

## Assembly Bill No. 1491

### CHAPTER 9

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.

[Approved by Governor April 23, 2008. Filed with  
Secretary of State April 23, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1491, 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, 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.

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

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

70321. (a) The Judicial Council, in consultation with the superior court of each county and the county shall enter into agreements regarding the transfer of responsibility for court facilities from that county to the Judicial Council. The agreements shall be executed no later than December 31, 2009. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than 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.

(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.

(2) Prior to September 30, 2008, the Administrative Office of the Courts and a county may 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 such a declaration is signed, 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 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 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 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 of the Senate and Assembly 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.

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 Section 70322 of the Government Code is repealed.

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

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.

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

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.

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

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 money in the State Court Facilities Construction Fund. The use of the appropriated money is subject to subdivision (l) of Section 70391.

(b) Acquisition and construction of court 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 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.

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

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

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

(d) Except as provided in Section 70374.2, 25 percent of all money 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.

(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.

(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, the operation of buildings under this section shall be the responsibility of the Judicial Council.

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

(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 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.

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

70402. (a) Any amount in a county's courthouse construction fund established by Section 76100, a fund established by Section 70622 in the County of Riverside, a fund established by Section 70624 in the County of San Bernardino, and a fund established by Section 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:

(1) The date of the last transfer of responsibility for court facilities from the county to the Judicial Council or 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.

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

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