

AMENDED IN SENATE FEBRUARY 14, 2008
AMENDED IN SENATE JANUARY 23, 2008
AMENDED IN SENATE SEPTEMBER 7, 2007
AMENDED IN ASSEMBLY JUNE 6, 2007
AMENDED IN ASSEMBLY JUNE 1, 2007
AMENDED IN ASSEMBLY APRIL 30, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1491

Introduced by Assembly Member Jones

February 23, 2007

An act to amend ~~Section 70321 of~~ Sections 70321, 70363, 70374, and 70402 of, and to repeal and add Section 70322 of, the Government Code, relating to court facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1491, as amended, Jones. Court facilities.

(1) Existing law requires the Judicial Council, in consultation with the superior court of each county and the county, to enter into agreements concerning the transfer of responsibility for court facilities from that county to the Judicial Council. *Existing law requires those agreements to be negotiated between July 1, 2003, and June 30, 2007.* Transfer of responsibility may occur not earlier than July 1, 2004, and not later than June 30, 2007.

~~This bill would make a technical, nonsubstantive change.~~

This bill would require the agreements concerning the transfer of responsibility for court facilities to be executed no later than December 31, 2009, as specified. This bill would also provide that the transfer of responsibility may occur not later than December 31, 2009.

This bill would also state that 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 a specified county facility payment, a continuing amount from the date of transfer calculated by multiplying the county facilities payment by the amount of the United States Bureau of Economic Analysis local implicit price deflator for California in the quarter in which the transfer agreement is executed, except as specified.

This bill would also state that any transfer agreement that is executed on or after April 1, 2009, shall contain a requirement that the county pay, in addition to a specified county facility payment, 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.

(2) Under existing law, the transfer of responsibility for court facilities in each building must be subject to a separate agreement.

This bill would permit agreements for the transfer of responsibility for court facilities from the county to the Judicial Council to include multiple buildings within the county, and would not require a separate agreement for each building.

(3) Existing law requires each county to calculate the county facilities payment for each facility, as specified, and to 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. Existing law requires the county auditor to certify the reported expenditures and indexed calculations.

This bill would provide that alternatively, at the discretion of the board of supervisors, the board shall certify the reported expenditures and indexed calculations.

(4) This bill would also make other related, conforming changes.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 70321 of the Government Code is
2 amended to read:

3 70321. (a) The Judicial Council, in consultation with the
4 superior court of each county and the county shall enter into
5 agreements regarding the transfer of responsibility for court
6 facilities from that county to the Judicial Council. The agreements
7 shall be ~~negotiated between July 1, 2003, and June 30, 2007,~~
8 ~~inclusive~~ *executed no later than December 31, 2009.* Transfer of
9 responsibility may occur not earlier than July 1, 2004, and not later
10 than ~~June 30, 2007~~ *December 31, 2009.* On or before July 1, 2003,
11 each county shall designate those persons who shall negotiate the
12 agreements on behalf of the county and shall give the Judicial
13 Council the names of those persons. The name of a person
14 designated by a county to negotiate on its behalf may be changed
15 by the county at any time by providing written notice to the Judicial
16 Council.

17 (b) (1) *Notwithstanding any other provision of law and except*
18 *as provided in paragraph (2) of this subdivision, any transfer*
19 *agreement that is executed on or after October 1, 2008, and on or*
20 *before March 31, 2009, shall contain a requirement that the county*
21 *pay, in addition to the county facility payment established pursuant*
22 *to Article 5 (commencing with Section 70351), a continuing amount*
23 *from the date of transfer calculated by multiplying the county*
24 *facilities payment by the amount of the United States Bureau of*
25 *Economic Analysis local implicit price deflator for California in*
26 *the quarter in which the transfer agreement is executed.*

27 (2) *Prior to September 30, 2008, the Administrative Office of*
28 *the Courts and a county may jointly declare that extraordinary*
29 *circumstances exist that have prohibited successful execution of*
30 *a transfer agreement, that all relevant transfer documents have*
31 *been timely submitted and reviewed by the county; that the failure*
32 *to execute a transfer agreement prior to September 30, 2008, is*
33 *not caused by the action, inaction, or delay on the part of the*
34 *county; and that the agreement can reasonably be executed on or*
35 *before December 31, 2008. If such a declaration is signed, the*
36 *application of the multiplier described in paragraph (1) shall be*
37 *tolled for 90 days. If the transfer agreement is executed within the*

1 90 days, the multiplier shall not apply. Justification for a joint
2 declaration shall be limited to the following:

3 (i) The failure to execute the transfer agreement was caused by
4 the action, inaction, or delay of a third party;

5 (ii) A party to the transaction other than the county was unable
6 to timely review, process, or respond to timely submitted documents
7 necessary to complete the transfer agreement; or

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

14 (3) Copies of any such joint declarations described in paragraph
15 (2) will be transmitted upon their signing by both parties to the
16 chairs of the Senate and Assembly Budget, Appropriations, and
17 Judiciary Committees.

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

28 SEC. 2. Section 70322 of the Government Code is repealed.

29 ~~70322. The transfer of responsibility for court facilities in each
30 building shall be subject to a separate agreement.~~

31 SEC. 3. Section 70322 is added to the Government Code, to
32 read:

33 70322. Agreements for the transfer of responsibility for court
34 facilities from the county to the Judicial Council may include
35 multiple buildings within the county, and need not require a
36 separate agreement for each building.

37 SEC. 4. Section 70363 of the Government Code is amended to
38 read:

39 70363. Each county shall calculate the county facilities payment
40 for each facility using the forms and instructions as approved and

1 distributed pursuant to Section 70361. The county shall mail the
2 Judicial Council and local court the actual expenditure figures and
3 adjustments at least 90 days prior to the proposed date of transfer
4 of responsibility for that facility. The county auditor *or, at the*
5 *discretion of the board of supervisors, the board* shall certify the
6 reported expenditures and indexed calculations.

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

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

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

- 22 (1) Approve the proposed payment.
23 (2) Approve a modified payment.
24 (3) Request additional information from either the county or
25 the Administrative Office of the Courts.

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

32 *SEC. 5. Section 70374 of the Government Code is amended to*
33 *read:*

34 70374. (a) The Judicial Council shall annually recommend to
35 the Governor and the Legislature the amount proposed to be spent
36 for projects paid for with money in the State Court Facilities
37 Construction Fund. The use of the appropriated money is subject
38 to subdivision (l) of Section 70391.

39 (b) Acquisition and construction of court facilities shall be
40 subject to the State Building Construction Act of 1955

1 (commencing with Section 15800) and the Property Acquisition
2 Law (commencing with Section 15850), except that, (1)
3 notwithstanding any other provision of law, the Administrative
4 Office of the Courts shall serve as an implementing agency upon
5 approval of the Department of Finance, and (2) the provisions of
6 subdivision (e) shall prevail. Acquisition and construction of
7 facilities are not subject to the provisions of the Public Contract
8 Code, but shall be subject to facilities contracting policies and
9 procedures adopted by the Judicial Council after consultation and
10 review by the Department of Finance.

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

13 (1) To acquire, rehabilitate, construct, or finance court facilities,
14 as defined by subdivision ~~(e)~~ (d) of Section ~~70302~~ 70301.

15 (2) To rehabilitate one or more existing court facilities in
16 conjunction with the construction, acquisition, or financing of one
17 or more new court facilities.

18 (d) Except as provided in Section 70374.2, 25 percent of all
19 money collected for the State Court Facilities Construction Fund
20 from any county shall be designated for implementation of trial
21 court projects in that county. The Judicial Council shall determine
22 the local projects after consulting with the trial court in that county
23 and based on the locally approved trial court facilities master plan
24 for that county.

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

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

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

38 (3) The buildings under this section are subject to Section
39 15814.12 concerning cogeneration and alternative energy sources
40 at the request of, or with the consent of, the Judicial Council. Any

1 building acquired by the state pursuant to this section on or before
 2 July 1, 2007, is not subject to subdivision (b) of Section 15814.12
 3 concerning acquiring of cogeneration or alternative energy
 4 equipment if the building when acquired, already had cogeneration
 5 or alternative energy equipment. Section 15814.17 only applies to
 6 buildings to which the Judicial Council has given its consent under
 7 subdivision (a) of Section 15814.12.

8 *SEC. 6. Section 70402 of the Government Code is amended to*
 9 *read:*

10 70402. (a) Any amount in—~~either~~ a county’s courthouse
 11 construction fund established by Section 76100, a fund established
 12 by Section 70622 in the County of Riverside, a fund established
 13 by Section 70624 in the County of San Bernardino, and a fund
 14 established by Section 70625 in the City and County of San
 15 Francisco, shall be transferred to the State Court Facilities
 16 Construction Fund at the later of the following *dates*:

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

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

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

27 *SEC. 7. This act is an urgency statute necessary for the*
 28 *immediate preservation of the public peace, health, or safety within*
 29 *the meaning of Article IV of the Constitution and shall go into*
 30 *immediate effect. The facts constituting the necessity are:*

31 *The current deadline for the transfer of responsibility for court*
 32 *facilities to the state pursuant to Chapter 1082 of the Statutes of*
 33 *2002 will not be met. In order to allow continued negotiation and*
 34 *the completion of that transfer, it is necessary that the deadline of*
 35 *June 30, 2007, be extended to December 31, 2009.*