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GOVERNMENT CODE - GOV

TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS [68070 - 77655] (Title 8 added by Stats. 1953, Ch. 206.)

CHAPTER 12. County Penalties [76000 - 76252] (Chapter 12 added by Stats. 1991, Ch. 189, Sec. 11.)

ARTICLE 2. Allocation of Penalties [76100 - 76110] (Article 2 added by Stats. 1991, Ch. 189, Sec. 11.)

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.

(Amended by Stats. 2005, Ch. 410, Sec. 7. Effective January 1, 2006.)

76101. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any county in the construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems, the board of supervisors may by resolution establish in the county treasury a Criminal Justice Facilities Construction Fund. All amounts collected pursuant to resolutions adopted by a county in accordance with this chapter shall be deposited into the fund. The moneys of the Criminal Justice Facilities Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) For purposes of this chapter, "county criminal justice facilities" includes, but is not limited to, jails, women's centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the Criminal Justice Facilities Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(c) 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.

(Amended by Stats. 2002, Ch. 1082, Sec. 7. Effective January 1, 2003.)

76101.5. Notwithstanding any other provision of this article or Article 3 (commencing with Section 76200), following a public hearing, the board of supervisors of a county of the first class or a county of the 47th class which has established both a Courthouse Construction Fund and a Criminal Justice Facilities Construction Fund pursuant to the provisions of this chapter may by resolution provide for the transfer of deposits from one fund to the other.

(Amended by Stats. 1995, Ch. 454, Sec. 1. Effective January 1, 1996.)

76102. (a) For the purpose of assisting any county in the establishment of adequate fingerprint facilities and adequate suspect booking identification facilities, including, but not limited to, digital image photographic suspect booking identification facilities, in the county, the board of supervisors may establish in the county treasury an Automated Fingerprint Identification and Digital Image Photographic Suspect Booking Identification System Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors as authorized in accordance with this title. The moneys of the fund shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated fingerprint equipment and digital image photographic equipment, replacement of existing automated fingerprint equipment, digital image photographic equipment, and other equipment needed for the suspect booking process, and for the reimbursement of local agencies within the county which have previously purchased, leased, operated, or maintained automated fingerprint equipment and digital image photographic equipment from other funding sources.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Automated fingerprint equipment" means that equipment designated for the storage or retrieval of fingerprint data which is compatible with the California Identification System Remote Access Network.

(2) "Digital photographic equipment" means that equipment designed for the capture, storage, retrieval, or transmittal of digital photographic images of persons who are booked as a result of having been arrested or charged with a crime.

(c) 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.

(Amended by Stats. 2007, Ch. 49, Sec. 1. Effective January 1, 2008.)

76103. To assist any county in the funding and maintenance of a criminal justice forensic laboratory, the board of supervisors may, by resolution, establish in the county treasury a forensic laboratory fund. The fund moneys, together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the Forensic Laboratory Fund together with any interest earned thereon shall be payable only for the construction, reconstruction, expansion, improvement, operation, including personnel or related costs, or maintenance of Forensic Laboratory Facilities. The money in the fund may be used through any public agency funding mechanism including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

(Amended by Stats. 1992, Ch. 1199, Sec. 5. Effective September 30, 1992.)

76104. (a) For purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code, the board of supervisors of any county which established in the county treasury an Emergency Medical Services Fund prior to June 1, 1991, shall continue that fund using penalty revenues pursuant to Section 76000 as specified in the resolution or resolutions adopted by the board of supervisors prior to June 1, 1991, to create that fund. Except as provided in subdivision (d), the amount deposited in that fund shall be at and shall not exceed the corresponding amount for the 1990–91 fiscal year, plus a percentage representing the growth, if any, in the fines and forfeitures collected in comparison with the 1990–91 fiscal year, not to exceed 10 percent per fiscal year.

(b) For any county which established an Emergency Medical Services Fund prior to June 1, 1991, and for which that fund has not received deposits for 12 full months of collections of the penalty, the 1990–91 fiscal year shall be computed by projecting actual collection experience to produce an estimated annual amount.

(c) The board of supervisors of a county that has not established an Emergency Medical Services Fund prior to July 1, 1991, may set aside up to 28 percent of the total revenue from the penalty established pursuant to Section 76000 in the county treasury for purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

(d) Notwithstanding any other provision of law, in complying with this section, a county shall not be required to contribute an amount in excess of the receipts of the penalty assessment authorized for this purpose.

(e) 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. The moneys of the Emergency Medical Services Fund shall be payable only for the purposes specified in

76104.5. (a) For the purpose of assisting any county in the establishment of automated photographic or DNA (genetic fingerprint) identification systems, or any new technology in the county, the board of supervisors may establish in the county treasury a DNA Identification Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors as authorized in accordance with this title, up to fifty cents (\$0.50) for every seven dollars (\$7) collected pursuant to Section 76000. The moneys of the fund shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated photographic or DNA (genetic fingerprint) identification systems, or any new technology.

(b) The fund moneys described in subdivision (a), together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

(c) For purposes of this section, "DNA (genetic fingerprint) identification system" means equipment, procedures, and methodologies compatible with and meeting the standards set for DNA testing by the Department of Justice pursuant to the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code).

(Amended by Stats. 1999, Ch. 475, Sec. 1. Effective January 1, 2000.)

76104.6. (a) (1) Except as otherwise provided in this section, for the purpose of implementing the DNA Fingerprint, Unsolved Crime and Innocence Protection Act (Proposition 69), as approved by the voters at the November 2, 2004, statewide general election, there shall be levied an additional penalty of one dollar (\$1) for every ten dollars (\$10), or part of ten dollars (\$10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code.

(2) The penalty imposed by this section shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. The moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The board of supervisors shall establish in the county treasury a DNA Identification Fund into which shall be deposited the moneys collected pursuant to this section. The moneys of the fund shall be allocated pursuant to subdivision (b).

(3) The additional penalty does not apply to the following:

(A) A restitution fine.

(B) A penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) (1) The fund moneys described in subdivision (a), together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through January 1, 2028, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified therein.

(2) On the last day of each calendar quarter of the year specified in this subdivision, the county treasurer shall transfer fund moneys in the county's DNA Identification Fund to the Controller for credit to the state's DNA Identification Fund, which is hereby established in the State Treasury, as follows:

(A) In the first two calendar years following the effective date of this section, 70 percent of the amounts collected, including interest earned thereon.

(B) In the third calendar year following the effective date of this section, 50 percent of the amounts collected, including interest earned thereon.

(C) In the fourth calendar year following the effective date of this section and in each calendar year thereafter, 25 percent of the amounts collected, including interest earned thereon.

(3) Funds remaining in the county's DNA Identification Fund shall be used only for the following purposes:

(A) To reimburse local sheriff or other law enforcement agencies for the collection of DNA specimens, samples, and print impressions pursuant to this chapter.

(B) For expenditures and administrative costs made or incurred to comply with the requirements of paragraph (5) of subdivision (b) of Section 298 of the Penal Code, including the procurement of equipment and software integral to confirming that a person qualifies for entry into the Department of Justice DNA and Forensic Identification Database and Data Bank Program.

(C) To reimburse local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene samples from unsolved cases.

(D) (i) If authorized by a resolution of the board of supervisors, and after the distributions provided in subparagraphs (A), (B), and (C), a local sheriff or police department, or the district attorney's office, may use remaining funds, either independently or in combination with remaining funds from another county, to provide supplemental funding to a qualified local or regional state forensic laboratory for expenditures and administrative costs made or incurred in connection with the processing, analysis, and comparison of DNA crime scene samples and forensic identification samples, and testimony related to that analysis. This subparagraph shall apply only to those counties that do not have a local public law enforcement laboratory, and does not authorize any transfer that will interfere with the operation of subparagraph (A). Any supplemental funding provided pursuant to this subparagraph shall not be used to supplant funds already allocated to a qualified local or regional state forensic laboratory by the state's DNA Identification Fund.

(ii) For purposes of this subparagraph, a qualified local or regional state forensic laboratory is a Department of Justice regional forensic laboratory or a local law enforcement agency forensic laboratory that meets state and federal requirements for contributing DNA profiles for inclusion in California's DNA databank, including the FBI Quality Assurance Standards and accreditation requirements, and shall be accredited by an organization approved by the National DNA Index System (NDIS) Procedures Board.

(4) The state's DNA Identification Fund shall be administered by the Department of Justice. Funds in the state's DNA Identification Fund, upon appropriation by the Legislature, shall be used by the Attorney General only to support DNA testing in the state and to offset the impacts of increased testing and shall be allocated as follows:

(A) Of the amount transferred pursuant to subparagraph (A) of paragraph (2) of subdivision (b), 90 percent to the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended by Chapter 6 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code, and 10 percent to the Department of Justice Information Bureau Criminal History Unit for expenditures and administrative costs that have been approved by the Chief of the Department of Justice Bureau of Forensic Services made or incurred to update equipment and software to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(B) Of the amount transferred pursuant to subparagraph (B) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended.

(C) Of the amount transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice to the DNA Laboratory to comply with the requirements of Section 298.3 of the Penal Code and for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998, as amended.

(c) On or before April 1 in the year following adoption of this section, and annually thereafter, the board of supervisors of each county shall submit a report to the Legislature and the Department of Justice. The report shall include the total amount of fines collected and allocated pursuant to this section, and the amounts expended by the county for each program authorized pursuant to paragraph (3) of subdivision (b). The Department of Justice shall make the reports publicly available on the department's internet website.

(d) All requirements imposed on the Department of Justice pursuant to the DNA Fingerprint, Unsolved Crime and Innocence Protection Act are contingent upon the availability of funding and are limited by revenue, on a fiscal year basis, received by the Department of Justice pursuant to this section and any additional appropriation approved by the Legislature for purposes related to implementing this act.

(e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the Legislature shall lend the Department of Justice General Fund in the amount of seven million dollars (\$7,000,000) for purposes of implementing the act. The loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time the loan is made. Principal and interest on the loan shall be repaid in full no later than four years from the date the loan was made and shall be repaid from revenue generated pursuant to this section.

(f) Notwithstanding any other law, the Controller may use the state's DNA Identification Fund, created pursuant to paragraph (2) of subdivision (b), for loans to the General Fund as provided in Sections 16310 and 16381. Any such loan shall be repaid from the General Fund with interest computed at 110 percent of the Pooled Money Investment Account rate, with the interest commencing to accrue on the date the loan is made from the fund. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the state's DNA Identification Fund was created.

(Amended by Stats. 2024, Ch. 428, Sec. 1. (AB 3042) Effective January 1, 2025. Note: This section was added on Nov. 2, 2004, by initiative Prop. 69.)

76104.7. (a) Except as otherwise provided in this section, in addition to the penalty levied pursuant to Section 76104.6, there shall be levied an additional state-only penalty of four dollars (\$4) for every ten dollars (\$10), or part of ten dollars (\$10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(b) This additional penalty shall be collected together with, and in the same manner as, the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. These funds shall be deposited into the county treasury DNA Identification Fund. One hundred percent of these funds, including any interest earned thereon, shall be transferred to the state Controller at the same time that moneys are transferred pursuant to paragraph (2) of subdivision (b) of Section 76104.6, for deposit into the state's DNA Identification Fund. These funds shall be used to fund the operations of the Department of Justice forensic laboratories, including the operation of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(c) This additional penalty does not apply to the following:

(1) Any restitution fine.

(2) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(3) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(4) The state surcharge authorized by Section 1465.7 of the Penal Code.

(d) The fees collected pursuant to this section shall not be subject to subdivision (e) of Section 1203.1d of the Penal Code, but shall be disbursed under paragraph (3) of subdivision (b) of Section 1203.1d of the Penal Code.

(Amended by Stats. 2012, Ch. 32, Sec. 25. (SB 1006) Effective June 27, 2012.)

76105. In any county authorized to establish one or more special purpose funds pursuant to Article 3 (commencing with Section 76200), the county treasurer shall deposit in those funds that portion of the penalties collected pursuant to Section 76000 specified by the board of supervisors by resolution. The moneys of the fund shall be payable only for the purposes set forth in the authorizing section and at the time necessary therefor.

Except as otherwise provided by statute, deposits to the fund in accordance with this section shall continue through and including the 20th year after the initial year for which the additional penalty is collected.

(Added by Stats. 1991, Ch. 189, Sec. 11. Effective July 29, 1991.)

76106. With respect to any fund established pursuant to this chapter, the penalty amounts to be deposited in the fund shall be specified by resolution adopted by the board of supervisors of each county consistent with the authorizations set forth in this article and Article 3 (commencing with Section 76200). Each resolution shall state that the implementation of the applicable sections is necessary to the county for the establishment of adequate courtroom or criminal justice facilities or other authorized purposes of the fund. The resolution shall set forth the amounts to be placed in the fund and shall instruct the clerk of the board of supervisors to

transmit, on the next business day following the adoption of the resolution, a copy of the resolution to the clerk of each court in the county.

(Amended by Stats. 2002, Ch. 221, Sec. 43. Effective January 1, 2003.)

76110. Notwithstanding any other provision of this article or Article 3 (commencing with Section 76200), the board of supervisors that has established a Courthouse Construction Fund or a Criminal Justice Facilities Construction Fund pursuant to the provisions of this chapter may, by resolution, provide for the transfer of excess deposits from such a fund to the county general fund for the purposes of meeting the public safety or emergency medical services needs of the county, provided that any transfer pursuant to this section shall not interfere with the purposes for which the fund was created or impair any obligations of the fund and shall not occur until the need for courthouse construction or the construction of criminal justice facilities has been met.

(Added by Stats. 1995, Ch. 454, Sec. 2. Effective January 1, 1996.)