

Memorandum 2018-49

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

The Commission has been examining statutes relating to court facilities, to determine whether they contain material made obsolete by trial court restructuring.¹ After identifying potential reforms, the Commission will incorporate those reforms in a tentative recommendation, which will be broadly circulated for comment.

This memorandum continues the Commission's work on court facility statutes. The memorandum is organized as follows:

	<i>Page</i>
I. Flags for Courtrooms (Gov't Code § 69504)	2
II. County-Specific Court Facility Statutes	5
A. Regional Justice Facilities Acts (Gov't Code §§ 26290-26299.083)	5
1. Description of the Acts	5
2. Constitutional Challenges	8
3. Analysis	10
B. Statutes Referring to One or More Courthouse Construction Funds	14
1. San Diego Courthouse, Jail, and Related Facilities Development Agency (Gov't Code § 6520)	16
2. Surcharge in San Bernardino County (Gov't Code § 70624)	19
3. Transfers Between the Courthouse Construction Fund and the Criminal Justice Facilities Fund in a County of the 1st or 47th Class (Gov't Code § 76101.5)	21

1. See Memorandum 2018-21; Memorandum 2018-31; First Supplement to Memorandum 2018-31; Minutes (May 2018), p. 6; *Draft Minutes* (Aug. 2018), pp. 4-12.

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). 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.

4. Courthouse Construction Fund for Los Angeles County (Gov't Code § 76219)	23
5. Construction of Court Facilities in Merced County (Gov't Code § 76223)	25
C. Other County-Specific Court Facility Statutes	27
1. Lease of Unimproved Property to City of Folsom in Sacramento County for Police Station, Courthouse, or City Hall (Gov't Code § 14672.5)	28
2. Dining and Parking Facilities In or Adjacent to Court Building in County With Population Exceeding Three Million (Gov't Code § 68073.5)	29
3. Reimbursement of Court Construction Funds in Merced County if Transfers Do Not Occur On Time (Gov't Code § 76225).....	30

The following materials are attached as exhibits:

	<i>Exhibit p.</i>
• San Joaquin County Regional Justice Facility Financing Act (Gov't Code §§ 26290-26293.4)	1
• Orange County Regional Justice Facilities Act (Gov't Code §§ 26295-26298.58).....	7
• County Regional Justice Facilities Financing Act (Gov't Code §§ 26299.000-26299.083)	20
• "Courthouse Construction Fund" References That Do Not Appear to Need Revisions to Reflect Trial Court Restructuring (Gov't Code §§ 68085.1, 70624, 70625, 76200, 76214, 76224, 76245, 76252)	32

Unless otherwise specified, all further statutory references are to the Government Code.

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

Section 69504 requires the *board of supervisors* in each county to provide a United States flag and a California flag for each courtroom in the local superior court. The section's reference to the board of supervisors appears to be obsolete due to the enactment of the Trial Court Funding Act, which transferred responsibility for trial court funding from the counties to the state.

At the August meeting, the Commission discussed how to handle Section 69504 in a tentative recommendation. It considered several possibilities:

- (1) Replace "board of supervisors of each county" with "superior court of each county."

- (2) Replace “board of supervisors of each county” with “Judicial Council.”
- (3) Present both alternatives.

The Commission tentatively decided that the section should be amended as follows:²

§ 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.

Charles Martel (Supervising Attorney for the Judicial Council) agreed to provide some citations relating to this matter.³

At the August meeting, the Commission also discussed whether its tentative recommendation should include a Note specifically soliciting comment on the above amendment, along the following lines:⁴

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.**

The Commission concluded that such a Note did not seem necessary.⁵

After the August meeting, Mr. Martel drew the staff’s attention to Section 68073.1, which was added to the codes as part of the Trial Court Funding Act of 1997. Under that section, equipment used by the trial courts was to be transferred from the counties to the courts (not the Judicial Council) and the courts were to assume responsibility for repair, maintenance, and replacement of such equipment:

68073.1. (a) All furniture, furnishings, and equipment used solely by a trial court on June 30, 1997, shall become the property of the court unless the county is prohibited from transferring title by a contract, agreement, covenant, or other provision in the law.

2. *Draft Minutes* (Aug. 2018), pp. 7-8.

3. *Id.*

4. See Memorandum 2018-31, pp. 10-11.

5. *Draft Minutes* (Aug. 2018), p. 7.

(b) Any other furniture, furnishings, or equipment made available by the county or city and county for use by a court on June 30, 1997, shall continue to be made available to the court, unless otherwise agreed in writing by the court and the county or city and county.

(c) The court shall assume all responsibility for any furniture, furnishing, and equipment for which title is transferred to the court or that continues to be made available for use by a court pursuant to this section, including the fiscal responsibility for any rental or lease obligation, the repair, maintenance, and replacement of such furniture, furnishing, and equipment.

Mr. Martel also pointed out:

- (1) Court equipment is a “court operation” under Section 77003 and Rule of Court 10.810 (Function 10).
- (2) Section 68085 establishes the Trial Court Trust Fund and specifies its purposes, including “apportionment to the trial courts to fund trial court operations, as defined in Section 77003.”
- (3) Court facilities are not a “court operation” under Rule of Court 10.810.⁶
- (4) The Judicial Council is responsible for funding court facilities under Sections 70351 *et seq.* and 70371 *et seq.*

Finally, Mr. Martel alerted the staff to Section 68507, which concerns flags for the appellate courts. It provides:

68507. The Secretary of the Judicial Council shall purchase and provide for the installation of the flag of the United States and the Bear Flag of California in all the courtrooms of the Supreme Court and the courts of appeal.

Section 68507 was enacted in 1953, in the same bill as Section 69504, the section that requires boards of supervisors to provide flags for the trial courts. Neither section has ever been amended.

In light of these authorities, does the Commission want to stick with its previous decision regarding the proper treatment of Section 68507? Does it want to revisit that decision?

6. See Cal. R. Ct. 10.810(b)(2) (“Excluded from the definition of ‘court operations’ are ... courthouse construction and site acquisition, including space rental (for other than court records storage), alterations/remodeling, or relocating court facilities”).

II. COUNTY-SPECIFIC COURT FACILITY STATUTES

Some of the statutes relating to court facilities pertain only to one county or just to a few specific counties. As discussed below, a number of those statutes may warrant revisions to reflect trial court restructuring.

A. Regional Justice Facilities Acts (Gov't Code §§ 26290-26299.083)

"Part 2. Board of Supervisors" of Division 2 of Title 3 of the Government Code includes three adjacent chapters relating to "regional justice facilities":

- The San Joaquin County Regional Justice Facility Financing Act (Sections 26290-26293.4) (reproduced at Exhibit pp. 1-6) (hereafter, the "San Joaquin County Act").
- The Orange County Regional Justice Facilities Act (Sections 26295-26298.58) (reproduced at pp. 7-19) (hereafter, the "Orange County Act").
- The County Regional Justice Facilities Financing Act (Sections 26299.000-26299.083) (reproduced at pp. 20-31) (hereafter, the "Multi-County Act"). This Act pertains to Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties.⁷

These Acts are similar, but not identical, in content. They were all enacted in the late 1980's. For the sake of simplicity, we will collectively refer to them as the "Regional Justice Facilities Acts."

1. Description of the Acts

Each of the Regional Justice Facilities Acts contains a provision with legislative findings and declarations, which state that it is in the public interest to:

- (1) Address overcrowding of local jails and court facilities.
- (2) Create, or authorize the creation of, a new governmental entity with responsibilities relating to regional justice facilities.
- (3) Allow voters to decide whether to impose a countywide tax to fund regional justice facilities.

For example, Section 26295.2 in the Orange County Act states:

26295.2. The Legislature hereby finds and declares that the existing state of overcrowding in jails and court facilities in Orange County is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society are required to be released into that society for lack of

7. See Section 26299.007.

adequate facilities to house them. The Legislature further finds and declares that it is in the public interest to create the Orange County Regional Justice Facilities Commission so that regional justice facility needs may be addressed in an expeditious and appropriate fashion on a countywide basis. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a general tax for the general governmental purposes of the Orange County Regional Justice Facilities Commission.⁸

Consistent with the legislative findings, each Act provides for creation of a new governmental entity and specifies its composition, powers, duties, limitations, and other attributes. For example, the Orange County Act creates the Orange County Regional Justice Facilities Commission (hereafter, “Orange County Commission”), comprised of two members of the board of supervisors, two members of city councils in the county, and one other citizen.⁹ The Orange County Commission is responsible for soliciting proposals for “adult and juvenile detention facilities and courthouse facilities” in the county and then developing a “master plan.”¹⁰

Subject to specified limitations, the “master plan” may include, but is not limited to, all of the following:

(a) The adult detention facilities to be constructed, furnished, acquired, maintained or operated throughout the county.

(b) The juvenile detention facilities to be constructed, furnished, acquired, maintained, or operated throughout the county.

(c) The *courthouse facilities* to be constructed, furnished, acquired, maintained, or operated throughout the county.

(d) The time schedule according to which the facilities referenced in subdivisions (a), (b), and (c) shall be constructed, furnished, or acquired.

(e) Projections of revenues, including revenues expected to be derived from the tax provided for in this chapter, together with other federal, state, and local funds, and funds from the sale of bonds under this chapter, and expenditures for capital, maintenance, and operations purposes for adult and juvenile detention facilities and *courthouse facilities* purposes.

(f) Those other requirements as the commission, in carrying out its responsibility for the provision of detention and *court facilities and services*, deems necessary and appropriate.¹¹

8. The corresponding provisions in the other Acts are Section 26290.1 (San Joaquin County Act) and Section 26299.001 (Multi-County Act).

9. See Section 26296.2.

10. See Section 26297.1.

11. Section 26295.12 (emphasis added).

The Orange County Commission has “no power to determine the geographic locations at which any of the detention or court facilities ... shall be sited or the design or construction standards which shall apply to those detention or court facilities.”¹² For purposes of allocating revenues pursuant to the tax feature of the Act, “the commission shall coordinate the *construction, furnishing, acquisition, maintenance, and operation of all adult and juvenile detention facilities and courthouse facilities within the county pursuant to the master plan.*”¹³

The tax in question is a retail transactions and use tax, which is intended to “supplement existing local revenues being used for the development of adult and juvenile detention facilities and courthouse facilities within the county.”¹⁴ Orange County and cities within it are “encouraged to maintain their existing commitment of local funds for adult and juvenile detention facilities and courthouse facilities purposes.”¹⁵ The retail transactions and use tax must be approved by the Orange County voters at an election.¹⁶ Voter approval is also necessary for the Commission to issue bonds payable from the proceeds of the tax.¹⁷

The San Joaquin County Act and the Multi-County Act differ from the above-described Orange County scheme in some respects. For example, the San Joaquin County Act only pertains to “construction and acquisition of adult detention facilities, sheriff facilities, *functionally related court facilities*, and structures necessary or convenient thereto.”¹⁸ A “functionally related court facility” is “a court facility that is used solely for criminal prosecutions and handling inmates.”¹⁹

The entity created by the San Joaquin County Act is the San Joaquin County Regional Justice Facility Financing Agency, comprised of two members of the board of supervisors, two public members, and the local sheriff.²⁰ That entity has broad powers to implement the master plan for “construction and acquisition of adult detention facilities, sheriff facilities, functionally related court facilities, and structures necessary or convenient thereto,”²¹ but the master plan is to be

12. Section 26295.14(c).

13. Section 26297 (emphasis added).

14. Section 26298.

15. *Id.*

16. See Sections 26298.2-26298.10.

17. Section 26298.12.

18. Section 26290.6 (emphasis added).

19. Sections 26290.8.

20. See Sections 26291, 26291.1.

21. See, e.g., Sections 26291.7, 26291.8.

developed and approved by the board of supervisors.²² The master plan may include, but is not limited to, the following:

(a) The number of adult detention facilities, sheriff facilities, functionally related court facilities, to be constructed, furnished, or acquired.

(b) The geographic location at which the facilities referenced in subdivision (a) shall be sited.

(c) The time schedule according to which the facilities referenced in subdivision (a) shall be constructed, furnished, or acquired.

(d) Construction standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(e) Design standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(f) Those other requirements as the board of supervisors, in carrying out its responsibility for the provision of regional detention services, deems necessary and appropriate.²³

The corresponding provision in the Multi-County Act is closely similar, but it refers simply to “court facilities,” not “functionally related court facilities.” Further, the Multi-County Act does not actually create any new governmental entity. Rather, it authorizes each county covered by the Act (Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties) to create a “county regional justice facilities financing agency” if the local board of supervisors finds that it is in the public interest to do so.²⁴ The rules regarding composition of the board of a county regional justice facilities financing agency are different from, and more complicated than, the corresponding rules under the San Joaquin Act and the Orange County Act.²⁵ There are also various other distinctions between the three Acts, but this description should suffice for present purposes.

2. Constitutional Challenges

Soon after enactment of the Orange County Act and the Multi-County Act, the Howard Jarvis Taxpayers’ Association challenged those Acts as “unconstitutional and invalid as in conflict with article XIII A, section 4 of the California Constitution (Proposition 13).”²⁶ As originally enacted, the Acts only

22. Section 26290.6.

23. *Id.*

24. See Section 26299.020.

25. See Section 26299.021.

26. *Howard Jarvis v. Taxpayers’ Ass’n v. Board of Equalization*, 20 Cal. App. 4th 1598, 1601, 25 Cal. Rptr. 2d 330 (1993).

required a majority vote (not a 2/3 vote) on the tax for each county. The trial court held that unconstitutional and the defendants appealed.

While the *Howard Jarvis* appeal was pending, the Legislature amended the Acts to provide an *option* of requiring a 2/3 vote instead of a majority vote.²⁷ In addition, Los Angeles County (with permission from the court of appeal) conducted a vote on a justice facilities tax. The voters rejected the proposed tax by an almost two-to-one margin.²⁸ Orange County held a similar election and the voters rejected the proposed justice facilities tax by an almost three-to-one margin.²⁹

The court of appeal issued its decision in *Howard Jarvis* in late 1993. Because the Legislature had amended the Acts to include an option for a 2/3 vote, the court of appeal declined to declare the Acts altogether void. Instead, it ruled that any tax ordinance under the Acts “is invalid *if* it is not approved by at least two-thirds of the county’s voters, as required by Proposition 13.”³⁰

In reaching that conclusion, the court of appeal relied on the California Supreme Court’s 1991 decision in *Rider v. County of San Diego*,³¹ which held that a similar tax under the San Diego Regional Justice Facility Financing Act (hereafter, “the San Diego Act”) violated Proposition 13.³² Unlike the versions of the Orange County Act and Multi-County Act in the *Howard Jarvis* appeal, the San Diego Act did not include an option for a 2/3 vote.³³ The Legislature repealed the invalidated San Diego Act in 1993.³⁴

In contrast, the Legislature did not make any changes to the Orange County Act or the Multi-County Act shortly after the *Howard Jarvis* decision. Fourteen years later, however, it amended those Acts to *require* a 2/3 vote.³⁵ The same 2007 bill also amended the San Joaquin Act and ten other statutes (unrelated to court

27. 1990 Cal. Stat. ch. 527, §§ 1, 2, 3.

28. *Howard Jarvis*, 20 Cal. App. 4th at 1602 n.2.

29. *Id.*

30. *Id.* at 1605-06 (emphasis added). The court of appeal recognized one exception to the 2/3 vote requirement: It did not apply to any prevention program under the Multi-County Act. See *id.* at 1606.

31. 1 Cal. 4th 1, 820 P.2d 1000, 2 Cal. Rptr. 2d 490 (1991).

32. See *id.* at 4 (retail transaction and use tax imposed for purpose of financing construction and operation of criminal detention and/or courthouse facilities in San Diego County “is invalid because it was not approved by at least two-thirds of the County’s voters, as required by section 4”).

33. See *Rider v. County of San Diego*, 1 Cal. 4th 1, 820 P.2d 1000, 2 Cal. Rptr. 2d 490 (1991).

34. See 1993 Cal. Stat. ch. 1060, § 1 (SB 263 (Melo & Killea)), repealing former Gov’t Code §§ 26250-26285).

35. See 2007 Cal. Stat. ch. 343, §§ 9.2, 9.3 (SB 144 (Committee on Local Government)). This bill made a 2/3 vote mandatory, but it did not delete Sections 26298.2(b) and 26299.041(b)-(d), which permit a 2/3 vote as an alternative procedure. That appears to have been an oversight.

facilities) in a similar manner, because they appeared potentially vulnerable on the same constitutional grounds.³⁶ In addition, the bill made numerous other uncontroversial reforms relating to local government.³⁷

The legislative history of that 2007 bill gives no indication that the Legislature evaluated the continuing utility of the Orange County Act, the Multi-County Act, or the San Joaquin Act.³⁸ To the best of the staff's knowledge none of those Acts has ever been implemented for its intended purposes.

3. Analysis

The Commission's role in this study (and its previous work on trial court restructuring) is to determine whether any provisions of law are obsolete as a result of:

- (1) The implementation of trial court unification, in which the justice courts were eliminated and the municipal courts were merged into the superior courts and no longer exist as separate entities.
- (2) The enactment of the Trial Court Funding Act of 1997, in which the state assumed primary responsibility for operating and funding the trial courts, instead of allocating such responsibility to the counties.
- (3) The enactment of the Trial Court Employment Protection and Governance Act ("TCEPGA"), in which trial court personnel became employees of their respective courts, instead of the counties, and a new personnel system was established for them.³⁹

The Commission "shall report its recommendations to the Legislature, including any proposed statutory changes."⁴⁰

The Regional Justice Facilities Acts discussed above appear to contain some material made obsolete by trial court restructuring. Most glaringly, a provision in the Multi-County Act still refers to municipal courts:

26299.008. "Court facilities" means the *municipal* and superior courts of the county, as well as any other facilities used for adult or juvenile court matters, criminal prosecutions, handling inmates, or a combination thereof.⁴¹

36. See 2007 Cal. Stat. ch. 343, §§ 9.1.

37. See 2007 Cal. Stat. ch. 343; Senate Floor Analysis of SB 144 (June 27, 2007).

38. See, e.g., Senate Floor Analysis of SB 144 (Aug. 29, 2007), pp. 6-7.

39. See Gov't Code § 71674. For a summary of the Commission's previous work on trial court restructuring, see Memorandum 2018-5, pp. 2-6.

40. See *id.*

41. Emphasis added.

The Commission flagged that municipal court reference in its 2001 tentative recommendation on trial court restructuring,⁴² but ultimately left the section alone because court facilities issues were still unsettled.⁴³

More fundamentally, all three of the Regional Justice Facilities Acts may conflict to some extent with the Trial Court Facilities Act,⁴⁴ which followed from the Trial Court Funding Act. Under the Trial Court Facilities Act, the Judicial Council and the individual superior courts have key roles with regard to court facilities, but other entities are also involved to some extent. For instance, Section 70391 provides:

70391. *The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to court facilities, in addition to any other responsibilities or authorities established by law:*

(a) *Exercise full responsibility, jurisdiction, control, and authority as an owner would have over trial court facilities the title of which is held by the state, including, but not limited to, the acquisition and development of facilities.*

(b) *Exercise the full range of policymaking authority over trial court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not expressly otherwise limited by law.*

(c) *Dispose of surplus court facilities following the transfer of responsibility under Article 3 (commencing with Section 70321), subject to all of the following:*

(1) If the property was a court facility previously the responsibility of the county, the Judicial Council shall comply with the requirements of Section 11011, and as follows, except that, notwithstanding any other provision of law, the proportion of the net proceeds that represents the proportion of other state funds used on the property other than for operation and maintenance shall be returned to the fund from which it came and the remainder of the proceeds shall be deposited in the State Court Facilities Construction Fund.

(2) *The Judicial Council shall consult with the county concerning the disposition of the facility.* Notwithstanding any other law, including Section 11011, when requested by the transferring county, a surplus facility shall be offered to that county at fair market value prior to being offered to another state agency or local government agency.

(3) The Judicial Council shall consider whether the potential new or planned use of the facility:

42. Tentative Recommendation on *Statutes Made Obsolete by Trial Court Restructuring* (Nov. 2001) (hereafter, "2001 TR"), p. 163.

43. See *Statutes Made Obsolete by Trial Court Restructuring: Part 1*, 32 Cal. L. Revision Comm'n Reports 1, 21 (2002) (hereafter, "TCR: Part 1").

44. Sections 70301-70508.

(A) Is compatible with the use of other adjacent public buildings.

(B) Unreasonably departs from the historic or local character of the surrounding property or local community.

(C) Has a negative impact on the local community.

(D) Unreasonably interferes with other governmental agencies that use or are located in or adjacent to the building containing the court facility.

(E) Is of sufficient benefit to outweigh the public good in maintaining it as a court facility or building.

(4) All funds received for disposal of surplus court facilities shall be deposited by the Judicial Council in the State Court Facilities Construction Fund.

(5) If the facility was acquired, rehabilitated, or constructed, in whole or in part, with moneys in the State Court Facilities Construction Fund that were deposited in that fund from the state fund, any funds received for disposal of that facility shall be apportioned to the state fund and the State Court Facilities Construction Fund in the same proportion that the original cost of the building was paid from the state fund and other sources of the State Court Facilities Construction Fund.

(6) *Submission of a plan to the Legislature for the disposition of court facilities transferred to the state, prior to, or as part of, any budget submission to fund a new courthouse that will replace the existing court facilities transferred to the state.*

(d) Conduct audits of all of the following:

(1) The collection of fees by the local courts.

(2) The moneys in local courthouse construction funds established pursuant to Section 76100.

(3) The collection of moneys to be transmitted to the Controller for deposit in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5.

(e) *Establish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities, including, but not limited to, facilities planning, acquisition, construction, design, operation, and maintenance.*

(f) *Establish and consult with local project advisory groups on the construction of new trial court facilities, including the trial court, the county, the local sheriff, state agencies, bar groups, including, but not limited to, the criminal defense bar, and members of the community. Consultation with the local sheriff in design, planning, and construction shall include the physical layout of new facilities, as it relates to court security and other security considerations, including matters relating to the safe control and transport of in-custody defendants.*

(g) *Manage court facilities in consultation with the trial courts.*

(h) Allocate appropriated funds for court facilities maintenance and construction, subject to the other provisions of this chapter.

(i) Manage shared-use facilities to the extent required by the agreement under Section 70343.

(j) Prepare funding requests for court facility construction, repair, and maintenance.

(k) Implement the design, bid, award, and construction of all court construction projects, except as delegated to others.

(l) Provide for capital outlay projects that may be built with funds appropriated or otherwise available for these purposes as follows:

(1) *Approve five-year and master plans for each district.*

(2) Establish priorities for construction.

(3) *Recommend to the Governor and the Legislature the projects to be funded by the State Court Facilities Construction Fund.*

(4) Submit the cost of projects proposed to be funded to the Department of Finance for inclusion in the Governor's Budget.

(m) *In carrying out its responsibilities and authority under this section, the Judicial Council shall consult with the local court for:*

(1) Selecting and contracting with facility consultants.

(2) Preparing and reviewing architectural programs and designs for court facilities.

(3) *Preparing strategic master and five-year capital facilities plans.*

(4) Major maintenance of a facility.⁴⁵

In contrast to the Trial Court Facilities Act, the Regional Justice Facilities Acts were enacted before the state assumed primary responsibility for operating and funding the trial courts pursuant to the Trial Court Funding Act, and before each county transferred its trial court facilities to the state pursuant to the related Trial Court Facilities Act.⁴⁶ Each of the Regional Justice Facilities Acts was thus built on the premise that *the pertinent county (or counties)* bore responsibility for trial court facilities, as well as detention facilities. Unsurprisingly, those Acts allocate key roles to boards of supervisors and their members (as detailed above), and give relatively little control to the Judicial Council, trial courts, and trial court personnel.

Reconciling the Regional Justice Facilities Acts with the Trial Court Facilities Act could perhaps be done, but it would require care and entail various policy decisions that may go beyond the Commission's statutory clean-up role in this study. To give just a few examples:

- Should the Acts be amended to apply only to detention facilities, deleting all references to court facilities? Would this preclude using these Acts for purposes of building a detention facility that includes a courtroom? If so, is that advisable?

45. Emphasis added.

46. Gov't Code §§ 70301-70303.

- If the Acts continue to apply to courts, should any adjustments be made in the composition of the boards of the governmental entities created or authorized by the Acts? If so, precisely what adjustments should be made?
- If the Acts continue to apply to courts, should changes be made in who has responsibility for preparing a “master plan”? If so, what changes should be made?

Since the Acts do not appear to have ever actually served their intended purposes, stakeholders may have little interest in answering these types of questions. If that is the case, **it might be better to repeal the Regional Facilities Acts as obsolete**, instead of attempting to refine them to reflect current conditions.

Alternatively, the Commission could simply leave the Regional Facilities Acts in place, despite their obsolete aspects. The Acts could just remain in the codes indefinitely, waiting for the time (if ever) when there is impetus to modernize them. That approach would be easy, but it would not really fulfill the Commission’s clean-up role, and the Acts in their present form may at times lead to wasted efforts or confusion from trying to make sense of them.

Comments on how to approach this matter would be helpful. The staff needs some general guidance from the Commission before proceeding further with the Orange County Act, the Multi-County Act, and the San Joaquin Act. **What are the Commissioner’s general views on how to handle them?**

B. Statutes Referring to One or More Courthouse Construction Funds

Some of the statutes flagged for attention in previous work on trial court restructuring refer to one or more courthouse construction funds. To ensure that we checked all statutes in this category, the staff searched the codes for “courthouse construction fund” and “courthouse construction funds.”⁴⁷

We found a total of 21 code sections that use one or both of those terms. In addition, we were already aware of a provision that refers to a courthouse construction fund without using that phrase.⁴⁸ We were also aware of a provision that refers to a “Courthouse Temporary Construction Fund.”⁴⁹

47. We used the search engine at <https://leginfo.legislature.ca.gov/faces/codes.xhtml>.

48. See Section 70622 (surcharge in Riverside County), which provides:

70622. (a) In addition to the uniform filing fee authorized pursuant to Section 70611, 70612, 70613, 70614, 70650, 70651, 70652, 70653, 70655, or 70670, after giving notice and holding a public hearing on the proposal, the Board of Supervisors of Riverside County may impose a surcharge not to exceed fifty dollars (\$50) for the filing in superior court of any of the following:

Of the 23 code sections that refer in some way to courthouse construction funds, the Commission has already considered three.⁵⁰ Seven others are in the Trial Court Facilities Act, which the staff plans to address in a future memorandum.⁵¹

That leaves thirteen code sections to discuss here. The staff examined each of those sections, as well as a Judicial Council report (reproduced at Exhibit pages 1-24 of the First Supplement to Memorandum 2018-31)⁵² and other information from Charles Martel regarding the status of various courthouse construction funds.⁵³

(1) A complaint, petition, or other first paper in a civil or probate action or special proceeding.

(2) A first paper on behalf of any defendant, respondent, intervenor, or adverse party.

(3) A petition for dissolution of marriage, dissolution of domestic partnership, legal separation, or nullity of marriage.

(4) A response to such a petition.

(5) A first paper on behalf of any party in a proceeding under Section 98.2 of the Labor Code.

(b) The county shall notify in writing the Superior Court of Riverside County and the Administrative Office of the Courts of any change in a surcharge under this section.

(c) When a surcharge under this section is imposed on a filing fee, the distribution that would otherwise be made to the State Court Facilities Construction Fund under subdivision (c) of Section 68085.3 or subdivision (c) of Section 68085.4 shall be reduced as provided in Section 70603.

(d) The surcharge shall be in an amount determined to be necessary by the board of supervisors to cover the costs of the seismic stabilization, construction, and rehabilitation of the Riverside County Courthouse, the Indio Branch Courthouse, and the family law courthouse, and collection thereof shall terminate upon repayment of the amortized costs incurred. When the amortized costs have been repaid, the county shall notify in writing the Superior Court of Riverside County and the Administrative Office of the Courts.

Section 68085.1(c)(1)(D) classifies the above provision as one involving a courthouse construction fund (it refers to the “courthouse construction funds in the Counties of Riverside, San Bernardino, and San Francisco, as described in Sections 70622, 70624, and 70625”). Similarly, a Judicial Council report on the status of courthouse construction funds includes information for a Riverside County fund. See Judicial Council of California, *Receipts and Expenditures from Local Courthouse Construction Funds: Report to the Budget and Fiscal Committees of the Legislature* (Dec. 18, 2017) (hereafter, “*Courthouse Construction Fund Report*”) (reproduced at First Supplement to Memorandum 2018-31, Exhibit pp. 1-24).

49. See Section 6520.

50. See *Draft Minutes* (Aug. 2018), pp. 11, 12 (reporting tentative decisions on Sections 76000, 76100, and 76110).

51. See Sections 70303, 70359, 70372, 70375, 70391, 70402, 70403. Another provision, Section 76223, was also enacted in the Trial Court Facilities Act, but it is not located in the same part of the code as the bulk of that Act. It is discussed later in this memorandum.

52. *Courthouse Construction Fund Report*, *supra* note 48.

53. Email from C. Martel to B. Gaal (8/10/18) (discussing Sections 70622 (Riverside County), 70624 (San Bernardino County), and 70625 (City and County of San Francisco)).

Based on that research, we concluded that the following code sections (reproduced at Exhibit pages 32-37),⁵⁴ are still in use and do not yet appear to need any revisions to reflect trial court restructuring:

- (1) Section 68085.1 (deposit and distribution of specified fees and fines).
- (2) Section 70622 (surcharge in Riverside County).
- (3) Section 70625 (funding for courthouse construction in City and County of San Francisco).
- (4) Section 76200 (Courthouse Construction Fund in Alameda County).
- (5) Section 76214 (Monterey County Courthouse Construction Fund).
- (6) Section 76224 (Courthouse Construction Funds in Merced County and Sonoma County).
- (7) Section 76245 (Courthouse Construction Fund and Criminal Justice Facilities Construction Fund in Shasta County).
- (8) Section 76252 (Courthouse Construction Fund in Ventura County).

If anyone sees this situation differently, please notify the Commission.

The remaining five sections are discussed below, in numerical order.

1. San Diego Courthouse, Jail, and Related Facilities Development Agency (Section 6520)

Section 6520 permits the San Diego City Council and the Board of Supervisors of San Diego County to create, by joint powers agreement, a redevelopment agency called the “San Diego Courthouse, Jail, and Related Facilities Development Agency”:

6520. (a) Notwithstanding any other provision of law, the Board of Supervisors of San Diego County and the City Council of the City of San Diego may create by joint powers agreement, the San Diego Courthouse, Jail, and Related Facilities Development Agency, hereinafter referred to as “the agency,” which shall have all the powers and duties of a redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code as well as all the powers of a joint powers agency pursuant to this chapter, with respect to the acquisition, construction, improvement, financing, and operation of a combined courthouse-criminal justice facility, including a parking garage, and other related improvements, hereinafter referred to as “the facility.”

(b) The agency shall be governed by a board of directors composed of one city council member and one citizen designated

54. For the text of Section 70622, see *supra* note 48.

by the San Diego City Council; one supervisor and one citizen designated by the San Diego County Board of Supervisors; two citizens appointed by the presiding judge of the superior court effective during his or her term of presidency; the Sheriff of San Diego County; the president or designee of the San Diego County Bar Association; and one citizen designated by the District Attorney of San Diego County; all of whom shall serve at the pleasure of the appointing power and without further compensation.

(c) The City of San Diego and the County of San Diego shall each have the power of nonconcurrency over any action taken by the board of directors, provided that a motion for reconsideration is made by a member of the board of directors immediately following the vote of the board of directors approving such action, and further provided that the city council or the board of supervisors votes to nullify such action, by a majority vote of its membership, within 30 days.

(d) The county may transfer to the agency county funds in either a Courthouse Temporary Construction Fund or a County Criminal Justice Facility Temporary Construction Fund, or both, to be expended for purposes of the facility.

(e) In addition to those funds, (1) the agency's governing body may allot up to 15 percent of the fines and forfeitures received by the City of San Diego pursuant to Section 1463 of the Penal Code from the service area of the downtown courts, as defined by the agency, for expenditure by the agency for the purposes specified in subdivision (a); (2) the City of San Diego and the County of San Diego may allot to the agency any state or federal funds received for purposes of the facility; and (3) the agency may expend any rent, parking fees, or taxes received on leasehold interests in the facility, for the purposes specified in subdivision (a).

This section was enacted in 1986⁵⁵ and amended on Commission recommendation in 2002 to reflect the elimination of the municipal courts.⁵⁶

The staff does not know whether the contemplated San Diego Courthouse, Jail, and Related Facilities Development Agency was ever created. **Information on that point would be helpful.**

Regardless of what did or did not happen in the past, Section 6520 appears to be obsolete now due to the elimination of redevelopment agencies in California.⁵⁷ That is unrelated to trial court restructuring, and the Commission is

55. 1986 Cal. Stat. ch. 318, § 2.

56. 2002 Cal. Stat. ch. 784, § 125; see *TCR: Part 1, supra* note 43, at 181-82.

57. See 2012 Cal. Stat. ch. 5 (1st Ex. Sess.); *California Redevelopment Ass'n v. Matosantos*, 53 Cal. 4th 241, 267 P.3d 580, 135 Cal. Rptr. 3d 683 (2011).

no longer required to do clean-up work relating to the elimination of redevelopment agencies.⁵⁸

The Commission does, however, have general authority to “study and recommend revisions to correct technical or minor substantive defects.”⁵⁹ That would seem to encompass deletion of material made obsolete by the elimination of redevelopment agencies.

Moreover, Section 6520 may also be obsolete due to the enactment of the Trial Court Funding Act and the related Trial Court Facilities Act. For instance, although subdivision (b) gives the presiding judge of the superior court two appointments to the 9-member board of directors of the redevelopment agency, subdivision (c) only gives the power of nonconurrence to the city and the county, not to the superior court. Even more strikingly, the section does not give the Judicial Council *any role at all* in connection with the contemplated courthouse-criminal justice facility.

It may thus be appropriate to propose to repeal Section 6520, along the following lines:

Gov’t Code § 6520 (repealed). San Diego Courthouse, Jail, and Related Facilities Development Agency

SEC. ____ . Section 6520 of the Government Code is repealed.

~~6520. (a) Notwithstanding any other provision of law, the Board of Supervisors of San Diego County and the City Council of the City of San Diego may create by joint powers agreement, the San Diego Courthouse, Jail, and Related Facilities Development Agency, hereinafter referred to as “the agency,” which shall have all the powers and duties of a redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code as well as all the powers of a joint powers agency pursuant to this chapter, with respect to the acquisition, construction, improvement, financing, and operation of a combined courthouse-criminal justice facility, including a parking garage, and other related improvements, hereinafter referred to as “the facility.”~~

~~(b) The agency shall be governed by a board of directors composed of one city council member and one citizen designated by the San Diego City Council; one supervisor and one citizen designated by the San Diego County Board of Supervisors; two citizens appointed by the presiding judge of the superior court effective during his or her term of presidency; the Sheriff of San Diego County; the president or designee of the San Diego County~~

58. See 2012 Cal. Stat. ch. 26.

59. Section 8298.

~~Bar Association; and one citizen designated by the District Attorney of San Diego County; all of whom shall serve at the pleasure of the appointing power and without further compensation.~~

~~(c) The City of San Diego and the County of San Diego shall each have the power of nonconcurrency over any action taken by the board of directors, provided that a motion for reconsideration is made by a member of the board of directors immediately following the vote of the board of directors approving such action, and further provided that the city council or the board of supervisors votes to nullify such action, by a majority vote of its membership, within 30 days.~~

~~(d) The county may transfer to the agency county funds in either a Courthouse Temporary Construction Fund or a County Criminal Justice Facility Temporary Construction Fund, or both, to be expended for purposes of the facility.~~

~~(e) In addition to those funds, (1) the agency's governing body may allot up to 15 percent of the fines and forfeitures received by the City of San Diego pursuant to Section 1463 of the Penal Code from the service area of the downtown courts, as defined by the agency, for expenditure by the agency for the purposes specified in subdivision (a); (2) the City of San Diego and the County of San Diego may allot to the agency any state or federal funds received for purposes of the facility; and (3) the agency may expend any rent, parking fees, or taxes received on leasehold interests in the facility, for the purposes specified in subdivision (a).~~

Comment. Section 6520 is repealed to reflect:

(1) The enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655) and the related Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082 (see generally Sections 70301-70508).

(2) The elimination of redevelopment agencies. See 2012 Cal. Stat. ch. 5 (1st Ex. Sess.); *California Redevelopment Ass'n v. Matosantos*, 53 Cal. 4th 241, 267 P.3d 580, 135 Cal. Rptr. 3d 683 (2011).

Would the Commission like to include this repeal in its tentative recommendation?

2. Surcharge in San Bernardino County (Section 70624)

Section 70624 authorizes a filing fee surcharge in San Bernardino County to supplement that county's courthouse construction fund:

70624. (a) In addition to the uniform filing fee authorized pursuant to Section 70611, 70612, 70613, 70614, 70650, 70651, 70652, 70653, 70655, or 70670, after giving notice and holding a public hearing on the proposal, the Board of Supervisors of San

Bernardino County may impose a surcharge not to exceed thirty-five dollars (\$35) for the filing in superior court of (1) a complaint, petition, or other first paper in a civil, family, or probate action or special proceeding, and (2) a first paper on behalf of any defendant, respondent, intervenor, or adverse party. The county shall notify in writing the superior court and the Administrative Office of the Courts of any change in a surcharge under this section. If a surcharge under this section is imposed on a filing fee, the distribution that would otherwise be made to the State Court Facilities Construction Fund under subdivision (c) of Section 68085.3 or subdivision (c) of Section 68085.4 shall be reduced as provided in Section 70603. This section shall apply to fees collected under Sections 70611, 70612, 70613, 70614, 70650, 70651, 70652, 70653, 70655, and 70670, beginning January 1, 2006.

(b) The surcharge shall be in an amount determined to be necessary by the board of supervisors to supplement the Courthouse Construction Fund, to be deposited in that fund and used solely for the purposes authorized for expenditures from that fund, including, but not limited to, earthquake retrofitting, renovation, and remodeling of all portions of the Central San Bernardino Courthouse in need of retrofitting, renovation, or remodeling, whether or not necessitated by the retrofitting work, including the original courthouse built in 1926 and all subsequent additions thereto. Expenditures made from the Courthouse Construction Fund that are funded from the surcharge shall be made in order of priority to ensure that all necessary earthquake retrofitting of the Central San Bernardino Courthouse will be completed. Collection of the surcharge authorized by this section shall terminate upon repayment of the amortized costs incurred, or 30 years from the sale of the bond, whichever occurs first. However, the surcharge shall not apply in instances in which no filing fee is charged or the filing fee is waived. If the amortized costs have been repaid, or 30 years have passed since the sale of the bond, the county shall notify in writing the superior court and the Administrative Office of the Courts.

According to Mr. Martel, the debt for the courthouse facilities in question might have been paid off recently.⁶⁰

If so, then (1) the surcharge under Section 70624 should cease pursuant to the express terms of that section (if that has not already happened), and (2) San Bernardino County should transfer the remainder of its courthouse construction fund, if any, to the State Court Facilities Construction Fund pursuant to Section

60. *Id.*

70402 (part of the Trial Court Facilities Act).⁶¹ When those events have occurred, Section 70624 would seem ripe for repeal.

To determine the status of this situation, **the Commission could include the text of Section 70624 in its tentative recommendation (without any proposed revisions), together with a Note along the following lines:**

Note. Section 70624 says that “the surcharge authorized by this section *shall terminate* upon repayment of the amortized costs incurred, or 30 years from the sale of the bond, whichever occurs first.” (Emphasis added.) Further, Section 70402(a) says:

(a) Any amount in ... a fund established by Section 70624 in the County of San Bernardino ... *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.

(Emphasis added.)

Have the events described in the quoted provisions occurred? If so, is Section 70624 ripe for repeal?

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 prefer to handle Section 70624 differently?

3. Transfers Between the Courthouse Construction Fund and the Criminal Justice Facilities Fund in a County of the 1st or 47th Class (Section 76101.5)

Under specified circumstances, Section 76101.5 authorizes “a county of the first class or a county of the 47th class” to transfer deposits from its Courthouse Construction Fund to its Criminal Justice Facilities Construction Fund and vice versa:

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

61. See Memorandum 2018-31, pp. 31-32.

Los Angeles is the only “county of the first class” and Lassen is the only “county of the 47th class.”⁶²

According to the data in the Judicial Council report on courthouse construction funds, Los Angeles County still has such a fund but Lassen County does not.⁶³ Presumably, Lassen County finished repaying the debt for which its courthouse construction fund was established, and then transferred the remainder of that fund (if any) to the State Court Facilities Construction Fund, as required by the Trial Court Facilities Act.⁶⁴

Accordingly, Section 76101.5’s reference to “a county of the 47th class” appears to be obsolete due to trial court restructuring. To eliminate that obsolete reference, the section could be amended as follows:

Gov’t Code § 76101.5 (amended). Transfers between Courthouse Construction Fund and Criminal Justice Facilities Fund in county of 1st or 47th class

SEC. _____. Section 76101.5 is amended, to read:

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

Comment. Section 76101.5 is amended to reflect:

(1) The enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655) and the related Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082 (see generally Sections 70301-70508).

(2) The closure of the Courthouse Construction Fund for Lassen County.

See Sections 28020 (Lassen County population is 14,960), 28068 (county with population of more than 14,600 and less than 15,000 is county of 47th class), 28085 (when new federal census is taken, county remains in old classification until reclassified by Legislature).

Would the Commission like to include this proposed amendment of Section 76101.5 in its tentative recommendation?

62. See Sections 28020, 28022, 28068, 28085.

63. See First Supplement to Memorandum 2018-31, Exhibit pp. 15-24.

64. See in particular Section 70402(a).

4. Courthouse Construction Fund for Los Angeles County (Section 76219)

Section 76219 establishes detailed rules regarding use of the courthouse construction fund for Los Angeles County. It has not been amended since 2000, the same year when the municipal and superior courts in Los Angeles County unified. That amendment was purely technical, unrelated to trial court restructuring.⁶⁵

The Commission included Section 76219 in its 2001 tentative recommendation on trial court restructuring, inviting comment without proposing any revisions.⁶⁶ After circulating the tentative recommendation, the Commission decided to leave the section alone because court facilities issues were still unsettled.⁶⁷

In many places, the section still refers to municipal courts and municipal court districts:

76219. (a) The Courthouse Construction Fund established in Los Angeles County pursuant to Section 76100 shall be known as the Courthouse Construction Fund.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed and owed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and *the Los Cerritos Municipal Court District*, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars (\$43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars (\$8,000,000) within *the Los Cerritos Municipal Court District* for the Bellflower Courthouse.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of *the Los Cerritos Municipal Court District*, within the boundaries of *the East Los Angeles Municipal Court District*, within *the Downey Municipal Court District*, within the community of Hollywood, or within *the West Los Angeles Branch of the Los Angeles Municipal Court District*, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (b) and has additionally spent at least sixteen million five hundred thousand dollars (\$16,500,000) on courthouse construction within *the East Los Angeles Municipal Court District*, has spent at least ten million dollars (\$10,000,000) on courthouse construction within *the*

65. See 2000 Cal. Stat. ch. 375, § 10 (AB 1331 (Papan) (correcting spelling error and changing “Robbins Courthouse Construction Fund” to “Courthouse Construction Fund”).

66. See 2001 TR, *supra* note 42, at 588-89.

67. See TCR: Part 1, *supra* note 43, at 21.

Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the West San Fernando Valley, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, and has commenced construction on a courthouse for the West Los Angeles Branch of *the Los Angeles Municipal Court District*.

(d) All courtroom construction in the County of Los Angeles which utilizes moneys from the Courthouse Construction Fund or moneys borrowed against the Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of *the Los Cerritos Municipal Court District*, within the boundaries of *the East Los Angeles Municipal Court District*, within *the Downey Municipal Court District*, within the community of Hollywood, within *the West Los Angeles Branch of the Los Angeles Municipal Court District*, within the Pasadena Judicial District, within *the Southeast Municipal Court District*, within the South Bay Judicial District, within the Santa Monica Judicial District, within the Antelope Valley Judicial District, or within the Long Beach Judicial District until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (b) and (c), and has commenced construction of new facilities or the expansion of existing facilities *for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, and the South Bay Judicial District*, has commenced construction on a courthouse for the superior court with at least 18 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles or immediately adjacent thereto, and has commenced construction of new facilities for the superior and *municipal courts* in the Santa Monica Judicial District, the Antelope Valley Judicial District, and the Long Beach Judicial District.

(e) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (e) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(f) The moneys of the Courthouse Construction Fund together with any interest earned thereon shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirement of subdivision (b) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c) and, after the requirements of subdivisions (b) and (c) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (d).

(g) Deposits into the fund shall continue through and including either (1) the 25th year after the initial calendar year in which the surcharge is selected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirements of this section.

These references probably should be revised in some manner to reflect trial court unification. The staff does not know precisely how to do this, however, because we are not familiar with the status of the various court construction projects in Los Angeles County and their financing.

Perhaps the best way to elicit input on this matter would be to include the text of Section 76219 in the Commission's tentative recommendation (without any proposed revisions), together with a Note along the following lines:

Note. In many places, Section 76219 still refers to municipal courts and municipal court districts. It appears to need revisions to reflect trial court unification. The Commission is unsure how to draft such revisions, because it is not familiar with the status of the various court construction projects in Los Angeles County and their financing.

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?

5. Construction of Court Facilities in Merced County (Section 76223)

Section 76223 concerns construction of court facilities in Merced County. It was enacted in 2002,⁶⁸ four years after unification of the municipal and superior courts in that county, but before the county transferred its court facilities to the state. Although it was part of the Trial Court Facilities Act, it is not located with the bulk of that Act, so we decided to discuss it here.

Section 76223 provides:

76223. Notwithstanding any other provision of law, the following conditions pertain to the construction of court facilities in

68. 2002 Cal. Stat. ch. 1082, § 8.

Merced County by the County of Merced for any construction pursuant to a written agreement entered into prior to January 1, 2004, between the board of supervisors and the presiding judge of the superior court:

(a) Revenue received in Merced County from civil assessments for Failure to Appear, pursuant to Section 1214.1 of the Penal Code, shall be available, in an annual amount not to exceed the amount agreed upon by the board of supervisors and the presiding judge of the superior court, for the purpose of augmenting other funds made available for construction.

(b) The presiding judge of the superior court may agree to make available court funds, up to a stated amount, other than funds received from the Trial Court Trust Fund or other state sources, in the courthouse construction fund.

(c) The total amounts deposited under subdivision (a) may not exceed in any fiscal year the amount payable on the construction costs less (1) any amounts paid by the courthouse construction fund and (2) any other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(d) The total amounts deposited under subdivision (b) shall not exceed in any fiscal year the amount payable on the construction costs less (1) any amounts paid by the courthouse construction fund, (2) any amounts paid pursuant to subdivision (a) of this section, and (3) any other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(e) If legislation is passed and becomes effective transferring the responsibility for court facilities to the state, and the legislation permits the transfer of the bonded indebtedness or other encumbrance on court facilities together with revenue sources for payment of the bonded indebtedness or other encumbrance, the revenue sources provided for by this section may also be transferred to the state.

(f) As used in this section, the costs of construction also includes the payment on the bonded indebtedness or other encumbrance used to finance the construction.⁶⁹

The contingencies stated in subdivision (e) have occurred,⁷⁰ so it would be possible to simplify Section 76223 as follows:

69. Emphasis added.

70. See in particular Section 70325(a), which provides:

(a)(1) If title to a building proposed to be transferred pursuant to this chapter is subject to a bonded indebtedness, the county shall retain the revenue sources used to pay the bonded indebtedness in which case the county shall be required to continue to make the payments on the bonded indebtedness.

(2) As an alternative to paragraph (1), the county and the state may agree that the county shall transfer the revenue sources to the state, in which case, the state shall be required to make the payments on the bonded indebtedness in the amount of the revenue received....

(Emphasis added.)

Gov't Code § 76223 (amended). Construction of court facilities in Merced County

SEC. _____. Section 76223 of the Government Code is amended, to read:

76223. Notwithstanding any other provision of law, the following conditions pertain to the construction of court facilities in Merced County by the County of Merced for any construction pursuant to a written agreement entered into prior to January 1, 2004, between the board of supervisors and the presiding judge of the superior court:

....

~~(e) If legislation is passed and becomes effective transferring the responsibility for court facilities to the state, and the legislation permits the transfer of the bonded indebtedness or other encumbrance on court facilities together with revenue sources for payment of the bonded indebtedness or other encumbrance, the~~ The revenue sources provided for by this section may also be transferred to the state.

....

Comment. Section 76223 is amended to reflect enactment of the Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082. See in particular Section 70321 (transfer of court facilities from county to Judicial Council) and Section 70325(a)(2) (county may transfer revenue sources to state, whereupon state becomes responsible for making payments on bonded indebtedness).

Would the Commission like to include this proposed amendment in its tentative recommendation? Should any other revisions be made to Section 76223? If the revenue sources provided for by Section 76223 have already been transferred to the state, further simplification might (or might not) be in order. **Comments on that point, or on any other aspect of Section 76223, would be helpful.**

C. Other County-Specific Court Facility Statutes

In addition to the provisions discussed above, the staff is aware of three other county-specific court facility statutes that seem worth bringing to the Commission's attention:

- Section 14672.5.
- Section 68073.5.
- Section 76225.⁷¹

71. Section 25539.10 is another county-specific provision that the staff previously flagged for examination. On closer study, that section has little to do with court facilities although it does refer to "the county courthouse." For an explanation of the circumstances that led to its

Those statutes are discussed in numerical order below.

1. Lease of Unimproved Property to City of Folsom in Sacramento County for Police Station, Courthouse, or City Hall (Section 14672.5)

Under Section 14670, in specified circumstances the Director of General Services may lease any real property belonging to the state “for a period not to exceed five years.” Section 14672.5 authorizes a much longer lease of certain state property to the City of Folsom, for a police station, courthouse, or city hall:

14672.5. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections, may lease to the City of Folsom a parcel of approximately five acres of unimproved real property situated in the County of Sacramento within Rancho Rio de Los Americanos for a period not to exceed 50 years for a police station, courthouse, or city hall.

Section 14672.5 was enacted in 1985 and has not been amended since 1987.

According to the Sacramento Superior Court’s website, all of its current court locations are within the City of Sacramento. It thus appears unlikely that the state is currently leasing the specified 5-acre parcel to the City of Folsom for a courthouse.

Such a lease would not seem to be necessary in the future either. Under the Trial Court Facilities Act, the state is responsible for court facilities, not the counties much less the City of Folsom.

Accordingly, the reference to a courthouse in Section 14672.5 is probably obsolete. The Commission could propose to delete it, as shown below:

Gov’t Code § 14672.5 (amended). Lease of unimproved property to City of Folsom for police station, courthouse, or city hall

SEC. ____ . Section 14672.5 of the Government Code is amended, to read:

14672.5. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections, may lease to the City of Folsom a parcel of approximately five acres of unimproved real property situated in the County of Sacramento within Rancho Rio de Los Americanos for a period not to exceed 50 years for a police station, ~~courthouse~~, or city hall.

Comment. Section 14672.5 is amended to reflect the enactment of the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850 (see generally Sections 77000-77655) and the related Trial Court

enactment, see 1984 Cal. Stat. ch. 302, § 2. The section might be obsolete, but not due to trial court restructuring.

Facilities Act, 2002 Cal. Stat. ch. 1082 (see generally Sections 70301-70508).

Would the Commission like to include this amendment in its tentative recommendation? Comments on that possibility would be helpful.

2. Dining and Parking Facilities In or Adjacent to Court Building in County With Population Exceeding Three Million (Section 68073.5)

Under Section 68073.5, the board of supervisors in a county with a population of three million people or more may give court personnel the same access to dining and parking facilities in or adjacent to court buildings in the county that county personnel receive in or adjacent to other county buildings:

68073.5. In any county having a population of 3,000,000 or more, the board of supervisors may, with respect to any dining facility, or garage or other vehicular parking facility, in or adjacent to the county courthouse and other court buildings in said county, provide the courts occupying such buildings and the judges, officers of the court, attachés and jurors quartered therein, with the same accommodations as to use, access, occupancy and, excepting jurors, with the same participation in the operational administration thereof, as are furnished, made available to, or enjoyed by the departments, officers and employees of the county with respect to similar facilities in or adjacent to other county buildings.

The Commission included this provision in its 2001 tentative recommendation on trial court restructuring,⁷² but ultimately left the section alone because court facilities issues were still unsettled.⁷³

It is not clear how to assess whether a county has a population of three million or more for purposes of this statute. One possibility would be to use current census data. In that case, Section 68073.5 applies to Los Angeles, Orange, and Riverside Counties.⁷⁴

Another possibility would be to use the historical population figures in Section 28020, which are used to classify the counties. In that case, Section 68073.5 applies only to Los Angeles County.⁷⁵

If all court buildings in Los Angeles, Orange, and Riverside Counties have now been transferred to the state, then Section 68073.5 would seem to be obsolete

72. See 2001 TR, *supra* note 42, at 194.

73. See TCR: Part 1, *supra* note 43, at 21.

74. See http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/documents/E-1_2018PressRelease.pdf.

75. See Sections 28020, 28085.

and ripe for repeal. There would be no need to determine which population figures to use in applying it.

The staff suspects, however, that some court facilities in Los Angeles County (and perhaps also in Orange and Riverside Counties) are in shared use buildings,⁷⁶ in which both the state and the county have an interest. If so, then Section 68073.5 might still have some significance, but might benefit from revisions to reflect the current situation.

Information about the current status of the court facilities in Orange, Riverside, and particularly Los Angeles County would be useful in resolving how to proceed for purposes of a tentative recommendation. Without clear information, the best course might be to present the text of Section 68073.5 in the tentative recommendation without change, together with a Note soliciting comments.

3. Reimbursement of Court Construction Funds in Merced County if Transfers Do Not Occur On Time (Section 76225)

Section 76225 was enacted in 2006,⁷⁷ before Merced County transferred its court facilities to the state. It provides:

76225. If Merced County has not executed the transfer of its responsibilities and titles for the New Downtown Merced Courthouse, New Courts Building (Departments 1 to 3, inclusive), Jail Court (Department 4), Department 5 Modular, Departments 7 and 8 Trailer, Adobe Building, Criminal Trailer, and Jury Assembly, to the state as required under Chapter 1082 of the Statutes of 2002, on or before April 1, 2007, then Merced County shall pay back to the state the construction funds used for these projects.

By now, it should be clear, one way or the other, whether Merced County executed the transfer of its responsibilities and titles as specified on or before April 1, 2007. If the county complied with that deadline, then Section 76225 could simply be repealed:

Gov't Code § 76225 (repealed). Conditional reimbursement of court construction funds in Merced County

SEC. _____. Section 76225 of the Government Code is repealed.

~~76225. If Merced County has not executed the transfer of its responsibilities and titles for the New Downtown Merced Courthouse, New Courts Building (Departments 1 to 3, inclusive),~~

76. See generally Sections 70341-70344.

77. 2006 Cal. Stat. ch. 567, § 22.5.

~~Jail Court (Department 4), Department 5 Modular, Departments 7 and 8 Trailer, Adobe Building, Criminal Trailer, and Jury Assembly, to the state as required under Chapter 1082 of the Statutes of 2002, on or before April 1, 2007, then Merced County shall pay back to the state the construction funds used for these projects.~~

Comment. Section 76225 is repealed as obsolete.

If Merced County did not comply with the deadline of April 1, 2007, then Section 76225 could be amended to make it unconditional, along the following lines:

Gov't Code § 76225 (amended). Conditional reimbursement of court construction funds in Merced County

SEC. _____. Section 76225 of the Government Code is amended, to read:

~~76225. If Merced County has not executed the transfer of its responsibilities and titles for Merced County shall pay back to the state the construction funds used for the following projects: the New Downtown Merced Courthouse, New Courts Building (Departments 1 to 3, inclusive), Jail Court (Department 4), Department 5 Modular, Departments 7 and 8 Trailer, Adobe Building, Criminal Trailer, and Jury Assembly, to the state as required under Chapter 1082 of the Statutes of 2002, on or before April 1, 2007, then Merced County shall pay back to the state the construction funds used for these projects.~~

Comment. Section 76225 is amended to reflect that Merced County did not meet the transfer deadline of April 1, 2007, which was specified in 2002 Cal. Stat. ch. 1082.

Of course, if Merced County has already paid back the specified construction funds as required under Section 76225, there would be no need for this amendment and the section could be repealed despite the failure to meet the deadline of April 1, 2007.

It would be helpful to know (1) whether Merced County met the deadline of April 1, 2007, and (2) if not, whether Merced County has already repaid the amounts due under Section 76225. Without clear information, here again the Commission might want to present the statutory text in its tentative recommendation without change, together with a Note soliciting comments.

NEXT STEP

The Commission has made big progress on the court facilities issues but there are a few more matters to cover before preparing a tentative recommendation:

- *Trial Court Facilities Act (Gov't Code §§ 70301-70508)*. The staff plans to discuss Articles 1-8 of the chapter containing the Trial Court Facilities Act in a future memorandum.
- *"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.

If anyone is aware of other court facility statutes that the Commission has not already examined, please notify the Commission.

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

GOVERNMENT CODE - GOV

TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205] (Title 3 added by Stats. 1947, Ch. 424.)

DIVISION 2. OFFICERS [24000 - 28085] (Division 2 added by Stats. 1947, Ch. 424.)

PART 2. BOARD OF SUPERVISORS [25000 - 26490] (Part 2 added by Stats. 1947, Ch. 424.)

CHAPTER 13.6. San Joaquin County Regional Justice Facility Financing Act [26290 - 26293.4] (Chapter 13.6 added by Stats. 1988, Ch. 1634, Sec. 1.)

ARTICLE 1. General Provisions, Findings, and Definitions [26290 - 26290.8] (Article 1 added by Stats. 1988, Ch. 1634, Sec. 1.)

26290. This chapter shall be known and may be cited as the San Joaquin County Regional Justice Facility Financing Act.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.1. The Legislature hereby finds and declares that the existing state of overcrowding in the jails, sheriff, and court facilities in San Joaquin County is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house them. The Legislature further finds and declares that it is in the public interest to create the San Joaquin County Regional Justice Facility Financing Agency so that regional justice facility and prevention program needs may be addressed in an expeditious and appropriate fashion. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a general tax for the general governmental purposes of the San Joaquin County Regional Justice Facility Financing Agency.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.2. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.3. "Agency" means the San Joaquin County Regional Justice Facility Financing Agency.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.4. "County" means the County of San Joaquin.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.5. "Board of supervisors" means the Board of Supervisors of the County of San Joaquin.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.6. "Master plan" means the plan for construction and acquisition of adult detention facilities, sheriff facilities, functionally related court facilities, and structures necessary or convenient thereto. The plan shall be developed and approved, and may be amended from time to time, by the board of supervisors. The master plan may include, but is not limited to, the following:

(a) The number of adult detention facilities, sheriff facilities, functionally related court facilities, to be constructed, furnished, or acquired.

(b) The geographic location at which the facilities referenced in subdivision (a) shall be sited.

(c) The time schedule according to which the facilities referenced in subdivision (a) shall be constructed, furnished, or acquired.

(d) Construction standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(e) Design standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(f) Those other requirements as the board of supervisors, in carrying out its responsibility for the provision of regional detention services, deems necessary and appropriate.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.7. "Prevention program" means a program, administered by the county, designed to decrease the number of inmates incarcerated in county adult detention facilities by providing alternatives to incarceration, or by providing counseling, diversion, or intervention programs, or by providing both. Alternatives to incarceration, include, but are not limited to, alternative work programs, work furlough programs, half-way houses, and own recognizance services. Counseling, diversion, or intervention programs, include, but are not limited to, drug and alcohol counseling, parole counseling, and pretrial screening.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26290.8. "Functionally related court facility" means a court facility that is used solely for criminal prosecutions and handling inmates.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

ARTICLE 2. Creation of the Agency, Powers and Duties, Membership [26291 - 26291.9] (Article 2 added by Stats. 1988, Ch. 1634, Sec. 1.)

26291. There is hereby created the San Joaquin County Regional Justice Facility Financing Agency in the county.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.1. (a) The board of directors of the agency shall be comprised of five members, as follows:

(1) Two members of the board of supervisors who shall be appointed by, and serve at the pleasure of, the board of supervisors.

(2) Two public members who shall be appointed by, and serve at the pleasure of, the board of supervisors.

(3) The Sheriff of San Joaquin County.

(b) The senior member of the two appointed members of the board of supervisors shall serve as the chairperson of the board of directors of the agency through December 31, 1990. Thereafter, the chairperson of the board of directors of the agency shall be elected by vote of a majority of the members of the board of directors of the agency and shall serve for a period of one calendar year.

(c) The board of directors shall adopt those rules and procedures as it deems necessary to conduct its business.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.2. The agency may adopt a seal and alter it at its pleasure.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.3. The agency may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

All claims for money or damages against the agency are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other statutes or regulations expressly applicable thereto.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.4. The agency may compensate the members of its board of directors for all reasonable and necessary expenses incurred in the course of performing their duties.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.5. All reasonably necessary staff shall be provided by the county or hired by the agency. The county shall be reimbursed by the agency for the costs of any staff services provided to the agency by the county in accordance with an agreement entered into between the agency and county.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.6. The agency may enter into contracts. The agency may employ attorneys and consultants as necessary or convenient to carrying out its purposes and powers.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.7. The agency shall have the power to do all of the following:

- (a) Administer this chapter.
- (b) Finance the construction, acquisition, and furnishing of adult detention facilities, sheriff facilities, functionally related court facilities, and structures necessary or convenient thereto, in compliance with a master plan.
- (c) Exercise the power of eminent domain for acquisition, and finance the acquisition of, the lands, easements, and rights-of-way necessary for the general governmental purposes of the agency set forth in this section.
- (d) Hold title as necessary to land or facilities and convey title to such land or facilities to the county.
- (e) Retire all or a portion of any capital debt previously incurred for any adult detention facilities, sheriff facilities, or functionally related court facilities which exists on the date the election is held for voter approval of the retail transactions and use tax ordinance authorized by this chapter.
- (f) Finance all or part of the cost of any prevention program.
- (g) Reimburse costs incurred by the county in implementing the master plan, reimburse costs incurred by the county in the operation of any facility constructed or acquired pursuant to this chapter, or reimburse costs incurred by prevention programs provided the board of supervisors certifies to the agency that progress toward completion of adult detention facilities, sheriff facilities, and functionally related court facilities has progressed substantially in accordance with the master plan.
- (h) Construct, furnish, and acquire adult detention facilities, sheriff facilities, functionally related court facilities, and structures necessary or convenient thereto, in accordance with the master plan.

(Amended by Stats. 1989, Ch. 768, Sec. 1.)

26291.8. The agency may do all things necessary or convenient to carry out the purposes of this chapter.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26291.9. The initial meeting of the agency shall be held in the county when called by the board of supervisors. At that meeting, or at any subsequent meeting of the agency called by the board of supervisors for the purposes of approving the transactions and use tax ordinance and ballot proposition, the agency may approve a transactions and use tax ordinance and may call an election in accordance with Article 3 (commencing with Section 26292) which election, notwithstanding any other provision of law, may be held within 60 days of the calling of the election. The board of supervisors or the agency may file written arguments, including rebuttal arguments, in favor of the ballot proposition. No arguments shall exceed 500 words in length.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

ARTICLE 3. Transactions and Use Tax [26292 - 26293.4] (Article 3 added by Stats. 1988, Ch. 1634, Sec. 1.)

26292. The Legislature, by the enactment of this article, intends the additional funds provided by this article to supplement existing local revenues being used for the development of regional justice facilities. Government agencies are encouraged to maintain their existing commitment of local funds for regional justice facility purposes.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26292.1. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the agency in accordance with Section 26292.5 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the ordinance is adopted by a two-thirds vote of the board of directors of the agency and if two-thirds of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the agency. The tax ordinance shall take effect at the close of the polls on the day of the election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 26292.4.

(Amended by Stats. 2007, Ch. 343, Sec. 9.1. Effective January 1, 2008.)

26292.2. The ordinance shall state the tax rate and may state a term during which the tax will be imposed. The purposes for which the tax may be imposed are the general governmental purposes of the agency as set forth in Section 26291.7.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26292.3. (a) The county shall conduct an election called by the agency. The election shall be held within the incorporated and unincorporated areas of the county.

(b) The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county.

(c) The cost incurred by the county in conducting the election shall be reimbursed by the agency from proceeds of the transactions and use tax.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26292.4. (a) Any transactions and use tax ordinance adopted pursuant to this article shall become operative on the first day of the first calendar quarter commencing more than 110 days after adoption of the ordinance.

(b) Prior to the operative date of the ordinance, the agency shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

(Amended by Stats. 1989, Ch. 768, Sec. 2.)

26292.5. The agency, subject to the approval of the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect any tax otherwise authorized.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26292.6. The combined rate of tax imposed in San Joaquin County by any entity pursuant to Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, this chapter, and any other provision of law authorizing the imposition of local sales or transactions and use taxes shall not exceed 2.25 percent. Neither this chapter nor any ordinance or resolution approved pursuant to this chapter shall affect any tax otherwise authorized.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26292.7. (a) The agency, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, may seek authorization to issue bonds payable from the proceeds of the tax and establish the appropriation limit of the agency for purposes of Article XIII B of the California Constitution.

(b) The maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the transactions and use tax for a period of not more than the number of years for which the transactions and use tax authorized by this article is to be imposed.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26292.8. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the agency at any time, and from time to time, payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax.

(b) The pledge of the transactions and use tax revenues for the limited tax bonds authorized under this article shall have priority over the use of any of the revenues for other purposes except to the extent that the priority is expressly restricted in the resolution authorizing the issuance of the bonds.

(c) The proceeds of the bonds may be used for the following purposes:

(1) To finance the activities set forth in paragraphs (2), (3), (5), and (8) of subdivision (a) of Section 26291.7.

(2) To pay the costs incurred for the issuance of the bonds.

(3) To fund a reserve fund for the bonds.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26292.9. The agency may provide for the bonds to bear a variable or fixed interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26293. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by vote of the board of directors of the agency.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26293.1. Any bonds issued pursuant to this article are a legal investment for all trust funds; for the funds of insurance companies, commercial savings banks, and trust companies; and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, those funds may be invested in the bonds issued pursuant to this article, and whenever bonds of cities, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued pursuant to this article may be so used. The provisions of this article are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26293.2. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this article or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. Otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and incontestable.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26293.3. The agency has no power to impose any tax other than the transactions and use tax imposed upon approval of the voters in accordance with this chapter.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

26293.4. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(Added by Stats. 1988, Ch. 1634, Sec. 1.)

GOVERNMENT CODE - GOV

TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205] (Title 3 added by Stats. 1947, Ch. 424.)

DIVISION 2. OFFICERS [24000 - 28085] (Division 2 added by Stats. 1947, Ch. 424.)

PART 2. BOARD OF SUPERVISORS [25000 - 26490] (Part 2 added by Stats. 1947, Ch. 424.)

CHAPTER 13.7. Orange County Regional Justice Facilities Act [26295 - 26298.58] (Chapter 13.7 added by Stats. 1989, Ch. 1335, Sec. 1.)

ARTICLE 1. General Provisions, Findings, and Definitions [26295 - 26295.14] (Article 1 added by Stats. 1989, Ch. 1335, Sec. 1.)

26295. This chapter shall be known and may be cited as the Orange County Regional Justice Facilities Act.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26295.2. The Legislature hereby finds and declares that the existing state of overcrowding in jails and court facilities in Orange County is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house them. The Legislature further finds and declares that it is in the public interest to create the Orange County Regional Justice Facilities Commission so that regional justice facility needs may be addressed in an expeditious and appropriate fashion on a countywide basis. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a general tax for the general governmental purposes of the Orange County Regional Justice Facilities Commission.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26295.4. As used in this chapter, "commission" means the Orange County Regional Justice Facilities Commission created pursuant to Article 2 (commencing with Section 26296).

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26295.6. As used in this chapter, "bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26295.8. As used in this chapter, "county" means the County of Orange.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26295.10. As used in this chapter, "board of supervisors" means the Board of Supervisors of the County of Orange.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26295.12. As used in this chapter, "master plan" means the plan for construction, furnishing, acquisition, maintenance, and operation of adult and juvenile detention facilities and courthouse facilities, and structures necessary or convenient to those facilities. The master plan shall be developed and approved, and may be amended from time to time, by the commission. Subject to the limitations on the commission's powers, as set forth in subdivision (c) of Section 26296.14, the master plan may include, but is not limited to, all of the following:

(a) The adult detention facilities to be constructed, furnished, acquired, maintained or operated throughout the county.

- (b) The juvenile detention facilities to be constructed, furnished, acquired, maintained, or operated throughout the county.
- (c) The courthouse facilities to be constructed, furnished, acquired, maintained, or operated throughout the county.
- (d) The time schedule according to which the facilities referenced in subdivisions (a), (b), and (c) shall be constructed, furnished, or acquired.
- (e) Projections of revenues, including revenues expected to be derived from the tax provided for in this chapter, together with other federal, state, and local funds, and funds from the sale of bonds under this chapter, and expenditures for capital, maintenance, and operations purposes for adult and juvenile detention facilities and courthouse facilities purposes.
- (f) Those other requirements as the commission, in carrying out its responsibility for the provision of detention and court facilities and services, deems necessary and appropriate.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26295.14. As used in this chapter, "outstanding," when used as of any particular time with reference to bonds issued by the commission, means all bonds theretofore and thereupon being authenticated and delivered by an authenticating agent duly appointed by the commission or its authorized designee except:

- (a) Bonds theretofore canceled by an authenticating agent or surrendered to such authenticating agent for cancellation.
- (b) Bonds that are owned or held by or for the account of the commission or any other obligor on the bonds, or any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the commission or any other obligor on the bonds.
- (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other bonds shall have been authenticated and delivered.
- (d) Refunding bonds issued pursuant to Section 26298.42, except to the extent that the principal amount of the refunding bonds exceeds the principal amount of the bonds to be refunded with the proceeds of such refunding bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

ARTICLE 2. Creation of the Commission, Powers and Duties, Membership [26296 - 26296.38] (Article 2 added by Stats. 1989, Ch. 1335, Sec. 1.)

26296. There is hereby created the Orange County Regional Justice Facilities Commission in the county.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.2. (a) The commission shall be comprised of five members, as follows:

(1) Two members of the board of supervisors who shall be appointed by, and serve at the pleasure of, the board of supervisors.

(2) One member of the city council of a city in the county, who shall be appointed by, and serve at the pleasure of, the county city selection committee created pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5.

(3) One member of the city council of a city in the county, other than the city specified in paragraph (2), who shall be appointed by, and serve at the pleasure of, the county city selection committee specified in paragraph (2).

(4) One citizen, who shall be appointed by a majority vote of the other four members of the commission.

(b) Each member of the board of directors may appoint an alternate member to the commission, to represent, including, without limitation, to appear for and vote on behalf of, that member.

(c) (1) Except as provided in paragraph (2), all members of the commission shall be appointed for terms of four years and until their successors are appointed and qualified.

(2) For the initial members of the commission, two shall serve for terms of two years, two shall serve for terms of three years, and one shall serve for a term of four years. The respective terms of each of the initial members shall be determined by the members of the commission by lot. Thereafter, persons appointed as members of the commission shall be appointed for terms of four years.

(3) The term of any member serving on the commission as a result of holding another public office shall terminate when that member ceases holding the other public office and a new member has been properly seated. The new member of the commission shall hold office for the remainder of the term of the member who was replaced by the new member.

(4) Vacancies occurring shall be filled by the appointing authority for the unexpired term.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.4. The commission at its first meeting, and thereafter annually at the first meeting held on a date as the commission may determine, shall elect a chairperson from its members, who shall preside at all meetings, and a vice chairperson, who shall preside in the chairperson's absence. In the event of the absence or inability to act of both the chairperson and vice chairperson, the members present, by an order entered in the minutes, shall select one of their members to act as chairperson pro tempore who, while so acting, shall have all of the authority of the chairperson.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.6. The commission shall establish rules for its proceedings consistent with the law of the State of California.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.8. A majority of the members of the commission shall constitute a quorum for the transaction of business, and all official acts of the commission shall require the affirmative vote of a majority of its members constituting a quorum.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.10. The acts of the commission shall be expressed by motion, resolution, or ordinance.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.12. All meetings of the commission shall be conducted in the manner prescribed by the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.14. (a) The commission shall do all of the following:

(1) Adopt an annual budget.

(2) Cause a postaudit of the financial transactions and records of the commission to be made at least annually by a certified public accountant.

(b) The commission may do all of the following:

(1) Adopt an administrative code, by ordinance, which shall prescribe the powers and duties of commission officers, the method of appointment of commission employees, and methods, procedures, and systems of operation and management of the commission.

(2) Do any and all things necessary to carry out the purposes of this chapter.

(c) Notwithstanding subdivision (a) or (b), the commission shall have no power to determine the geographic locations at which any of the detention or court facilities specified in this chapter shall be sited or the design or construction standards which shall apply to those detention or court facilities.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.16. Notice of time and place of the public hearing for the adoption of the annual budget shall be published one time in a newspaper of general circulation not later than the 15th day prior to the date of the hearing. The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.18. The commission shall appoint an executive director who shall act for the commission under its direction. The commission may appoint other officers as it deems necessary to carry out its duties and functions.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.20. Members of the commission may be compensated at a rate not exceeding one hundred dollars (\$100) for any day attending to the business of the commission, but not to exceed four hundred dollars (\$400) in any month, and may be reimbursed for necessary travel and other expenses incurred in the performance of their duties, as authorized by the commission.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.22. (a) Except as otherwise provided in subdivisions (b) and (c), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the employees of the commission in that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system of which the employees of the county are members, in lieu of contracting with the board.

(c) Notwithstanding subdivision (a) or (b), to the extent that the commission contracts with the county or other agencies to utilize employees of the county or other agencies as employees of the commission, the commission need not establish any retirement benefits program for those employees.

(Amended by Stats. 2004, Ch. 69, Sec. 26. Effective June 24, 2004.)

26296.24. The commission has perpetual succession and may adopt a seal and alter it at its pleasure.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.26. The commission may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.28. All claims for money or damages against the commission are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other statutes or regulations expressly applicable thereto.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.30. The commission may make contracts and enter into stipulations of any nature whatsoever, including, but not limited to, contracts and stipulations to indemnify and save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this chapter. The commission may contract with any department or agency of the United States of America, with any public agency, or with any person upon terms and conditions as the commission finds is in its best interest including, but not limited to, contracts for alcohol detoxification diversion programs. The commission may employ attorneys and consultants necessary and convenient to carrying out its purposes and powers.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.34. The purchase of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure required exceeds twenty-five thousand dollars (\$25,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. The publication shall be made at least 10 days before the date for the receipt of the bids. The commission, at its discretion, may reject any and all bids and readvertise.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.36. If, after rejecting bids received under Section 26296.34 the commission determines and declares, by a two-thirds vote of all of its members, that the supplies, equipment, or materials may be purchased at a lower price in the open market, the commission may proceed to purchase those supplies, equipment, or materials in the open market without further observance of the provisions of this article regarding contracts, bids, advertisement, or notice.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26296.38. Notwithstanding Section 26296.34, the commission may direct the purchase of any supply, equipment, or material without observance of any provision in this article regarding contracts, bids, advertisement, or notice upon a finding by two-thirds of all members of the commission that there is only a single source of procurement therefor and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, or material already in use.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

ARTICLE 3. Detention and Courthouse Facilities [26297 - 26297.1] (Article 3 added by Stats. 1989, Ch. 1335, Sec. 1.)

26297. For purposes of allocating revenues pursuant to Section 26298.18, the commission shall coordinate the construction, furnishing, acquisition, maintenance, and operation of all adult and juvenile detention facilities and courthouse facilities within the county pursuant to the master plan.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26297.1. (a) The master plan shall be developed and approved by the commission. The master plan may be approved before or after the adoption of the retail transactions and use tax ordinance specified in Article 4 (commencing with Section 26298).

(b) Incident to the development of the master plan, the commission shall solicit proposals for adult and juvenile detention facilities and courthouse facilities purposes from the county and the cities in the county. The commission shall adopt a procedure for evaluating these proposals in consultation with the county and the cities in the county. However, nothing in this subdivision shall require the commission to include any of these proposals into the master plan.

(c) The master plan may be amended from time to time by the commission, in its sole discretion.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

ARTICLE 4. Transactions and Use Taxes in the County of Orange [26298 - 26298.58] (Article 4 added by Stats. 1989, Ch. 1335, Sec. 1.)

26298. The Legislature, by the enactment of this article, intends the additional funds provided by this article to supplement existing local revenues being used for the development of adult and juvenile detention facilities and courthouse facilities within the county. The county and the cities therein are further encouraged to maintain their existing commitment of local funds for adult and juvenile detention facilities and courthouse facilities purposes.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.2. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with Section 26298.8 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the ordinance is adopted by a two-thirds vote of the commission and if two-thirds of the electors voting on the measure vote to approve its imposition at an election. This election may be a special election called for that purpose by the commission or, if the commission so determines, shall be consolidated with a regular election.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with the requirements of subdivision (a), except that, at the option of the commission, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

(Amended by Stats. 2007, Ch. 343, Sec. 9.2. Effective January 1, 2008.)

26298.4. The ordinance shall state the nature of the tax to be imposed, the tax rate, the purposes for which the revenue derived from the tax will be used, and the term during which the tax shall be imposed. The proposition shall include an appropriations limit for the agency pursuant to Section 4 of Article XIII B of the California Constitution.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.6. (a) The county shall conduct the election, as called by the commission, regarding the imposition of a retail transactions and use tax ordinance. The commission shall reimburse the county for its cost in conducting that portion of the regular election directly related to the commission measure or in conducting the special election, as applicable.

(b) Any special election shall be called and conducted in the same manner as provided by law for the conduct of special elections by a county.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.8. The commission, subject to the approval of the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect any tax otherwise authorized.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.10. (a) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

"ADULT AND JUVENILE DETENTION FACILITIES AND COURTHOUSE FACILITIES—ORANGE COUNTY REGIONAL JUSTICE FACILITIES COMMISSION	YES
To construct, furnish, acquire, maintain, and operate adult and juvenile detention facilities and courthouse facilities in the county, this proposition authorizes the Orange County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales tax solely for adult and juvenile detention facilities and courthouse facilities purposes." In approving this proposition the voters are also approving an appropriations limit for the Orange County Regional Justice Facilities Commission.	NO

(b) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon at an election.

(Amended by Stats. 1994, Ch. 923, Sec. 57. Effective January 1, 1995.)

26298.12. (a) The commission may, as part of the same ballot proposition to approve the imposition of a retail transactions and use tax, seek authorization to issue bonds payable solely from the proceeds of the retail transactions and use tax.

(b) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

"ADULT AND JUVENILE DETENTION FACILITIES AND COURTHOUSE FACILITIES—ORANGE COUNTY REGIONAL JUSTICE FACILITIES COMMISSION	YES
To construct, furnish, acquire, maintain, and operate adult and juvenile detention facilities and courthouse facilities in the county, this proposition authorizes the Orange County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales tax solely for adult and juvenile detention facilities and courthouse facilities purposes and/or to issue bonds payable from the proceeds of that sales tax." In approving this proposition the voters are also approving an appropriations limit for the Orange County Regional Justice Facilities Commission.	NO

(c) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon at an election.

(Amended by Stats. 1994, Ch. 923, Sec. 58. Effective January 1, 1995.)

26298.16. (a) Any transactions and use tax ordinance adopted pursuant to this article shall become operative as provided in Section 7265 of the Revenue and Taxation Code.

(b) Prior to the operative date of the ordinance, the commission shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.17. The combined rate of any transactions and use tax imposed pursuant to this chapter and all other transactions and use taxes imposed pursuant to the Transactions and Use Tax Law (Part 1.6 (commencing with

Section 7251) of the Revenue and Taxation Code) or any other provision of law shall not exceed 1 percent. No tax shall be considered in accordance with this part if, upon its adoption, the combined rate will exceed 1 percent.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.18. The revenues from the taxes imposed pursuant to this article may be allocated by the commission for the following purposes:

(a) To administer this chapter.

(b) To pay the costs of the financing, construction, acquisition, furnishing, maintenance, and operation of adult and juvenile detention facilities, courthouse facilities, and structures necessary or convenient thereto, in compliance with the master plan and pursuant to allocation or funding agreements described in Section 26298.20.

(c) To pay the costs of the financing and acquisition of necessary lands, easements, and rights-of-way at sites designated or approved by the commission, including any costs incurred by the commission in acquiring the lands, easements, and rights-of-way.

(d) To hold title as necessary to land or facilities.

(e) To retire all or a portion of any capital debt previously incurred for any adult or juvenile detention facilities or courthouse facilities which exists on the date the election is held for voter approval of the retail transactions and use tax ordinance authorized by this chapter.

(f) To pay all debt service and any other related costs and expenses of any bonds issued under this chapter.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.20. (a) The commission shall establish a procedure for reviewing and evaluating requests by the county and the cities in the county for revenues of the commission to be used for the adult and juvenile detention facilities and courthouse facilities purposes specified in Section 26298.18, and shall review and evaluate, from time to time, those requests. After approving such a request of the county or any city in the county, the commission may allocate to the county or city any lawfully available moneys of the commission, including, but not limited to, the revenues from the taxes imposed pursuant to this article and the proceeds of any limited tax bonds authorized by the voters pursuant to Section 26298.12, in amounts as the commission shall determine, to fund, in whole or in part, those detention or courthouse facilities purposes.

(b) In connection with any allocation of moneys to the county or any city in the county pursuant to subdivision (a), the commission shall enter into an allocation or funding agreement with the county or city pursuant to which the commission shall commit the moneys allocated under subdivision (a) to the county or city. The moneys shall be used solely for the purposes approved by the commission under subdivision (a). Each allocation or funding agreement shall contain terms and conditions as the commission shall determine and may provide, without limitation, the purpose or purposes for which the allocation may be used, that the amount to be allocated may be advanced by the commission in a lump sum or in a series of payments at a date or dates determined by the commission, which may be in one or more fiscal years of the commission, that the allocation will be in the form of a conditional or unconditional grant or contribution or as a loan or other advance against an obligation of the county or city to repay the same, and the terms and conditions relating the obligation to repay the same, including the interest rate to be paid and the date or dates that payments are to be made to the commission on account of that obligation.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.22. (a) No modification, amendment, or rescission of any allocation or funding agreement between the commission and the county shall become effective unless the board of supervisors, by resolution, first approves the modification, amendment, or rescission.

(b) No modification, amendment, or rescission of any allocation or funding agreement between the commission and any city within the county shall become effective unless the city council of the city, by resolution, first

approves the modification, amendment, or rescission.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.24. When adopting its annual budget pursuant to Section 26296.14, the commission shall provide that the lawfully available moneys of the commission shall be used first for the payment of debt service on all outstanding limited tax bonds of the commission (unless otherwise provided in the resolution providing for the issuance of such bonds) and (unless otherwise provided in an allocation or funding agreement) for the payment of all allocations required to be made pursuant to allocation or funding agreements between the commission and the county or any city in the county prior to the payment of operating costs and expenses and any other lawful costs and expenses of the commission.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.28. If a retail transactions and use tax is adopted pursuant to this article, the commission shall prepare and submit a report to the board of supervisors and to the city council of each city in the county on or before January 1 of the year following the end of the first full fiscal year after that date that the taxes are imposed pursuant to this article and annually thereafter. The report shall evaluate, and report the progress made in, the implementation of the master plan in the preceding fiscal year.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.30. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the commission at any time, and from time to time, payable solely from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds."

(b) Limited tax bonds may not be issued unless the estimated proceeds of the retail transactions and use tax for a period of 30 years after issuance of the bonds shall at least equal the aggregate principal and interest payable with respect to all limited tax bonds then outstanding plus the limited tax bonds proposed to be issued. For purposes of determining the principal amount of limited tax bonds outstanding, limited tax bonds shall be assumed to be paid at par either at their respective maturities or pursuant to mandatory sinking fund installments with respect thereto. For purposes of determining the aggregate interest payable with respect to any issue of limited tax bonds, bonds that bear interest at variable interest rates shall be assumed to bear interest for the terms thereof equal to the interest rate in effect on the date the bonds are issued or, in the case of limited tax bonds already outstanding, equal to the interest rate in effect on the date that the determination is made. For purposes of determining the estimated proceeds of the retail transactions and use tax for a period of 30 years, a finding made by the commission, incidental to any prospective issuance of bonds, regarding the amount of the estimated proceeds shall be binding and conclusive for all purposes.

(c) The pledge of retail transactions and use taxes to the limited tax bonds authorized under this article shall have priority over the use of any of the funds for "pay-as-you-go" financing except to the extent that priority is expressly restricted in the resolution providing for the issuance of the bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.32. (a) Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the commission by a two-thirds vote of all members of the commission. Each resolution shall provide for the issuance of bonds in amounts as the necessity therefor may appear, until the full amount of the bonds authorized shall have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

(b) A resolution providing for the issuance of bonds shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to or connected with the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

- (2) The estimated cost of accomplishing the purposes.
 - (3) The amount of the principal of the indebtedness.
 - (4) The maximum term the bonds, proposed to be issued, shall run before maturity, which shall not exceed 31 years from the date thereof or the date of each series thereof.
 - (5) The maximum rate of interest to be paid, which shall not exceed the maximum interest rate specified from time to time in Section 53531 of the Government Code, without regard to any other limitation.
 - (6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars (\$5,000).
 - (7) A pledge of retail transactions and use taxes to the limited tax bonds, either before or after giving effect to the payment of maintenance and operations expenses as defined by the commission in the resolution, and a statement that the bonds shall have priority over the use of any of the funds for "pay-as-you-go" financing except to the extent that the priority is expressly restricted in the resolution. However, the resolution shall not provide for the pledge of retail transactions and use taxes that have been allocated to the county or any city therein pursuant to Section 26298.20, except to the extent that the proceeds of any limited tax bonds are to be so allocated in lieu of those retail transactions and use taxes.
 - (8) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when the whole or any part of the principal shall become due and payable.
- (c) The resolution may also contain any other matters authorized by this article or any other law.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

- 26298.34.** (a) The commission may provide for the bonds to bear interest at a variable or fixed interest rate, for the manner and intervals, in which the rate shall vary, and for the dates on which the interest shall be payable.
- (b) In the resolution or resolutions providing for the issuance of the bonds, the commission may also provide for call and redemption of the bonds prior to maturity at times and prices and upon other terms as it may specify. However, no bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon.
- (c) The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the county or at such other place or places as may be designated, or at either place or places at the option of the holders of the bonds.
- (d) The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vice chairperson of the commission and the treasurer, or other officer of the commission performing the duties of a treasurer, of the commission, and the official seal of the commission shall be attached thereto. The interest coupons, if any, of the bonds shall be signed by the treasurer, or other officer performing the duties of a treasurer, of the commission. All of the signatures and seal may be printed, lithographed, or mechanically reproduced. However, the bonds shall be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the commission or its authorized designee. If any officer whose signature appears on bonds or coupons ceases to be such an officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.36. The bonds may be sold as the commission determines by resolution. The commission may sell the bonds at a price below par, but the discount on any bonds so sold shall not exceed 5 percent of the par value thereof.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.38. Delivery of any bonds issued pursuant to this chapter may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.40. All accrued interest and premiums received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury of the commission and applied to secure the bonds or for the purposes for which the debt was incurred. However, when those purposes have been accomplished, any moneys remaining shall be either (a) transferred to the fund to be used for the payment of principal of and interest on the bonds or (b) placed in a fund to be used for the purchase of outstanding bonds of the commission from time to time in the open market at those prices and in that manner, either at public or private sale or otherwise, as the commission may determine. Bonds so purchased shall be canceled immediately.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.42. (a) The commission may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the commission upon the terms, at the times and in the manner which it determines.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the commission, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the commission.

(c) Pending that use, the escrowed proceeds may be invested and reinvested by the commission or its trustee in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at a time or times appropriate to ensure the prompt payment of principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment thereof may be returned to the commission for use by it in any lawful manner.

(d) The provisions of this article for the issuance and sale of bonds apply to the issuance and sale of refunding bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.44. (a) The commission may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this article, but which have not been sold and delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time, but the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any moneys of the commission available therefor, including the revenues from the retail transactions and use taxes imposed pursuant to this article. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the commission in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of bonds which the commission has been authorized to issue, less the amount of any bonds of the authorized issued previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolution or resolution authorizing them may contain provisions, conditions, or limitations which a resolution of the commission authorizing the issuance of bonds may contain.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.46. Any bonds issued under provisions of this article shall be legal investment for all trust funds, for the funds of insurance companies, commercial and savings banks, and trust companies, and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or other districts within the state, those moneys or funds may be invested in the bonds issued under this article. Whenever bonds of cities, cities and counties, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public moneys, the bonds issued under this article may be so used. This article shall be in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.48. Notwithstanding any other provision of law:

- (a) The commission and its revenues are exempt from all taxes on, or measured by, income.
- (b) Bonds issued by the commission are exempt from all property taxation, and the interest on the bonds is exempt from all taxes on income.
- (c) All property owned by the commission is exempt from property taxes, assessments, and other public charges secured by liens.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.50. (a) Bonds issued under this chapter do not constitute a debt or liability of the state or of any other public agency, other than the commission, or a pledge of the faith and credit of the state or of any other public agency, other than the commission, but shall be payable solely from the funds provided therefor. All the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any public agency, other than the Orange County Regional Justice Facilities Commission, is pledged to the payment of the principal of, or interest on, this bond."

(b) The issuance of bonds under this chapter does not in any manner obligate the state or any other public agency thereof to levy, or to pledge any form of, taxation therefor or to make any appropriation for their payment.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.52. Neither the members of the board of directors of the commission, nor any person executing the bonds, are liable personally on the bonds, or are subject to any personal liability or accountability by reason of the issuance thereof.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.54. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this article or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and shall be commenced within six months from the date of the election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the retail transactions and use tax provided for therein, shall be held to be valid and in every respect legal and incontestable.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.56. The county and each city within the county are authorized to contribute to the commission such amounts as the county and each city, in their discretion, deem appropriate. These amounts may be used by the commission for any lawful purpose. The commission may commit to repay any portion or all of the amounts contributed, together with interest thereon at a rate not exceeding the interest rate specified from time to time in Section 53531 or the Government Code, from any lawful source, including, but not limited to, revenues derived

from the retail transactions and use tax ordinance adopted pursuant to this chapter.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

26298.58. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(Added by Stats. 1989, Ch. 1335, Sec. 1.)

GOVERNMENT CODE - GOV

TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205] (*Title 3 added by Stats. 1947, Ch. 424.*)

DIVISION 2. OFFICERS [24000 - 28085] (*Division 2 added by Stats. 1947, Ch. 424.*)

PART 2. BOARD OF SUPERVISORS [25000 - 26490] (*Part 2 added by Stats. 1947, Ch. 424.*)

CHAPTER 13.8. County Regional Justice Facilities Financing Act [26299.000 - 26299.083] (*Chapter 13.8 added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

ARTICLE 1. General Provisions [26299.000 - 26299.014] (*Article 1 added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.000. This chapter shall be known and may be cited as the County Regional Justice Facilities Financing Act.
(*Added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.001. The Legislature hereby finds and declares that the existing state of overcrowding in jail facilities in counties is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society may be required to be released into that society for lack of adequate facilities to house them.

The Legislature further finds and declares that it is in the public interest to create county regional justice facilities financing agencies so that regional adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and prevention program needs may be addressed in an expeditious and appropriate fashion.

The Legislature further finds and declares that it is in the public interest to allow the voters in each county the opportunity to approve a general tax for the general governmental purposes of county regional justice facilities financing agencies.

(*Added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.002. Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this chapter. The definition of a word applies to any of that word's variants.

(*Added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.003. "Agency" means a county regional justice facilities financing agency.

(*Added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.004. "Board of directors" means the board of directors of a county regional justice facilities financing agency established pursuant to this chapter.

(*Added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.005. "Board of supervisors" means the board of supervisors of a county.

(*Added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.006. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

(*Added by Stats. 1989, Ch. 1335, Sec. 1.5.*)

26299.007. "County" means Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties.

(*Amended by Stats. 1991, Ch. 237, Sec. 1.*)

26299.008. "Court facilities" means the municipal and superior courts of the county, as well as any other facilities used for adult or juvenile court matters, criminal prosecutions, handling inmates, or a combination thereof.

(*Amended by Stats. 1998, Ch. 931, Sec. 196. Effective September 28, 1998.*)

26299.009. "Master plan" means the plan for construction and acquisition of juvenile and adult detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto. The plan shall be developed and approved, and may be amended from time to time, by the board of supervisors. The master plan may include, but is not limited to, the following:

- (a) The number of adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto to be constructed, furnished, or acquired.
- (b) The geographic areas in which the facilities referenced in subdivision (a) shall be sited.
- (c) The time schedule according to which the facilities referenced in subdivision (a) shall be constructed, furnished, or acquired.
- (d) Construction and design standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.
- (e) Those other requirements as the board of supervisors, in carrying out its responsibility for the provision of regional detention services, deems necessary and appropriate.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.010. "Outstanding," when used as of any particular time with reference to bonds issued by the agency, means all bonds theretofore and thereupon being authenticated and delivered by an authenticating agent duly appointed by the agency or its authorized designee except:

- (a) Bonds theretofore canceled by an authenticating agent or surrendered to such authenticating agent for cancellation.
- (b) Bonds that are owned or held by or for the account of the agency or any other obligor on the bonds, or any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the agency or any other obligor on the bonds.
- (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other bonds shall have been authenticated and delivered.
- (d) Refunding bonds issued pursuant to Section 26299.073, except to the extent that the principal amount of the refunding bonds exceeds the principal amount of the bonds to be refunded with the proceeds of those refunding bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.011. "Prevention program" means a program designed to decrease the number of inmates incarcerated in county juvenile and adult detention facilities by providing alternatives to incarceration, or by providing counseling diversion, or intervention programs, work furlough programs, halfway houses, and own recognizance services. Counseling, diversion, or intervention programs include, but are not limited to, drug and alcohol counseling, probation counseling, pretrial screening, and community programs intended to reduce or prevent juvenile criminal activity.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.013. "Qualifying facilities" means any of the adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto, which may be constructed, furnished, or acquired pursuant to this chapter.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.014. This chapter shall be liberally construed in order to effectuate its purposes. No inadvertent error, irregularity, informality, or the inadvertent neglect or omission of any officer, in any procedure taken under this division, other than fraud, shall void or invalidate that proceeding or any levy imposed to finance regional justice facilities needs or improvements.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

ARTICLE 2. Creation of the Agency, Powers and Duties, Membership [26299.020 - 26299.037] (Article 2 added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.020. (a) A county regional justice facilities financing agency may be established in any county, as defined in Section 26299.007, with membership and terms determined as provided in Section 26299.021, upon a finding of the board of supervisors that it is in the public interest to do so. Any such finding shall be adopted by resolution of the board of supervisors.

(b) A resolution adopted pursuant to subdivision (a), shall specify the number, membership, and terms of office of members of the board of directors of the agency as determined pursuant to Section 26299.021.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.021. The number, membership, and terms of office of the board of directors of a county regional justice facilities financing agency established pursuant to Section 26299.020, shall be determined by one of the following means:

(a) (1) The board of supervisors may establish the number, membership, and terms of office of the board of directors of the agency with the concurrence of the city councils representing both a majority of the cities in the county and a majority of the population in the incorporated area of the county.

(2) Notwithstanding the provisions of paragraph (1), the term of office of members of the board of directors shall be staggered, and shall not exceed four years.

(b) The board of supervisors may establish a board of directors of the agency comprised of five members, as follows:

(1) The county sheriff.

(2) Four other members, appointed by, and serving at the pleasure of, the board of supervisors, who shall have significant experience in detention, corrections, law enforcement, probation, or the judiciary. Not more than two of these four members may be members of the board of supervisors or other elected or appointed officers of the county.

(c) The board of supervisors may establish a board of directors of the agency comprised of seven members, as follows:

(1) The sheriff.

(2) The district attorney.

(3) Two members appointed by, and serving at the pleasure of, the city selection committee created pursuant to Article 1.1 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5, each of whom shall be either a member of the city council or the mayor of a city in the county. These two members may not represent the same city.

(4) Two members of the board of supervisors.

(5) One member appointed by, and serving at the pleasure of, the presiding judge of the superior court, who shall have significant experience in detention, corrections, law enforcement, probation, or the judiciary.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.022. The term of any member serving on the board of directors by virtue of holding another public office shall terminate when that member ceases holding the other public office and a new member has been properly seated. The new member of the agency shall hold office for the remainder of the term of the member who was replaced by the new member.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.023. Vacancies occurring on the board of directors shall be filled by the appointing authority for the unexpired term.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.024. The board of supervisors shall call the first meeting of the board of directors and shall designate one of the members of the board of directors to serve as the chairperson at that meeting. Thereafter, a chairperson and vice chairperson of the board of directors shall be elected annually by vote of a majority of the members of the board of directors of the agency and shall serve for a period of one calendar year. The chairperson shall preside at all meetings, and the vice chairperson shall preside in the absence of the chairperson.

In the event of the absence or inability to act of both the chairperson and vice chairperson, the members present, by an order entered in the minutes, shall select one of their members to act as chairperson pro tempore who, while so acting, shall have all of the authority of the chairperson.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.025. A majority of the members of the agency shall constitute a quorum for the transaction of business, and all official acts of the agency shall require the affirmative vote of a majority of its members constituting a quorum, unless a two-thirds vote is required by this chapter.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.026. The acts of the agency shall be expressed by motion, resolution, or ordinance.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.027. The board of directors shall adopt those rules and procedures, consistent with the laws of the state, as it deems necessary to conduct its business.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.028. All meetings of the agency shall be conducted in the manner prescribed by the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.029. In carrying out its purposes and powers, the agency may:

(a) Adopt a seal and alter it at its pleasure.

(b) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

All claims for money or damages against the agency are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein or by other statutes or regulations expressly applicable thereto.

(c) Subject to the limitations provided for in Section 26299.035, compensate the members of its board of directors for all reasonable and necessary expenses incurred in the course of performing their duties.

(d) Appoint and employ an executive officer and clerical staff as may be necessary for the administration of the affairs of the agency. All other reasonably necessary staff may be hired by the agency or may be provided by the county. The county shall be reimbursed by the agency for the costs of any staff services provided to the agency by the county in accordance with an agreement entered into between the agency and the county.

(e) Enter into contracts. The agency may employ attorneys and consultants as necessary or convenient to carrying out its purpose and powers.

(f) Appoint policy committees as deemed necessary.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.030. The agency shall do all of the following:

(a) Adopt an annual budget.

(b) Adopt an administrative code, by ordinance, which prescribes the powers and duties of agency officers, the method of appointment of agency employees, and methods, procedures, and systems of operation and management of the agency.

(c) Cause a postaudit of the financial transactions of the agency to be made at least annually by a certified public accountant.

(d) Do any and all things necessary to carry out the purposes of this chapter.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.031. In carrying out the purposes of this chapter the agency shall have the power to do all of the following:

(a) Administer this chapter.

(b) Finance the construction, acquisition, and furnishing of adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto, in compliance with a master plan developed and approved, as amended from time to time, by the board of supervisors for that purpose.

(c) Finance the acquisition of necessary lands, easements, and rights-of-way, including reimbursement to the county for any costs incurred by the county in acquiring such lands, easements, and rights-of-way, at sites designated or approved by the board of supervisors, for the general governmental purposes of the agency set forth in this section.

(d) Hold title as necessary or convenient to land or facilities constructed or acquired pursuant to this chapter, and convey title to such land or facilities to the county.

(e) Finance the operation and maintenance of any qualifying facilities constructed, acquired, or financed, in whole or in part, pursuant to this chapter or any adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto which may become operational after the effective date of any transactions and use tax approved pursuant to this chapter.

(f) Reimburse costs incurred by the county in the operation of any qualifying facilities constructed or acquired pursuant to this chapter, provided the board of supervisors certifies to the agency that progress toward completion of qualifying facilities has advanced substantially in accordance with the master plan, and reimburse costs incurred by the county in implementing the master plan.

(g) Retire all or a portion of any capital debt previously incurred for any adult or juvenile detention facilities, countywide law enforcement facilities, court facilities, or other structures necessary or convenient thereto which exist on the date the election is held for voter approval of the retail transactions and use tax ordinance authorized by this chapter.

(h) Finance all or part of the cost of any prevention program, as defined in Section 26299.011.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.032. In carrying out the purposes of this chapter the agency may finance the construction, acquisition, and furnishing of other county or city criminal justice and law enforcement facilities, provided the board of supervisors certifies to the agency that all current master plan requirements have been met.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.033. Notwithstanding any other provision of this chapter to the contrary, the board of directors of an agency shall have no power to determine the geographic locations at which any of the qualifying facilities specified in this chapter shall be sited.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.034. Notice of the time and place for the public hearing for the adoption of the annual budget shall be published one time in a newspaper of general circulation not later than the 15th day prior to the date of the hearing. The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.035. Members of the board of directors of the agency may be compensated at a rate not exceeding one hundred dollars (\$100) for any day attending to the business of the agency, but not to exceed four hundred dollars (\$400) in any month, and may be reimbursed for reasonable and necessary travel and other expenses incurred in the performance of their duties, as authorized by the agency.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.036. (a) Except as otherwise provided in subdivisions (b) and (c), the agency shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the employees of the agency in that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2.

(b) For purposes of providing retirement benefits, the agency may contract with the retirement system of which the employees of the county are members, in lieu of contracting with the board.

(c) Notwithstanding subdivision (a) or (b), to the extent that the agency contracts with the county or other agencies to utilize employees of the county or other agencies as employees of the agency, the agency need not establish any retirement benefits program for those employees.

(Amended by Stats. 2004, Ch. 69, Sec. 27, Effective June 24, 2004.)

26299.037. At the initial meeting of the agency, or at any subsequent meeting, the agency may approve a transactions and use tax ordinance and ballot proposition, and may call an election in accordance with Article 3 (commencing with Section 26299.040).

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

ARTICLE 3. Transactions and Use Tax [26299.040 - 26299.050] *(Article 3 added by Stats. 1989, Ch. 1335, Sec. 1.5.)*

26299.040. The Legislature, by the enactment of this chapter, intends that the additional funds provided governmental agencies by this chapter shall supplement existing local revenues being used for the development and operation of regional justice facilities, and that local agencies maintain their existing commitment of local funds for regional justice facilities purposes.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.041. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the tax ordinance is adopted by a two-thirds vote of the agency and imposition of the tax is subsequently approved by two-thirds of the electors voting on the measure at a special election called for that purpose by the board of supervisors, at the request of the agency, and a county regional justice facilities master plan is adopted pursuant to Section 26299.009.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with the requirements of subdivision (a), except that, at the option of the agency, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

(c) A retail transactions and use tax approved by the electors pursuant to this chapter shall remain in effect for not longer than 30 years, or any lesser period of time specified in the tax ordinance. The tax may be continued in effect, or reimposed, by a tax ordinance adopted by a two-thirds vote of the agency and the reimposition of the tax is approved by either a majority or two-thirds of the electors, whichever was required for the initial approval.

(d) The special elections required by subdivisions (a), (b), and (c) for the initial imposition and reimposition, respectively, of a retail transactions and use tax may be consolidated, if the agency so determines, with a regular election.

(Amended by Stats. 2007, Ch. 343, Sec. 9.3. Effective January 1, 2008.)

26299.042. A tax ordinance adopted pursuant to Section 26299.041 shall take effect at the close of the polls on the day of the election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 26299.049.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

ARTICLE 4. Bonds [26299.060 - 26299.083] (Article 4 added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.060. (a) As part of the ballot proposition to approve the imposition of a retail transactions and use tax pursuant to this chapter, authorization may be sought to issue bonds payable from the proceeds of the tax to finance capital outlay expenditures as may be provided for in the master plan for county regional justice facilities adopted pursuant to Section 26299.009.

(b) Limited tax bonds may not be issued unless the estimated proceeds of the retail transactions and use tax for a period of 30 years after issuance of the bonds shall at least equal the aggregate principal and interest payable with respect to all limited tax bonds then outstanding plus the limited tax bonds proposed to be issued. For purposes of determining the principal amount of limited tax bonds outstanding, limited tax bonds shall be assumed to be paid at par either at their respective maturities or pursuant to mandatory sinking fund installments with respect thereto. For purposes of determining the aggregate interest payable with respect to any issue of limited tax bonds, bonds that bear interest at variable interest rates shall be assumed to bear interest for the terms thereof equal to the interest rate in effect on the date the bonds are issued or, in the case of limited tax bonds already outstanding, equal to the interest rate in effect on the date that the determination is made. For purposes of determining the estimated proceeds of the retail transactions and use tax for a period of 30 years, a finding made by the agency, incidental to any prospective issuance of bonds, regarding the amount of the estimated proceeds shall be binding and conclusive for all purposes.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.061. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the agency at any time, and from time to time, payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds."

(b) The pledge of the retail transactions and use tax revenues for the limited tax bonds authorized under this chapter shall have priority over the use of any of the tax revenues for "pay-as-you-go" financing, or any other purposes except to the extent that that priority is expressly restricted in the resolution authorizing the issuance of the bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.062. Limited tax bonds issued under this chapter may be used only for the following purposes:

(a) To finance the capital outlay expenditures for those qualifying facilities which the agency is authorized to construct, acquire, or furnish pursuant to Section 26299.032.

(b) To pay costs incurred in the issuance of the limited tax bonds.

(c) To fund a reserve fund for the limited tax bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.063. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by a two-thirds vote of the board of directors of the agency. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.064. (a) A resolution providing for the issuance of bonds pursuant to this chapter shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including without limitation, engineering, inspection, legal, fiscal agents, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing those purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not be beyond the date of termination of the imposition of the retail transactions and use tax.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum rate allowed by Section 53531 of the Government Code, payable at intervals determined by the agency.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars (\$5,000).

(7) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when all, or any part, of the principal becomes due and payable.

(b) The resolution may also contain any other matters authorized by this chapter or any other law.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.065. The agency may provide for the limited tax bonds to bear a variable or fixed interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.066. (a) In the resolution authorizing the issuance of the bonds, the agency may also provide for the call and redemption of the bonds prior to maturity at the times and prices and upon other terms as specified.

(b) Notwithstanding the provisions of subdivision (a), no bond is subject to call or redemption prior to maturity, unless it contains a recital to that effect or unless a statement to that effect is printed therein.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.067. The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the agency, or at such other places as may be designated, or at both the office and other places at the option of the holders of the bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.068. (a) The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vicechairperson of the agency at the treasurer of the agency, and the official seal, if any, of the agency shall be attached.

(b) The interest coupons, if any, of the bonds shall be signed by the treasurer of the agency. All of the signatures and the seal may be printed, lithographed, or mechanically reproduced. However, the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the agency or its authorized designee.

(c) If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.069. The bonds may be sold as the agency determines by resolution. The agency may sell the bonds at a price below par, whether by negotiated or public sale.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.070. Delivery of any bonds issued pursuant to this chapter may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.071. All accrued interest and premiums received on the sale of the bonds shall be placed in the fund to be used for the payment of the principal of and interest on the bonds, and the remainder of the proceeds of the bonds shall be placed in the treasury of the agency and applied to secure the bonds or for the purposes for which the debt was incurred. However, when the purposes have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of and interest on the bonds, or (b) placed in a fund to be used for the purchase of the outstanding bonds in the open market at prices and in the manner, either at public or private sale or otherwise, as determined by the agency. Bonds so purchased shall be cancelled immediately.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.072. (a) The agency may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the agency upon the terms, at the times and in the manner which it determines.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the agency, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the agency.

(c) Pending that use, the escrowed proceeds may be invested and reinvested by the agency or its trustee in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at a time or times appropriate to ensure the prompt payment of principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment thereof may be returned to the agency for use by it in any lawful manner.

(d) The provisions of this chapter for the issuance and sale of bonds apply to the issuance and sale or refunding bonds.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.073. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(a) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(b) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(Amended by Stats. 1990, Ch. 216, Sec. 38.)

26299.074. (a) The agency may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this chapter, but which have not been sold or delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time, provided that the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any money of the agency available therefor, including the revenues from the retail transactions and use tax which may be imposed pursuant to this chapter. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the agency in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of the bonds which the agency has been authorized to issue, less the amount of any bonds therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the agency authorizing the issuance of bonds may contain.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.075. Any limited tax bonds issued pursuant to this chapter are a legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or other districts within the state, that money or funds may be invested in the bonds issued pursuant to this chapter. Whenever bonds of cities, cities and counties, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public moneys, the bonds issued pursuant to this chapter may be so used. The provisions of this chapter are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.076. Notwithstanding any other provision of law:

- (a) The agency and its revenues are exempt from all taxes on, or measured by, income.
- (b) Bonds issued by the agency are exempt from all property taxation, and the interest on the bonds is exempt from all taxes on income.
- (c) All property owned by the agency is exempt from property taxes, assessments, and other public charges secured by liens.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.077. (a) Bonds issued pursuant to this chapter do not constitute a debt or liability of the state or of any other public agency, other than the county regional justice facilities financing agency issuing the bonds, or a pledge of the faith and credit of the state or of any other public agency, other than the issuing agency, but shall be payable solely from the funds provided therefor. All of the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any public agency, other than the _____ County Regional Justice Facilities Financing Agency, is pledged to the payment of the principal of or interest on this bond."

(b) The issuance of bonds pursuant to this chapter does not in any manner obligate the state or any other public agency thereof to levy, or to pledge, any form of taxation therefor or to make any appropriation for their payment.

(Amended by Stats. 1990, Ch. 216, Sec. 39.)

26299.078. Neither the members of the board of directors of the agency, nor any person executing the bonds, are liable personally on the bonds, or are subject to any personal liability or accountability by reason of the issuance thereof.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.079. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this chapter or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure within six months from the date of the election at which the ordinance is approved. Otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the retail transactions and use tax provided for therein, shall be held to be valid and in every respect legal and incontestable.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.080. The county and each city within the county is authorized to contribute to the agency such amounts as the county and each city, in their discretion, deem appropriate. These amounts may be used by the agency for any lawful purpose. The agency may commit to repay all or any portion of the amounts contributed, together with interest thereon at a rate not exceeding the interest rate specified from time to time in Section 53531 of the Government Code, from any lawful source, including, but not limited to, revenues derived from the retail transactions and use tax which may be imposed pursuant to this chapter.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.081. The agency has no power to impose any tax other than the transactions and use tax imposed upon approval of the voters in accordance with this chapter.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.082. It is the intent of the Legislature in enacting this chapter to ensure that counties are not deprived of state funds which might be made available to finance needed regional justice facilities, including adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, other structures necessary or convenient thereto, and prevention programs subsequent to the enactment of this chapter, whether those funds be provided by statute or constitutional amendment.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

26299.083. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(Added by Stats. 1989, Ch. 1335, Sec. 1.5.)

“COURTHOUSE CONSTRUCTION FUND” REFERENCES THAT
DO NOT APPEAR TO NEED REVISIONS TO REFLECT
TRIAL COURT RESTRUCTURING

Note. In one or more places, each of the following statutes refers to a courthouse construction fund or several such funds. Those references are shown in boldface.

Gov’t Code § 68085.1. Deposit and distribution of specified fees and fines

68085.1. (a) This section applies to all fees and fines that are collected on or after January 1, 2006, under all of the following:

(1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150, 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of, subdivision (g) of Section 411.20 and subdivisions (c) and (g) of Section 411.21 of, subdivision (b) of Section 631 of, and Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.

(2) Section 3112 of the Family Code.

(3) Section 31622 of the Food and Agricultural Code.

(4) Subdivision (d) of Section 6103.5, Sections 68086 and 68086.1, subdivision (d) of Section 68511.3, Sections 68926.1 and 69953.5, and Chapter 5.8 (commencing with Section 70600).

(5) Section 103470 of the Health and Safety Code.

(6) Subdivisions (b) and (c) of Section 166 and Section 1214.1 of the Penal Code.

(7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate Code.

(8) Sections 14607.6 and 16373 of the Vehicle Code.

(9) Section 71386 of this code, Sections 304, 7851.5, and 9002 of the Family Code, and Section 1513.1 of the Probate Code, if the reimbursement is for expenses incurred by the court.

(10) Section 3153 of the Family Code, if the amount is paid to the court for the cost of counsel appointed by the court to represent a child.

(b) On and after January 1, 2006, each superior court shall deposit all fees and fines listed in subdivision (a), as soon as practicable after collection and on a regular basis, into a bank account established for this purpose by the Administrative Office of the Courts. Upon direction of the Administrative Office of the Courts, the county shall deposit civil assessments under Section 1214.1 of the Penal Code and any other money it collects under the sections listed in subdivision (a) as soon as practicable after collection and on a regular basis into the bank account established for this purpose and specified by the Administrative Office of the Courts. The deposits shall be made as required by rules adopted by, and financial policies and procedures authorized by, the Judicial Council under subdivision (a) of Section 77206. Within 15 days after the end of the month in which the fees and fines are collected, each court, and each county that collects

1 any fines or fees under subdivision (a), shall provide the Administrative Office of
2 the Courts with a report of the fees by categories as specified by the
3 Administrative Office of the Courts. The Administrative Office of the Courts and
4 any court may agree upon a time period greater than 15 days, but in no case more
5 than 30 days after the end of the month in which the fees and fines are collected.
6 The fees and fines listed in subdivision (a) shall be distributed as provided in this
7 section.

8 (c)(1) Within 45 calendar days after the end of the month in which the fees and
9 fines listed in subdivision (a) are collected, the Administrative Office of the Courts
10 shall make the following distributions:

11 (A) To the small claims advisory services, as described in subdivision (f) of
12 Section 116.230 of the Code of Civil Procedure.

13 (B) To dispute resolution programs, as described in subdivision (b) of Section
14 68085.3 and subdivision (b) of Section 68085.4.

15 (C) To the county law library funds, as described in Sections 116.230 and
16 116.760 of the Code of Civil Procedure, subdivision (b) of Section 68085.3,
17 subdivision (b) of Section 68085.4, and Section 70621 of this code, and Section
18 14607.6 of the Vehicle Code.

19 (D) To the **courthouse construction funds in the Counties of Riverside, San**
20 **Bernardino, and San Francisco, as described in Sections 70622, 70624, and**
21 **70625.**

22 (E) Commencing July 1, 2011, to the Trial Court Trust Fund, as described in
23 subdivision (e) of Section 70626, to be used by the Judicial Council to implement
24 and administer the civil representation pilot program under Section 68651.

25 (2) If any distribution under this subdivision is delinquent, the Administrative
26 Office of the Courts shall add a penalty to the distribution as specified in
27 subdivision (i).

28 (d) Within 45 calendar days after the end of the month in which the fees and
29 fines listed in subdivision (a) are collected, the amounts remaining after the
30 distributions in subdivision (c) shall be transmitted to the State Treasury for
31 deposit in the Trial Court Trust Fund and other funds as required by law. This
32 remittance shall be accompanied by a remittance advice identifying the collection
33 month and the appropriate account in the Trial Court Trust Fund or other fund to
34 which it is to be deposited. Upon the receipt of any delinquent payment required
35 under this subdivision, the Controller shall calculate a penalty as provided under
36 subdivision (i).

37 (e) From the money transmitted to the State Treasury under subdivision (d), the
38 Controller shall make deposits as follows:

39 (1) Into the State Court Facilities Construction Fund, the Judges' Retirement
40 Fund, and the Equal Access Fund, as described in subdivision (c) of Section
41 68085.3 and subdivision (c) of Section 68085.4.

1 (2) Into the Health Statistics Special Fund, as described in subdivision (b) of
2 Section 70670 of this code and Section 103730 of the Health and Safety Code.

3 (3) Into the Family Law Trust Fund, as described in Section 70674.

4 (4) Into the Immediate and Critical Needs Account of the State Court Facilities
5 Construction Fund, established in Section 70371.5, as described in Sections
6 68085.3, 68085.4, and 70657.5, and subdivision (e) of Section 70617.

7 (5) The remainder of the money shall be deposited into the Trial Court Trust
8 Fund.

9 (f) The amounts collected by each superior court under Section 116.232,
10 subdivision (g) of Section 411.20, and subdivision (g) of Section 411.21 of the
11 Code of Civil Procedure, Sections 304, 3112, 3153, 7851.5, and 9002 of the
12 Family Code, subdivision (d) of Section 6103.5, subdivision (d) of Section
13 68511.3 and Sections 68926.1, 69953.5, 70627, 70631, 70640, 70661, 70678, and
14 71386 of this code, and Sections 1513.1, 1835, 1851.5, and 2343 of the Probate
15 Code shall be added to the monthly apportionment for that court under subdivision
16 (a) of Section 68085.

17 (g) If any of the fees provided in subdivision (a) are partially waived by court
18 order or otherwise reduced, and the fee is to be divided between the Trial Court
19 Trust Fund and any other fund or account, the amount of the reduction shall be
20 deducted from the amount to be distributed to each fund in the same proportion as
21 the amount of each distribution bears to the total amount of the fee. If the fee is
22 paid by installment payments, the amount distributed to each fund or account from
23 each installment shall bear the same proportion to the installment payment as the
24 full distribution to that fund or account does to the full fee. If a court collects a fee
25 that was incurred before January 1, 2006, under a provision that was the
26 predecessor to one of the paragraphs contained in subdivision (a), the fee may be
27 deposited as if it were collected under the paragraph of subdivision (a) that
28 corresponds to the predecessor of that paragraph and distributed in prorated
29 amounts to each fund or account to which the fee in subdivision (a) must be
30 distributed.

31 (h) Except as provided in Sections 470.5 and 6322.1 of the Business and
32 Professions Code, and **Sections 70622, 70624, and 70625 of this code**, an agency
33 shall not take action to change the amounts allocated to any of the funds described
34 in subdivision (c), (d), or (e).

35 (i) The amount of the penalty on any delinquent payment under subdivision (c)
36 or (d) shall be calculated by multiplying the amount of the delinquent payment at a
37 daily rate equivalent to 1¹/₂ percent per month for the number of days the payment
38 is delinquent. The penalty shall be paid from the Trial Court Trust Fund. Penalties
39 on delinquent payments under subdivision (d) shall be calculated only on the
40 amounts to be distributed to the Trial Court Trust Fund and the State Court
41 Facilities Construction Fund, and each penalty shall be distributed proportionately
42 to the funds to which the delinquent payment was to be distributed.

1 (j) If a delinquent payment under subdivision (c) or (d) results from a
2 delinquency by a superior court under subdivision (b), the court shall reimburse
3 the Trial Court Trust Fund for the amount of the penalty. Notwithstanding Section
4 77009, any penalty on a delinquent payment that a court is required to reimburse
5 pursuant to this section shall be paid from the court operations fund for that court.
6 The penalty shall be paid by the court to the Trial Court Trust Fund no later than
7 45 days after the end of the month in which the penalty was calculated. If the
8 penalty is not paid within the specified time, the Administrative Office of the
9 Courts may reduce the amount of a subsequent monthly allocation to the court by
10 the amount of the penalty on the delinquent payment.

11 (k) If a delinquent payment under subdivision (c) or (d) results from a
12 delinquency by a county in transmitting fees and fines listed in subdivision (a) to
13 the bank account established for this purpose, as described in subdivision (b), the
14 county shall reimburse the Trial Court Trust Fund for the amount of the penalty.
15 The penalty shall be paid by the county to the Trial Court Trust Fund no later than
16 45 days after the end of the month in which the penalty was calculated.

17 **Gov't Code § 70625. Funding for courthouse construction in City and County of San**
18 **Francisco**

19 70625. Notwithstanding any other law, for the purpose of assisting the City and
20 County of San Francisco in the acquisition, rehabilitation, construction, and
21 financing of courtrooms or of a courtroom building or buildings containing
22 facilities necessary or incidental to the operation of the justice system, the Board
23 of Supervisors of the City and County of San Francisco may require the amounts
24 collected pursuant to subdivision (d) to be deposited in the **Courthouse**
25 **Construction Fund established pursuant to Section 76100**. In the City and
26 County of San Francisco, the moneys of the **Courthouse Construction Fund**
27 together with any interest earned thereon shall be payable only for the foregoing
28 purposes and at the time necessary therefor, and for the purposes set forth in
29 subdivision (b) and at the time necessary therefor.

30 (b) In conjunction with the acquisition, rehabilitation, construction, or financing
31 of courtrooms or of a courtroom building or buildings referred to in subdivision
32 (a), the City and County of San Francisco may use the moneys of the **Courthouse**
33 **Construction Fund** (1) to rehabilitate existing courtrooms or an existing
34 courtroom building or buildings for other uses if new courtrooms or a courtroom
35 building or buildings are acquired, constructed, or financed or (2) to acquire,
36 rehabilitate, construct, or finance excess courtrooms or an excess courtroom
37 building or buildings if that excess is anticipated to be needed at a later time.

38 (c) Any excess courtrooms or excess courtroom building or buildings that are
39 acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may
40 be leased or rented for uses other than the operation of the justice system until
41 such time as the excess courtrooms or excess courtroom building or buildings are
42 needed for the operation of the justice system. Any amounts received as lease or

1 rental payments pursuant to this subdivision shall be deposited in the **Courthouse**
2 **Construction Fund**.

3 (d) In the City and County of San Francisco, a surcharge for the purpose and for
4 the time set forth in this section may be added to the filing fees under Sections
5 70611, 70612, 70613, 70614, 70650, 70651, 70652, 70653, 70655, and 70670 in
6 any civil, family, or probate action in the superior court. The surcharge shall be in
7 an amount, not to exceed fifty dollars (\$50), as set forth in a resolution adopted by
8 the Board of Supervisors of the City and County of San Francisco. If a surcharge
9 under this section is imposed on a filing fee, the distribution that would otherwise
10 be made to the State Court Facilities Construction Fund under subdivision (c) of
11 Section 68085.3 or subdivision (c) of Section 68085.4 shall be reduced as
12 provided in Section 70603. The county shall notify in writing the superior court
13 and the Administrative Office of the Courts of any change in a surcharge under
14 this section. When the amortized costs that are to be repaid from this fund have
15 been repaid, the county shall notify in writing the superior court and the
16 Administrative Office of Courts, and the surcharge under this section shall
17 terminate, as provided in subdivision (b) of Section 70375.

18 **Gov't Code § 76200. Courthouse Construction Fund in Alameda County**

19 76200. Alameda County is authorized to establish a **Courthouse Construction**
20 **Fund pursuant to Section 76100** so long as the county maintains a courtroom
21 building in the City of Berkeley. In the event that the courtroom building in the
22 City of Berkeley is closed, Alameda County may not collect those funds.

23 **Gov't Code § 76214. Monterey County Courthouse Construction Fund**

24 76214. (a) Deposits collected in the **Monterey County Courthouse**
25 **Construction Fund** shall continue through the 30th year after the initial year for
26 which the surcharge or additional penalty, as defined in Section 76000, is
27 collected, or through the 30th year after any borrowings are made for any
28 construction funded pursuant to Section 76100.

29 (b) The Monterey County Treasurer shall deposit those amounts specified by the
30 board of supervisors by resolution into the **Monterey County Courthouse**
31 **Construction Fund** pursuant to Section 76000. However, deposits to the fund
32 shall continue through whatever period of time is necessary to repay any
33 borrowings made by Monterey County on or before January 1, 1998, to pay for
34 construction provided in this chapter.

35 **Gov't Code § 76224. Courthouse Construction Funds in Merced County and Sonoma**
36 **County**

37 76224. Deposits to the **Courthouse Construction Fund established in Merced**
38 **or Sonoma County pursuant to Section 76100** and the Criminal Justice Facilities
39 Construction Fund established in Merced or Sonoma County pursuant to Section
40 76101 shall continue through and including the 30th year after the initial year in

1 which the surcharge is collected or the 30th year after any borrowings are made
2 for any construction under those sections, whichever comes later.

3 **Gov't § 76245. Courthouse Construction Fund and Criminal Justice Facilities Construction**
4 **Fund in Shasta County**

5 76245. (a) **The fund established in Shasta County pursuant to Section 76100**
6 **shall be known as the Statham Courthouse Construction Fund.**

7 (b) The fund established in Shasta County pursuant to Section 76101 shall be
8 known as the Statham Criminal Justice Facilities Construction Fund.

9 **Gov't § 76252. Courthouse Construction Fund in Ventura County**

10 76252. Deposits to the **Courthouse Construction Fund established in Ventura**
11 **County pursuant to Section 76100** shall continue to and including the 25th year
12 after the initial year in which the surcharge is collected or the 25th year after any
13 borrowings are made for any construction funded pursuant to that section,
14 whichever comes later.