse construction fund established pursuant to Section 76100, without the approval of the Administrative Director of the Courts.**~~

approval by Administrative Director of the Courts of expenditure/encumbrance of county courthouse construction fund; exceptions

Added per SB 256

~~**(b) No county may be required to obtain the approval of the Administrative Director of the Courts for any expenditure of county courthouse construction funds for any of the following purposes:**~~

NOTE: Section 70404 repealed by its own terms effective January 1, 2010. [See former section 70404(e)]

~~(1) Repayment of existing bonded indebtedness, as defined in subdivision (a) of Section 70301, that has been issued, sold, or delivered, and any refunding of existing bonded indebtedness that has been issued, sold, or delivered, to achieve monetary savings to the county with respect to a building, as defined in subdivision (b) of Section 70301.~~

~~(2) Payment of any pending phase or phases of a maintenance project, as specified in subdivision (d) of Section 70326.~~

~~(3) Payment for any pending phase or phases of a project involving court facilities, as specified in Section 70331. (4) Payment for any portion of a county court facility made from county courthouse construction funds with respect to a lease, as permitted under subdivision (d) of Section 70359.~~

effect of denial of expenditure/encumbrance for deficiency correction

~~(c) Notwithstanding subdivision (c) of Section 70326, if the Administrative Director of the Courts denies an expenditure from, or the encumbrance of any funds from, the county courthouse construction fund pursuant to subdivision (a), for the purpose of correcting a deficiency or deficiencies in a court facility, as specified in subdivision (b) of Section 70326, that deficiency or deficiencies may not be used as the grounds for rejection of the transfer of responsibility for that court facility to the Judicial Council if both of the following apply:~~

~~(1) The county subsequently agrees to make the expenditure from, or to encumber, the local courthouse construction fund, or any other funds, in the same amount and under the same conditions as originally proposed in the request to expend or encumber.~~

~~(2) That expenditure or encumbrance would have corrected the deficiency or deficiencies had the Administrative Director of the Courts approved the expenditure or encumbrance at the time of the request for approval.~~

extension of bonded indebtedness

~~(d) No county may extend the term of bonded indebtedness for which county courthouse construction funds are encumbered without the approval of the Administrative Director of the Courts.~~

~~(e) This section shall become inoperative on July 1, 2007, or on the date that the authority to transfer responsibility for a court facility from a county to the Judicial Council pursuant to Section 70321 has lapsed, whichever is later; and as of the following January 1 is repealed, unless a later enacted statute that is enacted before that~~

~~January 1, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SECTION 5 – LOCAL PENALTY ASSESS MENTS
[CHAPTER 12. COUNTYPENALTIES]
[ARTICLE 1. PENALTIES]
[GOV. CODE, § 76000]

Section 76000. (a)(1) Except as otherwise provided elsewhere in this section, in each county there shall be levied an additional penalty of seven dollars ($7) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

authorization to collect new penalty assessment

(2) This additional penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(3) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50). These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the

added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents ($2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall deposit one dollar ($1) of every two dollars and fifty cents ($2.50) collected pursuant to subdivision (b) into the general fund of the county.

(d) The authority to impose the two-dollar-and-fifty-cent ($2.50) penalty authorized by subdivision (b) shall be reduced to one dollar ($1.00) as of the date of transfer of responsibility for facilities from the county to the Judicial Council pursuant to Article 3 (commencing with Section 70321) of Chapter 5.1, except as money is needed to pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.

(e) The seven dollar ($7) additional penalty authorized by subdivision (a) shall be reduced in each county by the additional penalty amount assessed by the county for the local courthouse construction fund established by Section 76100 as of January 1, 1998, when the money in that fund is transferred to the state under Section 70402. The amount each county shall charge as an additional penalty under this section shall be as follows:

additional penalty by county

Alameda	$5.00	Marin	$5.00	San Mateo	$4.75
Alpine	$5.00	Mariposa	$2.50	Santa Barbara	$3.50
Amador	$5.00	Mendocino	$7.00	Santa Clara	$5.50
Butte	$7.00	Merced	$4.75	Santa Cruz	$7.00
Calaveras	$3.00	Modoc	$3.50	Shasta	$3.50
Colusa	$6.00	Mono	$4.00	Sierra	$7.00
Contra Costa	$5.00	Monterey	$5.00	Siskiyou	$5.00
Del Norte	$7.00	Napa	$3.00	Solano	$5.00
El Dorado	$5.00	Nevada	$4.75	Sonoma	$5.00
Fresno	$7.00	Orange	$5.29	Stanislaus	$5.00
Glenn	$4.00	Placer	$4.75	Sutter	$6.00
Humboldt	$5.00	Plumas	$7.00	Tehama	$7.00
Imperial	$6.00	Riverside	$4.60	Trinity	$4.50
Inyo	$4.00	Sacramento	$5.00	Tulare	$5.00
Kern	$7.00	San Benito	$5.00	Tuolumne	$7.00
Kings	$7.00	San Bernardino	$5.00	Ventura	$5.00
Lake	$7.00	San Diego	$7.00	Yolo	$7.00
Lassen	$2.00	San Francisco	$6.99	Yuba	$3.00
Los Angeles	$5.00	San Joaquin	$3.75		
Madera	$7.00	San Luis Obispo	$5.00		

SECTION 6 – COURTHOUSE CONSTRUCTION FUND
[CHAPTER 12. COUNTY PENALTIES]
[ARTICLE 2. ALLOCATION OF PENALTIES]
[GOV. CODE, §§ 76100-76110]

Section 76100. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any county in the acquisition, rehabilitation, construction, and financing of courtrooms**,** ~~**or of**~~ a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, **or court facilities,** the board of supervisors may establish in the county treasury a Courthouse Construction Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors in accordance with this chapter. The moneys of the Courthouse Construction Fund shall be payable only for the purposes set forth in **this subdivision and in** subdivision (b) and at the time necessary therefor**, subject to the requirements set forth in Chapter 5.7 (commencing with Section 70301)**.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of court buildings referred to in subdivision (a), the county may use the moneys of the Courthouse Construction Fund for either of the following:

(1) To rehabilitate existing courtrooms**,** ~~**or**~~ an existing courtroom building or buildings**, or court facilities** for other uses if a new courtroom**,** ~~**or**~~ a courtroom building or buildings**, or court facilities** are acquired, constructed, or financed.

(2) To acquire, rehabilitate, construct, or finance excess courtrooms**,** ~~**or**~~ an excess courtroom building or buildings, **or excess court facilities, i**f that excess is anticipated to be needed at a later time.

(c) Any excess courtroom**,** ~~**or**~~ excess courtroom building or buildings**, or excess court facilities,** that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until the excess courtrooms**,** ~~**or**~~ excess courtroom building or buildings**, or excess court facilities,** are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

(e) The amendments made to subdivision (a) by the act adding this subdivision are declarative of existing law and shall be used for determinations made pursuant to subdivision (c) of Section 70403.

elimination of sunset provisions on existing authority to maintain local courthouse construction fund

Revisions made per AB 1435

Revisions made per SB 256

SECTION 7 – CRIMINAL JUSTICE FACILITIES CONSTRUCTION FUND
[CHAPTER 12. COUNTY PENALTIES]
[ARTICLE 2. ALLOCATION OF PENALTIES]
[GOV. CODE, §§ 76100–76110]

Section 76101. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any county in the construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems, the board of supervisors may by resolution establish in the county treasury a Criminal Justice Facilities Construction Fund. All amounts collected pursuant to resolutions adopted by a county in accordance with this chapter shall be deposited into the fund. The moneys of the Criminal Justice Facilities Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) For purposes of this chapter, "county criminal justice facilities" includes, but is not limited to, jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the Criminal Justice Facilities Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(c) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

elimination of sunset provisions on existing authority to maintain Criminal Justice Facilities Construction Fund

SECTION 8 – MERCED COUNTY COURT FACILITIES CONSTRUCTION
[CHAPTER 12. COUNTY PENALTIES]
[ARTICLE 3. COUNTY PROVISIONS]
[GOV. CODE, §§ 76200–76252]

Section 76223. Notwithstanding any other provision of law, the following conditions pertain to the construction of court facilities in Merced County by the County of Merced for any construction pursuant to a written agreement entered into prior to January 1, 2004, between the board of supervisors and the presiding judge of the superior court:

(a) Revenue received in Merced County from civil assessments for Failure to Appear, pursuant to Section 1214.1 of the Penal Code, shall be available, in an annual amount not to exceed the amount agreed upon by the board of supervisors and the presiding judge of the superior court, for the purpose of augmenting other funds made available for construction.

(b) The presiding judge of the superior court may agree to make available court funds, up to a stated amount, other than funds received from the Trial Court Trust Fund or other state sources, in the courthouse construction fund.

(c) The total amounts deposited under subdivision (a) may not exceed in any fiscal year the amount payable on the construction costs

Merced County authority to use specific revenues for local project

less (1) any amounts paid by the courthouse construction fund and (2) any other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(d) The total amounts deposited under subdivision (b) shall not exceed in any fiscal year the amount payable on the construction costs less (1) any amounts paid by the courthouse construction fund, (2) any amounts paid pursuant to subdivision (a) of this section, and (3) any other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(e) If legislation is passed and becomes effective transferring the responsibility for court facilities to the state, and the legislation permits the transfer of the bonded indebtedness or other encumbrance on court facilities together with revenue sources for payment of the bonded indebtedness or other encumbrance, the revenue sources provided for by this section may also be transferred to the state.

(f) As used in this section, the costs of construction also includes the payment on the bonded indebtedness or other encumbrance used to finance the construction.

SECTION 9 – OPERATIVE LANGUAGE

Section 70373.5 as added to the Government Code by this act shall only become operative if Assembly Bill 3000 or Senate Bill 1843, or both, of the 2001-02 Regular Session is enacted to add Section 68087 to the Government Code.

provisions regarding application of Section 70373.5

SECTION 10 – STATE -LOCAL MANDATE PROVIS ION

Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

standard state-local mandate claim provision