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

CHAPTER 5.7. Superior Court Facilities [70301 - 70508] (Chapter 5.7 added by Stats. 2002, Ch. 1082, Sec. 4.)

ARTICLE 3. Agreements Transferring Responsibility for Court Facilities [70321 - 70333] (Article 3 added by Stats. 2002, Ch. 1082, Sec. 4.)

70321. (a) The Judicial Council, in consultation with the superior court of each county and the county shall enter into agreements regarding the transfer of responsibility for court facilities from that county to the Judicial Council. The agreements shall be executed no later than December 31, 2009. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than December 31, 2009. On or before July 1, 2003, each county shall designate those persons who shall negotiate the agreements on behalf of the county and shall give the Judicial Council the names of those persons. The name of a person designated by a county to negotiate on its behalf may be changed by the county at any time by providing written notice to the Judicial Council.

(b) (1) Notwithstanding any other provision of law and except as provided in paragraph (2), any transfer agreement that is executed on or after October 1, 2008, and on or before March 31, 2009, shall contain a requirement that the county pay, in addition to the county facility payment established pursuant to Article 5 (commencing with Section 70351), a continuing amount from the date of transfer calculated by multiplying the county facilities payment by the percentage change in the National Implicit Price Deflator for State and Local Government Purchases, as published by the Department of Finance, for the fiscal year in which the transfer agreement is executed as compared to the prior fiscal year.

(2) (A) Prior to September 30, 2008, the Administrative Office of the Courts and a county may jointly declare all of the following:

(i) That extraordinary circumstances exist that have prohibited successful execution of a transfer agreement.

(ii) That all relevant transfer documents have been timely submitted and reviewed by the county.

(iii) That the failure to execute a transfer agreement prior to September 30, 2008, is not caused by the action, inaction, or delay on the part of the county.

(iv) That the agreement can reasonably be executed on or before December 31, 2008.

(B) If that declaration is signed pursuant to subparagraph (A), the application of the multiplier described in paragraph (1) shall be tolled through December 31, 2008. If the transfer agreement is executed by December 31, 2008, the multiplier shall not apply. Justification for a joint declaration shall be limited to either of the following:

(i) The failure to execute the transfer agreement was caused by the action, inaction, or delay of a third party, or a party to the transaction other than the county.

(ii) The Administrative Office of the Courts and the county have agreed to pursue an alternative method for complying with a seismic liability obligation under the provisions of Section 70324 and failure to execute the transfer agreement was caused by unique circumstances directly connected to the implementation of the alternative method authorized by the section.

(3) In exercising the authority provided under paragraph (2), a county shall not arbitrarily or capriciously request a joint declaration without a good faith belief that the conditions for that declaration are met, and the Administrative Office of the Courts shall not arbitrarily or capriciously decline to sign a joint declaration described in paragraph (2) if the conditions for that declaration are otherwise met.

(4) Copies of any joint declarations described in paragraph (2) will be transmitted upon their signing by both parties to the chairpersons of the Senate and Assembly Committees on Budget, Appropriations, and Judiciary.

(c) Notwithstanding any other provision of law, any transfer agreement that is executed on or after April 1, 2009, shall contain a requirement that the county pay, in addition to the county facility payment established pursuant to Article 5 (commencing with Section 70351), a continuing amount from the date of transfer calculated by multiplying the county facilities payment by the year-to-year percentage change in the annual state appropriations limit as described in Section 3 of Article XIII B of the California Constitution for the year in which the transfer agreement is executed.

(Amended by Stats. 2009, Ch. 140, Sec. 91. (AB 1164) Effective January 1, 2010.)

70322. Agreements for the transfer of responsibility for court facilities from the county to the Judicial Council may include multiple buildings within the county, and need not require a separate agreement for each building.

(Repealed and added by Stats. 2008, Ch. 9, Sec. 3. Effective April 23, 2008.)

70323. Subject to the provisions of Section 70325 concerning a building subject to a bonded indebtedness, and Section 70329 concerning historic buildings, transfer of responsibility for court facilities shall be evidenced by the following change in title to the building containing those facilities:

(a) If the building is currently owned by the county and used solely for court functions, the building shall be transferred to the state which shall hold title to and use of the entire building. This subdivision may not apply to buildings that are deficient as provided in subdivision (b) of Section 70326. Unless bonded indebtedness, including the legal obligation to pay the indebtedness, is transferred to the state, this subdivision does not apply so long as a court facility is subject to bonded indebtedness. Title shall transfer to the state when the bonded indebtedness is paid. For the purposes of this subdivision, bonded indebtedness includes only the bonded indebtedness existing at the time of transfer of responsibility, and any refunding of the existing bonded indebtedness issued to achieve monetary savings to the county. Any refunding under this subdivision does not extend the original maturity date of the bonded indebtedness and may not increase the original principal amount of the indebtedness, except to pay costs relating to the refunding of the bonded indebtedness.

(b) If the building is currently owned by the county and used for court and other county functions, title to the building may be held in one of three ways, each of which shall be considered a transfer of responsibility for the court facilities for purposes of Section 70312:

(1) The county may continue to hold title to the building.

(2) The county may transfer title to the building to the state.

(3) The county may transfer title to the building to joint ownership between the county and the state.

(c) If the building is currently owned by a third party and leased by the county, any of the following apply:

(1) If the lessor consents to transfer of the lease to the state either without modification of the lease or on modification terms acceptable to the county and the Judicial Council, the county shall transfer its rights and responsibilities under the lease to the state. The court shall then occupy the building under the terms of the lease.

(2) If the lessor does not consent to the transfer of the lease to the state or the lessor's new terms for transfer of the lease to the state are unacceptable to either the county or the Judicial Council, the county shall continue to provide facilities to the court under the terms of the lease and the amount of the lease payments shall be excluded from the county facilities payment provided by Section 70359. Upon expiration of the lease, the amount of the lease payments shall then be included in the county facilities payment in the same manner provided by Section 70359, as if the lease were transferred to the state.

(3) If the lessor does not consent to the transfer of the lease to the state or the lessor's new terms for transfer of the lease to the state are unacceptable to either the county or the Judicial Council, the county and the Judicial Council may agree that the provisions of paragraph (2) of subdivision (c) shall not apply, the court shall find alternative facilities, and the amount of the lease payments due under the lease shall be included in the county facilities payment as provided by Section 70359. The agreement under this subdivision may include an agreement for a different lease payment amount to be included in the county facilities payment.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

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.

(Amended by Stats. 2005, Ch. 410, Sec. 3. Effective January 1, 2006.)

70326. (a) Except as provided in this section, the agreement may not require any payment from the county to the state for any deficiencies in the court facilities being transferred caused by deferred maintenance.

(b) A building and the court facilities in it shall be deemed deficient if any of the following exist:

- (1) A deficiency or deficiencies that constitute a significant threat to life, safety, or health.
- (2) A deficiency or deficiencies that include seismically hazardous conditions with an unacceptable seismic safety rating.
- (3) Deficiencies that in their totality are significant to the functionality of the facility.

(c) Neither title to a deficient building nor responsibility for the court facilities in that building shall transfer to the state or the Judicial Council under this chapter, and Section 70312 does not apply to the court facilities in a deficient building, unless provision is made in the agreement for correction of the deficient items.

(d) If one or more phases of a maintenance project are pending on the court facilities prior to the date of the agreement under this article, the agreement shall specify whether the county shall complete those phases of the project, to the extent approved, or shall transfer funds to the state to permit completion of those phases of the project. As used in this section, a phase of a project is to be deemed pending to the extent that the board of supervisors has either approved the phase in whole or in part at a board of supervisors meeting, and either allocated or appropriated money for the phase in whole or in part, or executed a contract for the phase in whole or in part.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

70327. (a) Prior to the completion of the negotiations concerning the transfer of responsibility for court facilities in a building, the state shall provide for a licensed structural engineer to inspect and evaluate the building containing the court facilities for seismic safety if the building was built under a building code prior to the 1988 Uniform Building Code and the building has not been upgraded since 1988 for seismic safety. The inspection shall be made using the method and criteria for seismic safety developed by the Department of General Services' Real Estate Services Division. Any repair required to the damage caused by the exploratory inspection shall be paid for by the state.

(b) The county shall assist the state in the inspection by providing the following:

- (1) Access to the facility for inspection purposes.
- (2) Drawings and design documents for the building, if available.

(3) Any reports on structural or seismic evaluations of the building.

(c) If a building is given an unacceptable seismic safety rating and the county subsequently performs seismic upgrade work, the state may, upon the request of the county and at the county's expense, contract with a licensed structural engineer to reinspect and reevaluate the building.

(d) Neither title to a building with an unacceptable seismic safety rating nor responsibility for the court facilities in that building shall transfer to the state or the Judicial Council under this chapter, and Section 70312 does not apply to the court facilities in that building, unless provision is made in the agreement for correction of the unacceptable seismic safety items.

(e) The Administrative Director of the Courts, in his or her discretion, with the approval of the Director of Finance or his or her designee, may waive the inspection required by subdivision (a) upon his or her finding of either of the following:

(1) The ratio of court facilities to other facilities in the building is minimal and title to the building is not being transferred to the state.

(2) The amount of court space in the building does not exceed 10,000 square feet.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

70328. If a building receives an unacceptable seismic safety rating under Section 70327, or is rejected as deficient under Section 70326, the county may appeal that action to the Court Facilities Dispute Resolution Committee. The state has the burden of proving by a preponderance of the evidence the unacceptable seismic safety rating or deficient rating.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

70329. (a) Title to a historical building containing court facilities may not be transferred to the state without the express consent of the county's board of supervisors.

(b) If title to a historical building containing court facilities is not transferred to the state, the county may still be relieved of its responsibility to fund court facilities under Section 70312 if the county as part of its agreement under this article either:

(1) Makes the court facilities within the historical building available to the Judicial Council for court use.

(2) Provides, with the consent of the Judicial Council, alternative court facilities of at least comparable size, condition, and utility.

(c) Court facilities provided under this section shall meet all requirements for transfer of court facilities under this chapter, and the court and the Judicial Council shall have all the rights to that building that they have under this chapter to other court facilities whose responsibility is transferred to the Judicial Council.

(d) A county shall not prevent a court from using court facilities traditionally used by that court in a historical building, except with the consent of the Administrative Director of the Courts.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

70330. The agreement shall provide for parking spaces for the court of comparable convenience, number, and type, as was made available for court use as of October 1, 2001. For purposes of this section, parking spaces for the court includes, but is not limited to, spaces for judges, court employees, other court staff, witnesses, and jurors.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

70331. (a) If there are one or more pending phases of a project involving court facilities and the responsibility for the facility is to be transferred to the Judicial Council, the Judicial Council may, as part of the agreement under this article, require the completion of those phases of the project, to the extent that county funds or property have been allocated, approved, appropriated, or committed to those phases of the project by resolution or ordinance as a condition of transfer of responsibility to the Judicial Council.

(b) This section applies irrespective of whether title to the building containing the court facilities is to be transferred to the state.

(c) As used in this section, a phase of a project is to be deemed pending to the extent that the board of supervisors has either approved the phase in whole or in part at a board of supervisors meeting, and allocated or appropriated money for the phase in whole or in part, or executed a contract for the phase in whole or in part.

(d) The Judicial Council may request the county to implement design changes relating to the project if either the overall effect of the changes do not increase the costs of the project to the county, or the Judicial Council agrees to pay any extra costs caused by the changes.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

70332. The Judicial Council, in consultation with the Department of Finance and the trial courts, and the California State Association of Counties, in consultation with the Department of Finance and the counties, shall develop the procedures for implementing the transfer of responsibility for court facilities from the counties to the state as set forth in this article.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)

70333. If the Judicial Council and the county fail to reach agreement on any facility, each shall present its position to the Court Facilities Dispute Resolution Committee which shall render its determination concerning that transfer of responsibility for that facility.

(Added by Stats. 2002, Ch. 1082, Sec. 4. Effective January 1, 2003.)