

AMENDED IN SENATE AUGUST 24, 2005

AMENDED IN SENATE JULY 6, 2005

AMENDED IN SENATE JUNE 23, 2005

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1435

Introduced by Assembly Member Evans

February 22, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1435, as amended, Evans. Court facilities.

(1) 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.

(2) 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.

(3) 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.

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 70312 of the Government Code is
2 amended to read:
3 70312. If responsibility for court facilities is transferred from
4 the county to the Judicial Council pursuant to this chapter, the
5 county is relieved of any responsibility under Section 70311 for
6 providing those facilities. The county is also relieved of any
7 responsibility for deferred or ongoing maintenance for the
8 facility transferred, except for the county facilities payment
9 required by Section 70353. Except as otherwise provided by this
10 chapter, or by the agreement between the Judicial Council and
11 the county under this chapter, the Judicial Council shall have
12 ongoing responsibility for providing trial court facilities. If
13 responsibility for all court facilities within a county has been

1 transferred pursuant to this chapter, that county shall have no
2 responsibility for providing court facilities. This section does not
3 relieve a county of its obligation under Article 5 (commencing
4 with Section 70351) or its obligations under any agreement
5 entered into pursuant to this chapter.

6 SEC. 2. Section 70325 of the Government Code is amended
7 to read:

8 70325. (a) (1) If title to a building proposed to be transferred
9 pursuant to this chapter is subject to a bonded indebtedness, the
10 county shall retain the revenue sources used to pay the bonded
11 indebtedness in which case the county shall be required to
12 continue to make the payments on the bonded indebtedness.

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

29 (b) Except in the case of a shared use building or historical
30 building whose title is not being transferred from the county, the
31 agreement concerning transfer of responsibility for court
32 facilities contained in a building subject to bonded indebtedness
33 shall specify when title to the building will transfer, which shall
34 not be later than the date of final payment of the bonded
35 indebtedness on the building. A county shall not extend the term
36 of the final maturity date of, or increase the amount of, any
37 bonded indebtedness on a building containing court facilities
38 whose responsibility has been transferred to the state without the
39 consent of the Administrative Director of the Courts. For the
40 purposes of this subdivision, the amount of the bonded

1 indebtedness shall not be deemed to be increased if the amount is
2 refunded for an amount not greater than the original principal
3 amount of the indebtedness plus any costs relating to the
4 refunding of the bonded indebtedness.

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

21 ~~SEC. 3. Section 70375 of the Government Code is amended~~
22 ~~to read:~~

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

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

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

31 ~~(2) The amount collected for transmission to the state for~~
32 ~~inclusion in the Transitional State Court Facilities Construction~~
33 ~~Fund established pursuant to Section 70401 to the extent it is~~
34 ~~funded by money from the local courthouse construction fund.~~

35 ~~(c) The amount authorized by Section 70373 shall be reduced~~
36 ~~by the following in the following counties:~~

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

1 ~~(2) In the County of San Bernardino, the amount collected~~
2 ~~pursuant to Section 76236 of the Government Code for~~
3 ~~transmission to the state for inclusion in the Transitional State~~
4 ~~Court Facilities Construction Fund established pursuant to~~
5 ~~Section 70401.~~

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

11 ~~(d) The authority for all of the following shall expire~~
12 ~~proportionally on the June 30th following the date of transfer of~~
13 ~~responsibility for facilities from the county to the Judicial~~
14 ~~Council, except so long as money is needed to pay for~~
15 ~~construction provided for in those sections and undertaken prior~~
16 ~~to the transfer of responsibility for facilities from the county to~~
17 ~~the Judicial Council.~~

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

20 ~~(2) A filing fee surcharge in the County of Riverside~~
21 ~~established pursuant to Section 26826.1.~~

22 ~~(3) A filing fee surcharge in the County of San Bernardino~~
23 ~~established pursuant to Section 76236.~~

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

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

31 *SEC. 3. Section 70375 of the Government Code, as amended*
32 *by Section 119 of Chapter 75 of the Statutes of 2005, is amended*
33 *to read:*

34 70375. (a) This article shall take effect on January 1, 2003,
35 and the fund, penalty, and fee assessment established by this
36 article shall become operative on January 1, 2003, except as
37 otherwise provided in this article.

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

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

3 (2) The amount collected for transmission to the state for
4 inclusion in the Transitional State Court Facilities Construction
5 Fund established pursuant to Section 70401 to the extent it is
6 funded by money from the local courthouse construction fund.

7 ~~(e)~~

8 ~~The~~

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

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

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

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

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

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

29 SEC. 4. Section 70403 of the Government Code is amended
30 to read:

31 70403. (a) Each county shall submit a report to the
32 Administrative Director of the Courts and the Director of Finance
33 accounting for all receipts and expenditures from the local
34 courthouse construction fund established pursuant to Section
35 76100 for the period from January 1, 1998, to the date of transfer
36 of the fund pursuant to subdivision (a) of Section 70402 or
37 December 31, 2005, whichever is earlier.

38 (b) If the county retains the fund under subdivision (a) of
39 Section 70325 for payment on existing bonded indebtedness of a
40 courthouse facility, the county shall submit annual updates on all

1 receipts and expenditures from the local courthouse construction
2 fund, within 90 days of the end of each fiscal year, to the
3 Administrative Director of the Courts and the Director of
4 Finance.

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

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

20 SEC. 5. Section 76100 of the Government Code is amended
21 to read:

22 76100. (a) Except as provided in Article 3 (commencing with
23 Section 76200), for the purpose of assisting any county in the
24 acquisition, rehabilitation, construction, and financing of
25 courtrooms, a courtroom building or buildings containing
26 facilities necessary or incidental to the operation of the justice
27 system, or court facilities, the board of supervisors may establish
28 in the county treasury a Courthouse Construction Fund into
29 which shall be deposited the amounts specified in the resolutions
30 adopted by the board of supervisors in accordance with this
31 chapter. The moneys of the Courthouse Construction Fund shall
32 be payable only for the purposes set forth in this subdivision and
33 in subdivision (b) and at the time necessary therefor, subject to
34 the requirements set forth in Chapter 5.7 (commencing with
35 Section 70301).

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

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

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

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

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

21 (e) The amendments made to subdivision (a) by the act adding
22 this subdivision are declarative of existing law and shall be used
23 for determinations made pursuant to subdivision (c) of Section
24 70403.