

Assembly Bill No. 1435

Passed the Assembly September 7, 2005

Chief Clerk of the Assembly

Passed the Senate September 6, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 70063, 70312, 70325, 70375, 70391, 70403, and 76100 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1435, Evans. Court facilities.

(1) Existing law specifies the duties and salary and benefit requirements for official phonographic reporters and official reporters pro tempore of the Mendocino County Superior Court.

This bill would delete those provisions relating to salary and benefit requirements.

(2) Under existing law, if responsibility for court facilities is transferred from a county to the Judicial Council, the county is relieved from the responsibility of providing those facilities. Existing law also specifies that this provision does not relieve a county of its obligation to make certain county facilities payments.

This bill would revise an erroneous cross-reference contained in those provisions.

(3) Existing law establishes a State Court Facilities Construction Fund, and specifies that the authority for certain penalties and filing fees expires proportionally as of the date of the transfer of responsibility for facilities from the county to the Judicial Council, except as specified.

This bill would instead provide that the authority for those penalties and filing fees expires proportionally on the June 30th following the date of transfer of responsibility.

(4) Under existing law, the Judicial Council is responsible for disposing of surplus court facilities following the transfer of those facilities from the counties to the Judicial Council. The Judicial Council is required to consult with the transferring county concerning the disposition of a surplus facility.

This bill would require the Judicial Council, when requested by the transferring county, to offer a surplus facility to that county at fair market value prior to offering the facility to any other state agency or other local government agency.

(5) Existing law authorizes the board of supervisors of any county to establish in the county treasury a Courthouse

Construction Fund into which penalties collected by the counties on fines for criminal offenses are deposited for the purpose of assisting the county in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system. Existing law requires counties to make reports to the Administrative Office of the Courts and to the Department of Finance accounting for the receipt and expenditure of these funds, as specified, and provides that funds used for purposes other than ones specifically permitted must be repaid.

This bill would authorize moneys in the Courthouse Construction Fund to also be used for the purpose of assisting the county in the acquisition, rehabilitation, construction, and financing of court facilities. This bill would specify that certain of the changes it makes are declarative of existing law and would require that these provisions be used to make determinations regarding whether the funds described above were used for authorized purposes. The bill would require the Judicial Council to submit a report on county receipts and expenditures in connection with these funds to the Legislature on or before January 1 of each year.

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

SECTION 1. Section 70063 of the Government Code is amended to read:

70063. In Mendocino County, the official phonographic reporters shall perform the following duties:

- (a) Report all proceedings before the superior court.
- (b) Report the proceedings of the grand jury.
- (c) Act as the secretary of, and render stenographic and clerical assistance to, the judge of the department to which they are assigned by the presiding judge.

SEC. 2. Section 70312 of the Government Code is amended to read:

70312. If responsibility for court facilities is transferred from the county to the Judicial Council pursuant to this chapter, the county is relieved of any responsibility under Section 70311 for providing those facilities. The county is also relieved of any

responsibility for deferred or ongoing maintenance for the facility transferred, except for the county facilities payment required by Section 70353. Except as otherwise provided by this chapter, or by the agreement between the Judicial Council and the county under this chapter, the Judicial Council shall have ongoing responsibility for providing trial court facilities. If responsibility for all court facilities within a county has been transferred pursuant to this chapter, that county shall have no responsibility for providing court facilities. This section does not relieve a county of its obligation under Article 5 (commencing with Section 70351) or its obligations under any agreement entered into pursuant to this chapter.

SEC. 3. Section 70325 of the Government Code is amended to read:

70325. (a) (1) If title to a building proposed to be transferred pursuant to this chapter is subject to a bonded indebtedness, the county shall retain the revenue sources used to pay the bonded indebtedness in which case the county shall be required to continue to make the payments on the bonded indebtedness.

(2) As an alternative to paragraph (1), the county and the state may agree that the county shall transfer the revenue sources to the state, in which case, the state shall be required to make the payments on the bonded indebtedness in the amount of the revenue received. If the amount payable on the bonded indebtedness exceeds the amount of the revenue transferred to the state, the county shall be responsible for paying the remaining amount. If a revenue source is used to pay the bonded indebtedness on several buildings and not all of those buildings are being transferred to the state, the county shall transfer the proportion of the revenue used to pay the bonded indebtedness on the buildings transferred to the state. Except for revenue sources subject to Section 70375, any revenue source transferred by the county to the state under this paragraph shall be transferred back to the county by the state when the bonded indebtedness on the building is retired.

(b) Except in the case of a shared use building or historical building whose title is not being transferred from the county, the agreement concerning transfer of responsibility for court facilities contained in a building subject to bonded indebtedness shall specify when title to the building will transfer, which shall

not be later than the date of final payment of the bonded indebtedness on the building. A county shall not extend the term of the final maturity date of, or increase the amount of, any bonded indebtedness on a building containing court facilities whose responsibility has been transferred to the state without the consent of the Administrative Director of the Courts. For the purposes of this subdivision, the amount of the bonded indebtedness shall not be deemed to be increased if the amount is refunded for an amount not greater than the original principal amount of the indebtedness plus any costs relating to the refunding of the bonded indebtedness.

(c) Notwithstanding any provision to the contrary in this chapter, during the period and to the extent which bonded indebtedness is outstanding with respect to any court facility, the state shall not have any equity or other ownership rights in, to, or with respect to, the court facility. A county may not sell, assign, or transfer any rights or interests in that facility, or otherwise further encumber the facility, other than those rights, interests, or encumbrances required by legal documents establishing the bonded indebtedness. If, during the period of bonded indebtedness outstanding with respect to a court facility, the state is required to vacate the facility through the operation or enforcement of the legal documents establishing the bonded indebtedness, the county shall be responsible for providing the state with suitable and necessary court facilities at least equal to those occupied by the state immediately prior to the date on which the state was compelled to vacate the facility.

SEC. 4. Section 70375 of the Government Code, as amended by Section 119 of Chapter 75 of the Statutes of 2005, is amended to read:

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

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

(1) The amount collected for deposit into the local courthouse construction fund established pursuant to Section 76100.

(2) The amount collected for transmission to the state for inclusion in the Transitional State Court Facilities Construction

Fund established pursuant to Section 70401 to the extent it is funded by money from the local courthouse construction fund.

(c) The authority for all of the following shall expire proportionally on the June 30th following the date of transfer of responsibility for facilities from the county to the Judicial Council, except so long as money is needed to pay for construction provided for in those sections and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council:

(1) An additional penalty for a local courthouse construction fund established pursuant to Section 76100.

(2) A filing fee surcharge in the County of Riverside established pursuant to Section 70622.

(3) A filing fee surcharge in the County of San Bernardino established pursuant to Section 70624.

(4) A filing fee surcharge in the City and County of San Francisco established pursuant to Section 70625.

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

SEC. 5. Section 70391 of the Government Code is amended to read:

70391. The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to court facilities, in addition to any other responsibilities or authorities established by law:

(a) Exercise full responsibility, jurisdiction, control, and authority as an owner would have over trial court facilities whose title is held by the state, including, but not limited to, the acquisition and development of facilities.

(b) Exercise the full range of policymaking authority over trial court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not expressly otherwise limited by law.

(c) Dispose of surplus court facilities following the transfer of responsibility under Article 3 (commencing with Section 70321), subject to all of the following:

(1) If the property was a court facility previously the responsibility of the county, the Judicial Council shall comply with the requirements of Section 11011, and as follows, except that, notwithstanding any other provision of law, the proportion of the net proceeds that represents the proportion of other state funds used on the property other than for operation and maintenance shall be returned to the fund from which it came and the remainder of the proceeds shall be deposited in the State Court Facilities Construction Fund.

(2) The Judicial Council shall consult with the county concerning the disposition of the facility. Notwithstanding any other law, including Section 11011, when requested by the transferring county, a surplus facility shall be offered to that county at fair market value prior to being offered to any other state agency or other local government agency.

(3) The Judicial Council shall consider whether the potential new or planned use of the facility:

(A) Is compatible with the use of other adjacent public buildings.

(B) Unreasonably departs from the historic or local character of the surrounding property or local community.

(C) Has a negative impact on the local community.

(D) Unreasonably interferes with other governmental agencies that use or are located in or adjacent to the building containing the court facility.

(E) Is of sufficient benefit to outweigh the public good in maintaining it as a court facility or building.

(4) All funds received for disposal of surplus court facilities shall be deposited by the Judicial Council in the State Court Facilities Construction Fund.

(5) If the facility was acquired, rehabilitated, or constructed, in whole or in part, with money in the State Court Facilities Construction Fund that was deposited in that fund from the state fund, any funds received for disposal of that facility shall be apportioned to the state fund and the State Court Facilities Construction Fund in the same proportion that the original cost of the building was paid from the state fund and other sources of the State Court Facilities Construction Fund.

(d) Conduct audits of all of the following:

(1) The collection of fees by the local courts.

(2) The money in local courthouse construction funds established pursuant to Section 76100.

(e) Establish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities, including, but not limited to, facilities planning, acquisition, construction, design, operation, and maintenance.

(f) Establish and consult with local project advisory groups on the construction of new trial court facilities, including the trial court, the county, state agencies, bar groups, and members of the community.

(g) Manage court facilities in consultation with the trial courts.

(h) Allocate appropriated funds for court facilities maintenance and construction, subject to the other provisions of this chapter.

(i) Manage shared-use facilities to the extent required by the agreement under Section 70343.

(j) Prepare funding requests for court facility construction, repair, and maintenance.

(k) Implement the design, bid, award, and construction of all court construction projects, except as delegated to others.

(l) Provide for capital outlay projects that may be built with funds appropriated or otherwise available for these purposes as follows:

(1) Approve five-year and master plans for each district.

(2) Establish priorities for construction.

(3) Recommend to the Governor and the Legislature the projects to be funded by the State Court Facilities Construction Fund.

(4) Submit the cost of projects proposed to be funded to the Department of Finance for inclusion in the Governor's Budget.

(m) In carrying out its responsibilities and authority under this section, the Judicial Council shall consult with the local court for:

(1) Selecting and contracting with facility consultants.

(2) Preparing and reviewing architectural programs and designs for court facilities.

(3) Preparing strategic master and five-year capital facilities plans.

(4) Major maintenance of any facility.

SEC. 6. Section 70403 of the Government Code is amended to read:

70403. (a) Each county shall submit a report to the Administrative Director of the Courts and the Director of Finance accounting for all receipts and expenditures from the local courthouse construction fund established pursuant to Section 76100 for the period from January 1, 1998, to the date of transfer of the fund pursuant to subdivision (a) of Section 70402 or December 31, 2005, whichever is earlier.

(b) If the county retains the fund under subdivision (a) of Section 70325 for payment on existing bonded indebtedness of a courthouse facility, the county shall submit annual updates on all receipts and expenditures from the local courthouse construction fund, within 90 days of the end of each fiscal year, to the Administrative Director of the Courts and the Director of Finance.

(c) Any expenditures made from the fund for a purpose other than those specified in Section 76100 must be repaid to the state for deposit in the State Court Facilities Construction Fund pursuant to Section 70402. Either the Administrative Director of the Courts or the Director of the Department of Finance may provide the county with notice that an expenditure made from the fund was for a purpose other than as specified in Section 76100. If the county disagrees with the determination, it may appeal the determination to the Court Facilities Dispute Resolution Committee pursuant to Section 70303.

(d) On or before January 1, 2007, and on or before each January 1, thereafter, the Judicial Council shall submit a report to the budget and fiscal committees of the Legislature based on the information received from counties pursuant to this section, including any amounts required to be repaid by counties.

SEC. 7. Section 76100 of the Government Code is amended to read:

76100. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any county in the acquisition, rehabilitation, construction, and financing of courtrooms, a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, or court facilities, the board of supervisors may establish in the county treasury a Courthouse Construction Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors in accordance with this

chapter. The moneys of the Courthouse Construction Fund shall be payable only for the purposes set forth in this subdivision and in subdivision (b) and at the time necessary therefor, subject to the requirements set forth in Chapter 5.7 (commencing with Section 70301).

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of court buildings referred to in subdivision (a), the county may use the moneys of the Courthouse Construction Fund for either of the following:

(1) To rehabilitate existing courtrooms, an existing courtroom building or buildings, or court facilities, for other uses if a new courtroom, a courtroom building or buildings, or court facilities are acquired, constructed, or financed.

(2) To acquire, rehabilitate, construct, or finance excess courtrooms, an excess courtroom building or buildings, or excess court facilities, if that excess is anticipated to be needed at a later time.

(c) Any excess courtroom, excess courtroom building or buildings, or excess court facilities, that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until the excess courtrooms, excess courtroom building or buildings, or excess court facilities, are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

(e) The amendments made to subdivision (a) by the act adding this subdivision are declarative of existing law and shall be used for determinations made pursuant to subdivision (c) of Section 70403.

Approved _____, 2005

Governor