

AMENDED IN SENATE SEPTEMBER 2, 2005

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

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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, as amended, 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.

(2)

(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.

~~(3)~~

(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<sup>st</sup> 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 70063 of the Government Code is  
2     amended to read:  
3     70063. ~~(a)~~In Mendocino County, the official phonographic  
4     reporters shall perform the following duties:  
5     ~~(1)~~  
6     ~~(a)~~ Report all proceedings before the superior court;  
7     ~~(2)~~  
8     ~~(b)~~ Report the proceedings of the grand jury;  
9     ~~(3)~~  
10    ~~(c)~~ Act as the secretary of, and render stenographic and  
11    clerical assistance to, the judge of the department to which they  
12    are assigned by the presiding judge.  
13    ~~The official phonographic reporters of such county shall~~  
14    ~~receive a salary recommended by the superior court and~~  
15    ~~approved by the board of supervisors.~~  
16    ~~Any appointee to an official reporter position shall be~~  
17    ~~compensated at the first step and advance to each higher step~~  
18    ~~upon completion of each year of service. Upon the~~  
19    ~~recommendation of the superior court and approval of the board~~  
20    ~~of supervisors, official reporters may be employed at or may be~~  
21    ~~granted a special step increase to any step within the salary range~~  
22    ~~on the basis of experience or qualifications.~~  
23    ~~(b)~~ The compensation for each official reporter pro tempore  
24    shall be the equivalent of the daily wage of the first step in the  
25    salary range for full-time official reporters for each day he  
26    actually is on duty under order of the court.  
27    ~~(c)~~ In addition to the compensation provided in this article,  
28    each full-time reporter of the superior court shall be entitled to,  
29    and shall receive, the same vacation, sick leave, and similar  
30    privileges and benefits as are now, or may hereafter be provided  
31    for the employees of the County of Mendocino, including the  
32    right to participate in any group, accident, health or life insurance  
33    plan adopted by the board of supervisors of the county.  
34    ~~(d)~~ Until such time as the salaries of full-time official reporters  
35    and official reporters pro tempore are approved by the board of

1 ~~supervisors pursuant to subdivision (a), such reporters shall~~  
2 ~~receive the salaries in effect immediately prior to the effective~~  
3 ~~date of the amendments to this section enacted by the Legislature~~  
4 ~~at its 1977-78 Regular Session.~~

5 SECTION 1.

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

8 70312. If responsibility for court facilities is transferred from  
9 the county to the Judicial Council pursuant to this chapter, the  
10 county is relieved of any responsibility under Section 70311 for  
11 providing those facilities. The county is also relieved of any  
12 responsibility for deferred or ongoing maintenance for the  
13 facility transferred, except for the county facilities payment  
14 required by Section 70353. Except as otherwise provided by this  
15 chapter, or by the agreement between the Judicial Council and  
16 the county under this chapter, the Judicial Council shall have  
17 ongoing responsibility for providing trial court facilities. If  
18 responsibility for all court facilities within a county has been  
19 transferred pursuant to this chapter, that county shall have no  
20 responsibility for providing court facilities. This section does not  
21 relieve a county of its obligation under Article 5 (commencing  
22 with Section 70351) or its obligations under any agreement  
23 entered into pursuant to this chapter.

24 ~~SEC. 2.~~

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

27 70325. (a) (1) If title to a building proposed to be transferred  
28 pursuant to this chapter is subject to a bonded indebtedness, the  
29 county shall retain the revenue sources used to pay the bonded  
30 indebtedness in which case the county shall be required to  
31 continue to make the payments on the bonded indebtedness.

32 (2) As an alternative to paragraph (1), the county and the state  
33 may agree that the county shall transfer the revenue sources to  
34 the state, in which case, the state shall be required to make the  
35 payments on the bonded indebtedness in the amount of the  
36 revenue received. If the amount payable on the bonded  
37 indebtedness exceeds the amount of the revenue transferred to  
38 the state, the county shall be responsible for paying the remaining  
39 amount. If a revenue source is used to pay the bonded  
40 indebtedness on several buildings and not all of those buildings

1 are being transferred to the state, the county shall transfer the  
2 proportion of the revenue used to pay the bonded indebtedness  
3 on the buildings transferred to the state. Except for revenue  
4 sources subject to Section 70375, any revenue source transferred  
5 by the county to the state under this paragraph shall be  
6 transferred back to the county by the state when the bonded  
7 indebtedness on the building is retired.

8 (b) Except in the case of a shared use building or historical  
9 building whose title is not being transferred from the county, the  
10 agreement concerning transfer of responsibility for court  
11 facilities contained in a building subject to bonded indebtedness  
12 shall specify when title to the building will transfer, which shall  
13 not be later than the date of final payment of the bonded  
14 indebtedness on the building. A county shall not extend the term  
15 of the final maturity date of, or increase the amount of, any  
16 bonded indebtedness on a building containing court facilities  
17 whose responsibility has been transferred to the state without the  
18 consent of the Administrative Director of the Courts. For the  
19 purposes of this subdivision, the amount of the bonded  
20 indebtedness shall not be deemed to be increased if the amount is  
21 refunded for an amount not greater than the original principal  
22 amount of the indebtedness plus any costs relating to the  
23 refunding of the bonded indebtedness.

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

1     ~~SEC. 3.~~

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

5     70375. (a) This article shall take effect on January 1, 2003,  
6 and the fund, penalty, and fee assessment established by this  
7 article shall become operative on January 1, 2003, except as  
8 otherwise provided in this article.

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

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

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

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

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

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

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

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

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

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

39     70391. The Judicial Council, as the policymaking body for  
40 the judicial branch, shall have the following responsibilities and

1 authorities with regard to court facilities, in addition to any other  
2 responsibilities or authorities established by law:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (d) Conduct audits of all of the following:

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

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

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

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

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

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

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

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

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

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

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

38 (2) Establish priorities for construction.

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

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

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

8 (1) Selecting and contracting with facility consultants.

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

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

13 (4) Major maintenance of any facility.

14 ~~SEC. 4.~~

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

17 70403. (a) Each county shall submit a report to the  
18 Administrative Director of the Courts and the Director of Finance  
19 accounting for all receipts and expenditures from the local  
20 courthouse construction fund established pursuant to Section  
21 76100 for the period from January 1, 1998, to the date of transfer  
22 of the fund pursuant to subdivision (a) of Section 70402 or  
23 December 31, 2005, whichever is earlier.

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

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

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

6 ~~SEC. 5.~~

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

9 76100. (a) Except as provided in Article 3 (commencing with  
10 Section 76200), for the purpose of assisting any county in the  
11 acquisition, rehabilitation, construction, and financing of  
12 courtrooms, a courtroom building or buildings containing  
13 facilities necessary or incidental to the operation of the justice  
14 system, or court facilities, the board of supervisors may establish  
15 in the county treasury a Courthouse Construction Fund into  
16 which shall be deposited the amounts specified in the resolutions  
17 adopted by the board of supervisors in accordance with this  
18 chapter. The moneys of the Courthouse Construction Fund shall  
19 be payable only for the purposes set forth in this subdivision and  
20 in subdivision (b) and at the time necessary therefor, subject to  
21 the requirements set forth in Chapter 5.7 (commencing with  
22 Section 70301).

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

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

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

35 (c) Any excess courtroom, excess courtroom building or  
36 buildings, or excess court facilities, that are acquired,  
37 rehabilitated, constructed, or financed pursuant to subdivision (b)  
38 may be leased or rented for uses other than the operation of the  
39 justice system until the excess courtrooms, excess courtroom  
40 building or buildings, or excess court facilities, are needed for the

1 operation of the justice system. Any amount received as lease or  
2 rental payments pursuant to this subdivision shall be deposited in  
3 the Courthouse Construction Fund.

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

7 (e) The amendments made to subdivision (a) by the act adding  
8 this subdivision are declarative of existing law and shall be used  
9 for determinations made pursuant to subdivision (c) of Section  
10 70403.

O