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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 5. County Facilities Payment [70351 - 70370] (Article 5 added by Stats. 2002, Ch. 1082, Sec. 4.)

70351. It is the intent of the Legislature in enacting this section to provide a source of funding for the ongoing operations and maintenance of court facilities by requiring each county to pay to the state the amount that county historically expended for operation and maintenance of court facilities. It is further the intent of the Legislature that funding for the ongoing operations and maintenance of court facilities that are in excess of the county facilities payments be provided by the state.

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

70351.5. Notwithstanding any other provision of this chapter, the California State Association of Counties, the Judicial Council, and the Director of Finance may agree to alternative methods for calculating the county facilities payment amount to be used by any county meeting the criteria set forth in those alternative methods. In the absence of an agreement, the other provisions of this article shall apply.

(Added by Stats. 2006, Ch. 444, Sec. 3. Effective January 1, 2007.)

70352. (a) There is hereby established the Court Facilities Trust Fund.

(b) Money deposited in this fund and appropriated by the Legislature shall be administered by the Judicial Council for the operation, repair, and maintenance of court facilities and other purposes provided by statute. The Judicial Council may delegate the administration of the fund to the Administrative Director of the Courts.

(c) The Judicial Council shall recommend to the Governor and the Legislature each fiscal year on the proposed expenditures from the fund and submit a report on actual expenditures after the end of each fiscal year.

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

70353. (a) Each county shall remit the county facilities payment determined by this article to the Controller, for deposit into the Court Facilities Trust Fund. One-quarter of each county's facilities payment shall be remitted to the Controller quarterly on October 1, January 1, April 1, and July 1. Any payment that is not made when required by this subdivision shall be considered delinquent, and subject to the penalties specified in subdivision (b).

(b) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to $1\frac{1}{2}$ percent per month for the number of days the payment is delinquent. Penalty amounts calculated pursuant to this subdivision shall be paid by the county to the Court Facilities Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(c) The Judicial Council shall provide the Controller with a schedule of the county facility payments at the beginning of each fiscal year. If the amount of the county facility payment changes pursuant to this article, the Judicial Council shall provide the Controller with a new schedule of payments within 30 days of the change.

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

70354. The components of the county facilities payment are based on the actual annual direct and indirect county expenditures on court facilities. In the case of a shared use building, the amounts are prorated for the court's usable space in the building as a percentage of total usable space in the building. The determination of the court's usable space and the total usable space shall be made by the standard methodology used for determining usable space by the Department of General Services.

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

70355. (a) Except for the value computed under Section 70359, all values listed in this article shall be adjusted from the fiscal year of the expenditure to the month of the effective date of transfer for inflation using, as the inflation index, the average of the following three indices from the Bureau of Labor Statistics Producer Price Index, all rebased to equal 100 as of January 1996:

(1) Building cleaning and maintenance services (Series Id PCU 7349).

(2) Operators and lessors of nonresidential buildings (Series Id PCU 6512).

(3) Maintenance and repair constructions (Series Id PCU BMRP).

(b) For purposes of this section, "rebasings" means dividing all the values of the price index, by the value of the price index for the period to which the values are to be rebased, and multiplying the results by 100.

(Amended by Stats. 2003, Ch. 592, Sec. 8. Effective January 1, 2004.)

70356. The following items shall be included in the county facilities payment based on a five-year average of expenditures made by the county for facility operation and maintenance. This amount shall be computed by multiplying the value for each of the five fiscal years from 1995–96 to 1999–2000, inclusive, by the change in the inflation index specified in Section 70355 from January of that fiscal year to the month of the date of transfer of responsibility for the court facilities from the county to the state, inclusive, and then averaging the five adjusted yearly values:

(a) Maintenance and repair, including, but not limited to, maintenance and repair of the building and its components, utility systems, security equipment, and interior and exterior lighting.

(b) Purchase, installation, modernization, and maintenance of major building systems not of an ongoing nature, including, but not limited to, plumbing, HVAC (heating, ventilation, and air-conditioning), electrical, and vertical transportation.

(c) A special repair.

(d) Landscaping and grounds maintenance services for court facilities.

(e) Maintenance of parking spaces or garages dedicated to the court or for jurors.

(f) County facility management and administrative costs directly or indirectly associated with trial court facilities, including, but not limited to, management, supervision, planning, design, department administration, payroll, finance, procurement, and program management.

(Amended by Stats. 2003, Ch. 592, Sec. 9. Effective January 1, 2004.)

70357. (a) The cost of utilities shall be included in the county facilities payment by calculating the average consumption of utilities for the fiscal years 1995–96 to 1999–2000, inclusive, multiplying the consumption averages by the 1999–2000 rates, and multiplying the value by the increase in the inflation index specified in Section 70355 from January 2000, to the month of the date of transfer of responsibility for the court facilities from the county to the state, inclusive. The consumption rates for 1999–2000 shall be the average of the rates for each month of that fiscal year.

(b) If the county states in its county facilities payment calculation under Section 70363 that either utility consumption amounts or rates are not reasonably available for any court facility for any or all of the 1995–96 to 1999–2000, inclusive, fiscal years after a good faith effort to obtain those consumption amounts or rates, then the cost of utilities for that facility shall be included in the county facilities payment by calculating the five-year average of the utility costs incurred in connection with the operation of the building for the 1995–96 to 1999–2000, inclusive, fiscal years. This amount shall be calculated by multiplying the yearly utility costs for each court facility for each of the five fiscal years from 1995–96 to 1999–2000, inclusive, by the change in the inflation index specified in Section 70355 from January of that fiscal year to the month of the date of transfer of responsibility for the court facility from the county to the state, inclusive, and then averaging the five inflation-adjusted yearly values.

(c) If the county states in its county facilities payment calculation under Section 70363 that the utility cost information described in subdivisions (a) and (b) is not reasonably available for any court facilities for any or all of the fiscal years 1995–96 to 1999–2000, inclusive, after a good faith effort to obtain that information, then the cost of utilities for those facilities shall be calculated using all relevant information available to the county and to the Administrative Office of the Courts.

(d) For purposes of any good faith statement made pursuant to subdivision (b) or (c), the county shall include a detailed description of all activities it undertook to obtain the information and the results of each activity.

(e) If the county implemented a special improvement to increase energy efficiency during the 1995–96 fiscal year or thereafter, and that special improvement resulted in measurable and ongoing net cost savings, then the county may include a description of the special improvement and the resulting cost savings as part of its county facilities payment calculation under Section 70363. The amount of any reduction in the county facilities payment calculation shall be limited to the demonstrable ongoing cost savings to the state directly resulting from the special improvement only to the extent not already reflected in the cost or consumption data used to

determine utilities costs. The county shall document or demonstrate the savings and the fact that the savings are not already reflected.

(f) As used in this section, "utility costs" include, but are not limited to, natural gas, heating oil, electricity, water, sewage, and garbage. Utility costs shall be included without regard to whether payment of the costs was made by the county, the court, or another entity except that the amount of specific utility costs may not be included in the county facilities payment if all of the following conditions are satisfied:

- (1) A lease expressly provides that the utilities are to be paid by the lessor.
- (2) There is no payment by the lessee for the utilities, except as part of the lease payment.
- (3) The lease payment is included in the county facilities payment.

(Amended by Stats. 2004, Ch. 249, Sec. 1. Effective August 23, 2004.)

70358. Insurance costs shall be included in the county facilities payment. If the actual expenditures made by the county are used to determine the amount, the expenditures shall be based on the 1999–2000 fiscal year multiplied by the increase in the inflation index specified in Section 70355 from January 2000, to the month of the date of the transfer of responsibility for the court facilities from the county to the state, inclusive.

The amount of insurance may not include the cost of any insurance required by any agreement involving bonded indebtedness on the facility to the extent that the cost of insurance is greater than the cost of commercial insurance coverage on the building.

The determination of the insurance costs may consider the costs of commercial insurance coverage for a fair and reasonable level of insurance and the costs of self-insurance. The amount of the insurance costs shall be subject to negotiation between the Judicial Council and the county.

To the extent the responsibility for grounds is transferred, the insurance costs for court facilities shall include, but not be limited to, the cost of liability insurance relating to the grounds.

(Amended by Stats. 2003, Ch. 592, Sec. 11. Effective January 1, 2004.)

70359. (a) Court facilities rental or leasing, except to the extent included as a court operation in Rule 10.810 of the California Rules of Court, shall be included in the county facilities payment using as the initial amount the annual amount for the lease for the fiscal year of the date of transfer of those court facilities to the state.

(b) The amount computed under subdivision (a) shall be adjusted annually for each remaining year in the lease to reflect the changed annualized amount for the lease for each year remaining on the lease. A lease amount in the final year of any lease entered into or renewed on or after October 2, 2001, shall represent a good faith relationship to the fair market value of the facilities either at the time of the making of the lease or the time of determination of the final year lease amount.

(c) The adjustment of the amount pursuant to subdivision (b) shall not permit either the county or the Judicial Council to appeal the county facilities payment amount under Section 70366 or 70367, except as to any issues directly related to the adjustment made by subdivision (b).

(d) The amount of any lease included in the county facilities payment amount shall, unless otherwise agreed to by the Administrative Director of the Courts and the county, be paid by the county from the county's courthouse construction fund, if the lease was originally entered into prior to July 1, 2002, and to the extent the lease was funded in whole or in part by the courthouse construction fund prior to July 1, 2002. The length of time payment that may be made from the courthouse construction fund is to be calculated by the length of the lease entered into before July 1, 2002, plus any one renewal or extension of not more than five years entered into on or after July 2, 2002. The Administrative Director of the Courts may agree to a longer time for payment from the courthouse construction fund.

(Amended by Stats. 2007, Ch. 130, Sec. 134. Effective January 1, 2008.)

70360. Calculation of the county facilities payment may not include any of the following:

- (a) Purchase of land and buildings.
- (b) Construction and construction services.
- (c) Maintenance of parking for the general public whose responsibility is not transferred and that may also be used by the courts or jurors.
- (d) Depreciation of court facilities.
- (e) Costs associated with court facilities or a portion of the facilities that is not transferred to the state or that remains a county responsibility.
- (f) A capital project that alters the facilities' function or capacity.

(g) Any county payments resulting from bonded indebtedness and not normally a cost of building operation.

(h) A special improvement.

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

70361. The Administrative Office of the Courts, in consultation with the courts, and the California State Association of Counties, in consultation with the counties, shall jointly prepare forms and instructions for calculating the county facilities payment in compliance with this section and submit those forms and instructions to the Director of Finance for approval. In the event that the Administrative Office of the Courts and the California State Association of Counties are unable to agree on forms and instructions, they shall present their positions of agreement and disagreement to the Director of Finance who shall make the final determination on the forms and instructions. The proposed forms and instructions or positions of each party shall be provided to the Director of Finance no later than June 30, 2003. Upon approval by the Director of Finance, the Administrative Office of the Courts shall provide the counties and the courts with the approved forms and instructions.

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

70362. (a) The Department of Finance shall provide the Administrative Office of the Courts with the base inflation index figures specified in Section 70355 for January 1996, January 1997, January 1998, January 1999, and January 2000, to be included in the approved instructions.

(b) During the period from July 2003, to June 2007, inclusive, on a monthly basis, the department shall provide the Administrative Office of the Courts with a forecast of the monthly inflation index figures specified in Section 70355, using a methodology mutually agreed upon by the department, Administrative Office of the Courts, and California State Association of Counties. This forecast may be used to make a preliminary determination of the county facility payment based on the proposed and final month of transfer.

(c) The department shall provide the Administrative Office of the Courts with the final revised inflation index figures specified in Section 70355 when the final data is available from the Bureau of Labor Statistics Producer Price Index. If the final inflation index figures for the month when a facility transferred from the county to the state is different than the figure used to calculate the county facility payment at the time of the transfer, the Administrative Office of the Courts shall recalculate the county facilities payment based on the final inflation index figures.

(d) Notwithstanding subdivision (c) of Section 70353, any change in the final county facilities payment made pursuant to subdivision (c) shall be reflected as an adjustment to the schedule of county facilities payments at the beginning of the next fiscal year. In addition, any over or underpayment resulting from the difference between the final calculation made pursuant to subdivision (c) and the county facility payment calculation made at the time of transfer shall be reflected as a one-time adjustment to the amount of the first county facility payment owed at the beginning of the next fiscal year.

(Amended by Stats. 2003, Ch. 592, Sec. 12. Effective January 1, 2004.)

70363. Each county shall calculate the county facilities payment for each facility pursuant to Section 70351.5 or using the forms and instructions as approved and distributed pursuant to Section 70361. The county shall mail the Judicial Council and local court the actual expenditure figures and adjustments at least 90 days prior to the proposed date of transfer of responsibility for that facility. The county auditor or, at the discretion of the board of supervisors, the board shall certify the reported expenditures and indexed calculations.

(a) Prior to the transfer of responsibility of each court facility from the county to the state, the Administrative Office of the Courts shall review the accuracy of the calculations.

(b) The Administrative Office of the Courts and the county shall meet and discuss any differences they have concerning the calculations in an effort to reduce or eliminate any areas of disagreement. Following the discussions, the Administrative Office of the Courts shall mail the Department of Finance the proposed county facility payment and any necessary background information, including the calculations and the reported county expenditures and a summary of any disagreements between the Administrative Office of the Courts and the county regarding the payment.

(c) The Department of Finance shall within 30 days of the receipt of the proposed county facilities payment from the Administrative Office of the Courts do any of the following:

(1) Approve the proposed payment.

(2) Approve a modified payment.

(3) Request additional information from either the county or the Administrative Office of the Courts.

(d) When the department has approved a county facilities payment for that facility, it shall mail the Administrative Director of the Courts the approved county facilities payment. The Administrative Office of the Courts shall mail a copy of the Department of

Finance notification to the county administrative officer and the court executive officer.

(Amended by Stats. 2008, Ch. 9, Sec. 4. Effective April 23, 2008.)

70365. The parties to any appeal of the determination of the county facilities payment, for purposes of the mailing of documents, are the county administrative officer, on behalf of the county, and the Administrative Director of the Courts, on behalf of both the state and the court.

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

70366. (a) Within 30 days after the Administrative Office of the Courts has mailed the county the approved county facilities payment, pursuant to subdivision (d) of Section 70363, the county may submit a declaration to the Court Facilities Dispute Resolution Committee, with the mailing of copies to the other parties, that the amount is incorrect for one or more of the following reasons:

(1) Expenditure data is reported incorrectly or calculated incorrectly and causes an approved county facilities payment amount that is higher than the payment should be.

(2) The approved county facilities payment includes amounts that were specifically appropriated, funded, and expended by the county to fund extraordinary one-time expenditures. Extraordinary one-time expenditures do not include periodic major facility repair or maintenance including, but not limited to, reroofing or replacement of a major system component. Extraordinary one-time expenditures do include, but are not limited to, abatement of asbestos and seismic structural upgrades.

(3) The approved county facilities payment includes expenses funded from grants or subventions that would not have been funded without these grants or subventions.

(b) The Administrative Director of the Courts shall mail comments to the Court Facilities Dispute Resolution Committee on the county's declaration within 30 days of the mailing of the county's declaration, with the mailing to the other parties.

(c) Within 90 days of receipt of comments pursuant to subdivision (b), the Court Facilities Dispute Resolution Committee shall review the declarations and comments received, and make its recommendation to the Director of Finance concerning correction of any errors and, if necessary, adjustment of the amount of the county facilities payment. The Court Facilities Dispute Resolution Committee shall mail a copy of its recommendation to all the parties.

(d) The Director of Finance or his or her designee shall review the recommendations of the Court Facilities Dispute Resolution Committee and make his or her determination concerning any correction of errors and, if necessary, adjustment of the amount of the county facilities payment. The director shall mail a copy of his or her determination on all the parties.

(Amended by Stats. 2003, Ch. 592, Sec. 13. Effective January 1, 2004.)

70367. (a) Within 30 days after the Administrative Director of the Courts has mailed to the county, pursuant to subdivision (d) of Section 70363, the approved county facilities payment, the Administrative Director of the Courts may submit a declaration to the Court Facilities Dispute Resolution Committee, with copies mailed to the other parties, that the amount is incorrect because the county failed to report court facilities expenses paid by the county which reduced the amount of the approved county facilities payment.

(b) The county shall mail its comments to the Court Facilities Dispute Resolution Committee on the administrative director's declaration within 30 days of the mailing of the administrative director's declaration, with copies mailed to the other parties.

(c) Within 90 days of receipt of comments pursuant to subdivision (b), the Court Facilities Dispute Resolution Committee shall review the declarations and comments received, and make its recommendation to the Director of Finance concerning correction of any errors and, if necessary, an adjustment of the amount of the county facilities payment. The Court Facilities Dispute Resolution Committee shall mail a copy of its recommendation to all the parties.

(d) The Director of Finance or his or her designee shall review the recommendations of the Court Facilities Dispute Resolution Committee and make his or her determination concerning any correction of errors and, if necessary, an adjustment of the amount of the county facilities payment. The director shall serve a copy of his or her determination on all the parties.

(Amended by Stats. 2005, Ch. 22, Sec. 109. Effective January 1, 2006.)

70368. The county shall initially compute a separate county facilities payment for each building containing court facilities whose responsibility is transferred to the Judicial Council using the proposed date of transfer of responsibility for those court facilities as the date for computing inflation under Sections 70356, 70357, and 70358. The county's responsibility for the county facilities payment for those facilities commences upon the actual date of transfer of responsibility for those facilities. If the actual date of transfer of responsibility for a facility is different than the proposed date of transfer, upon which the county facilities payment is calculated, the Administrative Office of the Courts shall adjust the amount of the county facilities payment by applying the inflation index figures for that county for the actual date of transfer, as provided in Section 70362, to the approved county facilities payment. The amount of

any county facilities payment that takes effect after the beginning of a fiscal year shall be prorated for the amount remaining in that fiscal year. In no event shall a county have any responsibility for a court facility payment prior to the effective date of the transfer of responsibility for a facility.

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

70369. Where mail of notice or any other document is required by this article, any method of mailing equivalent to first-class mail may be used. The computation of time based on mailing under this article is based on the date the item was deposited in the mail.

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

70370. If the amount computed by the county under Section 70368 is increased pursuant to this article, the county shall pay the state the difference relating back to the initial date payment was due under Section 70368. If the amount computed by the county under Section 70368 is reduced pursuant to this article, the state shall pay the county the difference relating back to the initial date payment was due under Section 70368. Upon agreement between the county and state, any amount due under this section may be made by an addition or reduction in the next scheduled county facilities payment.

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