

AMENDED IN ASSEMBLY JUNE 4, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 328

**Introduced by Committee on Judiciary (Senators Escutia
(Chair), Ackerman, Cedillo, Ducheny, Kuehl, Morrow, and Sher)**

February 19, 2003

An act to amend Sections 70303, 70366, 70367, 70373, 70373.5, 70374, 70375, 70392, 70402, and 76000 of, *and to repeal Section 70046.2 of*, the Government Code, relating to court facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, as amended, Committee on Judiciary. Court facilities: funding.

(1) *Existing law sets the compensation and benefits of court reporters and court reporters pro tempore in Fresno County, as specified.*

This bill would repeal that provision.

(2) Existing law imposes a surcharge on appearance fees in civil actions, as specified, to be deposited in the Court Facilities Trust Fund in order to provide additional funds for maintaining and expanding the uniform accessibility of the courts and judicial process throughout the state.

This bill would clarify the application of, and revise the collection procedure for, that surcharge. The bill would also clarify provisions governing the responsibilities and authority of the Administrative Office of the Courts regarding court facilities.

(2)

(3) Existing law prescribes procedures for calculation of the county facilities payment that each county is required to remit for deposit into the Court Facilities Trust Fund and establishes the Court Facilities Dispute Resolution Committee to resolve disputes between a county and the Judicial Council regarding, among other things, the amount of that county facilities payment. Existing law also establishes the State Court Facilities Construction Fund and specifies that money in that fund may be used only for designated purposes.

This bill would correct erroneous references in those provisions.

~~(3)~~

(4) Existing law establishes an additional penalty to be assessed by each county on fines, penalties, and forfeitures imposed for criminal offenses for the local courthouse construction fund, as specified for each county.

This bill would increase that additional penalty for Fresno County from \$5 to \$7.

Vote: majority. 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 70046.2 of the Government Code is*
2 *repealed.*

3 ~~70046.2. (a) In Fresno County, each reporter shall be paid an~~
4 ~~annual salary established according to the following salary~~
5 ~~schedule:~~

- 6 ~~— Step 1. \$44,045~~
- 7 ~~— Step 2. \$46,252~~
- 8 ~~— Step 3. \$48,541~~
- 9 ~~— Step 4. \$50,969~~

10 ~~Reporters shall initially be placed at step 1 of the salary schedule~~
11 ~~except reporters may be placed at a higher step with the approval~~
12 ~~of the county administrative officer, and shall advance one step~~
13 ~~annually upon the anniversary date of the employment. If, because~~
14 ~~of recruitment difficulties, it is necessary to appoint a court~~
15 ~~reporter at a step of the salary schedule which is above the step at~~
16 ~~which any court reporters are currently employed, all court~~
17 ~~reporters below that step will move to the higher step at the~~
18 ~~discretion of the judges of the court.~~



1 ~~(b) Each pro tempore reporter shall be paid one hundred and~~
2 ~~sixty nine dollars and forty cents (\$169.40) for a full day on duty~~
3 ~~under order of the court. For purposes of receiving the above~~
4 ~~compensation, one or more of the following shall apply:~~

5 ~~(1) The court has indicated in advance that the pro tempore~~
6 ~~assignment is for a full day.~~

7 ~~(2) The pro tempore reporter, having accepted a full day~~
8 ~~assignment, has not voluntarily relinquished his or her services at~~
9 ~~or before the end of four hours of service.~~

10 ~~(3) The pro tempore reporter was on duty for more than four~~
11 ~~hours.~~

12 ~~Each pro tempore reporter shall be paid one hundred twelve~~
13 ~~dollars and ninety three cents (\$112.93) for one half day of duty~~
14 ~~under order of the court when (a) the court has indicated in advance~~
15 ~~that the pro tempore assignment is for a half day and the pro~~
16 ~~tempore reporter is on duty for four hours or less, generally~~
17 ~~exclusive of the noon recess; or (b) the court has indicated in~~
18 ~~advance that the pro tempore assignment is for a full day but the~~
19 ~~pro tempore reporter is on duty for four hours or less and consents~~
20 ~~to being released for the balance of the day.~~

21 ~~Where a pro tempore reporter has agreed to a one half day~~
22 ~~assignment, the courts shall make every practicable effort to assure~~
23 ~~that the pro tempore reporter shall not be on duty for longer than~~
24 ~~four hours, unless the pro tempore reporter agrees with the court~~
25 ~~to work beyond four hours. In the latter case, the full day pro~~
26 ~~tempore rate of one hundred sixty nine dollars and forty cents~~
27 ~~(\$169.40) shall apply.~~

28 ~~Nothing herein shall be construed to limit the court's authority~~
29 ~~to in all instances pay a pro tempore reporter at the rate of one~~
30 ~~hundred sixty nine dollars and forty cents (\$169.40) when, in the~~
31 ~~court's judgment, said rate is necessary to obtain pro tempore~~
32 ~~reporter services for the court.~~

33 ~~(c) In addition to the salary herein provided, each regularly~~
34 ~~employed reporter shall accrue and be entitled to receive sick leave~~
35 ~~benefits at the rate of 3.6924 hours of sick leave with pay for each~~
36 ~~pay period or major fraction thereof, served up to an accumulative~~
37 ~~total of 156 working days. Each such reporter shall accrue and~~
38 ~~receive vacation at the same rate as judges of such court not to~~
39 ~~exceed 21 working days a year which may be accrued not to exceed~~



1 ~~42 days to be taken at such time as the judge to which he or she has~~
2 ~~been assigned consents.~~

3 SEC. 1.5. Section 70303 of the Government Code is amended
4 to read:

5 70303. (a) The Court Facilities Dispute Resolution
6 Committee is hereby created to hear and determine disputes
7 between a county and the Judicial Council as specified by this
8 chapter.

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

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

12 (2) One person selected by the Judicial Council.

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

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

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

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

21 (3) Disputes regarding the appropriateness of expenditures
22 from a local courthouse construction fund as provided in Section
23 70403.

24 (4) County appeal of a county facilities payment amount as
25 provided in Section 70366.

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

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

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

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

36 (g) Regulations and rules adopted by the committee shall be
37 exempt from review and approval or other processing by the
38 Office of Administrative Law required by Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3 of Title
40 2.



1 SEC. 2. Section 70366 of the Government Code is amended
2 to read:

3 70366. (a) Within 30 days after the Administrative Office of
4 the Courts has mailed the county the approved county facilities
5 payment, pursuant to subdivision (d) of Section 70363, the county
6 may submit a declaration to the Court Facilities Dispute
7 Resolution Committee, with the mailing of copies to the other
8 parties, that the amount is incorrect for one or more of the
9 following reasons:

10 (1) Expenditure data is reported incorrectly or calculated
11 incorrectly and causes an approved county facilities payment
12 amount that is higher than the payment should be.

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

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

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

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

36 (d) The Director of Finance or his or her designee shall review
37 the recommendations of the Court Facilities Dispute Resolution
38 Committee and make his or her determination concerning any
39 correction of errors and, if necessary, adjustment of the amount of



1 the county facilities payment. The director shall mail a copy of his
2 or her determination on all the parties.

3 SEC. 3. Section 70367 of the Government Code is amended
4 to read:

5 70367. (a) Within 30 days after the Administrative Director
6 of the Courts has mailed to the county, pursuant to subdivision (d)
7 of Section 70363, the approved county facilities payment, the
8 Administrative Director of the Courts may submit a declaration to
9 the Court Facilities Dispute Resolution Committee, mailing of
10 copies to the other parties, that the amount is incorrect because the
11 county failed to report court facilities expenses paid by the county
12 which reduced the amount of the approved county facilities
13 payment.

14 (b) The county shall mail its comments to the Court Facilities
15 Dispute Resolution Committee on the administrative director’s
16 declaration within 30 days of the mailing of the administrative
17 director’s declaration, with mailing to the other parties.

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

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

32 SEC. 4. Section 70373 of the Government Code is amended
33 to read:

34 70373. (a) To provide additional funds for maintaining and
35 expanding the uniform accessibility of the courts and judicial
36 process throughout the state, the following surcharges are added
37 to the total fee for filing the first paper by a party in the following
38 actions:

39 (1) A surcharge in all unlimited civil, family law, and probate
40 actions, as follows:



1 (A) Ten dollars (\$10) from January 1, 2003, through December
2 31, 2003.

3 (B) Fifteen dollars (\$15) from January 1, 2004, through
4 December 31, 2007.

5 (2) A surcharge of twenty-five dollars (\$25) in all limited civil
6 actions.

7 (b) The clerk of the court shall collect the surcharge and
8 transmit it to the county treasury. The county treasurer shall
9 transmit the funds monthly to the State Controller, to be deposited
10 in the State Court Facilities Construction Fund. Notwithstanding
11 any other provision of law, the full amount of the surcharge
12 collected shall be deposited as provided in this section.

13 SEC. 5. Section 70373.5 of the Government Code is amended
14 to read:

15 70373.5. (a) Notwithstanding paragraph (2) of subdivision
16 (a) of Section 70373, a surcharge of eighteen dollars (\$18) shall be
17 added to the first appearance fee in all limited civil actions in lieu
18 of the twenty-five-dollar (\$25) fee provided by that section.

19 (b) The surcharge provided for in this section and Section
20 70373 are not subject to the percentage surcharge authorized by
21 Section 68087.

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

26 SEC. 6. Section 70374 of the Government Code is amended
27 to read:

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

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

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



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

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

6 (d) Twenty-five percent of all money collected for the State
7 Court Facilities Construction Fund from any county shall be
8 designated for implementation of trial court projects in that
9 county. The Judicial Council shall determine the local projects
10 after consulting with the trial court in that county and based on the
11 locally approved trial court facilities master plan for that county.

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

18 SEC. 7. Section 70375 of the Government Code is amended
19 to read:

20 70375. (a) This article shall take effect on January 1, 2003,
21 and the fund, penalty, and fee assessment established by this article
22 shall become operative on January 1, 2003, except as otherwise
23 provided in this article.

24 (b) In each county, the amount authorized by Section 70372
25 shall be reduced by the following:

26 (1) The amount collected for deposit into the local Courthouse
27 Construction Fund established pursuant to Section 76100.

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

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

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

38 (2) In the County of San Bernardino, the amount collected
39 pursuant to Section 76236 of the Government Code for
40 transmission to the state for inclusion in the Transitional State



1 Court Facilities Construction Fund established pursuant to Section
2 70401.

3 (3) In the City and County of San Francisco, the amount
4 collected pursuant to Section 76238 of the Government Code for
5 transmission to the state for inclusion in the Transitional State
6 Court Facilities Construction Fund established pursuant to Section
7 70401.

8 (d) The authority for all of the following shall expire
9 proportionally as of the date of transfer of responsibility for
10 facilities from the county to the Judicial Council, except so long
11 as money is needed to pay for construction provided for in those
12 sections and undertaken prior to the transfer of responsibility for
13 facilities from the county to the Judicial Council:

14 (1) An additional penalty for a local Courthouse Construction
15 Fund established pursuant to Section 76100.

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

18 (3) A filing fee surcharge in the County of San Bernardino
19 established pursuant to Section 76236.

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

22 (e) For purposes of subdivision (d), the term “proportionally”
23 means that proportion of the fee or surcharge that shall expire upon
24 the transfer of responsibility for a facility that is the same
25 proportion as the square footage that facility bears to the total
26 square footage of court facilities in that county.

27 SEC. 8. Section 70392 of the Government Code is amended
28 to read:

29 70392. Except as otherwise specifically provided by law, the
30 Administrative Office of the Courts shall have the following
31 responsibilities and authority in addition to other responsibilities
32 and authority granted by law or delegated by the Judicial Council:

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

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



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

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

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

8 SEC. 9. Section 70402 of the Government Code is amended
9 to 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 26826.1 in the County of Riverside, a fund established
13 by Section 76236 in the County of San Bernardino, and a fund
14 established by Section 76238 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:

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 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 that
24 portion of the total money in the fund as the square footage of the
25 facilities that do not transfer bears to the total square footage of
26 court facilities in that county.

27 SEC. 10. Section 76000 of the Government Code is amended
28 to read:

29 76000. (a) In each county there shall be levied an additional
30 penalty of seven dollars (\$7) for every ten dollars (\$10) or fraction
31 thereof which shall be collected together with and in the same
32 manner as the amounts established by Section 1464 of the Penal
33 Code, upon every fine, penalty, or forfeiture imposed and
34 collected by the courts for criminal offenses, including all offenses
35 involving a violation of the Vehicle Code or any local ordinance
36 adopted pursuant to the Vehicle Code, except parking offenses
37 subject to Article 3 (commencing with Section 40200) of Chapter
38 1 of Division 17 of the Vehicle Code. These moneys shall be taken
39 from fines and forfeitures deposited with the county treasurer prior
40 to any division pursuant to Section 1463 of the Penal Code.



1 The county treasurer shall deposit those amounts specified by
2 the board of supervisors by resolution in one or more of the funds
3 established pursuant to this chapter. However, deposits to these
4 funds shall continue through whatever period of time is necessary
5 to repay any borrowings made by the county on or before January
6 1, 1991, to pay for construction provided for in this chapter.

7 (b) In each authorized county, provided that the board of
8 supervisors has adopted a resolution stating that the
9 implementation of this subdivision is necessary to the county for
10 the purposes authorized, with respect to each authorized fund
11 established pursuant to Section 76100 or 76101, for every parking
12 offense where a parking penalty, fine, or forfeiture is imposed, an
13 added penalty of two dollars and fifty cents (\$2.50) shall be
14 included in the total penalty, fine, or forfeiture. Except as provided
15 in subdivision (c), for each parking case collected in the courts of
16 the county, the county treasurer shall place in each authorized fund
17 two dollars and fifty cents (\$2.50). These moneys shall be taken
18 from fines and forfeitures deposited with the county treasurer prior
19 to any division pursuant to Section 1462.3 or 1463.009 of the
20 Penal Code. The judges of the county shall increase the bail
21 schedule amounts as appropriate to reflect the added penalty
22 provided for by this section. In those cities, districts, or other
23 issuing agencies which elect to accept parking penalties, and
24 otherwise process parking violations pursuant to Article 3
25 (commencing with Section 40200) of Chapter 1 of Division 17 of
26 the Vehicle Code, that city, district, or issuing agency shall observe
27 the increased bail amounts as established by the court reflecting the
28 added penalty provided for by this section. Each agency which
29 elects to process parking violations shall pay to the county
30 treasurer two dollars and fifty cents (\$2.50) for each fund for each
31 parking penalty collected on each violation which is not filed in
32 court. Those payments to the county treasurer shall be made
33 monthly, and the county treasurer shall deposit all those sums in
34 the authorized fund. No issuing agency shall be required to
35 contribute revenues to any fund in excess of those revenues
36 generated from the surcharges established in the resolution
37 adopted pursuant to this chapter, except as otherwise agreed upon
38 by the local governmental entities involved.



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

4 (d) The authority to impose the two-dollar-and-fifty-cent
5 (\$2.50) penalty authorized by subdivision (b) shall be reduced to
6 one dollar (\$1.00) as of the date of transfer of responsibility for
7 facilities from the county to the Judicial Council pursuant to
8 Article 3 (commencing with Section 70321) of Chapter 5.1, except
9 as money is needed to pay for construction provided for in Section
10 76100 and undertaken prior to the transfer of responsibility for
11 facilities from the county to the Judicial Council.

12 (e) The seven dollar (\$7) additional penalty authorized by
13 subdivision (a) shall be reduced in each county by the additional
14 penalty amount assessed by the county for the local courthouse
15 construction fund established by Section 76100 as of January 1,
16 1998, when the money in that fund is transferred to the state under
17 Section 70402. The amount each county shall charge as an
18 additional penalty under this section shall be as follows:

19

20	Alameda	\$5.00	Marin	\$5.00	San Luis Obispo	\$6.00
21	Alpine	\$5.00	Mariposa	\$2.00	San Mateo	\$4.75
22	Amador	\$5.00	Mendocino	\$7.00	Santa Barbara	\$3.50
23	Butte	\$6.00	Merced	\$5.00	Santa Clara	\$5.50
24	Calaveras	\$3.00	Modoc	\$4.00	Santa Cruz	\$7.00
25	Colusa	\$6.00	Mono	\$5.00	Shasta	\$3.50
26	Contra Costa	\$5.00	Monterey	\$5.00	Sierra	\$7.00
27	Del Norte	\$5.00	Napa	\$3.00	Siskiyou	\$5.00
28	El Dorado	\$5.00	Nevada	\$5.00	Solano	\$5.00
29	Fresno	\$7.00	Orange	\$3.50	Sonoma	\$5.00
30	Glenn	\$4.06	Placer	\$4.75	Stanislaus	\$5.00
31	Humboldt	\$5.00	Plumas	\$5.00	Sutter	\$3.00
32	Imperial	\$6.00	Riverside	\$4.60	Tehama	\$7.00
33	Inyo	\$4.00	Sacramento	\$5.00	Trinity	\$4.26
34	Kern	\$7.00	San Benito	\$5.00	Tulare	\$5.00
35	Kings	\$7.00	San Bernardino	\$5.00	Tuolumne	\$5.00
36	Lake	\$7.00	San Diego	\$5.00	Ventura	\$5.00
	Lassen	\$2.00	San Francisco	\$6.99	Yolo	\$7.00



1	Los Angeles	\$5.00	San Joaquin	\$3.75	Yuba	\$3.00
2	Madera	\$4.50				

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