

First Supplement to Memorandum 2009-50

Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court (Discussion of Issues)

This supplement discusses comments received on the revisions of Government Code Section 24350 recommended in Memorandum 2009-50. Attached as an exhibit are written comments from the Office of County Counsel, County of Tehama (hereafter, "Tehama County Counsel" or "County Counsel"). The staff has also been in communication with the Administrative Office of the Courts (hereafter, "AOC") regarding Section 24350. The staff appreciates the input.

We begin by summarizing the revisions recommended in Memorandum 2009-50. Next, we turn to the comments by the Tehama County Counsel, which discuss the application of Section 24350 to a county officer. We then turn to the preliminary input from the AOC, which pertains to the application of Section 24350 to a court officer.

BACKGROUND

On page 6 of Memorandum 2009-50, the staff proposes repealing Section 24350, and relocating its substance to Government Code Section 68083, as follows:

Gov't Code § 24350 (repealed). Collection of fees

SEC. __. Section 24350 of the Government Code is repealed.

~~24350. Each salaried officer of a county or judicial district shall charge and collect for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.~~

Comment. Section 24350 is repealed and its substance is continued, with revisions, in Section 68083.

Gov't Code § 68083 (added). Collection of fees

SEC. __. Section 68083 is added to the Government Code, to read:

68083. Each salaried officer of a superior court shall charge and collect the fees allowed by law in all cases. Except as otherwise provided by law, the officer shall deposit those fees into the Trial Court Trust Fund on or before the fifth day of each month. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

Comment. Section 68083 continues the substance of former Section 24350, with revisions to reflect (1) the unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution, and (2) the enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77003 (“court operations” defined), 77200 (state funding of “court operations”).

Note: Comment Requested

Section 24350 requires an officer to pay into the county treasury “the fees allowed by law in all cases, *except those or a percentage of them allowed him or her*” (Emphasis added.) The Commission specially solicits comment on whether any court officer may continue to receive a percentage of the fees collected by the officer. Proposed Section 68083 assumes that no one is still subject to such an arrangement. The Commission seeks to confirm that assumption.

The above revisions were premised on an express assumption by the staff that Section 24350 applies only to a court officer. As discussed on pages 3-4 of Memorandum 2009-50, the scope of the section was not entirely clear to the staff. Although the section governs an “officer of a county or judicial district,” it is ambiguous because a superior court officer was formerly a county officer, and a municipal court officer was an officer of a judicial district. Based partly on language providing that the section applies to “fees allowed by law in all cases,” the staff ultimately decided to proceed on an assumption that this language refers to fees for court cases, and that the section thus applies only to a court officer.

COMMENTS BY THE TEHAMA COUNTY COUNSEL

The Tehama County Counsel comments that the staff’s assumption that Section 24350 governs only a court officer is erroneous. The County Counsel points to several sources that indicate Section 24350 applies to a county officer.

Case Law on Sections that Preceded Section 24350

While it appears that no court decision discusses Section 24350 itself, the County Counsel points to decisions discussing predecessor sections (including Section 165 of the County Government Act of 1883, Section 216 of the County Government Act of 1897, and former Political Code Section 4292).

The predecessor sections are nearly identical to Section 24350. Section 24350 provides:

Each salaried officer of a county or judicial district shall charge and collect for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

The immediate predecessor to Section 24350 provides:

All salaried officers of the several counties and townships of this state shall charge and collect for the use of their respective counties, and pay into the county treasury, on the first Monday in each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county.

Former Political Code § 4292 (1907 Cal. Stat. ch. 282, § 1). Additionally, two sections that preceded this section are identical to it, except they do not include the reference to townships.

The County Counsel cites to several cases that apply the predecessor sections to county officers who perform non-court duties. See, e.g., *County of Los Angeles v. Cline*, 185 Cal. 299, 197 P. 67 (1921) (sheriff providing food to prisoners), *County of San Diego v. Bryan*, 18 Cal. App. 460, 123 P. 347 (1912) (justice of peace solemnizing marriages), *People v. Kay*, 34 Cal. App. 2d 691, 94 P.2d 361 (1939) (county clerk collecting dog license fees); see also Exhibit p. 2, nn. 7-11.

Because Section 24350 is so similar to its predecessor sections, those cases strongly indicate that Section 24350 also applies to county officers.

Attorney General Opinions

Additionally, as the Tehama County Counsel notes, two Attorney General opinions apply Section 24350 itself to a county officer. See, e.g., 27 Ops. Cal. Att’y Gen. 402, 403 (1956) (recorder), 40 Ops. Cal. Att’y Gen. 213, 214 (1962) (sheriff).

Legislative History

The Tehama County Counsel also points out some legislative history of Section 24350 that shows the section is intended to apply to a county officer. See Exhibit p. 3.

In 1993, Section 24350 was amended to provide that an officer is not required to accept coin for payment. See 1993 Cal. Stat. ch. 1187, § 2.5. Committee analyses of the amendment state that it is intended to prevent taxes or fees from being paid in coin. See Senate Floor Analysis of SB 70 (Aug. 31, 1993); Senate Revenue and Tax Committee Analysis of SB 70 (March 12, 1993). Because a county officer collects taxes, the analyses reveal that Section 24350 is intended to apply to a county officer, not just a court officer.

Recommendation

Instead of repealing Section 24350, the Tehama County Counsel suggests amending it to remove the obsolete reference to a judicial district, while relocating the material relating to courts to Section 68083. See Exhibit p. 3.

Based on all of the above, **the staff agrees that Section 24350 should not be repealed.** Accordingly, instead of repealing Section 24350 as shown on page 6 of Memorandum 2009-50, **the staff recommends revising the section to remove the obsolete reference to a judicial district, as follows:**

24350. Each salaried officer of a county ~~or judicial district~~ shall charge and collect for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

Comment. Section 24350 is amended to reflect (1) the unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution, and (2) the enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655). See, e.g., Sections 77003 (“court operations” defined), 77200 (state funding of “court operations”). For fees collected by a salaried officer of a superior court, see Section 68083.

PRELIMINARY INPUT FROM THE AOC

In Memorandum 2009-50, the staff recommended that the court-related substance of Section 24350 be relocated to Title 8 of the Government Code, which pertains to courts. The staff further recommended that revisions be made to:

- (1) Replace the reference to a “salaried officer of a county or judicial district” with a reference to a “salaried officer of a superior court.” This revision is needed because the superior courts are now funded by the state instead of the county, and an officer of the superior court is no longer an officer of the county.
- (2) Delete two apparently obsolete exceptions, one relating to fees owed by the county, and the other relating to fees an officer is permitted to keep as salary. A Note in the tentative recommendation would specially request input on whether to delete the latter exception.
- (3) Replace the requirement that fees be deposited into the county treasury with a requirement that fees be deposited into the Trial Court Trust Fund, except as otherwise provided by law. Again, we suggested this revision to reflect the switch from county funding to state funding of trial court operations.

The staff recommended that these revisions and the relocation be effectuated by adding Section 68083 to the Government Code, to read:

Each salaried officer of a superior court shall charge and collect the fees allowed by law in all cases. Except as otherwise provided by law, the officer shall deposit those fees into the Trial Court Trust Fund on or before the fifth day of each month. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

The language in this new section would deviate from the language in existing Section 24350 as shown in ~~strikeout~~ and underscore below:

Each salaried officer of a ~~county or judicial district~~ superior court shall charge and collect ~~for the use of his or her county and pay into the county treasury on or before the fifth day of each month~~ the fees allowed by law in all cases, ~~except those or a percentage of them allowed him or her, and those which are a charge against the county.~~ Except as otherwise provided by law, the officer shall deposit those fees into the Trial Court Trust Fund on or before the fifth day of each month. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

Through informal communications, AOC staff has expressed concern about proposed new Section 68083. AOC staff initially suggested some alternative language, but they are now rethinking that suggestion in light of questions we posed. AOC staff expects it will take awhile to fully research the matter and determine what position to take. There is a good possibility that the AOC and Judicial Council will ultimately recommend a more far-reaching reform than the Commission is authorized to study — i.e., a reform that goes beyond removing or updating material made obsolete by trial court restructuring.

The concerns voiced by AOC staff relate primarily to:

- (1) Where fee money is to be deposited (the Trial Court Trust Fund or elsewhere).
- (2) When fee money is to be deposited (“on or before the fifth day of each month” as Section 24350 states, or at some other time).

For purposes of a tentative recommendation, the Commission could partially address those concerns by being less specific about where and when fee money is to be deposited. **That could perhaps be done by rephrasing proposed Section 68083 to read:**

68083. Each salaried officer of a superior court shall charge, collect, and promptly deposit the fees allowed in each case, as provided by law. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.

That would be equivalent to revising the language in existing Section 24350 as follows:

~~Each salaried officer of a county or judicial district superior court shall charge, and collect, and promptly deposit for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county in each case, as provided by law. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees.~~

The staff believes this would be a good idea. It would allow the Commission to go forward in soliciting comment, while avoiding the use of language we know is troubling to the AOC. Notably, AOC staff suggested a similar stopgap approach, for use pending completion of the AOC’s analysis. See Email from J. Grove to C. Bidart (2/11/10). If the AOC and Judicial Council

eventually come up with alternative language that falls within the scope of the Commission's authority, the Commission could always substitute that language later.

Respectfully submitted,

Catherine Bidart
Staff Counsel

Barbara Gaal
Chief Deputy Counsel



OFFICE OF COUNTY COUNSEL
COUNTY OF TEHAMA

727 Oak Street
Red Bluff, California 96080
530-527-9252 Telephone
530-527-9255 Facsimile

WILLIAM JAMES MURPHY
County Counsel

ARTHUR J. WYLENE
Assistant County Counsel
SYLVIA DURAN, Deputy
ALAN B. COX, Deputy
Robin Bennett, Office Manager
Tina Macdonald, Legal Secretary
Melinda Hahn, Legal Secretary

January 11, 2010

Law Revision Commission
RECEIVED

JAN 19 2010

Barbara Gaal
Chief Deputy Counsel
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739

File: _____

RE: Memorandum 2009-50 (Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court)

Dear Ms. Gaal:

After reviewing the above-captioned Memorandum, the Tehama County Counsel's office submits the following comments on the proposed amendment/repeal of Government Code section 24350. The Memorandum's analysis of that statute proceeds from the stated "assumption that Section 24350 applies only to collection of fees in court cases."¹ Unfortunately, this assumption is clearly erroneous, and the proposed statutory amendments premised upon this assumption are consequently inappropriate and actively harmful to general law Counties throughout the state.²

The Memorandum indicates that Commission "staff was unable to find any case law on this point." However, the Memorandum apparently fails to recognize that Section 24350, as enacted in 1947, was simply a re-codification of former Political Code section 4292 – which was itself a direct descendant of Section 165 of the County Government Act of 1883.³ These

¹ (Memo., p. 4.)

² Ironically, Tehama County itself would likely be unaffected. Our Charter contains its own provision that "In all cases in which an officer is to receive a fixed salary, whether such salary be fixed by this Charter or by the Board of Supervisors, such salary shall be in full compensation for all services by such officer; and in all cases in which such officer is, by General Law, entitled to charge or receive any fees or commissions, it shall be the duty of such officer to charge, collect and receive such fees or commissions, and to pay the same monthly to the County treasurer." (Tehama County Charter, art. IV, § 4.) The primacy of this provision over the general law, and its applicability to non-court fees, were both confirmed over 85 years ago in *County of Tehama v. Winter* (1922) 56 Cal.App. 341.

³ The provisions of Section 165 of the County Government Act of 1883 (Stats. 1883, ch. 75, § 165, attached as Exhibit "A") were incorporated into Section 216 of the County Government Act of 1897 (Stats. 1897, ch. 277, § 216, attached as Exhibit "B") and eventually codified as Political Code section 4292. (Stats. 1907, ch. 282, § 1, attached as Exhibit "C". See *County of Alameda v. Cook* (1916) 32 Cal.App. 165, 168 [noting the codification].) Section 4292 was re-designated Government Code section 24350 by Stats. 1947, ch. 424, § 1 (attached as Exhibit "D"). The Appendix to the 1947 statute, showing the disposition of former Political Code section 4292 as Government Code section 24350, is attached as Exhibit "E."

predecessor provisions have been the subject of extensive judicial construction that firmly eliminates any suggestion that the statute applies only to court-related fees.

County of San Diego v. Bryan (1912) 18 Cal.App. 460 is perhaps most explicitly on point. In *Bryan*, a justice of the peace received a statutory salary of "one hundred and fifty dollars per month, in full of all compensation in both civil and criminal cases." He contended that he was entitled to retain the fees he received for solemnizing marriages because "solemnizing of a marriage is neither a civil nor a criminal case, and therefore the fees received by him are his personal property."⁴ The Court of Appeal rejected this contention, citing former Political Code sections 4290⁵ and 4292, and unequivocally holding Section 4292 applicable to the fees in question.⁶ Similarly, Section 4292 and its identically phrased antecedents were applied in numerous cases involving the Sheriff,⁷ Assessor,⁸ Public Administrator,⁹ Clerk (as collector of dog license fees),¹⁰ and Treasurer.¹¹ These cases address a broad range of fees collected under a variety of circumstances, and make it abundantly clear that the statute at issue is not limited "to collection of fees in court cases."¹²

⁴ (*Id.* at p. 462.)

⁵ As relevant here, former Political Code section 4290 provided that "[t]he salaries and fees provided in this title shall be in full compensation for all services of every kind and description rendered by the officers named in this title, either as officers, ex-officio officers, their deputies and assistants, unless in this title otherwise provided . . ."

⁶ Likewise, *Richardson v. Morrison* (1929) 101 Cal.App. 418 proceeds from the evident assumption that fees for solemnizing marriages were subject to Section 4292. However, in that case, no such fees were authorized by law, and hence the County was not entitled to recover. "If the justice of the peace has no right to collect them, neither can the county demand them from him. Irrespective of whatever other action might be taken in regard to any such money, if the acceptance of the same be in violation of law, the county has no right nor title thereto, and appellant was therefore not entitled to the writ prayed for." (*Id.* at p. 422.)

⁷ (*County of Santa Clara v. Branham* (1888) 77 Cal. 592; *County of Los Angeles v. Cline* (1921) 185 Cal. 299.)

⁸ (*County of Alameda v. Dalton* (1908) 9 Cal.App. 26. See also *County of Tehama v. Winter*, *supra* [holding similar provisions of the Tehama County Charter applicable to the Assessor].)

⁹ (*County of Los Angeles v. Kellogg* (1905) 146 Cal. 590, 596.)

¹⁰ (*People v. Kay* (1939) 34 Cal.App.2d 691.)

¹¹ (*Smith v. Dunn* (1885) 68 Cal. 54; *County of Sacramento v. Colgan* (1896) 114 Cal. 246.)

¹² Further, both *County of Santa Clara v. Branham*, *supra* and *County of Alameda v. Cook* (1916) 32 Cal.App. 165 expressly analogized the provision in question here to the facially broad language in the statutes and Charter provisions applicable to the City and County of San Francisco. (See *Branham*, *supra*, 77 Cal. at pp. 595-596 [special statute applicable to San Francisco, construed in prior decision, "provided that the officers receiving salaries should pay into the county treasury 'any fees, commissions, percentages, or other compensation, of whatever nature or kind, allowed by law, for services rendered by them or their deputies, in their several official capacities' . . . The case is in point here. *There is no material difference in the language used in the statutes which controlled that decision and in those which must control the decision here*"; *Cook*, *supra*, 32 Cal.App. at pp. 168-169 [San Francisco Charter required the county clerk to pay into the county treasury all moneys coming into his hands, as such officer, "no matter from what source derived or received." "We are unable to perceive . . . any material distinction between the scope and effect of the charter provisions of San Francisco [interpreted in prior cases] and the provisions of the statute law of the state which the plaintiff claims . . . While these statutory provisions do not in so many words . . . direct that all fees, "no matter from what source derived or received," should be paid into the county treasury, nevertheless they did direct the defendant to collect and pay into the county treasury all fees "allowed by law," and this direction, we take it, is broad enough

Further, Government Code section 24350 itself has been addressed by two opinions of the Attorney General, both of which applied the statute to such non-court fees as the Recorder's charges for making copies of recorded documents, Sheriff's fees for service of process, and Coroner's fees for embalming bodies.¹³

Finally, the Legislature itself quite plainly considers Section 24350 applicable to all fees collected by salaried County officers, not merely court fees. The final sentence of the statute ("[n]o salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees") was added by Statutes 1993, chapter 1187, section 2.5 (Senate Bill 70) - the annual omnibus *property tax* bill. The legislative history explains the reason for this addition as follows:

"GC 24350 & 24353 - *Coin in payment of taxes* - Currently it is not clear that county officers may refuse to accept payment of taxes, fines, fees, etc. in the form of small coins *from taxpayers* who intend to use this method of payment as a form of harassment. This bill clarifies that county officers are not required to accept such payments."¹⁴

The statutory amendment would obviously have been wholly ineffective for this purpose if the statute in question indeed applied only "to collection of fees in court cases."

For all of these reasons, it is quite clear that Section 24350 applies to fees collected by all County officers under all *circumstances*, and thereby serves valuable public purposes (especially in light of the above-described 1993 amendment).¹⁵ Therefore the proposed repeal of that statute is inappropriate and harmful to County governments. As an alternative to the Memorandum's recommendation, we suggest that Section 24350 be amended as follows:

"24350. Each salaried officer of a county or judicial district shall charge and collect for the use of his or her county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him or her, and those which are a charge against the county. No salaried officer who collects fees pursuant to this section shall be required to accept coin in payment of those fees."

Proposed Section 68083 can then be added as set forth in the Memorandum, thereby achieving consistency and clarity for the disposition of funds received by both County and Superior Court officers.

in its scope and effect to cover and control the disposition of all fees received by the defendant Cook in his official capacity regardless of the source from which they were derived".)

¹³ (27 Ops.Cal.Atty.Gen. 402, 403 (1956); 40 Ops.Cal.Atty.Gen 213, 214 (1962).)

¹⁴ (Sen. Floor Analysis, Sen. Bill No. 70 (1993-1994 Reg. Sess.) as amended Aug. 31, 1993 - attached as Exhibit "F"; Sen. Rev. & Tax. Com., Analysis of Sen. Bill No. 70 (1993-1994 Reg. Sess.) as amended Feb. 24, 1993 - attached as Exhibit "G".)

¹⁵ Even on its own terms, the Memorandum's conclusion that Section 24350 applies only to collection of fees in court cases is somewhat curious. The Memorandum correctly acknowledges that Government Code sections 24351, 24352, and 24353 all apply to County officers who receive monies outside of the judicial process, but nonetheless declines to read Section 24350 *in pari materia* with these manifestly related provisions.

Our office is still reviewing the remainder of the Memorandum, and may provide additional comments on the other recommendations at a future date. In the meantime, please do not hesitate to contact us if you have any questions.

Very truly yours,

WILLIAM JAMES MURPHY
Tehama County Counsel

By 
ARTHUR J. WYLENE
Assistant County Counsel

EXHIBIT A

TWENTY-FIFTH SESSION.

299

that shall remain in the hands of the County Treasurer after all bonds that have been or may be issued on account of such buildings shall have been redeemed, and all other indebtedness arising on account of such building shall have been liquidated, shall be placed in the County School Fund of the school district for which such moneys were raised, subject to the order of the Trustees of said district.

surplus moneys to be placed in County School Fund.

CHAPTER LXXV.

An Act to establish a uniform system of county and township governments.

[Approved March 14, 1883.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. The several counties of this State as they now exist, and such other counties as may be hereafter organized according to law, are bodies corporate and politic, and as such have the powers specified in this Act, and such other powers as are necessarily implied.

Counties as now organized or may be created are bodies politic.

SEC. 2. Its powers can only be exercised by the Board of Supervisors, or by agents and officers acting under their authority, or authority of law.

Powers, how exercised

SEC. 3. The name of a county designated in the law creating it is its corporate name, and it must be designated thereby in all actions and proceedings touching its corporate rights, property, and duties.

Name.

SEC. 4. It has power:

Powers.

1. To sue and be sued;
2. To purchase and hold land within its limits;
3. To make such contracts and purchase and hold such personal property as may be necessary to the exercise of its powers;
4. To manage and dispose of its property as the interests of its inhabitants may require;
5. To levy and collect such taxes for purposes under its exclusive jurisdiction as are authorized by law.

SEC. 5. No county shall, in any manner, give or loan its credit to or in aid of any person or corporation. No county shall incur any indebtedness or liability in any manner or for any purpose, exceeding in any year the income and revenue provided for it for such year, without the assent of two thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same. Any

Restrictions.

and fifteen per cent of all amounts collected by him for poll taxes; and *provided further*, that the Board of Supervisors shall allow to the Sheriff his necessary expenses for pursuing criminals or transacting any criminal business without the boundaries of his county, and for boarding prisoners in the county jail; *provided*, that the Board of Supervisors shall fix the price at which such prisoners shall be boarded. The Court shall also allow the Sheriff his necessary expenses in keeping and preserving property seized on attachment or execution, to be paid out of the fees collected in the action. All expenses necessarily incurred in conveying prisoners to and from the State Prison, and insane persons to and from the Insane Asylum, which shall be allowed by the Board of Examiners and collected from the State.

Fees.

SEC. 165. All salaried officers of the several counties of this State shall charge and collect, for the use of their respective counties, and pay into the county treasury on the first Monday in each month, the fees now or hereafter allowed by law in all cases, except the percentage hereinbefore allowed such officers, and excepting also such fees as are a charge against the county.

Fee book.

SEC. 166. Each of the officers authorized to receive fees under the provisions of this Act, must keep a fee book, open to the public inspection during office hours, in which must be entered at once and in detail all fees or compensation of whatever nature, kind, or description, collected or chargeable. On the first Monday of each and every month the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all fee books kept by him to the County Auditor.

Affidavit.

SEC. 167. The fees and compensation collected and chargeable for the county in each month shall be paid to the County Treasurer on the first Monday of the following month, and must be accompanied by a statement of the aggregate amount thereof as shown by the fee book, duly verified by the officer making such payment. The affidavit shall be in the following form: "I, A. B., County Clerk (or other officer, as the case may be), do swear that the fee book in my office contains a true statement in detail of all fees and compensation of every kind and nature for official services rendered by me, my deputies, and assistants, for the month of _____, A. D. _____, and that said fee book shows a full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor to my knowledge or belief any of my deputies or assistants, have rendered any official service, except for the county, which is not fully set out in said fee book, and that the foregoing statement thereof is true and correct." The Treasurer shall file and preserve in his office said statements and affidavit.

Salary Fund.

SEC. 168. For the purpose of paying the salaries provided for in this Act, all fees directed to be paid into the county treasury shall be set apart therein as a separate fund, to be known as the Salary Fund, to be applied to the payment of said salaries. Should the amount received from such

EXHIBIT B

452

STATUTES OF CALIFORNIA.

CHAPTER CCLXXVII.

An Act to establish a uniform system of county and township governments.

[Approved April 1, 1897.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

- Counties are bodies corporate.** SECTION 1. The several counties of this State, as they now exist, and such other counties as may be hereafter organized, according to law, are bodies corporate and politic, and as such have the powers specified in this Act, and such other powers as are necessarily implied.
- Powers exercised.** SEC. 2. Their powers can only be exercised by the Board of Supervisors, or by agents and officers acting under their authority, or authority of law.
- Corporate name.** SEC. 3. The name of a county designated in the law creating it is its corporate name, and it must be designated thereby in all actions and proceedings touching its corporate rights, property, and duties.
- Powers.** SEC. 4. It has power:
1. To sue and be sued.
 2. To purchase and hold land within its limits.
 3. To make such contracts and purchase and hold such personal property as may be necessary to the exercise of its powers.
 4. To manage and dispose of its property as the interests of its inhabitants may require.
 5. To levy and collect such taxes, for purposes under its exclusive jurisdiction, as are authorized by law.
- Shall not loan credit.** SEC. 5. No county shall, in any manner, give or loan its credit to or in aid of any person or corporation. An indebtedness or liability incurred contrary to this provision shall be void.
- Violations void.** SEC. 6. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made in violation of this Act, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county. And all officers of said county are charged with notice of the condition of the treasury of said county, and the extent of the claims against the same.
- Officers liable on bond.** SEC. 7. Any officer authorizing, or aiding to authorize, or auditing, or allowing, or paying any claim or demand upon or against said treasury, or any fund thereof, in violation of any of the provisions of this Act, or of the Constitution of this State, shall be liable in person, and upon his official bond, to the person or persons damaged by such illegal authorization, to the extent of his or their loss by reason of the non-payment of his or their claims.
- Duty of District Attorney in violations.** SEC. 8. Whenever any Board of Supervisors shall, without authority of law, order any money paid as a salary, fees, or for any other purposes, and such money shall have been actually paid; or whenever any county officer has drawn any warrant

Supervisors shall allow to the Sheriff his necessary expenses for pursuing criminals or transacting any criminal business without the boundaries of his county, and for boarding prisoners in the county jail; *provided*, that the Board of Supervisors shall fix a reasonable price at which such prisoners shall be boarded, if not otherwise provided for in this Act; *provided further*, that the Sheriff shall be entitled to receive and retain for his own use, five dollars per diem for conveying prisoners to and from the state prisons, and for conveying persons to and from the insane asylums, or other state institutions not otherwise provided for by law; also, all expenses necessarily incurred in conveying insane persons to and from the insane asylums, and in conveying persons to and from the state prisons, or other state institutions, which per diem and expenses shall be allowed by the Board of Examiners, and collected from the State. The court shall also allow the Sheriff his necessary expenses in keeping and preserving property seized on attachment or executions, to be paid out of the fees collected in the action. The Sheriff may retain for his own use the mileage for service of papers or process issued by any court of the State outside of his own county.

Allowance to Sheriff.

Boarding prisoners.

Conveying prisoners and insane.

Expenses for keeping property.

FEES TO BE PAID INTO THE COUNTY TREASURY.

SEC. 216. All salaried officers of the several counties of this State shall charge and collect for the use of their respective counties, and pay into the county treasury, on the first Monday in each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county.

Fees to be paid in monthly.

FEE BOOK.

SEC. 217. Each of the officers authorized to receive fees under the provisions of this Act must keep a fee book, open to the public inspection during office hours, in which must be entered, at once and in detail, all fees or compensation, of whatever nature, kind, or description, collected or chargeable. On the first Monday of each and every month, the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all fee books kept by him to the County Auditor.

Fee book

STATEMENT OF FEES.

SEC. 218. The fees and compensation collected and chargeable for the county in each month shall be paid to the County Treasurer on the first Monday in the following month, and must be accompanied by a statement of the aggregate amount thereof, as shown by the fee book, duly verified by the officer making such payment. The affidavit shall be in the following form: "I, A. B., County Clerk (or other officer, as the case may be), do swear that the fee book in my office contains a true statement

Monthly statement of fees.

Form of statement of fees collected.

EXHIBIT C

354

STATUTES OF CALIFORNIA.

changing name, or certified copy of order and decree of court, dissolving a corporation, five dollars.

Excep-
tions.

No member of the legislature or state officer shall be charged for any search relative to matters appertaining to the duties of their office; nor shall they be charged any fee for a certified copy of any law or resolution passed by the legislature relative to their official duties.

Disposi-
tion
of fees.

All fees collected by the secretary of state must, at the end of each month, be paid into the state treasury. Three thousand five hundred dollars of such monthly returns shall be credited to and constitute the state library fund, and the balance shall be paid into the general fund of the state.

State
library
fund.

CHAPTER 282.

An act to repeal Title II of Part IV of the Political Code, and to add a new Title II of Part IV of said code in place thereof, relating to the establishment of a uniform system of county and township governments.

[Approved March 18, 1907.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. Title II of Part IV of the Political Code is hereby repealed, and a new Title II of Part IV of said code is hereby added to read as follows:

TITLE II.

THE GOVERNMENT OF COUNTIES.

County
govern-
ment.

- CHAPTER
- I. Counties as Bodies Corporate.
 - II. Population and Classification of Counties.
 - III. Classification and Election of Officers.
 - IV. Legislative Department.
 - V. Executive Department.
 - VI. Judicial Department.
 - VII. Department of Education.
 - VIII. Department of Public Works.
 - IX. Department of Health.
 - X. Salaries and Fees of Office.
 - XI. Other County Charges.
 - XII. Miscellaneous Provisions.

CHAPTER I.

COUNTIES AS BODIES CORPORATE.

- Section 4000. Every county a body corporate and politic.
4001. Powers, how exercised.
4002. Name and designation.
4003. Enumeration of powers.
4004. Restriction on loaning credit.
4005. Prohibited contract forms no basis for claim.
4005a. Officers become personally liable, when.
4005b. Action to recover money unlawfully paid.

County is
body
corporate.

4000. Every county is a body corporate and politic, and as such has the powers specified in this title, and such other powers as are necessarily implied from those expressed.

ARTICLE LIX.

REGULATIONS CONCERNING FEES.

- Section 4292. Fees to be paid into county treasury.
 4293. Fee book.
 4294. Statement of fees.
 4295. Official services and fees.
 4296. Account and receipt for fees.
 4297. No fees on habeas corpus.

4292. All salaried officers of the several counties and townships of this state shall charge and collect for the use of their respective counties, and pay into the county treasury, on the first Monday in each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county. Fees to be paid into treasury.

4293. Each of the officers authorized to receive fees under the provisions of this title must keep a fee book, open to the public inspection during office hours, in which must be entered, at once and in detail, all fees or compensation, of whatever nature, kind, or description, collected or chargeable. On the first Monday of each and every month, the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all fee books kept by him to the county auditor. Fee book.

4294. The fees and compensation collected and chargeable for the county in each month shall be paid to the treasurer on the first Monday in the following month, and must be accompanied by a statement of the aggregate amount thereof, as shown by the fee book, duly verified by the officer making such payment. The affidavit shall be in the following form: Statement of fees.
 "I, A. B., County Clerk (or other officer, as the case may be), do swear that the fee book in my office contains a true statement in detail of all fees and compensation of every kind and nature for official services rendered by me, my deputies and assistants, for the month of ———, A. D. ———, and that said fee book shows a full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor to my knowledge or belief, any of my deputies or assistants have rendered any official service, except for the county, which is not fully set out in said fee book, and that the foregoing statement thereof is true and correct." Affidavit.

The treasurer shall file and preserve in his office said statements and affidavit.

4295. The officers mentioned in this title are not in any case, except for the state or county, or a public board or body acting in behalf of the state, to perform any official services, unless upon the prepayment of fees prescribed for such services, except in proceedings upon habeas corpus, and on such payment the officer must perform the services required. For every failure or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond. Official services and fees.

EXHIBIT D

Ch. 424]

FIFTY-SEVENTH SESSION

1039

CHAPTER 424 *

An act to add Title 3 and Sections 500036 to 500040, inclusive, to the Government Code, to consolidate and revise the law relating to the organization, operation, and maintenance of a system of state and local government, and to repeal acts and parts of acts specified herein.

[Approved by Governor May 29, 1947. Filed with Secretary of State May 29, 1947.]

In effect
September
19, 1947

The people of the State of California do enact as follows:

SECTION 1. Title 3 is added to the Government Code, to read:

TITLE 3. GOVERNMENT OF COUNTIES

DIVISION 1. COUNTIES GENERALLY

CHAPTER 1. GENERAL

23000. A county is the largest political division of the State having corporate powers. County defined
23001. The State is divided into counties, named, bounded, and constituted as provided in this title. Scope of title
23002. The several existing counties of the State and such other counties as are hereafter organized are legal subdivisions of the State. Legal subdivisions of State
23003. A county is a body corporate and politic, has the powers specified in this title and such others necessarily implied from those expressed. Body corporate and politic
23004. A county may:
- (a) Sue and be sued. Powers
 - (b) Purchase, receive by gift or bequest, and hold land within its limits, or elsewhere when permitted by law. See also Stats 1947, Ch 829
 - (c) Make contracts and purchase and hold personal property necessary to the exercise of its powers.
 - (d) Manage and dispose of its property as the interests of its inhabitants require.
 - (e) Levy and collect taxes authorized by law.
23005. A county may exercise its powers only through the board of supervisors or through agents and officers acting under authority of the board or authority conferred by law. Exercise of powers
23006. Any contract, authorization, allowance, payment, or liability to pay, made or attempted to be made in violation of law, is void, and shall not be the foundation or basis of a claim against the treasury of any county. Prohibited contracts, etc., no basis for claim
23007. Except as specified in this article, a county shall not, in any manner, give or loan its credit to or in aid of any person or corporation. An indebtedness or liability incurred contrary to this article is void. Gift or loan of credit
23008. Whenever it is economical and satisfactory to do so, a county may lease equipment, perform work, or furnish goods for any district or municipal corporation within the Performance of service, etc., for district or city

* A cross-reference showing the origin of each section appears in the appendix to this volume.

- (k) Assessor and tax collector.
- (l) Treasurer and public administrator.
- (m) Public administrator and coroner.
- (n) District attorney and public administrator.
- (o) District attorney and coroner.
- (p) Sheriff and coroner.
- (q) Sheriff and public administrator.
- (r) County agricultural commissioner and county sealer of weights and measures.

24301. If the duties of officers are consolidated pursuant to this chapter, the board of supervisors, by ordinance, may elect to separate the duties so consolidated, and reconsolidate them in any other manner permitted by this chapter or separate the duties without reconsolidation, and provide that the duties of each office shall be performed by a separate person, if it deems the change to be in the public interest.

Separation of consolidated offices

24302. When the duties of offices are united and consolidated, the person elected to fill the united and consolidated offices shall take the oath and give the bond required for each, discharge all the duties pertaining to each, and receive the compensation of the offices the duties of which are consolidated.

Officer filling consolidated offices

24303. When there is an omission by the board of supervisors to consolidate the duties of offices as authorized in this chapter and to advertise the ordinance of consolidation, each office not so consolidated shall be filled in the manner provided by law.

Filling improperly consolidated offices

CHAPTER 8. FEES

24350. Each salaried county and township officer shall charge and collect for the use of his county and pay into the county treasury on or before the fifth day of each month the fees allowed by law in all cases, except those or a percentage of them allowed him, and those which are a charge against the county.

Collection and payment of fees into treasury

24351. Each county and township officer shall on the certificate of the auditor immediately deposit in the county treasury all trust money coming into his possession officially. Trust money so deposited shall be withdrawn only on a warrant issued by the county auditor drawn upon an order of the court into which the money was paid, or upon requisition of the officer depositing the money where no court proceedings are had.

Deposit and withdrawal of trust money

24352. Each officer authorized to receive fees pursuant to this title shall keep a record in which shall be entered, at once and in detail, all fees or compensation and fines of whatever nature, kind, or description, collected or chargeable. On the first day of each month, the officer shall add up each column in his book to the first day of the month, and set down the totals. The record shall be open to public inspection during office hours. On the expiration of the term of the officer, he shall deliver the record to the county auditor.

Record of fees

24353. Each county and township officer authorized to collect money shall pay into the county treasury at the time

Payment of money into treasury

such benefits inure to his dependents. If the member is retired under this chapter and is entitled to a pension thereunder, he may receive such portion of the pension authorized as is represented by the difference between workmen's compensation and the full amount of the pension to which he would otherwise be entitled. The pension allowed for injury incurred in line of duty shall not be cumulative with the benefits under workmen's compensation which are awarded for the same injury or disability.

SEC. 2. Section 500036 is added to said code, to read:
500036. The following sections are repealed:

Repeals

Civil Code

524	1160	1163
1158	1161	1164
1159	1162	1165

SEC. 3. Section 500037 is added to said code, to read:

500037. Section 235 of the Code of Civil Procedure is repealed.

Repeals

SEC. 4. Section 500038 is added to said code, to read:

500038. The following sections are repealed:

Repeals

Penal Code

143	1511b	1516
180	1512	1517
427	1513	1518
1510	1514	1519
1511	1514a	1520
1511a	1515	

SEC. 5. Section 500039 is added to said code, to read:

500039. The following sections are repealed:

Repeals

Political Code

843	3975b
2322x 1 to 2322x 9, incl.	3976
2322x11 to 2322x18, incl.	3979 to 3985, incl.
2322x20 to 2322x27, incl.	4000 to 4004, incl.
2322x30 to 2322x36, incl.	4004.5
2322x38	4005
2322x40 to 2322x47, incl.	4005a to 4005c, incl.
2322x49 to 2322x58, incl.	4006
3714	4006a
3714.1 to 3714.26, incl.	4007
3714a	4013
3714b	4014
3737	4014a
3829	4015
3865 to 3880, incl.	4015a
3901 to 3966, incl.	4016-4024, incl.
3969 to 3975, incl.	4026
3975a	4026.1 to 4026.3, incl.

Repeals	4027 to 4036, incl.	4056b to 4056g, incl.
	4036½	4057
	4037	4058
	4038	4065 to 4076, incl.
	4041	4076a
	4041.1 to 4041.12, incl.	4076.5
	4041.12a	4077 to 4079, incl.
	4041.13	4081
	4041.13a	4082
	4041.13b	4085
	4041.17 to 4041.21, incl.	4085a
	4041.21a	4085½
	4041.22	4086
	4041.23	4087
	4041.25	4087a
	4041.26 (as added by	4088
	1933:376:973)	4088a
	4041.26 (as added by	4089
	1939:506:1885)	4090
	4041.27 to 4041.29, incl.	4090.2
	4041.29a	4091 to 4093, incl.
	4041.30	4093.5
	4041.33	4094
	4041.34	4095
	4041.36	4095a
	4041.39	4096
	4041c	4097
	4041e (as added by	4097.5
	1929:455:818)	4098
	4041g to 4041j, incl.	4100
	4041l	4101
	4041n	4101a
	4041r	4101b
	4043a	4102 to 4123, incl.
	4044 to 4049, incl.	4125 to 4127, incl.
	4049a (as added by	4130
	1907:282:354)	4131
	4049a (as added by	4131a
	1927:464:788)	4132
	4050 to 4052, incl.	4132.5
	4052a	4134
	4052b	4135
	4052e	4135a
	4053	4135b
	4054	4136 to 4142, incl.
	4054a	4142a to 4142c, incl.
	4055	4143 to 4146, incl.
	4056	4146a
	4056a (as added by	4147
	1907:282:354)	4147a
	4056a (as added by	4148
	1945:905:1688)	4149a

4149d	4240 to 4290, incl.
4153 to 4156, incl.	4290.2
4156a to 4156c, incl.	4291
4157	4291.5
4157.5	4292
4158 to 4165, incl.	4292a
4166.5	4293
4167	4294
4167a	4300
4170	4300a to 4300c, incl.
4174	4300h to 4300j, incl.
4174a	4301
4177	4302
4178	4305
4181 to 4183, incl.	4307
4187 to 4189, incl.	4307.1
4214 to 4221, incl.	4307.5
4231	4308 (as added by
4232	1921:873:1660)
4232a	4310
4233 to 4235, incl.	4312
4236a to 4236s, incl.	4312.5
4237	4314
4237.1	4315
4238	4316
4239	4318 to 4327, incl.
4239.5	

Sec. 6. Section 500040 is added to said code, to read:
500040. The following acts and sections are repealed: Repeals

1850: 42:115	1851:139:525
1850: 43:117	1852: 90:165
1850: 67:170	1852:102:173
1850: 80:199	1852:104:177
1850: 91:217	1852:123:197
1850:107:259	1852:124:200
1850:110:261	1852:131:207
1850:112:263	1852:133:218
1850:118:264	1852:141:226
1850:131:406	1852:145:230
1851: 14:172	1852:146:233
1851: 17:184	1852:153:240
1851: 21:187	1852:154:242
1851: 22:189	1852:155:244
1851: 23:190	1852:163:251
1851: 25:199	1853: 5: 20
1851: 26:206	1853: 13: 26
1851: 62:318	1853: 17: 31
1851: 88:387	1853: 26: 37
1851: 94:405	1853: 34: 47
1851:103:414	1853: 37: 53
1851:132:516	1853: 41: 56

EXHIBIT E

GOVERNMENT CODE

Statutes of 1947, Chapter 424

Cross-Reference Table No. 1 indicates the origin of each section of the portions of the code added by Statutes of 1947, Chapter 424.

Cross-Reference Table No. 2 indicates the disposition of former statutes in the code.

Statutes repealed, but not included in the code, are listed in this table as omitted. The tables of obsolete and inactive statutes distributed by the California Code Commission indicate the reasons for omitting these statutes.

Statutes other than codes are cited by year, chapter, and page of the original enactment.

The asterisks indicate sections affected by legislation after enactment.

ABBREVIATIONS

Sent.—sentence
 Subd.—subdivision
 Par.—paragraph
 Pt.—part

CROSS-REFERENCE TABLE NUMBER ONE

Origin of Government Code Sections

Government Code Section	Section	Origin	Statute Political Code
23000	3901		
23001	3902, 1st sent.		
23002	3902, 2d sent.		"
23003	4000		"
*23004	4003		"
23005	4001		"
23006	4005, 1st sent.		"
23007-23009	4004		"
*23010	4004.5		"
23011	4002		"
23012	New		
23070	New		
23071	3903		"
23072	3904		"
23073	3905		"
23074	3906		"
23075	3907		"
23076	3908		"
23077	New		
23100	New		
23101	3909		"
23102	3910		"
23103	3911		"
23104	3912		"
23105	3913		"
23106	3914		"
23107	3915		"
23108	3916		"
23109	3917		"
23110	3918		"
23111	3919		"
23112	3920		"
23113	3921		"

(3866)

CROSS-REFERENCE TABLES

Origin of Government Code Sections—Continued

Government Code Section	Section	Origin	Statute Political Code
	24056	4045	
	24057	4314	
	24100	4315	"
	24101-24102	4024	"
	24103	4326	"
	24104	843	"
	*24150	4022	"
	*24151	4022	"
	24152	4022	"
	24153	4022	"
	24200-24204	4021	"
	24250, 24251	4312, pt.	"
	*24252	4312, pt.	"
	24253	4312, pt.	"
	*24254	4312, pt.	"
	24255	4312, pt.	"
	*24256	4312, pt.	"
	24257-24259	4312, pt.	"
	*24260	4312, pt.	"
	24261	4312, last par.	"
	24300-24303	4017-4020	"
	24350	4292	"
	24351	4292a	"
	24352	4293	"
	24353-24356	4294	"
	25000	4027	"
	25001-25002	4029	"
	25003	4041.1, 1st sent., pt.; 1st par.	"
	25004	4041.1, 3d par.	"
	25005	4031, 3d sent.	"
	25006	4031, 2d sent.	"
	25007-25008	4041.1, 1st sent., pt.; 1st par.	"
	25020	4031, 1st sent.	"
	25021-25022	4090	"
	25040-25041	4028	"
	25042	4325	"
	25060-25062	4030	"
	25080	4033, p.	"
	25081-25082	4034-4035	"
	25100-25101	4037-4038	"
	25102	4036½	"
	25103	4032	"
	25104	4033, pt.	"
	25120-25124	4057	"
	25125	4058	"
	25126-25129	4056a (added by 1945.905:1088)	"
	25150	4049	"
	25151	4324	"
	25170	4065	"
	25171	4067	"
	25172	4066	"
	25173-25174	4068	"
	25175-25176	4069-4070	"
	25200-25201	4041.10	"
	25202	4041.4	"
	25203	4041.22, pt.	"
	25204	4041.23	"
	25205	New, based on sec. 4200, pt.	"
	25206	4036	"

EXHIBIT F

BILL ANALYSIS

SB 70

Greene (D)

8/31/93

21

38-0, p. 1643, 6/10/93

76-0, 9/3/93

SUBJECT: Property tax: omnibus technical changes bill

SOURCE: California Association of County Treasurers and Tax Collectors

DIGEST: This bill is the annual omnibus technical changes bill for laws relating to property tax administration.

Assembly Amendments:

1. Modify requirements of the filing and processing of applications for the welfare and veterans' organization exemptions with respect to the submission of financial statements and the forwarding of eligibility findings to the assessor.
2. Delete from the bill provisions concerning the changing of certain fees by the tax collector.
3. Amend the law concerning a state public retirement system's investment in real property and improvements thereon and the lessee's possessory interest which could be subject to property tax.

The bill provides that, for the 1992-93 and 1993-94 fiscal years, in the case where a lessee's possessory interest existed for less than the full fiscal year for which the tax was levied, the amount of tax is to be prorated in accordance with the number of months for which the lessee's interest existed.

States intent of the Legislature in that the revisions made here apply to assessment, computation and collection of property taxes levied for the 1992-93

fiscal year, to address the case in which a lessee's possessory interest existed on the March 1 lien date, but did not exist during, or ceased to exist prior to, the end of that fiscal year.

ANALYSIS: This bill is the annual omnibus property tax bill sponsored by the California Association of County Treasurers and Tax Collectors. It contains numerous minor and technical changes to the property tax, none of which is controversial.

CCP Section 680.290 & RTC Section 19 - Definition of "person" - Currently the property tax definition of "person" includes "person, firm, partnership, association, corporation, company, syndicate, estate, trust, business, trust, or organization of any kind." It is not clear from this definition that the general partner(s) of a partnership are included within the definition of "person."

This bill clarifies that "person" also includes the general partner(s) of a partnership. (San Luis Obispo County)

CCP Section 700.020 - Mining claims - Currently, when selling mining claims for payment of property taxes, it is required that a copy of the writ and notice of levy be posted in a conspicuous place on the real property.

This bill would eliminate the posting requirement when no dwelling is located on the property. Sponsor indicates that "mining claims tend to be located in remote, hard to access areas and winter weather makes access impossible in most cases. The owner of the property and the public is already given notice and this additional requirement is effective notice to no one. This notice is impractical, ineffective and expensive." (Sierra County)

GC Sections 24350 & 24353 - Coin in payment of taxes - Currently it is not clear that county officers may refuse to accept payment of taxes, fines, fees, etc. in the form of small coins from taxpayers who intend to use this method of payment as a form of harassment.

This bill clarifies that county officers are not required to accept such payments. (Sutter County)

CLRC EX 18

GC Section 27001 - Retention of records - Currently certificates from the county auditor to the treasurer which have been retained for more than five years may be destroyed if a photographic or micrographic copy has been made and is available for public access.

This bill removes the five-year retention period for the original certificates (since in all cases a photographic copy is available for public access). (Kings County)

GC Section 27557 & RTC Section 1256 - Preparation of assessors' maps - Current law allows the board of supervisors to authorize the assessor to prepare assessment maps.

This bill would require the board of supervisors to authorize the assessor

CONTINUED

SB 70
Page 3

to prepare maps. The provision is in response to some assessors' concern that the map preparation task may be removed from assessors and given to the planning departments (which, assessors argue, would disrupt their procedures and timing of the tax roll). (Humboldt County)

GC Section 29820 - "Paid" stamp on warrants - Currently the law requires that warrants be either stamped or perforated with the word "paid." Technology has surged forward and produced more modern methods of recording the status of payment documents.

This bill would give treasurers greater flexibility in determining practices with respect to form, issuance, delivery, endorsement and payment of warrants, pursuant to provisions of existing GC 553910. (San Joaquin County)

GC Sections 29821 to 29827 - County registered warrants - Current procedures relating to preparation, issuing and payment of registered warrants by counties are based on outmoded practice and technology.

This bill rewrites the warrant provisions to "bring the process into the current century." (Kings County)

RTC Section 1256 - Preparation of assessors' maps - (See GC Section 27557)

RTC Section 2910 - Auditor's examination of unsecured roll - Currently the law requires the county auditor to examine the unsecured roll and ascertain the amount of taxes already collected. The proper procedure would be for the auditor to ascertain the amount of unsecured roll taxes "due." As introduced, the bill would have changed "collected" to "due." However, as amended, this bill deletes the entire section, as it is redundant and unnecessary. (Sacramento County)

RTC Section 2910.1 - Unsecured roll tax bills - Currently no law specifically requires the tax collector to prepare and mail tax bills for taxes due on the unsecured roll.

This bill allows such a requirement. (Of course, tax collectors have always sent out unsecured tax bills as part of their normal tax collection authority; this provision will provide specific authority in the tax code.) (Sacramento County)

RTC Sections 2913 & 2913.5 - Unsecured roll tax payment posting - Currently the provisions for posting of payments for unsecured roll taxes are out of date.

This bill combines the two existing sections into one, provides for electronic posting, and removes the requirement that the Board of Supervisors approve the posting process. (Sacramento County)

RTC Section 3692 - Unusable "junk" parcels - Currently there is no procedure for dealing with unusable parcels which are tax defaulted. These

CONTINUED

SB 70
Page 4

parcels are unusable due to their size, location or other conditions. Although they cannot be sold, they must be held and periodically offered for sale by the county.

This bill would authorize the county tax collector to require the buyer of a tax defaulted parcel to accept a contiguous "junk parcel" to be combined with the primary parcel as a condition of sale. It is believed that this procedure would allow the county to dispose of these parcels, save itself expense, and put these "junk parcels" to productive use. (Los Angeles County)

RTC Section 3698.5 - Minimum bid - Currently, when property is sold for taxes, the tax collector must require a minimum bid of 25% of the fair market value.

This bill would instead require that the minimum bid be equal to the total amount of defaulted taxes plus penalties, costs and a delinquent penalty. It is believed that this procedure would better reflect the true purpose of a tax sale, which is to collect taxes. (State Controller)

CLRC EX 19

RTC Section 4946 - Consent of the district attorney - Currently a tax that cannot be enforced because of errors in description, assessment, equalization, levy, or other proceeding, may be canceled by order of the board of supervisors with written consent of the district attorney.

This bill removes the requirement that the district attorney consent to the cancellation. This change mirrors changes made previously to RTC 554834 §4834.5. (San Luis Obispo County)

RTC Section 7283 - Collection of transient occupancy tax - Currently the law is silent regarding the allowable methods of collection for transient occupancy taxes, a tax which is authorized by statute but entirely locally administered.

This bill would provide specific statutory authority for the board of supervisors to establish by ordinance or resolution procedures for collection of delinquent transient occupancy taxes. "Some counties are using the theory that if it isn't specifically prohibited, it's allowable. That's us. However, it would make it easier to sleep at night to have specific authorization to do the collection procedures we are already using." (Sierra County)

Uncodified SEC. 32. - Welfare exemption for veterans' organizations - Senator Hart's SB 1590 (Ch 1180, 1992) attempted to clarify the position of certain veterans' organizations. Board of Equalization would like further clarification that the provisions of SB 1590 would apply for 1989-90 and thereafter.

This bill would provide that clarification. (Board of Equalization)

FISCAL EFFECT: Appropriation: No Fiscal Committee: Yes Local: Yes

CONTINUED

□

SB 70
Page 5

SUPPORT: (Verified 9/3/93)

California Association of County Treasurers and Tax Collectors (source)
California State Association of Counties

DLW:lm 9/4/93 Senate Floor Analyses

CONTINUED

CLRC EX 20

BILL ANALYSIS

SENATE REVENUE & TAXATION COMMITTEE
 Senator Leroy Greene, Chairman

SB 70 - Greene
 Amended 2-24-93

Hearing: March 17, 1993

Fiscal: YES

SUBJECT: Property tax: Omnibus bill containing minor, technical and uncontroversial provisions sponsored by county treasurers, tax collectors and others

DIGEST -- WHAT THE BILL DOES

THIS BILL is the annual omnibus property tax bill sponsored by the California Association of County Treasurers and Tax Collectors. It contains numerous minor and technical changes to the property tax, none of which is controversial.

- CCP 680.290 & RTC 19 - Definition of "person" - Currently the property tax definition of "person" includes "person, firm, partnership, association, corporation, company, syndicate, estate, trust, business, trust, or organization of any kind." It is not clear from this definition that the general partner(s) of a partnership are included within the definition of "person." THIS BILL clarifies that "person" also includes the general partner(s) of a partnership. (San Luis Obispo County)
- CCP 700.020 - Mining claims - Currently, when selling mining claims for payment of property taxes, it is required that a copy of the writ and notice of levy be posted in a conspicuous place on the real property. THIS BILL would eliminate the posting requirement when no dwelling is located on the property. Sponsor indicates that "mining claims tend to be located in remote, hard to access areas and winter weather makes access impossible in most cases. The owner of the property and the public is already given notice and this additional requirement is effective notice to no one. This notice is impractical, ineffective and expensive." (Sierra County)
- GC 24350 & 24353 - Coin in payment of taxes - Currently it is not clear that county officers may refuse to accept payment of taxes, fines, fees, etc. in the form of small coins from taxpayers who intend to use this method of payment as a form of harassment. THIS BILL clarifies that county officers are not required to accept such payments. (Sutter County)
- GC 27001 - Retention of records - Currently certificates from the county auditor to the treasurer which have been retained for more than five years may be destroyed if a photographic or micrographic copy has been made and is available for public access. THIS BILL removes the five-year retention period for the original certificates (since in all cases a photographic copy is available for public access). (Kings County)
- GC 29820 - "Paid" stamp on warrants - Currently the law requires that warrants be either stamped or perforated with the word "paid." Technology has surged forward and produced more modern methods of recording the status of payment documents. THIS BILL would give treasurers greater flexibility in determining practices with respect to form, issuance, delivery, endorsement and payment of warrants, pursuant to provisions of existing GC 53910. (San Joaquin County)
- GC 29821 to 29827 - County registered warrants - Current procedures relating to preparation, issuing and payment of registered warrants by counties are based on outmoded practice and technology. THIS BILL rewrites the warrant provisions to "bring the process into the current century." (Kings County)
- RTC 2910 - Auditor's examination of unsecured roll - Currently the law requires the county auditor to examine the unsecured roll and ascertain the amount of taxes already collected. The proper procedure would be for the auditor to ascertain the amount of unsecured roll taxes "due." As introduced, the Bill would have changed "collected" to "due." However, as amended, THIS BILL deletes the entire section, as it is redundant and unnecessary. (Sacramento County)
- RTC 2910.1 - Unsecured roll tax bills - Currently no law specifically requires the tax collector to prepare and mail tax bills for taxes due on the unsecured roll. THIS BILL provides such a requirement. (Of course, tax collectors have always sent out unsecured tax bills as part of their normal tax collection authority; this provision will provide specific authority in the tax code.) (Sacramento County)
- RTC 2913 & 2913.5 - Unsecured roll tax payment posting - Currently the provisions for posting of payments for unsecured roll taxes are out of date. THIS BILL combines the two existing sections into one, provides for electronic posting, and removes the requirement that the Board of Supervisors approve the posting process. (Sacramento County)

CLRC EX 21

RTC 3362 & 3372 - Publication of tax defaulted property - Currently the published notice of tax defaulted property is required to include the original amount in default. This amount in the published notice confuses taxpayers, who may wish to pay the original amount in default rather than the total amount now due (including interest and penalty). THIS BILL would remove the requirement that the original default amount be part of the published notice. Note that the bill as introduced erroneously deleted the entire notice publication requirement. As now amended, this error is corrected. (San Luis Obispo County)

□ RTC 3692 - Unusable "junk" parcels - Currently there is no procedure for dealing with unusable parcels which are tax defaulted. These parcels are unusable due to their size, location or other conditions. Although they cannot be sold, they must be held and periodically offered for sale by the county. THIS BILL would authorize the county tax collector to require the buyer of a tax defaulted parcel to accept a contiguous "junk parcel" to be combined with the primary parcel as a condition of sale. It is believed that this procedure would allow the county to dispose of these parcels, save itself expense, and put these "junk parcels" to productive use. (Los Angeles County)

RTC 3698.5 - Minimum bid - Currently, when property is sold for taxes, the tax collector must require a minimum bid of 25% of the fair market value. THIS BILL would instead require that the minimum bid be equal to the total amount of defaulted taxes plus penalties, costs and a delinquent penalty. It is believed that this procedure would better reflect the true purpose of a tax sale, which is to collect taxes. (State Controller)

RTC 4112 - Tax defaulted property fee - Currently, when tax defaulted property is redeemed, a fee of \$35 is collected to defray the costs of obtaining the names and last known mailing addresses of parties of interest, and the cost of mailing notices to those parties. This procedure normally costs much more than \$35. THIS BILL provides that the fee can be set to reimburse the entire cost of such a title search. (San Luis Obispo County)

RTC 4911 - Unintended payment fee - Currently, when an assessee mistakenly pays tax on a property other than the one intended, there is no provision for charging a fee to reflect the county's cost of processing such an incorrect payment. THIS BILL authorizes the tax collector to charge a fee to reflect the actual cost of canceling the credit on the unintended property and transferring the payment to the intended property. (San Luis Obispo County)

RTC 4946 - Consent of the district attorney - Currently a tax that cannot be enforced because of errors in description, assessment, equalization, levy, or other proceeding, may be canceled by order of the board of supervisors with written consent of the district attorney. THIS BILL removes the requirement that the district attorney consent to the cancellation. This change mirrors changes made previously to RTC 4834 & 4834.5. (San Luis Obispo County)

RTC 7283 - Collection of transient occupancy tax - Currently the law is silent regarding the allowable methods of collection for transient occupancy taxes, a tax which is authorized by statute but entirely locally administered. THIS BILL would provide specific statutory authority for the board of supervisors to establish procedures for collection of delinquent transient occupancy taxes. □ "Some counties are using the theory that if it isn't specifically prohibited, it's allowable. That's us. However, it would make it easier to sleep at night to have specific authorization to do the collection procedures we are already using." (Sierra County)

FISCAL EFFECT:

None known

COMMENTS:

A. Purpose of the bill

This bill is the annual vehicle for local property tax administrative minutiae. No portion of the bill is known to be controversial at this time.

Support and Opposition

Support: California Association of County Treasurers
and Tax Collectors

Consultant: Martin Helmke
March 12, 1993 9:44 AM

CLRC EX 22