

Senate Bill No. 12

CHAPTER 10

An act to amend Sections 68085.45, 70371.5, and 70372 of, and to add Sections 70371.7 and 70371.8 to, the Government Code, relating to court facilities, and making an appropriation therefor.

[Approved by Governor February 20, 2009. Filed with Secretary of State February 20, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 12, Steinberg. Court facilities financing.

Existing law establishes the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, the proceeds of which may be used for the planning, design, construction, rehabilitation, renovation, replacement, or acquisition of court facilities, for the repayment of moneys appropriated for lease of court facilities pursuant to the issuance of lease-revenue bonds, and for the payment for lease or rental of court facilities. Existing law also requires any moneys remaining in, or that would otherwise be payable into, the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, to be transferred to the Controller for deposit into the State Trial Court Operations Trust Fund, upon the retirement of any bonded indebtedness that may be incurred in connection with immediate and critical trial court projects.

This bill also would authorize the proceeds of the Immediate and Critical Needs Account to be used for payment of service contracts. The bill would require any moneys remaining, upon the retirement of all bonded indebtedness incurred in connection with the immediate and critical trial court projects, to be transferred to the Controller for deposit into the State Trial Court Operations Trust Fund.

Existing law requires the Judicial Council to collect and make available information regarding moneys in the Immediate and Critical Needs Account, as specified, and to make recommendations to the Governor and the Legislature for projects based on its determination that the need for a project is most immediate and critical, as specified.

This bill would instead require the Judicial Council to make recommendations to the State Public Works Board before it undertakes projects based on its determination that the need for a project is most immediate and critical, subject to the availability of funds in the Immediate and Critical Needs Account, as specified. This bill would authorize the Judicial Council, upon certification of the availability of funds and establishment of the project scope and cost by the State Public Works Board, to acquire real property and complete preliminary plans, as provided. This bill would require the Judicial Council to report to the Joint Legislative

Budget Committee and the chairs of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget both prior to seeking the board's establishment of project scope and cost, and by March 1 of each year on the status of each project, as provided. This bill would continuously appropriate the Immediate and Critical Needs Account, until July 1, 2012, for the purpose of acquiring real property and completing preliminary plans.

Existing law specifies various uniform fees for filing specified documents in connection with certain civil proceedings, including a fee schedule for filing a first petition or first account in connection with a trust or estate. Existing law also provides for a specified portion of all of those fees to be deposited into the Immediate and Critical Needs Account.

This bill would specify the date that will be used for the calculation of the portion to be transferred.

Appropriation: yes.

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

SECTION 1. Section 68085.45 of the Government Code is amended to read:

68085.45. (a) There is hereby established the State Trial Court Operations Trust Fund. Upon the retirement of all bonded indebtedness that may be incurred in connection with immediate and critical trial court projects, any moneys remaining in, or that would otherwise be payable into, the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, shall be transferred to the Controller for deposit into the State Trial Court Operations Trust Fund.

(b) The proceeds of the State Trial Court Operations Trust Fund shall be available, upon appropriation by the Legislature in the annual Budget Act, only for trial court operations as defined in Section 77003.

SEC. 2. Section 70371.5 of the Government Code is amended to read:

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.

(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.

(b) Any funds 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 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 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 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 State Public Works Board to be funded from the Immediate and Critical Needs Account, 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, 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 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.

SEC. 3. Section 70371.7 is added to the Government Code, to read:

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, 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.

SEC. 4. Section 70371.8 is added to the Government Code, to read:

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.

SEC. 5. Section 70372 of the Government Code is amended to read:

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) 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) 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).

(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).

(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:

(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.

(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.

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