

AMENDED IN SENATE MARCH 3, 2008
AMENDED IN SENATE FEBRUARY 28, 2008
AMENDED IN SENATE FEBRUARY 21, 2008
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 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 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 percentage change in the *National Implicit Price Deflator for State and Local Government Purchases of Goods and Services*, as published by the United States Department of Commerce for the quarter in which the transfer agreement is executed, as compared to the same quarter in the previous year, 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, except as specified.

This bill would also permit the Administrative Office of the Courts and a county, prior to September 30, 2008, to jointly declare that extraordinary circumstances exist that have prohibited successful execution of a transfer agreement, that all relevant transfer documents have been timely submitted and reviewed by the county; that 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 that the agreement can reasonably be executed on or before December 31, 2008. If that declaration is signed, then the application of the above-described multiplier will be tolled through December 31, 2008.

This bill would also prohibit a county from arbitrarily or capriciously requesting a joint declaration without a good faith belief that the conditions for such a declaration are met. It would also prohibit the Administrative Office of the Courts from arbitrarily or capriciously declining to sign that joint declaration if the conditions for such a declaration are otherwise met.

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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: 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 executed no later than December 31, 2009. Transfer of
 8 responsibility may occur not earlier than July 1, 2004, and not later
 9 than December 31, 2009. On or before July 1, 2003, each county
 10 shall designate those persons who shall negotiate the agreements
 11 on behalf of the county and shall give the Judicial Council the
 12 names of those persons. The name of a person designated by a
 13 county to negotiate on its behalf may be changed by the county at
 14 any time by providing written notice to the Judicial Council.

1 (b) (1) Notwithstanding any other provision of law and except
2 as provided in paragraph (2) of this subdivision, any transfer
3 agreement that is executed on or after October 1, 2008, and on or
4 before March 31, 2009, shall contain a requirement that the county
5 pay, in addition to the county facility payment established pursuant
6 to Article 5 (commencing with Section 70351), a continuing
7 amount from the date of transfer calculated by multiplying the
8 county facilities payment by the percentage change in the ~~Implicit~~
9 ~~Price Deflator for State and Local Government Purchases of Goods~~
10 ~~and Services, as published by the United States Department of~~
11 ~~Commerce for the quarter in which the transfer agreement is~~
12 ~~executed, as compared to the same quarter in the previous year.~~
13 *National Implicit Price Deflator for State and Local Government*
14 *Purchases, as published by the Department of Finance, for the*
15 *fiscal year in which the transfer agreement is executed as compared*
16 *to the prior fiscal year.*

17 (2) Prior to September 30, 2008, the Administrative Office of
18 the Courts and a county may jointly declare that extraordinary
19 circumstances exist that have prohibited successful execution of
20 a transfer agreement, that all relevant transfer documents have
21 been timely submitted and reviewed by the county; that the failure
22 to execute a transfer agreement prior to September 30, 2008, is
23 not caused by the action, inaction, or delay on the part of the
24 county; and that the agreement can reasonably be executed on or
25 before December 31, 2008. If such a declaration is signed, the
26 application of the multiplier described in paragraph (1) shall be
27 tolled through December 31, 2008. If the transfer agreement is
28 executed by December 31, 2008, the multiplier shall not apply.
29 Justification for a joint declaration shall be limited to the following:

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

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

39 (3) In exercising the authority provided under paragraph (2), a
40 county shall not arbitrarily or capriciously request a joint

1 declaration without a good faith belief that the conditions for such
2 a declaration are met, and the Administrative Office of the Courts
3 shall not arbitrarily or capriciously decline to sign a joint
4 declaration described in paragraph (2) if the conditions for such a
5 declaration are otherwise met.

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

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

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

21 SEC. 3. Section 70322 is added to the Government Code, to
22 read:

23 70322. Agreements for the transfer of responsibility for court
24 facilities from the county to the Judicial Council may include
25 multiple buildings within the county, and need not require a
26 separate agreement for each building.

27 SEC. 4. Section 70363 of the Government Code is amended
28 to read:

29 70363. Each county shall calculate the county facilities payment
30 for each facility pursuant to Section 70351.5 or using the forms
31 and instructions as approved and distributed pursuant to Section
32 70361. The county shall mail the Judicial Council and local court
33 the actual expenditure figures and adjustments at least 90 days
34 prior to the proposed date of transfer of responsibility for that
35 facility. The county auditor or, at the discretion of the board of
36 supervisors, the board shall certify the reported expenditures and
37 indexed calculations.

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

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

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

- 13 (1) Approve the proposed payment.
- 14 (2) Approve a modified payment.
- 15 (3) Request additional information from either the county or
 16 the Administrative Office of the Courts.

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

23 SEC. 5. Section 70374 of the Government Code is amended
 24 to read:

25 70374. (a) The Judicial Council shall annually recommend to
 26 the Governor and the Legislature the amount proposed to be spent
 27 for projects paid for with money in the State Court Facilities
 28 Construction Fund. The use of the appropriated money is subject
 29 to subdivision (l) of Section 70391.

30 (b) Acquisition and construction of court facilities shall be
 31 subject to the State Building Construction Act of 1955
 32 (commencing with Section 15800) and the Property Acquisition
 33 Law (commencing with Section 15850), except that, (1)
 34 notwithstanding any other provision of law, the Administrative
 35 Office of the Courts shall serve as an implementing agency upon
 36 approval of the Department of Finance, and (2) the provisions of
 37 subdivision (e) shall prevail. Acquisition and construction of
 38 facilities are not subject to the provisions of the Public Contract
 39 Code, but shall be subject to facilities contracting policies and

1 procedures adopted by the Judicial Council after consultation and
2 review by the Department of Finance.

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

5 (1) To acquire, rehabilitate, construct, or finance court facilities,
6 as defined by subdivision (d) of Section 70301.

7 (2) To rehabilitate one or more existing court facilities in
8 conjunction with the construction, acquisition, or financing of one
9 or more new court facilities.

10 (d) Except as provided in Section 70374.2, 25 percent of all
11 money collected for the State Court Facilities Construction Fund
12 from any county shall be designated for implementation of trial
13 court projects in that county. The Judicial Council shall determine
14 the local projects after consulting with the trial court in that county
15 and based on the locally approved trial court facilities master plan
16 for that county.

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

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

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

30 (3) The buildings under this section are subject to Section
31 15814.12 concerning cogeneration and alternative energy sources
32 at the request of, or with the consent of, the Judicial Council. Any
33 building acquired by the state pursuant to this section on or before
34 July 1, 2007, is not subject to subdivision (b) of Section 15814.12
35 concerning acquiring of cogeneration or alternative energy
36 equipment if the building when acquired, already had cogeneration
37 or alternative energy equipment. Section 15814.17 only applies to
38 buildings to which the Judicial Council has given its consent under
39 subdivision (a) of Section 15814.12.

1 SEC. 6. Section 70402 of the Government Code is amended
2 to read:

3 70402. (a) Any amount in a county’s courthouse construction
4 fund established by Section 76100, a fund established by Section
5 70622 in the County of Riverside, a fund established by Section
6 70624 in the County of San Bernardino, and a fund established by
7 Section 70625 in the City and County of San Francisco, shall be
8 transferred to the State Court Facilities Construction Fund at the
9 later of the following dates:

10 (1) The date of the last transfer of responsibility for court
11 facilities from the county to the Judicial Council or December 31,
12 2009, whichever is earlier.

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

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

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

24 The current deadline for the transfer of responsibility for court
25 facilities to the state pursuant to Chapter 1082 of the Statutes of
26 2002 will not be met. In order to allow continued negotiation and
27 the completion of that transfer, it is necessary that the deadline of
28 June 30, 2007, be extended to December 31, 2009.