

AMENDED IN SENATE MAY 21, 2013
AMENDED IN SENATE APRIL 30, 2013
AMENDED IN SENATE APRIL 25, 2013

SENATE BILL

No. 16

Introduced by Senator Gaines

December 3, 2012

An act to add Chapter 3.5 (commencing with Section 15205) to Part 6 of Division 3 of Title 2 of the Government Code, relating to counties, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 16, as amended, Gaines. Administration of justice: county costs: nonhomicide criminal trials.

Existing law authorizes a county that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide to apply to the Controller for reimbursement of the costs incurred by the county in excess of a specified amount subject to certain limitations. Existing law defines "costs incurred by the county" to mean, among other things, all costs, including the trial or trials of a person or persons for the offense of homicide, including costs incurred by the district attorney in investigation and prosecution, by the sheriff in investigation, by the public defender or court-appointed attorney or attorneys in investigation and defense, and all other costs incurred by the county in connection with bringing the person or persons to trial, including the trial itself. Existing law authorizes the Controller to establish rules and regulations to carry out these provisions.

This bill would, when the Attorney General is handling the *investigation and* prosecution of a nonhomicide crime in a county, *as*

specified, authorize the county that is responsible for the defense costs of a trial or trials or any hearing of a person for the offense of a nonhomicide crime to apply to the Controller for reimbursement of the defense costs incurred by the county in excess of that same amount and subject to those same limitations. The bill would make this authorization applicable to any nonhomicide criminal trial or trials or any hearing commencing on or after January 1, 2012. The bill would authorize the Controller to adopt rules and regulations to carry out these provisions.

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. Chapter 3.5 (commencing with Section 15205)
 2 is added to Part 6 of Division 3 of Title 2 of the Government Code,
 3 to read:

4
 5 CHAPTER 3.5. ADMINISTRATION OF JUSTICE: NONHOMICIDE
 6 TRIALS

7
 8 15205. The Legislature declares that: (1) the uniform
 9 administration of justice throughout the state is a matter of
 10 statewide interest; (2) the defense and conduct of trials of persons
 11 accused of nonhomicide crimes should not be hampered or delayed
 12 by any lack of funds available to the counties for these purposes;
 13 (3) a county should not be required to bear the entire defense costs
 14 of a trial involving a nonhomicide crime if these costs will seriously
 15 impair the finances of the county; and (4) it is the intention of the
 16 Legislature in enacting this chapter to provide for state assistance
 17 to counties in these emergency situations.

18 15205.2. As used in this chapter, “costs incurred by the county”
 19 means all costs, except normal salaries and expenses, incurred by
 20 the county in defending at trial or trials, including the trial or trials
 21 of a person or persons for the offense of a nonhomicide crime,
 22 including costs, except normal salaries and expenses, incurred by
 23 the public defender in investigation and defense. Trial defense
 24 costs shall also include all pretrials, hearings, and postconviction
 25 proceedings, if any.

1 15205.4. (a) Subject to appropriation by the Legislature, when
2 the Attorney General is handling the *investigation and* prosecution
3 of a nonhomicide crime in a county, *as specified in subdivision*
4 *(b)*, the county that is responsible for the defense costs of a trial
5 or trials or any hearing of a person for the offense of a nonhomicide
6 crime may apply to the Controller for reimbursement of the costs
7 incurred by the county in excess of the amount of money derived
8 by the county from a tax of 0.0125 of 1 percent of the full value
9 of property assessed for purposes of taxation within the county.

10 (b) The county authorization in subdivision (a) shall apply to
11 any nonhomicide criminal trial or trials or any hearing commencing
12 on or after January 1, 2012. *The county authorization in subdivision*
13 *(a) shall apply only to a trial or trials when the Attorney General*
14 *is handling investigation and prosecution of a nonhomicide crime*
15 *due to the scope and complexity of the case, and not when the*
16 *Attorney General is handling the prosecution of a nonhomicide*
17 *crime because a district attorney has been recused solely to avoid*
18 *a conflict of interest or for any other reason unrelated to the scope*
19 *and complexity of the case.*

20 (c) The Controller shall not reimburse any county for costs that
21 exceed the California Victim Compensation and Government
22 Claims Board's standards for travel and per diem expenses. The
23 Controller may reimburse extraordinary costs in unusual cases if
24 the county provides sufficient justification of the need for these
25 expenditures. This section shall not permit the reimbursement of
26 costs for travel in excess of 1,000 miles on any single round trip,
27 without the prior approval of the Attorney General.

28 (d) Subject to appropriation by the Legislature, reimbursement
29 funds appropriated pursuant to this section shall be available for
30 three fiscal years from the date of the appropriation. After three
31 fiscal years, any unused funds shall revert back to the General
32 Fund.

33 15205.6. If the venue for trial of a nonhomicide criminal case
34 has been changed from the county that is eligible for reimbursement
35 under Section 15205.4 to another county, and the public defender
36 of that county has entered into a contract with an attorney to try
37 the case or an investigator to assist in the trial of the case, the
38 Controller shall, upon appropriation by the Legislature, reimburse
39 the county for the actual defense costs of the attorney or
40 investigator under this section, at an hourly rate not to exceed the

1 hourly rate charged to state agencies by the Attorney General for
 2 similar attorney services or investigators, without a further showing
 3 of justification. This section shall not permit the reimbursement
 4 of costs for travel in excess of 1,000 miles on any single round
 5 trip, without the prior approval of the Attorney General.

6 15205.8. If the county meets the conditions described in Section
 7 15205.4 and applies to the Controller for reimbursement pursuant
 8 to that section, and the Controller determines that the
 9 reimbursement meets the provisions of Section 15205.2, the
 10 Controller shall request that the Director of Finance include any
 11 amounts necessary to fulfill the purposes of Section 15205.4
 12 annually in a request for a deficiency appropriation in augmentation
 13 of the emergency fund.

14 15205.10. Subject to the rulemaking provisions of the
 15 Administrative Procedure Act (Chapter 3.5 (commencing with
 16 Section 11340) of Part 1 of Division 3 of Title 2), the Controller
 17 may adopt rules and regulations to carry out the purposes of this
 18 chapter.

19 SEC. 2. This act is an urgency statute necessary for the
 20 immediate preservation of the public peace, health, or safety within
 21 the meaning of Article IV of the Constitution and shall go into
 22 immediate effect. The facts constituting the necessity are:

23 In order to authorize a county that is responsible for the defense
 24 costs of a trial or trials or any hearing of a person for the offense
 25 of a nonhomicide crime, when the Attorney General is handling
 26 the prosecution of a nonhomicide crime in the county, to apply to
 27 the Controller for reimbursement of the defense costs incurred by
 28 the county, it is necessary that this act take effect immediately.