

Memorandum 2018-31

**Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities**

In May, the Commission began examining statutes relating to court facilities, to determine whether they contain material made obsolete by trial court restructuring.<sup>1</sup> This memorandum continues that process. It examines additional statutes for possible inclusion in a tentative recommendation, which the Commission will prepare and broadly circulate for comment later in this study.

The memorandum is organized as follows:

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1. See Memorandum 2018-21; *Draft Minutes* (May 2018), p. 6.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

Items I, II, and III are relatively simple and straightforward. The remaining sets of issues (Items IV to X) are more difficult or complicated.

At the upcoming meeting, the staff is only planning to present Items IV to X for discussion. We are not planning to present Items I, II, and III. **If a Commissioner or other person would like to discuss one or more of those items, please raise the matter at or before the upcoming meeting.**

The following material is attached as an exhibit:

*Exhibit p.*

- Legislation to Repeal the Article that Created the Task Force on Court Facilities (Gov't Code §§ 77650-77655).....1

Unless otherwise indicated, all statutory references in this memorandum are to the Government Code.

I. LEFTOVER ISSUE FROM THE MAY DISCUSSION (GOV'T CODE §§ 26638.15, 69920-69927, 73790-73796)

In May, the Commission considered many issues relating to court facilities statutes in Chapter 10 of Title 8 of the Government Code (Sections 73301-74988) (hereafter, "Chapter 10"). For purposes of a tentative recommendation, the Commission resolved all but one of those issues.

The remaining issue concerns whether to repeal Article 12.5 of Chapter 10, which relates to Merced County. At pages 17-18 of Memorandum 2018-21, the staff suggested repealing that article, as follows:

**Gov't Code §§ 73790-73796 (repealed). Merced County**

SEC. \_\_\_\_\_. Article 12.5 (commencing with Section 73790) of Chapter 10 of Title 8 of the Government Code is repealed.

**Comment.** Sections 73790-73796 are repealed to reflect:

(1) Unification of the municipal and superior courts in Merced County pursuant to former Article VI, Section 5(e), of the California Constitution, effective August 3, 1998.

(2) Enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

(3) Enactment of Section 69740(a) (trial court to determine number and location of its sessions).

(4) Elimination of the marshal's office in Merced County. See Section 26638.15; Merced County Ordinance No. 1687 (effective Jan.

15, 2003); Merced County Bd. of Supervisors, Minutes (Dec. 3, 2002), pp. 4, 16.

**Note.** The text of the repealed article is set out below.

Article 12.5. Merced County

73790. There is hereby created a municipal court district which embraces the entire County of Merced. This article applies to the municipal court established within the district, which shall be known as the Merced County Municipal Court.

73792. Facilities for the court shall be maintained at or near the county seat and at court facilities provided elsewhere as determined by ordinance adopted by the board of supervisors. The court shall determine the nature and frequency of sessions held at additional court locations designated by the board of supervisors.

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 68.5.

When a vacancy occurs in the office, a majority of the superior and municipal court judges shall appoint the marshal and the marshal shall serve at their pleasure.

At the May meeting, Charles Martel of the Judicial Council alerted the Commission to a recently enacted article in Chapter 5 of Title 8 of the Government Code, which is entitled "Superior Court Security." The Commission directed the staff to review the provisions in that article (Sections 69920-69927) to determine whether they have any effect on the proper treatment of the Merced County statutes described above.

The staff has since reviewed Sections 69920-69927. The most relevant provision appears to be Section 69921.5, which states:

69921.5. Except for court security services provided by the marshal in the Counties of Shasta and Trinity, the sheriff is responsible for the necessary level of court security services, as established by the memorandum of understanding described in subdivision (b) of Section 69926.

This provision further confirms that the Merced County sheriff, not a marshal, now provides security services for the Merced County Superior Court.

**It might be helpful to add a citation to Section 69921.5 to the proposed Comment shown above, like so:**

**Comment.** Sections 73790-73796 are repealed to reflect:

....

(4) Elimination of the marshal's office in Merced County. See Section 26638.15; Merced County Ordinance No. 1687 (effective Jan. 15, 2003); Merced County Bd. of Supervisors, Minutes (Dec. 3, 2002), pp. 4, 16; see also Section 69921.5.

Unless the Commission otherwise directs, the staff will **(1) make this revision and (2) include the proposed repeal of Sections 73790-73796 (Article 12.5, relating to Merced County) in the Commission's tentative recommendation.**<sup>2</sup>

## II. JURY DELIBERATION ROOMS (CODE CIV. PROC. § 216)

Code of Civil Procedure Section 216 was last amended in 1996, before the enactment of the Lockyer-Isenberg Trial Court Funding Act and the related Trial Court Facilities Act. The section requires the board of supervisors of each county to provide jury deliberation rooms:

216. (a) At each court facility where jury cases are heard, the *board of supervisors* shall provide a deliberation room or rooms for use of jurors when they have retired for deliberation. The deliberation rooms shall be designed to minimize unwarranted intrusions by other persons in the court facility, shall have suitable furnishings, equipment, and supplies, and shall also have restroom accommodations for male and female jurors.

(b) If the *board of supervisors* neglects to provide the facilities required by this section, the court may order the sheriff or marshal to do so, and the expenses incurred in carrying the order into effect, when certified by the court, are a county charge.

(c) Unless authorized by the jury commissioner, jury assembly facilities shall be restricted to use by jurors and jury commissioner staff.<sup>3</sup>

Now, however, the state is responsible for providing court facilities and funding trial court operations, not each county. **Code of Civil Procedure Section 216 should thus be amended to delete the references to the board of supervisors:**

### **§ 216 (amended). Jury deliberation rooms**

SEC. \_\_\_\_\_. Section 216 of the Code of Civil Procedure is amended to read:

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2. Article 1.75 of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code (Sections 26638.15-26638.15), which authorized the Merced County Board of Supervisors to eliminate the Marshal's Office, might also be obsolete. This matter relates only tangentially to court facilities. Instead of addressing it here, the staff plans to address it in a future memorandum. Comments on it are welcome at any time.

3. Emphasis added.

216. (a) At each court facility where jury cases are heard, the ~~board of supervisors~~ court shall provide a deliberation room or rooms for use of jurors when they have retired for deliberation. The deliberation rooms shall be designed to minimize unwarranted intrusions by other persons in the court facility, shall have suitable furnishings, equipment, and supplies, and shall also have restroom accommodations for male and female jurors.

~~(b) If the board of supervisors neglects to provide the facilities required by this section, the court may order the sheriff or marshal to do so, and the expenses incurred in carrying the order into effect, when certified by the court, are a county charge.~~

(c) ~~(b)~~ Unless authorized by the jury commissioner, jury assembly facilities shall be restricted to use by jurors and jury commissioner staff.

**Comment.** Section 216 is amended to reflect enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

**Unless the Commission otherwise directs, the staff will incorporate this amendment into the tentative recommendation that the Commission is building.**

### III. MUNICIPAL COURT FACILITIES, SUPPLIES, AND EQUIPMENT (GOV'T CODE §§ 71002, 71383)

Section 71002 concerns municipal court facilities, supplies, and equipment. The discussion below (1) suggests repealing Section 71002 as obsolete, (2) describes a necessary conforming revision, and (3) discusses an additional correction that the Commission may wish to propose.

#### **Repeal of Section 71002**

Government Code Section 71002 says that the board of supervisors of each county is responsible for providing facilities, supplies, and equipment for the local municipal court(s):

71002. The board of supervisors shall provide suitable quarters for the municipal courts, including heating, lighting, and janitorial services, and shall supply them with furniture, books, and supplies necessary for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate

records of the court or a division of the court when sessions are held at more than one place.

This section is obsolete because municipal courts no longer exist and counties are no longer responsible for providing court facilities or funding court operations.

The Government Code already contains comparable language pertaining to superior courts,<sup>4</sup> so **Section 71002 can simply be repealed.** There is no need to amend the section to apply to superior courts instead of municipal courts.

**The repeal could be achieved as follows:**

**§ 71002 (repealed). Municipal court facilities, supplies, and equipment**

SEC. \_\_\_\_ . Section 71002 of the Government Code is repealed.

~~71002. The board of supervisors shall provide suitable quarters for the municipal courts, including heating, lighting, and janitorial services, and shall supply them with furniture, books, and supplies necessary for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate records of the court or a division of the court when sessions are held at more than one place.~~

**Comment.** Section 71002 is repealed to reflect:

(1) Unification of the municipal and superior courts pursuant to former Article VI, Section 5(e), of the California Constitution.

(2) Enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

## **Conforming Revision**

**If Section 71002 is repealed as shown above, Section 71383 should also be repealed.** It would be of no use without Section 71002, because it merely defines a term (“board of supervisors”) for purposes of Section 71002.

The repeal of Section 71383 could be achieved as follows:

**§ 71383 (repealed). “Board of supervisors”**

SEC. \_\_\_\_ . Section 71383 of the Government Code is repealed.

~~71383. As used in Section 71002, “board of supervisors” means county or city and county.~~

**Comment.** Section 71383 is repealed to reflect the repeal of Section 71002.

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4. See Sections 70301(d), 70311-70312.

**Unless the Commission otherwise directs, the staff will include this repeal and the repeal of Section 71002 in the tentative recommendation that the Commission is building.**

### **Additional Correction**

One more point is worth mentioning here. Penal Code Section 1463.5 contains what appears to be an erroneous cross-reference to Section 71383. It says:

1463.5. The distribution of funds required pursuant to Section 1463, and the distribution of assessments imposed and collected under Section 1464 and Section 42006 of the Vehicle Code, may be determined and made upon the basis of probability sampling. The sampling shall be procedural in nature and shall not substantively modify the distributions required pursuant to Sections 1463 and 1464 and Section 42006 of the Vehicle Code. The procedure for the sampling shall be prescribed by the county auditor and the procedure and its implementation shall be approved by the board of supervisors and a majority of the cities within a county. *The reasonableness of the distribution shall be verified during the audit performed pursuant to Section 71383 of the Government Code.*<sup>5</sup>

The cross-reference to Section 71383 used to make sense, because an earlier version of that section said:

(a) The accounts of each superior court, municipal court, and justice court shall be audited at least biennially. The county auditor shall be responsible for seeing that this audit is conducted and shall supply the Controller with a certified copy of each audit within six months after the close of the fiscal year for which the audit is conducted. The audit shall review the collection and disbursement activities of the courts, probation offices, central collection bureaus, and other agencies having a role in this process. If the accounts of any superior court, municipal court, or justice court are not audited biennially, the Controller may audit them. If an audit is requested by the board of supervisors the cost of the audit shall be paid from the general fund of the county in which the court is situated. The Controller shall review these audits. Costs incurred by the Controller for monitoring audits other than those reimbursed by counties, shall be reimbursed from the Assessment Fund commencing with the 1985-86 fiscal year as provided in the Budget Act.

(b) This section shall become inoperative on July 1, 1993, and shall remain inoperative until July 1, 1994, on which date this section shall become operative.<sup>6</sup>

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5. Emphasis added.

6. 1993 Cal. Stat. ch. 70, § 5.

The earlier version of Section 71383 was repealed in the Trial Court Funding Act of 1997 and replaced by the current version (defining “board of supervisors” for purposes of Section 71002),<sup>7</sup> but Penal Code Section 1463.5’s cross-reference to the earlier version of Section 71383 was not conformed to reflect that change.

**That problem should be fixed.** As yet, however, the staff is not ready to propose a solution. Penal Code Section 1463.5 involves the intricacies of the complicated trial court funding system, which is not the current focus of our work.

**Comments on how to update Section 1463.5 would be helpful:**

- Should the reference to “the audit performed pursuant to Section 71383 of the Government Code” be replaced with a reference to “any audit performed pursuant to Section 77206 of the Government Code”?
- Should the sentence on sampling procedure (“[t]he procedure for the sampling shall be prescribed by the county auditor and the procedure and its implementation shall be approved by the board of supervisors and a majority of the cities within a county”) be revised to reflect a reallocation of responsibilities?
- Should other changes be made?

**Unless the Commission otherwise directs, we plan to revisit Section 1463.5 later in this study.**

#### IV. TASK FORCE ON COURT FACILITIES (GOV’T CODE §§ 77650-77655)

The Lockyer-Isenberg Trial Court Funding Act<sup>8</sup> includes an article (Sections 77650-77655) that created the Task Force on Court Facilities and specified its duties. As discussed at pages 9-10 of Memorandum 2018-21, the Task Force on Court Facilities completed its assigned work and submitted its final report to the Legislature in 2001.

The following year, the Legislature enacted the Trial Court Facilities Act.<sup>9</sup> In so doing, it endorsed and implemented the key recommendations of the Task Force on Court Facilities.<sup>10</sup>

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7. See 1997 Cal. Stat. ch. 850, §§ 34, 35.

8. 1997 Cal. Stat. ch. 850.

9. 2002 Cal. Stat. ch. 1082.

10. See in particular 2002 Cal. Stat. ch. 1082, § 1 (legislative findings for Trial Court Facilities Act).



Because the Task Force on Court Facilities has fulfilled its assigned role, the article creating that entity and specifying its duties appears to be obsolete. That article could perhaps be repealed in its entirety, as shown at Exhibit pages 1-3.<sup>11</sup>

Alternatively, the Commission could propose to repeal most of the article (Sections 77650-77654) and amend the remaining section (Section 77655) along the following lines:

**Gov't Code § 77655 (amended). Inadmissibility of Task Force findings**

SEC. \_\_\_\_\_. Section 77655 of the Government Code is amended to read:

77655. Notwithstanding any other provision of law, including Section 68073, the findings of the ~~task force~~ Task Force on Court Facilities created by Section 28 of Chapter 850 of the Statutes of 1997 shall not be considered or entered into evidence in any action brought by trial courts to compel a county to provide facilities that the trial court contends are necessary and suitable.

**Comment.** Section 77655 is amended to make it read clearly as a stand-alone section. This is not a substantive change.

Because the process of transferring court facilities and responsibility for court facilities from the counties to the state is essentially complete, it seems unlikely that a trial court would bring an action “to compel a county to provide facilities that the trial court contends are necessary and suitable.” Preserving Section 77655 as shown above might constitute an excess of caution. It is possible, however, that one or more counties might still want to keep the provision.

**Comments on this point would be helpful.** Of the two approaches described above, the latter one (repealing Sections 77650-77654 and amending Section 77655 as shown above) is probably less likely to draw an objection. **Would the Commission like to follow that approach?**

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11. For similar reasons, the adjacent article establishing the Task Force on Trial Court Employees (Sections 77600-77606) may also be obsolete. If so, it may be possible to repeal the entirety of Chapter 14 of Title 8 of the Government Code (Sections 77600-77655), which is entitled “The Trial Court Funding and Improvement Act of 1997.” This matter does not relate to court facilities (the topic of this memorandum), but the staff plans to address it in a future memorandum. Comments on it are welcome at any time.

Notably, two sections in the article establishing the Task Force on Trial Court Employees were recently amended. See 2012 Cal. Stat. ch. 665, §§ 168, 169. Those amendments were just name corrections in a big bill making many such corrections. They do not indicate that the article has continuing utility.

V. FLAGS FOR COURTROOMS (GOV'T CODE § 69504)

Section 69504 was enacted in 1953<sup>12</sup> and has never been amended. Like the provision discussed in Item III above (Section 71002), it imposes a court-related duty on each county's board of supervisors:

69504. The board of supervisors of each county shall purchase and provide for the installation of the Flag of the United States and the Bear Flag of California in each superior courtroom in the county.

As before, it appears that **the provision should be amended to reflect the reallocation of such duties.** That could perhaps be done as follows:

**§ 69504 (amended). Flags for courtrooms**

SEC. \_\_\_\_ . Section 69504 of the Government Code is amended to read:

69504. ~~The board of supervisors~~ superior court of each county shall purchase and provide for the installation of the Flag of the United States and the Bear Flag of California in each superior courtroom in the county.

**Comment.** Section 69504 is amended to reflect enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 ("court operations" defined), 77200 (state funding of trial court operations); Cal. R. Ct. 10.810, Function 10 ("equipment ... and furnishings"). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

The staff is not sure, however, whether the responsibility for purchasing and providing flags should be placed on each individual court, as opposed to the Judicial Council. It is not obvious which option would be cheaper and more efficient. **Comments on this matter would be helpful.**

For purposes of a tentative recommendation, the Commission could proceed in a number of different ways:

- It could proceed with the above amendment.
- It could replace the reference to the "superior court of each county" with a reference to the "Judicial Council."
- It could present both alternatives in brackets — i.e., "The ~~board of supervisors of each county~~ [Judicial Council] [superior court of each county] ...."

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12. 1953 Cal. Stat. ch. 206, § 1.

Regardless of which alternative the Commission selects, it may be helpful to include a Note along the following lines:

**Note.** The above amendment would make clear that boards of supervisors are no longer responsible for purchasing and providing courtroom flags. The Commission is not sure where that responsibility properly rests: On the Judicial Council? On each superior court? **The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

**Would the Commission like to include such a Note? Which of the possible amendments would it like to propose?**

VI. SUPERIOR COURT CHAMBERS, RULES, AND HOURS OF OPERATION  
(GOV'T CODE § 24261)

Section 24261 was last amended in 1963,<sup>13</sup> well before the trial court restructuring reforms that are the focus of this study. It provides:

24261. The judges of the superior court shall have chambers at the county seat and establish rules and hours for the dispatch of official business; provided that such rules must require that the courts shall be open for the transaction of judicial business on days on which an election is held throughout the State where county offices are open for the transaction of county business during such election days pursuant to ordinance.

Two aspects of this section caught the staff's eye:

- (1) The requirement to maintain superior court chambers at the county seat.
- (2) The requirements relating to hours of operation.

Those points are discussed in order below; then we consider how to handle the section overall.

**The Requirement to Maintain Superior Court Chambers at the County Seat**

The first clause of Section 24261 dictates that “[t]he judges of the superior court shall have chambers at the county seat ....” This requirement is similar to

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13. See 1963 Cal. Stat. ch. 1922, § 3.

some of the statutes that the Commission examined in May, which require municipal court facilities in certain locations.<sup>14</sup>

On examining recent legislation governing the location of court facilities, the staff concluded:

Through [Sections 70391 and 68106] and other recent legislation on court facilities, the Legislature and the Governor vested broad authority for such matters in the judiciary, while still retaining a measure of control themselves and ensuring that other voices are heard and taken into account. Moreover, the recently enacted procedural constraints on court facility decisions are apparently intended to *supplant, not supplement*, the earlier statutes specifying precisely where courts are to be located.<sup>15</sup>

The staff further wrote:

The Legislature and the Governor ... appear to have redefined their role regarding court facilities. Instead of specifying by statute *precisely where* court facilities must be located, they have enacted statutes governing *the manner in which the judiciary makes court facility decisions*.<sup>16</sup>

In light of these findings, the Commission decided to tentatively propose to repeal the statutes that require municipal court facilities in certain locations.<sup>17</sup>

Applying the same logic to Section 24261, it might be appropriate to delete the language requiring superior court chambers at the county seat. The staff is not sure of this, however, because the full extent of the Judicial Council's authority regarding court locations (as opposed to that of the Legislature and the Governor) has not been tested. The general rule seems clear, but this situation might, or might not, be an exception.

For purposes of a tentative recommendation, **it may be best to assume that the general rule applies — i.e., the Commission should propose to delete Section 24261's language requiring superior court chambers at the county seat.** If someone believes an exception is warranted in this context, they will have an opportunity to speak up and explain the importance of recognizing such an exception. In all likelihood, deleting the statutory requirement would have little

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14. See Memorandum 2018-21, pp. 7-14.

15. *Id.* at 12 (emphasis in original; footnote omitted).

16. *Id.* at 14 (emphasis in original).

17. See *Draft Minutes* (May 2018), p. 6.

or no practical effect, because the county seat is generally the most logical place for a courthouse.

**Would the Commission like to follow that approach?**

### **The Requirements Relating to Hours of Operation**

Section 24261 also directs superior court judges to “establish ... hours for the dispatch of official business ....” In particular, the section says such judges must adopt a rule requiring the courts to “*be open ... on days on which an election is held throughout the State where county offices are open for the transaction of county business during such election days pursuant to ordinance.*”<sup>18</sup>

More recently enacted Section 69740<sup>19</sup> appears to prevail over these requirements in Section 24261. The first sentence of Section 69740 expressly states that “[*n*]otwithstanding any other provision of law, each trial court shall determine the number and location of sessions of the court necessary for the prompt disposition of the business before the court.”<sup>20</sup>

Given that sentence in Section 69740, there does not seem to be any need for Section 24261’s requirement to “establish ... hours for the dispatch of official business.” **That statutory requirement should be deleted because it is redundant.**

In contrast, Section 24261’s requirement relating to statewide election days is *not* redundant with Section 69740. Instead, that requirement *seems to conflict with* the broad, overriding authority regarding court sessions that the Legislature granted in Section 69740.

Section 24261 also ties the court’s election day schedule to that of the county. That linkage may be obsolete because the courts are no longer county entities.

For these reasons, **Section 24261’s requirement relating to statewide election days should be deleted**, at least for purposes of the Commission’s tentative recommendation.

### **The Remainder of Section 24261**

Aside from the requirements discussed above, the only other thing in Section 24261 is the requirement that superior court judges “establish rules ... for the dispatch of official business.” That statutory requirement might still be of value,

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18. Emphasis added.

19. 2003 Cal. Stat. ch. 149, § 33.

20. Emphasis added.

but it should not remain where it is presently located in the codes — i.e., in a title called “Government of Counties.”

Now that superior courts are state-funded and operated, court-related material no longer belongs in a title devoted to counties. Instead, **Section 24261’s requirement that superior court judges “establish rules ... for the dispatch of official business” probably should be moved to Title 8 of the Government Code**, which is entitled “The Organization and Government of Courts.”

### **Suggested Treatment of Section 24261**

Taking together the points discussed above, **it appears that Section 24261 should be repealed, along the lines shown below:**

**§ 24261 (repealed). Superior court chambers, rules, and hours of operation**

SEC. \_\_\_\_\_. Section 24261 of the Government Code is repealed.

~~24261. The judges of the superior court shall have chambers at the county seat and establish rules and hours for the dispatch of official business; provided that such rules must require that the courts shall be open for the transaction of judicial business on days on which an election is held throughout the State where county offices are open for the transaction of county business during such election days pursuant to ordinance.~~

**Comment.** Section 24261 is repealed to reflect:

(1) Enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

(2) Enactment of Section 69740(a) (trial court to determine number and location of its sessions).

(3) Relocation of the requirement that “[t]he judges of the superior court shall ... establish rules ... for the dispatch of official business ....” See Section 69506.

The requirement that superior court judges “establish rules ... for the dispatch of official business” could be **relocated to “Article 1. General Provisions” of “Chapter 5. The Superior Courts” of “Title 8. The Organization and Government of Courts” of the Government Code.**<sup>21</sup> More specifically, it could be added to that article as follows:

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21. Title 8 of the Government Code currently includes two chapters entitled “Superior Courts”: Chapter 5 (Sections 69504-70141.11) and Chapter 8 (Sections 72004-72403). The Commission should eventually address this organizational problem, when it is close to completing its work on

**§ 69506 (added). Superior court rules**

SEC. \_\_\_\_\_. Section 69506 is added to the Government Code, to read:

69506. The judges of the superior court shall establish rules for the dispatch of official business.

**Comment.** Section 24261 continues part of the first sentence of former Section 24261. See former Section 24261 & Comment.

It may also be helpful to **include a Note in the tentative recommendation immediately after the proposed repeal of Section 24261**, along the following lines:

**Note.** The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on whether any part of Section 24261 needs to be preserved in some manner.

The content of Section 24261 relates to courts, which are no longer county-run. If any of the content remains useful, it should be placed with other material that relates to courts, not left in “Title 3. Government of Counties.”

Due to the enactment of the Trial Court Funding Act and the Trial Court Facilities Act, the Commission has tentatively determined that Section 24261’s requirement to “have [superior court] chambers at the county seat” is obsolete. See Memorandum 2018-31, pp. 12-13; see also Memorandum 2018-21, pp. 7-14. Given the Judicial Council’s broad authority over court facilities (see Section 70391), is there any reason to retain this requirement relating to superior court chambers?

Due primarily to the enactment of Section 69740 (giving each trial court broad, overriding authority to schedule court sessions), the Commission has also tentatively determined that Section 24261’s requirements relating to hours of operation are obsolete. See Memorandum 2018-31, p. 13. Is that assessment correct? Is there any need to preserve Section 24261’s requirement relating to statewide elections? If so, should that be done in Section 69740?

Finally, the Commission has tentatively decided to relocate Section 24261’s requirement that superior court judges “establish rules ... for the dispatch of official business.” See proposed Section 69506 *infra*. Is it really necessary to preserve that statutory requirement?

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trial court restructuring. See Memorandum 2018-5, p. 9. For now, the staff recommends relocating the material from Section 24261 to Chapter 5, as discussed in the text.

**The Commission encourages stakeholders and other interested persons to consider these points and share their views.**

For purposes of a tentative recommendation, **are the statutory reforms shown above** (the repeal of Section 24261 and the proposed addition of Section 69506) **acceptable to the Commission?** If so, **does the Commission want to include a Note along the lines shown above?**

VII. MISCELLANEOUS STATUTES THAT AUTHORIZE A COUNTY TO ACQUIRE OR LEASE  
PROPERTY FOR, CONSTRUCT, REMODEL, AND/OR MAINTAIN A COURT FACILITY  
(GOV'T CODE §§ 25351, 25351.3, 50531-50533)

A number of statutes authorize a county to acquire or lease property for, construct, remodel, and/or maintain a court facility. Due to the enactment of the Trial Court Funding Act and the Trial Court Facilities Act, some or all of those statutes might be obsolete. Counties are no longer responsible for funding trial court operations and providing trial court facilities.

The situation is complicated, however, for a number of reasons. Among other things, counties remain responsible for operating jails and prosecutor's offices. It may be advantageous to combine such operations with the local court, so that defendants can easily be brought to court and prosecutors have ready access. Other county functions may also benefit from proximity to the local court, or there may be other logistical reasons for conducting court and county functions in the same facility. Such "shared use" facilities already exist in some counties and may be appropriate elsewhere in the future.<sup>22</sup>

Thus, at least in some circumstances, it might still make sense for a county to construct or otherwise play a role with regard to a court facility. Each statute authorizing a county to undertake such activity requires careful examination. Some of them might need revisions to reflect trial court restructuring; others might not.

The following statutes on this subject are discussed in order below:

- Section 25351.
- Section 25351.3.
- Section 50531.

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22. See generally Sections 70301(i), 70323, 70341-70344.



Some other statutes on the subject (mostly county-specific ones) will be discussed in a supplement or a future memorandum.

**Section 25351. Notification Requirement and Authority to Construct, Expand, Lease, Build, Rebuild, Furnish, Refurnish, or Repair a Building for Specified Purposes**

Among other things, Section 25351(a) says that a county's board of supervisors "may construct, expand, lease, build, rebuild, furnish, refurnish, or repair buildings for a ... courthouse ... and such other public buildings as are necessary to carry out the work of the county government." As explained above, counties are no longer responsible for providing court facilities, so this grant of authority might not be used much in the future.

**Perhaps Section 25351's reference to a "courthouse" should be deleted, as follows:**

**§ 25351 (amended). Notification requirement and authority to construct, expand, lease, build, rebuild, furnish, refurnish, or repair a building for specified purposes**

SEC. \_\_\_\_\_. Section 25351 of the Government Code is amended to read:

25351. (a) The board may construct, expand, lease, build, rebuild, furnish, refurnish, or repair buildings for a hospital, almshouse, ~~courthouse~~, jail, historical museum, aquarium, library, art gallery, art institute, exposition building for exhibiting and advertising farming, mining, manufacturing, livestock raising, and other resources of the county, stadium, coliseum, sports arena, or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibition, spectacles and other public meetings, and such other public buildings as are necessary to carry out the work of the county government.

(b) Whenever the board of supervisors of a county decides to go out to bid to construct a county building, expand an existing building, expand the use of an existing building, or enter into a lease of an existing building within the incorporated territory of a city, the board shall notify in writing, at least 60 days prior to going to bid or entering into a lease, the city clerk of the city where the building is to be constructed, expanded, or leased.

(c) In those instances where the board is exempt from the bidding process, the board shall notify the city clerk in writing, at least 60 days prior to the construction, expansion, or lease of a building.

(d) The 60-day notification requirements imposed by subdivisions (b) and (c) may be waived if the city council consents, by resolution, thereto.

**Comment.** Section 25351 is amended to reflect enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

The Commission could also **include a Note seeking input on the above amendment, such as:**

**Note.** Among other things, Section 25351(a) says that a county’s board of supervisors “may construct, expand, lease, build, rebuild, furnish, refurnish, or repair buildings for a ... courthouse ... and such other public buildings as are necessary to carry out the work of the county government.” Counties are no longer responsible for providing court facilities, so the grant of authority regarding a courthouse might not be used much in the future. See Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

Sometimes, however, it is advantageous to combine court and county operations in a single facility. Such “shared use” facilities exist in some counties and may be appropriate elsewhere in the future.

Given the possibility of a shared use facility, should Section 25351’s reference to a “courthouse” be retained? Should that reference be retained for any other reason? If the reference to a “courthouse” were deleted, would Section 25351’s catchall phrase (“such other public buildings as are necessary to carry out the work of county government”) be sufficient to cover the possibility of a shared use facility?

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

Due to the possibility of a shared use facility (or perhaps for other reasons), it might instead be appropriate to leave Section 25351 alone. Although the catchall phrase (referring to “such other public buildings as are necessary to carry out the work of the county government”) might be sufficient to encompass a shared use facility, it is possible that someone would infer otherwise if the reference to a “courthouse” were deleted.

If the Commission is concerned about that possibility, another option would be to **present the text of Section 25351 in a tentative recommendation (without any revisions), together with a Note seeking comments on whether any revisions are necessary.** For example,

**§ 25351 (unchanged). Notification requirement and authority to construct, expand, lease, build, rebuild, furnish, refurnish, or repair a building for specified purposes**

25351. (a) The board may construct, expand, lease, build, rebuild, furnish, refurnish, or repair buildings for a hospital, almshouse, courthouse, jail, historical museum, aquarium, library, art gallery, art institute, exposition building for exhibiting and advertising farming, mining, manufacturing, livestock raising, and other resources of the county, stadium, coliseum, sports arena, or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibition, spectacles and other public meetings, and such other public buildings as are necessary to carry out the work of the county government.

(b) Whenever the board of supervisors of a county decides to go out to bid to construct a county building, expand an existing building, expand the use of an existing building, or enter into a lease of an existing building within the incorporated territory of a city, the board shall notify in writing, at least 60 days prior to going to bid or entering into a lease, the city clerk of the city where the building is to be constructed, expanded, or leased.

(c) In those instances where the board is exempt from the bidding process, the board shall notify the city clerk in writing, at least 60 days prior to the construction, expansion, or lease of a building.

(d) The 60-day notification requirements imposed by subdivisions (b) and (c) may be waived if the city council consents, by resolution, thereto.

**Note.** Among other things, Section 25351(a) says that a county's board of supervisors "may construct, expand, lease, build, rebuild, furnish, refurnish, or repair buildings for a ... courthouse ... and such other public buildings as are necessary to carry out the work of the county government." Counties are no longer responsible for providing court facilities, so the grant of authority regarding a courthouse might not be used much in the future. See Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

Should Section 25351's reference to a "courthouse" be deleted as obsolete? Should the reference to a "courthouse" be retained due to the possibility of a "shared use" facility (i.e., a facility that combines court and county operations). Should that reference be retained for

any other reason? If the reference to a “courthouse” were deleted, would Section 25351’s catchall phrase (“such other public buildings as are necessary to carry out the work of county government”) be sufficient to cover the possibility of a shared use facility?

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

### **Does this suggestion appeal to the Commission?**

A third possibility would be to omit Section 25351 from the Commission’s proposal altogether. **Would the Commission prefer to do that?**

### **Section 25351.3. Acquisition, Rental, Improvement, Furnishing, and Repair of Real Property and Facilities**

Section 25351.3 is in close proximity to Section 25351. The two provisions appear to overlap to some extent, but Section 25351 includes notification requirements while Section 25351.3 is longer and addresses a number of points not covered in Section 25351.

Several aspects of Section 25351.3 appear to require attention to reflect trial court restructuring:

- (1) The references to municipal courts are obsolete due to trial court unification. They should be deleted.
- (2) Subdivision (a) says that a county’s board of supervisors may “[a]cquire land for and construct, lease, sublease, build, furnish, refurnish, or repair buildings for ... superior courts ....” That statement is similar to the one in Section 25351 discussed above, but it does not include a catchall phrase that would encompass a shared use building. For purposes of a tentative recommendation, a cautious approach would be to retain subdivision (a)’s reference to “superior courts” yet also elicit comment by including a Note that raises the possibility of deleting that reference.
- (3) Subdivision (c) permits a board of supervisors to enter into certain types of leases. Without its obsolete “municipal court” reference, the second sentence says: “Any lease authorized by the board under this subdivision, except leases for ... superior courts, which may be entered into without advertising for bids, shall be awarded to the lowest responsible bidder after public competitive bidding conducted in the manner determined by the board.” The staff suspects that this sentence may be obsolete, but we are not sure of that, nor are we able to confidently articulate *why* the sentence may be obsolete. To gain insight on this point, the Commission could ask about it in a Note following its proposed amendment of Section 25351.3.

- (4) The last paragraph of Section 25351.3 refers to the “duty of any county or board of supervisors to provide adequate quarters for courts.” That reference should be updated to reflect that counties and their boards no longer have such a duty.

Those points could perhaps be implemented as follows:

**§ 25351.3 (amended). Acquisition, rental, improvement, furnishing, and repair of real property and facilities**

SEC. \_\_\_\_\_. Section 25351.3 of the Government Code is amended to read:

25351.3. In addition to its other powers and duties, the board of supervisors may do any or all of the following:

(a) Acquire land for and construct, lease, sublease, build, furnish, refurnish, or repair buildings for ~~municipal~~ or superior courts and for convention and exhibition halls, trade and industrial centers, auditoriums, opera houses, music halls and centers, motion picture and television museums, and related facilities used for public assembly purposes for the use, benefit and enjoyment of the public, including offstreet parking places for motor vehicles, ways of ingress and egress, and any other facilities and improvements necessary or convenient for their use.

(b) Acquire land and construct buildings, structures and facilities thereon, in whole or in part, with county funds or it may, by contract or lease with any nonprofit association or corporation, provide for the acquisition of land or the construction of buildings, structures and facilities, or all or any part thereof, for public assembly purposes, upon the terms the board may determine.

(c) Lease, pursuant to Section 25371, any real property owned by the county and available for public assembly purposes to any person, firm, corporation, or nonprofit association or corporation for public assembly purposes, with the person, firm, corporation, or nonprofit association or corporation to lease the real property, as improved, back to the county for use for the purposes stated in the lease. Any lease authorized by the board under this subdivision, except leases for ~~municipal~~ or superior courts, which may be entered into without advertising for bids, shall be awarded to the lowest responsible bidder after public competitive bidding conducted in the manner determined by the board. Notice inviting bids shall be published pursuant to Section 6066 in a newspaper as the board may direct.

(d) Enter into a lease or sublease, without advertising for bids therefor, of buildings, structures, and facilities or any of them with any nonprofit association or corporation which agrees to use the buildings, structures, and facilities so leased to it for the public assembly purposes for which they were or are to be built; or contract, without advertising, for bids with any nonprofit association or corporation for the maintenance, operation, and management of the buildings, structures, and facilities, or any part

thereof used for public assembly purposes, including the scheduling and promotion of events therein, for a specified term, not to exceed 40 years, upon terms and conditions as may be agreed upon. The leases, subleases, or contracts shall provide that, at least annually, there shall be paid to the county the net revenue, if any, from the operation and use of the facilities, remaining after the payment of expenses and costs, if any, for maintenance, operation or management, interest, and principal payments upon loans to the nonprofit corporation or association for purposes of maintenance, operation, or management, and any other expenses, and after providing maintenance and operation reserves. The lease, sublease, or contract shall also provide that, upon its expiration, all of the assets of the nonprofit association or corporation after payment or discharge of its indebtedness and liabilities shall be transferred to the county.

(e) If the county has a population in excess of 4,000,000, without advertising for bids therefor, grant any real property owned by the county, or lease, for a term not to exceed 99 years, any real property owned by the county, to any city, district, or other public entity for any of the above public assembly purposes, without consideration, except the agreement of the grantee or lessee to use the real property for the public assembly purposes specified, and upon terms and conditions which may be agreed upon by the board and the grantee or lessee.

The amendment to this section enacted by Chapter 755 of the Statutes of 1963 shall not be construed to ~~affect or modify the~~ have affected or modified the then-existing duty of any county or board of supervisors to provide adequate quarters for ~~courts~~ but is courts. That amendment was intended to provide an alternative method of financing the acquisition of property and buildings for use for courthouse purposes.

**Comment.** Section 25351.3 is amended to reflect:

(1) Unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

(2) Enactment of the Trial Court Funding Act of 1997 and the related Trial Court Facilities Act of 2002. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations). See also Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

**Notes.**

(1) Among other things, Section 25351.3(a) says that a county’s board of supervisors may “[a]cquire land for and construct, lease, sublease, build, furnish, refurnish, or repair buildings for ... superior courts ....” Counties are no longer responsible for

providing court facilities, so this grant of authority might not be used much in the future.

Should the reference to “superior courts” be deleted? Should it be retained due to the possibility of a “shared use” facility (i.e., a facility that combines court and county operations)? Should it be retained for any other reason?

(2) Section 25351.2(c) permits a board of supervisors to enter into certain types of leases. Any lease so authorized shall be awarded to the lowest responsible bidder after public competitive bidding, *except* a lease for a trial court, “which may be entered into without advertising for bids ....” Is this exception from the public competitive bidding process obsolete? If so, why?

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on these matters.**

**Is the above approach acceptable to the Commission? Should it be changed in any way?**

### **Section 50531. Public Square**

Section 50531 provides:

50531. Pursuant to this article, after acquiring by purchase, condemnation, or otherwise all outstanding titles, reversions, easements, or other interest in or to the public square, the city in which the public square is located, or if it is not located in a city, the county in which it is located, may erect upon the public square a city hall, county courthouse, or other public building with appurtenances or the city in which the public square is located may grant or lease it to the county in which the city is located for the erection thereon of a county courthouse or other public building.

The first part of this provision is similar to the language in Section 25351 authorizing a county to construct a courthouse or other public building. Here, such authority extends to “the city in which the public square is located” or, if the public square is not located in a city, “the county in which it is located.” **The Commission should handle this part of Section 50531 the same way it handles the similar language in Section 25351.**

The end of Section 50531 authorizes a city that acquires a public square within city limits to “grant or lease it to the county in which the city is located for the erection thereon of a county courthouse or other public building.” Now that the state is responsible for providing court facilities, rather than each county,

perhaps Section 50531 should be amended to permit a city to grant or lease a public square *to the state* for erection of a courthouse, instead of, or in addition to, *the county in which the city is located*.

**Would the Commission like to pursue that concept? If so, should the existing option of granting or leasing a public square *to the county* be eliminated, or should it be retained? Comments on these points would be helpful.**

Once the Commission resolves these issues and the proper treatment of the first part of Section 50531 (the part that is similar to language in Section 25351), the staff will draft an amendment to implement those decisions, assuming that an amendment is needed. Depending on how the Commission elects to proceed, conforming revisions of Sections 50532 and 50533 might also be necessary.

VIII. AUTHORITY TO DEDICATE UNUSED PARKLAND FOR A COURT FACILITY  
(GOV'T CODE § 25560.4)

Section 25560.4, relating to unused parkland, raises issues similar to the ones just discussed. It provides:

25560.4. The board of supervisors of any county may, by a four-fifths vote of the members, use or dedicate any portion of any land acquired by the county by means of special assessment proceedings for park purposes, for the erection and maintenance of one or more buildings to house any municipal or superior court, or one or more departments or divisions of any one or more of such courts if the portion of the land to be so used or dedicated has not been used by the public for park purposes for a period of more than 10 years.

Because counties are no longer responsible for providing court facilities, it seems unlikely that a county would choose to dedicate unused parkland for the erection and maintenance of a court facility, unless perhaps the county could sell or lease the facility to the state. Notably, the statute does not say anything about erecting and maintaining any other type of facility (including a facility that combines court operations with other functions). It seems possible that Section 25560.4 is entirely obsolete and should be repealed.

The staff is not sure of this, however. We might be overlooking one or more sets of circumstances in which a county might make use of Section 25560.4. **Comments on this point would be helpful.**



**At a minimum, Section 25560.4 should be amended to delete the municipal court reference.** One option would be to propose such an amendment and include a Note soliciting comment on whether to repeal the statute altogether. That could be done as follows:

**§ 25560.4 (amended). Dedication of unused parkland for court facility**

SEC. \_\_\_\_\_. Section 25560.4 of the Government Code is amended to read:

25560.4. The board of supervisors of any county may, by a four-fifths vote of the members, use or dedicate any portion of any land acquired by the county by means of special assessment proceedings for park purposes, for the erection and maintenance of one or more buildings to house ~~any municipal or a superior court, or one or more departments or divisions of any one or more of such courts thereof,~~ if the portion of the land to be so used or dedicated has not been used by the public for park purposes for a period of more than 10 years.

**Comment.** Section 25560.4 is amended to reflect unification of the municipal and superior courts pursuant to former Article VI, Section 5(e), of the California Constitution.

**Note.** In specified circumstances, Section 25560.4 authorizes a county to dedicate unused parkland “for the erection and maintenance of one or more buildings to house any ... superior court, or one or more departments or divisions” of such a court. Counties are no longer responsible for providing court facilities, so this grant of authority might not be used much in the future. See Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

Should Section 25560.4 be repealed instead of amended as shown above? Are there circumstances in which it would remain useful?

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

**Does this approach appeal to the Commission? Would it prefer to handle Section 25560.4 in some other manner?**

IX. COUNTY PENALTIES (GOV'T CODE §§ 76000-76252)

Chapter 12 of Title 8 of the Government Code (Sections 76000-76252) is entitled “County Penalties.” Upon reviewing that chapter, the staff spotted the

following provisions that relate to court facilities and might need revisions to reflect trial court restructuring:

- Section 76000.
- Section 76100.
- Section 76101.
- Section 76101.5.
- Section 76106.
- Section 76110.

Section 76101.5 expressly applies only to certain counties. It will be discussed together with other county-specific provisions in a supplement or future memorandum. The other five sections are discussed in order below.

Each of those sections relates to the complicated court funding system. In general, it is difficult for the staff to tell whether material in these provisions is obsolete due to trial court restructuring, because we do not know enough about the current status of the various funding arrangements.

We have thus focused on raising questions that more knowledgeable sources (such as the Judicial Council, the superior courts, the counties, and the California State Association of Counties) should be able to answer. **Responses to those questions, or any other comments on the matters at hand, would be greatly appreciated.**

It would also be helpful to hear if there are other provisions in the “County Penalties” chapter that may require revisions to reflect trial court restructuring. **Please notify the Commission if you are aware of one or more such provisions.**

#### **Section 76000. Added Penalties**

Section 76000 is a long section that concerns two “added penalties” (i.e., a monetary penalty imposed in addition to a base fine, penalty, or forfeiture).

Paragraph (1) of subdivision (a) authorizes a \$7 added penalty, as follows:

76000. (a)(1) Except as otherwise provided elsewhere in this section, in each county there shall be levied an additional penalty in the amount of seven dollars (\$7) for every ten dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses ....

The remainder of subdivision (a) specifies details regarding collection and use of this added penalty, as well as situations in which this added penalty does not apply.

Subdivision (e) says that the \$7 added penalty “shall be reduced in each county by the additional penalty amount assessed by the county for the local courthouse construction fund established by Section 76100 as of January 1, 1998, *when the money in that fund is transferred to the state under Section 70402.*”<sup>23</sup> Subdivision (e) also includes a table that specifies precisely how much each county shall charge.

The table in subdivision (e) was last updated in 2010.<sup>24</sup> The staff does not know whether it requires any further updating, or whether any of the other rules relating to the \$7 added penalty are out-of-date or could be simplified at this point. **Comments on these issues would be helpful.**

Subdivision (b) of Section 76000 says that in specified circumstances, “for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents (\$2.50) shall be included in the total penalty, fine, or forfeiture.” Subdivision (b) also prescribes details regarding this added penalty, as does subdivision (c).

Subdivision (d) requires reduction of the \$2.50 added penalty in certain circumstances:

(d) The authority to impose the two-dollar-and-fifty-cent (\$2.50) penalty authorized by subdivision (b) shall be reduced to one dollar (\$1) *as of the date of transfer of responsibility for facilities from the county to the Judicial Council* pursuant to Article 3 (commencing with Section 70321) of Chapter 5.1, *except* as money is needed to pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.<sup>25</sup>

The court facility transfers from the counties to the Judicial Council have all been completed,<sup>26</sup> so the \$2.50 added penalty is now reduced to \$1.00 pursuant to subdivision (d) “*except* as money is needed to pay for construction provided for

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23. Emphasis added.

Section 70402 is part of the Trial Court Facilities Act (to be examined later in this study). Under it, any amount in a county’s courthouse construction fund established by Section 76100 shall be transferred to the State Court Facilities Construction Fund at the *later* of the following dates:

(1) The date of the last transfer of responsibility for court facilities from the county to the Judicial Council or December 31, 2009, whichever is earlier.

(2) The date of the final payment of the bonded indebtedness for any court facility that is paid from that fund is retired.

24. See 2010 Cal. Stat. ch. 720, § 26.

25. Emphasis added.

26. See <http://www.courts.ca.gov/11600.htm>.

in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.”<sup>27</sup>

The staff does not know to what extent there still are counties that need to “pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.”

**Information on this point would be useful.**

Eventually, we assume that there will not be any counties left in that category. At that point, Section 76000 could be simplified to specify a \$1.00 added penalty across-the-board, instead of a \$2.50 added penalty that is sometimes reduced to \$1.00. We suspect that such simplification is not yet possible and may not be possible for quite awhile, but we do not know for sure.

There is, however, one revision of Section 76000 that clearly appears in order. Subdivision (d) refers to “the date of transfer of responsibility for facilities from the county to the Judicial Council pursuant to Article 3 (commencing with Section 70321) of *Chapter 5.1* ....”<sup>28</sup> That cross-reference should be to Chapter 5.7, not Chapter 5.1.

**For purposes of a tentative recommendation, the Commission could propose to correct that cross-reference and include a Note soliciting comment on whether other revisions of Section 76000 are appropriate.** That could be done as follows:

**§ 76000 (amended). Added penalties**

SEC. \_\_\_\_\_. Section 76000 of the Government Code is amended to read:

76000. (a) (1) Except as otherwise provided elsewhere in this section, in each county there shall be levied an additional penalty in the amount of seven dollars (\$7) for every ten dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) This additional penalty shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall

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27. Emphasis added.

28. Emphasis added.

continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

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

(A) Any restitution fine.

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

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

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

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents (\$2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents (\$2.50). These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents (\$2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall deposit one dollar (\$1) of every two dollars and fifty cents (\$2.50) collected pursuant to subdivision (b) into the general fund of the county.

(d) The authority to impose the two-dollar-and-fifty-cent (\$2.50) penalty authorized by subdivision (b) shall be reduced to one dollar (\$1) as of the date of transfer of responsibility for facilities from the county to the Judicial Council pursuant to Article 3

(commencing with Section 70321) of Chapter 5.1 ~~5.7~~, except as money is needed to pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.

(e) The seven-dollar (\$7) additional penalty authorized by subdivision (a) shall be reduced in each county by the additional penalty amount assessed by the county for the local courthouse construction fund established by Section 76100 as of January 1, 1998, when the money in that fund is transferred to the state under Section 70402. The amount each county shall charge as an additional penalty under this section shall be as follows:

Alameda	\$5.00	Marin	\$5.00	San Luis Obispo	\$5.00
Alpine	\$5.00	Mariposa	\$2.50	San Mateo	\$4.75
Amador	\$5.00	Mendocino	\$7.00	Santa Barbara	\$3.50
Butte	\$7.00	Merced	\$4.75	Santa Clara	\$5.50
Calaveras	\$3.00	Modoc	\$3.50	Santa Cruz	\$7.00
Colusa	\$6.00	Mono	\$4.00	Shasta	\$3.50
Contra Costa	\$5.00	Monterey	\$5.00	Sierra	\$7.00
Del Norte	\$7.00	Napa	\$3.00	Siskiyou	\$5.00
El Dorado	\$5.00	Nevada	\$4.75	Solano	\$5.00
Fresno	\$7.00	Orange	\$5.29	Sonoma	\$5.00
Glenn	\$4.00	Placer	\$4.75	Stanislaus	\$5.00
Humboldt	\$5.00	Plumas	\$7.00	Sutter	\$6.00
Imperial	\$6.00	Riverside	\$4.60	Tehama	\$7.00
Inyo	\$4.00	Sacramento	\$5.00	Trinity	\$4.50
Kern	\$7.00	San Benito	\$5.00	Tulare	\$5.00
Kings	\$7.00	San Bernardino	\$5.00	Tuolumne	\$7.00
Lake	\$7.00	San Diego	\$7.00	Ventura	\$5.00
Lassen	\$2.00	San Francisco	\$6.99	Yolo	\$7.00
Los Angeles	\$5.00	San Joaquin	\$3.75	Yuba	\$3.00
Madera	\$7.00				

**Comment.** Subdivision (d) of Section 76000 is amended to correct a cross-reference to a chapter in the Trial Court Facilities Act. This is not a substantive change.

**Note.** The above amendment would just correct an erroneous cross-reference. Are any further revisions of Section 76000 in order to reflect trial court restructuring? Is it possible to simplify the section in any way, given the current status of the court facility transfers and related financial developments? For discussion of this matter, see Memorandum 2018-31, pp. 27-28.

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

### **Is this approach acceptable to the Commission?**

#### **Section 76100. Courthouse Construction Fund**

Subject to certain exceptions, Section 76100 authorizes a board of supervisors to establish a Courthouse Construction Fund in the county treasury, which is for “acquisition, rehabilitation, construction, and financing of courtrooms, a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, or court facilities ....” The section also specifies various details regarding the use of this fund.

Section 76100 was last amended in 2005, before all of the court facility transfers were complete.<sup>29</sup> The staff suspects that the provision is not yet obsolete.

As best we can tell, one or more Courthouse Construction Funds established pursuant to Section 76100 might still exist. That is apparent from Section 70402 (part of the Trial Court Facilities Act), which says that any amount in a county’s Courthouse Construction Fund established by Section 76100 shall be transferred to the State Court Facilities Construction Fund at the *later* of the following dates:

- (1) The date of the last transfer of responsibility for court facilities from the county to the Judicial Council or December 31, 2009, whichever is earlier.
- (2) The date of the final payment of the bonded indebtedness for any court facility that is paid from that fund is retired.

All of the court facility transfers are complete and the specified cutoff date (December 31, 2009) has come and gone. Thus, the trigger for transferring funds from a county’s Courthouse Construction Fund to the State Court Facilities

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29. See 2005 Cal. Stat. ch. 410, § 7.

Construction Fund is now the “date of the final payment of the bonded indebtedness for any court facility that is paid from that fund is retired.”

The staff does not know which counties have such bonded indebtedness and when they will be able to retire any bonded indebtedness they may have. **Information on this point, or other information bearing on the current status of Section 76100, would be helpful.**

Like the provision on added penalties (Section 76000), Section 76100 could benefit from a minor technical change, as shown below:

**§ 76100 (amended). Courthouse Construction Fund**

SEC. \_\_\_\_\_. Section 76100 of the Government Code is amended to read:

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

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

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

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

(c) Any excess courtroom, excess courtroom building or buildings, or excess court facilities, that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until the excess courtrooms, excess courtroom building or buildings, or excess court facilities, are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.



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

(e) The amendments made to subdivision (a) by the act adding ~~this subdivision~~ Section 7 of Chapter 410 of the Statutes of 2005 are declarative of existing law and shall be used for determinations made pursuant to subdivision (c) of Section 70403.

**Comment.** Subdivision (e) of Section 76100 is amended to improve clarity. This is not a substantive change.

For purposes of a tentative recommendation, the Commission could combine the above amendment with the following Note:

**Note.** The above amendment would be a purely technical change to improve clarity. Are any further revisions of Section 76100 needed to reflect trial court restructuring? How many Courthouse Construction Funds still exist? Is it possible to predict when such Funds will no longer exist? Will Section 76100 become obsolete at that time? If so, should it be subject to a sunset date?

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

**Would the Commission like to proceed in this manner? Would it be better to follow some other approach?**

### **Section 76101. Criminal Justice Facilities Construction Fund**

Section 76101 is similar to Section 76100. Subject to certain exceptions, it authorizes a board of supervisors to establish a Criminal Justice Facilities Construction Fund in the county treasury, which is for “construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems ....”

Unlike a Courthouse Construction Fund, a Criminal Justice Facilities Construction Fund is not only for funding court facilities. Rather, “county criminal justice facilities” is a term that “includes, but is not limited to, *jails, women’s centers, detention facilities, juvenile halls, and courtrooms.*”<sup>30</sup>

On initial review of Section 76101, the staff thought that perhaps the references to “court facilities” and “courtrooms” could be deleted, because counties are no longer responsible for providing court facilities. As previously

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30. Emphasis added.

discussed, however, there can be advantages to having a “shared use” facility, such as a jail that includes a courtroom and thus eliminates the cost and complications of transporting defendants from jail to court and back.

We are not sure how such a shared use facility would be funded and thus whether Section 76101’s references to “court facilities” and “courtrooms” remain appropriate. Would a county ever have to provide funding for a court facility (other than its regular court facility payments under Sections 70351-70370<sup>31</sup>) upfront and seek reimbursement from the state afterwards? Are there scenarios in which a county would still want or need to use a Criminal Justice Facilities Construction Fund to fund one or more courtrooms, in a shared use facility or otherwise?

The Commission could solicit input on that point by **presenting the text of Section 76101 in a tentative recommendation (without any revisions), together with a Note seeking comments on whether any revisions are necessary.** That could be done as follows:

**§ 76101 (unchanged). Criminal Justice Facilities Construction Fund**

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

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

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31. Although counties are no longer required to provide court facilities, each county must make regular court facility payments (“CFPs”), which are based on “the amount that county historically expended for operation and maintenance of court facilities.” Section 70351. For further details regarding CFPs, see Sections 70351-70370 (part of the Trial Court Facilities Act).

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

**Note.** Section 76101 authorizes a county’s board of supervisors to establish a Criminal Justice Facilities Construction Fund, which can be used to fund “county criminal justice facilities,” including, but not limited to, “jails, women’s centers, detention facilities, juvenile halls, and courtrooms.” (Emphasis added.) Counties are no longer responsible for providing court facilities, so it occurred to the Commission that Section 76101’s references to “courtrooms” and “court facilities” might be obsolete. See Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

Sometimes, however, it is advantageous to combine court and county operations in a single facility (a “shared use facility”). The Commission is not sure how such a shared use facility would be funded and thus whether Section 76101’s references to “court facilities” and “courtrooms” remain appropriate. Would a county ever have to provide funding for a court facility (other than its regular court facility payments under Sections 70351-70370) upfront and seek reimbursement from the state afterwards? Are there scenarios in which a county would still want or need to use a Criminal Justice Facilities Construction Fund to fund one or more courtrooms, in a shared use facility or otherwise?

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

**Would the Commission like to take this approach to Section 76101? Would it prefer to proceed in some other way?**

#### **Section 76106. Resolution Specifying Payment Amounts**

Section 76106 says that for any fund established pursuant to the chapter entitled “County Penalties” (Sections 76000-76252), “the penalty amounts to be deposited in the fund shall be specified by resolution adopted by the board of supervisors ....” The section also specifies additional details regarding the content of such a resolution. In particular, it says that the resolution “shall state that the implementation of the applicable sections is necessary to the county for

the establishment of adequate *courtroom* or criminal justice facilities or other authorized purposes of the fund.”<sup>32</sup>

At some point, perhaps Section 76106’s reference to courtroom facilities will become obsolete. The staff suspects that is not yet the case. Nonetheless, it might still be worth inquiring about in the tentative recommendation that the Commission is preparing.

Again, that could be done by **presenting the text of the section in a tentative recommendation (without any revisions), together with a Note soliciting comments.** For example,

**§ 76106 (unchanged). Resolution specifying payment amounts**

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

**Note.** For each fund established pursuant to the chapter entitled “County Penalties” (Sections 76000-76252), Section 76106 requires the board of supervisors to adopt a resolution specifying the penalty amounts to be deposited in the fund. Among other things, the resolution “shall state that the implementation of the applicable sections is necessary to the county for the establishment of adequate *courtroom* or criminal justice facilities or other authorized purposes of the fund.” (Emphasis added.)

Counties are no longer responsible for providing court facilities, so it occurred to the Commission that Section 76106’s reference to “courtroom” facilities might at some point become obsolete. See Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

The Commission is not sure when, if ever, that might occur. **Information on that point would be helpful.** Because it lacks such

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32. Emphasis added.

information, the Commission is not proposing any changes to Section 76106 at this time.

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

**Does the Commission wish to follow this approach?**

### **Section 76110. Transfer of Excess Deposits to County General Fund**

In specified circumstances, Section 76110 authorizes transfers of “excess deposits” from a Courthouse Construction Fund or a Criminal Justice Facilities Construction Fund to the county general fund. Among other requirements, such a transfer “shall not occur until the need for *courthouse construction* or the construction of criminal justice facilities has been met.”<sup>33</sup>

Here again, it is probably premature to make any revisions, but it occurred to the staff that the references to “a Courthouse Construction Fund” and “the need for courthouse construction” might (or might not) someday become obsolete. If the Commission is so inclined, **it could seek comment on this matter by including the following material in its tentative recommendation:**

#### **§ 76110 (unchanged). Transfer of excess deposits to county general fund**

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

**Note.** In specified circumstances, Section 76110 authorizes transfers of “excess deposits” from a Courthouse Construction Fund or a Criminal Justice Facilities Construction Fund to the county general fund. Among other requirements, such a transfer “shall not occur until the need for *courthouse construction* or the construction of criminal justice facilities has been met.” (Emphasis added.)

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33. Emphasis added.

Counties are no longer responsible for providing court facilities, so it occurred to the Commission that Section 76110's reference to "courthouse construction" and its references to a "Courthouse Construction Fund" might at some point become obsolete. See Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities).

The Commission is not sure when, if ever, that might occur. **Information on that point would be helpful.** Because it lacks such information, the Commission is not proposing any changes to Section 76110 at this time.

**The Commission welcomes comments on any aspect of this tentative recommendation, but it would especially appreciate comments on this matter.**

### How does the Commission want to handle Section 76110?

#### X. OTHER PROVISIONS RELATING TO COURT FACILITIES

In preparing this memorandum and Memorandum 2018-21 (the memorandum on court facilities that the Commission considered in May), the staff has been working primarily from the list of court facility provisions that appears in footnote 50 on page 8 of the First Supplement to Memorandum 2014-53.

We have not yet addressed all of those provisions and we have also learned of some other provisions that relate to court facilities. The remaining provisions fall into a number of categories:

- *Trial Court Facilities Act (Gov't Code §§ 70301-70508)*. The staff plans to discuss the chapter containing the Trial Court Facilities Act in a future memorandum. Article 9 of that chapter (Sections 70500-70508) was just added in 2017. It relates specifically to San Diego County and does not appear to contain any material that is or will soon be obsolete due to trial court restructuring. The staff does not plan to discuss it further.
- *"Article 3. State Finance Provisions" of Chapter 13 of Title 8 of the Government Code (Sections 77200-77212)*. The staff plans to discuss selected provisions from this article in a future memorandum. We have not yet identified specifically which provisions to address.

- *County-Specific Provisions.* Some of the flagged provisions relate to a specific county or several specific counties.<sup>34</sup> The staff plans to discuss those provisions in a supplement or a future memorandum.
- *Flagged Provisions That Do Not Appear to Require Any Revisions to Reflect Trial Court Restructuring.* On examining some of the provisions previously flagged for attention, the staff concluded that (1) they do not contain material made obsolete by trial court restructuring and (2) they do not warrant presentation to the Commission.<sup>35</sup> If anyone believes the Commissioners should take a look at one or more of these provisions, it would be helpful to hear as much.

**The Commission welcomes suggestions regarding other court facility provisions that might be obsolete due to trial court restructuring.**

Respectfully submitted,

Barbara Gaal  
Chief Deputy Counsel

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34. See Sections 6520, 14672.5, 25539.10, 26290-26290.8, 26295-26298.58, 26299.000-26299.083, 68073.5, 76101.5, 76200, 76214, 76215, 76219, 76223-76225, 76245, 76251, 76252.

See also Sections 70622, 70624, 70625. Cross-references to those sections may also warrant discussion. See, e.g., Section 68085.1(c)(1)(D) & (h); see also Section 68085(d) (cross-referring to Section 76238, which was repealed & renumbered as Section 70625).

35. See Sections 6546(o), 8878.99, 29550(b)(7), 24250, 24252, 24253, 24254, 24254.5, 63010(q)(14); Code Civ. Proc. § 134.

See also Sections 65850(c)(2) (does not relate to court facilities), 76238 (repealed & renumbered as Section 70625 by Uniform Civil Fees and Standard Fee Schedule Act — i.e., 2005 Cal. Stat. ch. 75, § 137 (AB 145 (Committee on Budget))).





LEGISLATION TO REPEAL THE ARTICLE THAT CREATED THE TASK FORCE ON  
COURT FACILITIES (GOV'T CODE §§ 77650-77655)

**Gov't Code §§ 77650-77655 (repealed). Task Force on Court Facilities**

SEC. \_\_\_\_\_. Article 2 (commencing with Section 77650) of Chapter 14 of Title 8 of the Government Code is repealed.

**Comment.** Sections 77650-77655 are repealed as obsolete. As directed by the Legislature, the Task Force on Court Facilities completed its work and submitted its final report in 2001. The report served as a basis for enactment of the Trial Court Facilities Act of 2002 (2002 Cal. Stat. ch. 1082). See Assembly Committee on Judiciary Analysis of SB 1732 (June 25, 2002); Senate Committee on Judiciary Analysis of SB 1732 (April 16, 2002).

**Note.** The text of the repealed article is set out below.

Article 2. Task Force on Court Facilities

77650. The Task Force on Court Facilities is hereby established in state government and charged with identifying the needs related to trial and appellate court facilities, and options and recommendations for funding court facility maintenance, improvements, and expansion, including the specific responsibilities of each entity of government.

77651. The task force shall be composed of 18 members, appointed as follows:

(a) Six members appointed by the Chief Justice who shall be from urban, suburban, and rural courts. Four representatives may be either trial court judges or trial court administrators. One representative shall be a justice of the courts of appeal.

(b) Six members appointed by the Governor from a list of nominees submitted by the California State Association of Counties, who represent urban, suburban, and rural counties. Four representatives may be either county supervisors or county administrators. One representative shall be a person with court security responsibility.

(c) Two members appointed by the Senate Rules Committee, one of whom shall represent the State Bar or an associated attorney organization, neither of whom would be eligible for appointment under subdivision (a) or (b).

(d) Two members appointed by the Speaker of the Assembly, one of whom shall represent the State Bar or an associated attorney organization, neither of whom would be eligible for appointment under subdivision (a) or (b).

(e) The Director of General Services and the Director of Finance.

(f) The Chief Justice shall designate one of these representatives as the chairperson of the task force.

77652. The Judicial Council shall provide staff support for the task force and shall develop guidelines for procedures and practices for the task force. The Department of General Services, the Department of Finance, and the Legislative

Analyst shall provide additional support, at the request of the Judicial Council. The California State Association of Counties is encouraged to provide additional staff support.

77653. The duties of the task force shall include all of the following:

- (a) Document the state of existing court facilities.
- (b) Document the need for new or modified court facilities and the extent to which current court facilities are fully utilized.
- (c) Document the funding mechanisms currently available for maintenance, operation, construction, and renovation of court facilities.
- (d) Examine existing standards for court facility construction.
- (e) Document the impacts of state actions on court facilities and other state and local justice system facilities.
- (f) Review and recommend operational changes which may mitigate the need for additional court facilities, including the implementation of methods to more fully utilize existing facilities.
- (g) Review and provide recommendations on concepts regarding security; operational flexibility; alternative dispute resolution; meeting space; special needs of children, families, victims, and disabled persons; technology; the dignity of the participants; and any other special needs of court facilities.
- (h) Recommend specific funding responsibilities among the various entities of government for support of trial court facilities and facility maintenance including, but not limited to, full state responsibility or continued county responsibility.
- (i) Recommend funding sources and financing mechanisms for support of court facilities and facility maintenance.

77654. (a) The task force shall be appointed on or before October 1, 1997.

(b) The task force shall meet and establish its operating procedures on or before September 1, 1998, and submit its plan for the entire review of court facilities by October 1, 1998, to the Judicial Council, Legislature, and Governor.

(c) The task force shall review all available court facility standards and make preliminary determinations of acceptable standards for construction, renovation, and remodeling of court facilities, and shall report those preliminary determinations to the Judicial Council, the Legislature, and the Governor in an interim report on or before July 1, 1999.

(d) The task force shall complete a survey of all trial and appellate court facilities in the state and report its findings to the Judicial Council, the Legislature, and the Governor in a second interim report on or before January 1, 2001. The report shall document all of the following:

- (1) The state of existing court facilities.
- (2) The need for new or modified court facilities.
- (3) The currently available funding options for constructing or renovating court facilities.

(4) The impact which creating additional judgeships has upon court facility and other justice system facility needs.

(5) The effects which trial court coordination and consolidation have upon court and justice system facilities needs.

(6) Administrative and operational changes which can reduce or mitigate the need for added court or justice system facilities.

(7) Recommendations for specific funding responsibilities among the entities of government including full state responsibility, full county responsibility, or shared responsibility.

(8) A proposed transition plan if responsibility is to be changed.

(9) Recommendations regarding funding sources for court facilities and funding mechanisms to support court facilities.

(e) The interim reports shall be circulated for comment to the counties, the judiciary, the Legislature, and the Governor. The task force may also circulate these reports to users of the court facilities.

(f) The task force shall submit a final report to the Judicial Council, the Legislature, and the Governor on or before July 1, 2001. The report shall include all elements of the interim reports incorporating any changes recommended by the task force in response to comments received.

(g) Notwithstanding any other provision of law, during the period from July 1, 1997 to December 31, 2002, inclusive, the board of supervisors of each county shall be responsible for providing suitable and necessary facilities for judicial officers and court support staff for judicial positions created prior to July 1, 1996, to the extent required by Section 68073. The board of supervisors of each county shall also be responsible for providing suitable and necessary facilities for judicial officers and court support staff for judgeships authorized by statutes chaptered in 1996 to the extent required by Section 68073, provided that the board of supervisors agrees that new facilities are either not required or that the county is willing to provide funding for court facilities. Unless a court and a county otherwise mutually agree, the state shall assume responsibility for suitable and necessary facilities for judicial officers and support staff for any judgeships authorized during the period from January 1, 1998, to December 31, 2002, inclusive.

77655. Notwithstanding any other provision of law, including Section 68073, the findings of the task force shall not be considered or entered into evidence in any action brought by trial courts to compel a county to provide facilities that the trial court contends are necessary and suitable.