

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Trial Court Restructuring Clean-Up: Regional Justice Facilities Acts

July 2020

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN September 1, 2020.

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

California's trial court system was dramatically restructured around the turn of the century. As a result, hundreds of provisions throughout the codes became obsolete, in whole or in part.

At the request of the Legislature, the Law Revision Commission has been reviewing the codes and recommending revisions to remove material made obsolete by trial court restructuring. The Commission has done extensive work on this legislative assignment over the years, but more work remains to be done.

Among other things, the codes include the following Acts:

- The San Joaquin County Regional Justice Facility Financing Act (Gov't Code §§ 26290-26293.4).
- The Orange County Regional Justice Facilities Act (Gov't Code §§ 26295-26298.58).
- The County Regional Justice Facilities Financing Act (Gov't Code §§ 26299.000-26299.083), which applies to Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties.

These Acts (collectively, the "Regional Justice Facilities Acts") contain material that appears to be obsolete due to trial court restructuring. The Acts also contain legislative findings about the condition of local justice facilities from over thirty years ago, as well as other material that might be outdated.

Revising the Acts to reflect current conditions would require considerable effort and call for various policy decisions. Such an undertaking appears unnecessary, however, because outreach to the affected courts and counties revealed little interest in retaining the Regional Justice Facilities Acts, which have never been used for their intended purposes.

The Commission thus tentatively recommends that the Regional Justice Facilities Acts be repealed. They do not appear to be needed and retaining them in the codes could lead to occasional wasted efforts or confusion.

The Commission encourages comments on this tentative recommendation, in any format. They should be submitted to bgaal@clrc.ca.gov by **September 1, 2020**.

This recommendation was prepared pursuant to Government Code Section 71674 and Resolution Chapter 158 of the Statutes of 2018.

1 TRIAL COURT RESTRUCTURING CLEAN-UP:
2 REGIONAL JUSTICE FACILITIES ACTS

3 California made several major reforms of its trial court system around the turn of
4 the century. Those reforms necessitated extensive statutory revisions, throughout
5 the codes. At the request of the Legislature, the Law Revision Commission has
6 been reviewing the codes and recommending revisions to remove material made
7 obsolete by trial court restructuring. Over the years, many bills have been enacted
8 to implement its recommendations, but there is still work to be done.

9 This tentative recommendation focuses on three statutes in the Government
10 Code relating to funding for regional justice facilities (hereafter, the “Regional
11 Justice Facilities Acts”).¹ Those statutes appear to contain material that is obsolete
12 due to developments stemming from trial court restructuring, particularly a shift in
13 responsibility for court facilities.

14 Updating that material would require significant effort and entail policy
15 decisions that might be beyond the Commission’s authority. As explained below,
16 however, such analysis appears to be unnecessary due to an apparent lack of
17 interest in retaining the Regional Justice Facilities Acts. The Commission thus
18 tentatively recommends that they be repealed.

19 This tentative recommendation begins by summarizing the trial court
20 restructuring reforms and the Commission’s role in that process. It then describes
21 the Regional Justice Facilities Acts, as well as a few constitutional challenges to
22 those statutes. Lastly, the Commission explains why they should be repealed as
23 obsolete and gives instructions for submitting comments.

24 **Trial Court Restructuring and the Commission’s Role**

25 The restructuring of California’s trial court system was extensive, complex, and
26 occurred in several stages, as explained below.

27 ***Former Structure***

28 In the late 1990’s, California had two types of trial courts: municipal courts
29 (with limited jurisdiction) and superior courts (with jurisdiction of all other cases).²

1. Gov’t Code §§ 26290-26293.4 (San Joaquin County Regional Justice Facility Financing Act), 26295-26298.58 (Orange County Regional Justice Facilities Act), 26299.000-26299.083 (County Regional Justice Facilities Financing Act). Unless otherwise indicated, all further statutory references in this tentative recommendation are to the Government Code

2. See former Cal. Const. art. VI, §§ 4, 5, 10, which are reproduced in *Trial Court Unification: Constitutional Revision* (SCA 3), 24 Cal. L. Revision Comm’n Reports 1, 21 (1994) (hereafter, “TCU: Constitutional Revision”). California also had justice courts until the mid-1990’s, when they were eliminated statewide pursuant to a ballot measure approved by the voters. See 1994 Cal. Stat. res. ch. 113 (SCA 7 (Dills)) (Prop. 191, approved Nov. 8, 1994).

Any California Law Revision Commission document referred to in this tentative recommendation can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website

1 Both types were county-operated, received county funding, and were largely
2 staffed with county employees.³ Trial court facilities were owned, constructed, and
3 maintained by the counties.⁴

4 ***Key Structural Changes***

5 Around the turn of the century, three major reforms occurred:

- 6 • *Lockyer-Isenberg Trial Court Funding Act*. Under this 1997 legislation,⁵ the
7 state assumed full responsibility for funding trial court operations.⁶ The goal
8 was to eliminate disparities in funding from county to county, helping to
9 ensure equal service in courts across the state.⁷
- 10 • *Trial court unification*. In 1998, the voters approved a measure that
11 permitted trial court unification on a county-by-county basis: On a vote of a
12 majority of the municipal court judges and a majority of the superior court
13 judges in a county, the municipal and superior courts in that county could
14 unify their operations in the superior court.⁸ By early 2001, the trial courts in
15 all of California’s 58 counties had unified.⁹ Each county now has a unified
16 superior court, which handles all trial court operations in that county.
- 17 • *Enactment of the Trial Court Employment Protection and Governance Act*
18 (*“TCEPGA”*). This legislation was enacted in 2000.¹⁰ It established a new
19 personnel system for trial court employees, in which they are employed by
20 the superior court itself (not by the county or the state).¹¹

21 ***Follow-Up Legislation on Court Facilities***

22 The reforms described above did not directly resolve the fate of trial court
23 facilities. Instead, the Trial Court Funding Act created a task force “to review and
24 report the status of court facilities throughout the state, and to make
25 recommendations for specific funding responsibilities among the entities of

(www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

3. See, e.g., Senate Committee on Judiciary Analysis of AB 233 (June 10, 1997); *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51, 76-79 (1998) (hereafter, “*TCU: Revision of Codes*”); J. Clark Kelso, Analysis of Existing Court Staffing Statutes (DRAFT: Jan. 24, 2000) (on file with Commission).

4. See, e.g., *Statutes Made Obsolete by Trial Court Restructuring: Part 2* (hereafter, “*TCR: Part 2*”), 33 Cal. L. Revision Commission Reports 169, 177 (2003) (“Court facilities have historically been county structures.”).

5. 1997 Cal. Stat. ch. 850; see generally Sections 77000-77655.

6. See Section 77200.

7. See Section 77100(c)-(d).

8. See 1996 Cal. Stat. res. ch. 36 (SCA 4 (Lockyer)) (Prop. 220, approved June 2, 1998).

9. See <https://www.courts.ca.gov/documents/unidate.pdf>.

10. 2000 Cal. Stat. ch. 1010; see generally Sections 71600-71675.

11. See, e.g., Senate Committee on Judiciary Analysis of SB 2140 (May 9, 2000).

1 government (i.e., state and/or county) with regards to court facilities maintenance
2 and construction.”¹²

3 The task force visited court facilities throughout the state and submitted its final
4 report to the Legislature in 2001.¹³ Its overarching recommendation was that
5 “responsibility for trial court facilities funding and operation be shifted from the
6 counties to the state.”¹⁴

7 The task force gave four main reasons for that recommendation, which the
8 Legislature endorsed in the Trial Court Facilities Act, enacted in 2002.¹⁵ A key
9 theme was that *the judiciary* should control both court operations and court
10 facilities:

11 (1) The *judicial branch* of government is now wholly responsible for its
12 programs and operations, with the exception of trial court facilities. The *judiciary*
13 should have the responsibility for all of its functions related to its operations and
14 staff, including facilities.

15 (2) *Uniting responsibility for operations and facilities* increases the likelihood
16 that operational costs will be considered when facility decisions are made, and
17 enhances economical, efficient, and effective court operations.

18 (3) The state, being solely responsible for creating new judicial positions, drives
19 the need for new court facilities.

20 (4) Equal access to justice is a key underpinning of our society and the rule of
21 law. It is also a paramount goal of the Judicial Council, the policymaking body of
22 the judicial branch. The state can best ensure uniformity of access to all court
23 facilities in California.¹⁶

24 Consistent with those findings, the Trial Court Facilities Act grants the judicial
25 branch broad authority with respect to court facilities, while still ensuring that
26 other voices are heard and taken into account.¹⁷

27 Of particular importance, the Trial Court Facilities Act set a deadline for each
28 county to negotiate agreements transferring its court facilities (and responsibility
29 for maintaining those facilities) to the state.¹⁸ The court facility transfers took
30 longer than expected, but were essentially completed by the end of 2009.¹⁹

12. Senate Committee on Judiciary Analysis of SB 1732 (April 16, 2002), p. 1.

13. See Section 77654; Senate Committee on Judiciary Analysis of SB 1732 (April 16, 2002), p. 2.

14. 2002 Cal. Stat. ch. 1082, § 1 (legislative findings for Trial Court Facilities Act).

15. 2002 Cal. Stat. ch. 1082 (SB 1732 (Escutia)); see generally Sections 70301-70403.

16. 2002 Cal. Stat. ch. 1082, § 1 (emphasis added). For further background on the Trial Court Facilities Act, see Assembly Committee on Judiciary Analysis of SB 1732 (June 25, 2002); Senate Committee on Judiciary Analysis of SB 1732 (April 16, 2002).

17. See, e.g., Section 70391.

18. See former Section 70321 (2002 Cal. Stat. ch. 1082, § 4).

19. See, e.g., Section 70321.

1 ***Role of the Law Revision Commission in Trial Court Restructuring***

2 At the direction of the Legislature, the Law Revision Commission was involved
3 in trial court restructuring from the outset. In 1993-94, the Commission helped to
4 draft the constitutional revisions necessary to accomplish trial court unification.²⁰
5 It later drafted the extensive statutory revisions necessary to accommodate county-
6 by-county unification.²¹

7 After the trial courts in all counties unified, the Commission prepared a massive
8 report proposing further statutory revisions (and a few constitutional revisions) to
9 reflect the elimination of the municipal courts. As requested by the Legislature,
10 that 2001 report also included proposed legislation to reflect the enactment of the
11 Trial Court Funding Act and the TCEPGA.²²

12 Since then, the Commission has continued to review the codes and periodically
13 recommend revisions to reflect trial court unification, enactment of the Trial Court
14 Funding Act, and enactment of the TCEPGA.²³ Virtually all of the Commission's
15 proposed legislation on trial court restructuring has become law.²⁴

16 Throughout this work, the Legislature, the Governor, and the general public
17 made the key policy decisions; the Commission was not involved in such decision-
18 making. Instead, the Commission's role was to use its drafting expertise to
19 conform the codes and the California Constitution to the new policies governing
20 California's trial court system, without disrupting other existing policy choices.²⁵

20. See *TCU: Constitutional Revision*, *supra* note 2; see also 1993 Cal. Stat. res. ch. 96; *Trial Court Unification: Transitional Provisions for SCA 3*, 24 Cal. L. Revision Comm'n Reports 627 (1994).

21. See *TCU: Revision of Codes*, *supra* note 3; see also 1997 Cal. Stat. res. ch. 102; 1998 Cal. Stat. res. ch. 91; *Report of the California Law Revision Commission on Chapter 344 of the Statutes of 1999 (Senate Bill 210)*, 29 Cal. L. Revision Comm'n Reports 657 (1999).

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

23. For a list of the Commission's recommendations on trial court restructuring, see *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities*, 46 Cal. L. Revision Comm'n Reports 25, 34 n.26 (2019) (hereafter, "*TCR: Court Facilities*"). See also *Trial Court Restructuring Clean-Up: Obsolete "Constable" References*, 45 Cal. L. Revision Comm'n Reports 441 (2018); *Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees*, 46 Cal. L. Revision Comm'n Reports 1 (2019); *Trial Court Restructuring Clean-Up: Obsolete References to Marshals*, 46 Cal. L. Revision Comm'n Reports 105 (2019).

The Commission has also completed work on a set of legislatively-mandated projects that derived from its work on trial court unification. See CLRC Staff Memorandum 2020-29.

24. For details, see *TCR: Court Facilities*, *supra* note 23, at 35, n. 27. The proposed legislation in the reports cited in note 23 *supra* is currently pending in the Legislature.

25. See *TCU: Constitutional Revision*, *supra* note 2, at 13 ("The Commission has not been authorized to report to the Legislature concerning the wisdom or desirability of trial court unification, and has not considered the question."); *TCU: Revision of Codes*, *supra* note 3, at 60 ("[T]he Commission has narrowly limited its recommendations to generally preserve existing procedures in the context of unification. The objective of the proposed revisions is to preserve existing rights and procedures despite unification, with no disparity of treatment between a party appearing in municipal court and a similarly situated party appearing in superior court as a result of unification of the municipal and superior courts in the county."); 2000 Cal.

1 Because court facilities issues were unsettled, the Commission did not address
2 such issues in its 2001 report or shortly thereafter.²⁶ Recently, however, the
3 Commission turned to those issues and finalized a recommendation on how to
4 update various court facility provisions to reflect the trial court restructuring
5 reforms, including the enactment and implementation of the Trial Court Facilities
6 Act.²⁷

7 The Commission examined the Regional Justice Facilities Acts in preparing that
8 new recommendation, but decided to address them separately because they raised
9 special issues. Those three statutes and their history are described next.

10 **Regional Justice Facilities Acts**

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

- 13 • The San Joaquin County Regional Justice Facility Financing Act (Sections
14 26290-26293.4) (reproduced at pages 17-21) (hereafter, the “San Joaquin
15 County Act”).
- 16 • The Orange County Regional Justice Facilities Act (Sections 26295-
17 26298.58) (reproduced at pages 21-32) (hereafter, the “Orange County
18 Act”).
- 19 • The County Regional Justice Facilities Financing Act (Sections 26299.000-
20 26299.083) (reproduced at pages 32-43) (hereafter, the “Multi-County
21 Act”). This Act pertains to Humboldt, Los Angeles, Riverside, San
22 Bernardino, Stanislaus, and Ventura Counties.²⁸

23 These Acts were all enacted in the late 1980’s. As discussed below, they are
24 similar, but not identical, in content.

25 ***Description of the Acts***

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

- 28 (1) Address overcrowding of local jails and court facilities.
- 29 (2) Create, or authorize the creation of, a new governmental entity with
30 responsibilities relating to regional justice facilities.

Stat. ch. 1010, § 14 (enacting Section 71674, which only directed Commission to “determine whether any provisions of law are obsolete as a result of the enactment of [the TCEPGA], the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 ..., or the implementation of trial court unification, and ... recommend to the Legislature any amendments to remove those obsolete provisions.”); 2002 Cal. Stat. ch. 784, § 360 (amending Section 71674 to continue Commission’s authority to “determine whether any provisions of law are obsolete as a result of the enactment of [the TCEPGA], the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 ..., or the implementation of trial court unification, and ... recommend to the Legislature any amendments to remove those obsolete provisions.”).

26. See *TCR: Part 1*, *supra* note 22, at 21; *TCR: Part 2*, *supra* note 4, at 176-77.

27. See *TCR: Court Facilities*, *supra* note 23.

28. See Section 26299.007.

- 1 (3) Allow voters to decide whether to impose a countywide tax to fund regional
2 justice facilities.

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

4 26295.2. The Legislature hereby finds and declares that the existing state of
5 overcrowding in jails and court facilities in Orange County is so great as to
6 significantly impede the administration of justice and create a situation wherein
7 persons who are a danger to society are required to be released into that society
8 for lack of adequate facilities to house them. The Legislature further finds and
9 declares that it is in the public interest to create the Orange County Regional
10 Justice Facilities Commission so that regional justice facility needs may be
11 addressed in an expeditious and appropriate fashion on a countywide basis. The
12 Legislature further finds and declares that it is in the public interest to allow the
13 voters to approve a general tax for the general governmental purposes of the
14 Orange County Regional Justice Facilities Commission.²⁹

15 Consistent with the legislative findings, each Act provides for creation of a new
16 governmental entity and specifies its composition, powers, duties, limitations, and
17 other attributes. For example, the Orange County Act creates the Orange County
18 Regional Justice Facilities Commission (hereafter, “Orange County
19 Commission”), comprised of two members of the board of supervisors, two
20 members of city councils in the county, and one other citizen.³⁰ The Orange
21 County Commission is responsible for soliciting proposals for “adult and juvenile
22 detention facilities and courthouse facilities” in the county and then developing a
23 “master plan.”³¹

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

- 26 (a) The adult detention facilities to be constructed, furnished, acquired,
27 maintained or operated throughout the county.
28 (b) The juvenile detention facilities to be constructed, furnished, acquired,
29 maintained, or operated throughout the county.
30 (c) The *courthouse facilities* to be constructed, furnished, acquired, maintained,
31 or operated throughout the county.
32 (d) The time schedule according to which the facilities referenced in
33 subdivisions (a), (b), and (c) shall be constructed, furnished, or acquired.
34 (e) Projections of revenues, including revenues expected to be derived from the
35 tax provided for in this chapter, together with other federal, state, and local funds,
36 and funds from the sale of bonds under this chapter, and expenditures for capital,
37 maintenance, and operations purposes for adult and juvenile detention facilities
38 and *courthouse facilities* purposes.

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

30. See Section 26296.2.

31. See Section 26297.1.

1 (f) Those other requirements as the commission, in carrying out its
2 responsibility for the provision of detention and *court facilities and services*,
3 deems necessary and appropriate.³²

4 The Orange County Commission has “no power to determine the geographic
5 locations at which any of the detention or court facilities ... shall be sited or the
6 design or construction standards which shall apply to those detention or court
7 facilities.”³³ For purposes of allocating revenues pursuant to the tax feature of the
8 Act, “the commission shall coordinate the *construction, furnishing, acquisition,*
9 *maintenance, and operation of all* adult and juvenile detention facilities and
10 *courthouse facilities within the county pursuant to the master plan.*”³⁴

11 The tax in question is a retail transactions and use tax, which is intended to
12 “supplement existing local revenues being used for the development of adult and
13 juvenile detention facilities and courthouse facilities within the county.”³⁵ Orange
14 County and cities within it are “encouraged to maintain their existing commitment
15 of local funds for adult and juvenile detention facilities and courthouse facilities
16 purposes.”³⁶ The retail transactions and use tax must be approved by the Orange
17 County voters at an election.³⁷ Voter approval is also necessary for the
18 Commission to issue bonds payable from the proceeds of the tax.³⁸

19 The San Joaquin County Act and the Multi-County Act differ from the above-
20 described Orange County scheme in some respects. For example, the San Joaquin
21 County Act only pertains to “construction and acquisition of adult detention
22 facilities, sheriff facilities, *functionally related court facilities*, and structures
23 necessary or convenient thereto.”³⁹ A “functionally related court facility” is “a
24 court facility that is used solely for criminal prosecutions and handling inmates.”⁴⁰

25 The entity created by the San Joaquin County Act is the San Joaquin County
26 Regional Justice Facility Financing Agency, comprised of two members of the
27 board of supervisors, two public members, and the local sheriff.⁴¹ That entity has
28 broad powers to implement the master plan for “construction and acquisition of
29 adult detention facilities, sheriff facilities, functionally related court facilities, and
30 structures necessary or convenient thereto,⁴² but the master plan is to be developed

32. Section 26295.12 (emphasis added).

33. Section 26295.14(c).

34. Section 26297 (emphasis added).

35. Section 26298.

36. *Id.*

37. See Sections 26298.2-26298.10.

38. Section 26298.12.

39. Section 26290.6 (emphasis added).

40. Sections 26290.8.

41. See Sections 26291, 26291.1.

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

1 and approved by the board of supervisors.⁴³ The master plan may include, but is
2 not limited to, the following:

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

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

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

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

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

13 (f) Those other requirements as the board of supervisors, in carrying out its
14 responsibility for the provision of regional detention services, deems necessary
15 and appropriate.⁴⁴

16 The corresponding provision in the Multi-County Act is closely similar, but it
17 refers simply to “court facilities,” not “functionally related court facilities.”
18 Further, the Multi-County Act does not actually create any new governmental
19 entity. Rather, it authorizes each county covered by the Act (Humboldt, Los
20 Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties) to create a
21 “county regional justice facilities financing agency” if the local board of
22 supervisors finds that it is in the public interest to do so.⁴⁵ The rules regarding
23 composition of the board of a county regional justice facilities financing agency
24 are different from, and more complicated than, the corresponding rules under the
25 San Joaquin Act and the Orange County Act.⁴⁶ There are also various other
26 distinctions between the three Acts, but this description should suffice for present
27 purposes.

28 *Constitutional Challenges*

29 Soon after enactment of the Orange County Act and the Multi-County Act, the
30 Howard Jarvis Taxpayers’ Association challenged those Acts as “unconstitutional
31 and invalid as in conflict with article XIII A, section 4 of the California
32 Constitution (Proposition 13).”⁴⁷ As originally enacted, the Acts only required a
33 majority vote (not a 2/3 vote) in favor of the tax for each county. The trial court
34 held that unconstitutional and the defendants appealed.

43. Section 26290.6.

44. *Id.*

45. See Section 26299.020.

46. See Section 26299.021.

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

1 While the *Howard Jarvis* appeal was pending, the Legislature amended the Acts
2 to provide an *option* of requiring a 2/3 vote instead of a majority vote.⁴⁸ In
3 addition, Los Angeles County (with permission from the court of appeal)
4 conducted a vote on a justice facilities tax. The voters rejected the proposed tax by
5 an almost two-to-one margin.⁴⁹ Orange County held a similar election and the
6 voters rejected the proposed justice facilities tax by an almost three-to-one
7 margin.⁵⁰

8 The court of appeal issued its decision in *Howard Jarvis* in late 1993. Because
9 the Legislature had amended the Acts to include an option for a 2/3 vote, the court
10 of appeal declined to declare the Acts altogether void. Instead, it ruled that any tax
11 ordinance under the Acts “is invalid *if* it is not approved by at least two-thirds of
12 the county’s voters, as required by Proposition 13.”⁵¹

13 In reaching that conclusion, the court of appeal relied on the California Supreme
14 Court’s 1991 decision in *Rider v. County of San Diego*,⁵² which held that a similar
15 tax under the San Diego Regional Justice Facility Financing Act (hereafter, “the
16 San Diego Act”) violated Proposition 13.⁵³ Unlike the versions of the Orange
17 County Act and Multi-County Act in the *Howard Jarvis* appeal, the San Diego Act
18 did not include an option for a 2/3 vote.⁵⁴ The Legislature repealed the invalidated
19 San Diego Act in 1993.⁵⁵

20 In contrast, the Legislature did not make any changes to the Orange County Act
21 or the Multi-County Act shortly after the *Howard Jarvis* decision. Fourteen years
22 later, however, it amended those Acts to *require* a 2/3 vote.⁵⁶ The same 2007 bill
23 also amended the San Joaquin Act and ten other statutes (unrelated to court
24 facilities) in a similar manner, because they appeared potentially vulnerable on the
25 same constitutional grounds.⁵⁷ In addition, the bill (the Local Government

48. 1990 Cal. Stat. ch. 527, §§ 1, 2, 3.

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

50. *Id.*

51. *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.

52. 1 Cal. 4th 1, 820 P.2d 1000, 2 Cal. Rptr. 2d 490 (1991).

53. 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”).

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

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

56. 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.

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

1 Omnibus Act of 2007) made numerous other uncontroversial reforms relating to
2 local government.⁵⁸

3 The legislative history of that omnibus bill gives no indication that the
4 Legislature evaluated the continuing utility of the Orange County Act, the Multi-
5 County Act, or the San Joaquin Act.⁵⁹ To the best of the Commission’s knowledge,
6 none of those Acts has ever been implemented for its intended purposes.

7 **Reexamination of the Regional Justice Facilities Acts in Light of Trial Court Restructuring**

8 The Commission’s role is to determine whether any provisions of law are
9 obsolete as a result of the implementation of trial court unification, the enactment
10 of the TCEPGA, or the enactment of the Trial Court Funding Act of 1997.⁶⁰ The
11 Commission “shall recommend to the Legislature any amendments to remove
12 those obsolete provisions.”⁶¹

13 The Trial Court Facilities Act⁶² followed from, and is closely linked to, the Trial
14 Court Funding Act.⁶³ The Commission’s role logically includes identifying and
15 recommending removal of material that became obsolete due to enactment of the
16 Trial Court Facilities Act.

17 **Material in the Regional Justice Facilities Acts Made Obsolete by Trial Court Restructuring**

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

21 26299.008. “Court facilities” means the *municipal* and superior courts of the
22 county, as well as any other facilities used for adult or juvenile court matters,
23 criminal prosecutions, handling inmates, or a combination thereof.⁶⁴

24 The Commission flagged that municipal court reference in its 2001 tentative
25 recommendation on trial court restructuring,⁶⁵ but ultimately left the section alone
26 because court facilities issues were still unsettled.⁶⁶

27 More fundamentally, all three of the Regional Justice Facilities Acts may
28 conflict to some extent with the Trial Court Facilities Act. Under that Act, the

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

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

60. Section 71674.

61. *Id.*

62. Sections 70301-70508.

63. See text accompanying notes 12-19 *supra*.

64. Emphasis added.

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

66. See *TCR: Part 1*, *supra* note 22, at 21.

1 Judicial Council and the individual superior courts have key roles with regard to
2 court facilities, but other entities are also involved to some extent.

3 Of particular note, subdivisions (a) and (b) of Section 70391 say that the Judicial
4 Council shall:

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

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

11 Section 70391 also authorizes the Judicial Council to:

- 12 • Dispose of surplus court facilities, subject to various restrictions;⁶⁷
- 13 • Establish policies, procedures, and guidelines for ensuring that the courts
14 have adequate and sufficient facilities;⁶⁸
- 15 • Establish and consult with local project advisory groups on the construction
16 of new trial court facilities;⁶⁹
- 17 • Manage court facilities in consultation with the trial courts;⁷⁰
- 18 • Prepare funding requests for court facility construction, repair, and
19 maintenance;⁷¹ and
- 20 • Take various other actions with respect to court facilities.

21 In contrast to the approach taken in Section 70391 and the remainder of the Trial
22 Court Facilities Act, the Regional Justice Facilities Acts predate the trial court
23 restructuring reforms and were thus built on the premise that *the pertinent county*
24 *(or counties)* bore responsibility for trial court facilities, as well as detention
25 facilities. Unsurprisingly, those Acts allocate key roles to boards of supervisors
26 and their members (as detailed above), and give relatively little control to the
27 Judicial Council, trial courts, and trial court personnel. Such an approach is now
28 outdated and the statutory provisions implementing it are obsolete.

29 ***Best Approach to the Material Made Obsolete by Trial Court Restructuring***

30 Reconciling the Regional Justice Facilities Acts with the Trial Court Facilities
31 Act could perhaps be done, but it would require care and entail significant policy

67. Section 70391(c).

68. Section 70391(e). This authority includes, but is not limited to, “facilities planning, acquisition, construction, design, operation, and maintenance.”

69. Section 70391(f). The local project advisory groups may include “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.” *Id.*

70. Section 70391(g).

71. Section 70391(j).

1 decisions that may go beyond the Commission’s statutory clean-up role in this
2 study. To give just a few examples:

- 3 • Should the Regional Justice Facilities Acts be amended to apply only to
4 detention facilities, deleting all references to court facilities? Would this
5 preclude using these Acts for purposes of building a detention facility that
6 includes a courtroom? If so, is that advisable?
- 7 • If the Acts continue to apply to courts, should any adjustments be made in
8 the composition of the boards of the governmental entities created or
9 authorized by the Acts? If so, precisely what adjustments should be made?
- 10 • If the Acts continue to apply to courts, should changes be made in who has
11 responsibility for preparing a “master plan”? If so, what changes should be
12 made?

13 Because the Regional Justice Facilities Acts have never actually served their
14 intended purposes, the Commission wondered whether it would make sense for
15 anyone to invest resources in answering these types of questions. It therefore
16 circulated a discussion draft to all of the affected courts and counties, the Judicial
17 Council, and other interested persons, to determine whether there was any interest
18 in updating the Acts to remove the obsolete material.⁷²

19 Despite extensive efforts to obtain input, not all of the entities responded and
20 those that did were, with one exception, either neutral on updating the Acts⁷³ or
21 affirmatively recommended repealing them.⁷⁴ The sole exception was Humboldt
22 County, which recommended revising the Multi-County Act so extensively as to
23 bear little resemblance to current law (the proposed revisions would even change
24 the type of entity created by the Act and its purpose).⁷⁵ If needed, such a reform

72. Discussion Draft on *Trial Court Restructuring Clean-Up: Regional Justice Facilities Acts* (Jan. 2020).

73. See CLRC Staff Memorandum 2020-14, Exhibit p. 22 (Los Angeles Superior Court “does not have an opinion as to whether the County Regional Justice Facilities Act (Govt. Code §§ 26299.000-26299.083) should remain or be repealed.”); see also *id.* (Los Angeles Superior Court “has confirmed with the County of Los Angeles that it does not have an opinion on whether to amend the law or leave as is.”).

The Judicial Council did not submit a formal comment on the discussion draft, but one of its supervising attorneys discussed the matter with some of his colleagues and reported that “we don’t have an opinion as to whether [the Regional Justice Facilities Acts] should be eliminated or not — that seems to be more of a county matter.” *Id.* at Exhibit p. 20.

74. See *id.* at Exhibit p. 21 (County of San Bernardino recommends repeal of Multi-County Act as “outdated and redundant” because “counties are no longer responsible for financing court facilities and there are several other statutes upon which the County may rely to place transactions taxes on the ballot to finance jails and public safety facilities.”); *id.* at Exhibit p. 23 (San Bernardino County Superior Court suggests that “the provisions of Government Code sections 26299.000 to 26299.083 may be repealed without harm”); *id.* at Exhibit p. 24 (Ventura County Superior Court says Multi-County Act is “obsolete due to the many changes over the past 22 years to trial court funding and trial court facilities management,” so “it is a good time to remove these statutes from the books.”).

75. See *id.* at Exhibit pp. 1-19; see also *id.* at pp. 7-10 (discussing comments of Humboldt County).

1 probably could be best achieved by writing on a clean slate, rather than reinventing
2 the Multi-County Act.

3 Because there appears to be little interest in retaining the Regional Justice
4 Facilities Acts as originally conceived and investing the effort to update them, the
5 simplest way to remove the material made obsolete by trial court restructuring
6 would be to repeal the Acts outright. They appear to be unnecessary given the
7 existence of other funding mechanisms for court facilities and detention facilities,
8 which the state has been using for many years instead of the mechanisms
9 contemplated by the Acts. Moreover, the legislative findings in the Acts are over
10 thirty years old and might not accurately reflect current conditions and legislative
11 priorities. Keeping the Acts in the codes, without updating their obsolete aspects,
12 could also cause occasional confusion and wasted effort, as people run across them
13 and try to assess their meaning in light of the trial court restructuring reforms.

14 For all of these reasons, **the Commission tentatively recommends that the**
15 **San Joaquin County Regional Justice Facility Financing Act, the Orange**
16 **County Regional Justice Facilities Act, and the County Regional Justice**
17 **Facilities Financing Act be repealed.** That would simplify the codes for the
18 benefit of the public, without causing any negative effects.

19 **Request for Public Comment**

20 The Commission seeks public comment on the issues raised in this tentative
21 recommendation. Comments can be in any format and can be emailed to
22 bgaal@clrc.ca.gov. **To receive optimal consideration, comments should be**
23 **submitted by September 1, 2020.**

24 The Commission also welcomes comments on other statutes that require
25 revisions to reflect trial court restructuring. Comments from knowledgeable
26 persons are invaluable in the Commission's study process.

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PROPOSED LEGISLATION

1 **Gov’t Code §§ 26290-26293.4 (repealed). San Joaquin County Regional Justice Facility**
2 **Financing Act**

3 SEC. _____. Chapter 13.6 (commencing with Section 26290) of Part 2 of
4 Division 2 of Title 3 of the Government Code is repealed.

5 **Comment.** Sections 26290-26293.4 are repealed as unnecessary and obsolete. They have
6 never been used for their intended purpose and conditions have changed since they were enacted
7 in 1988. For instance, counties are no longer responsible for trial court operations and facilities.
8 That is now a state responsibility, allocated primarily to the judiciary under the Lockyer-Isenberg
9 Trial Court Funding Act, 1997 Cal. Stat. ch. 850, and the related Trial Court Facilities Act, 2002
10 Cal. Stat. ch. 1082. See, e.g., Sections 70311-70312 (responsibility for court operations &
11 facilities), 70391 (Judicial Council responsibility & authority for court facilities), 77003 (“court
12 operations” defined), 77200 (state funding of trial court operations); Cal. R. Ct. 10.810 (court
13 operations).

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

15 CHAPTER 13.6. SAN JOAQUIN COUNTY REGIONAL JUSTICE FACILITY FINANCING ACT

16 Article 1. General Provisions, Findings, and Definitions

17 26290. This chapter shall be known and may be cited as the San Joaquin County Regional
18 Justice Facility Financing Act.

19 26290.1. The Legislature hereby finds and declares that the existing state of overcrowding in
20 the jails, sheriff, and court facilities in San Joaquin County is so great as to significantly impede
21 the administration of justice and create a situation wherein persons who are a danger to society
22 are required to be released into that society for lack of adequate facilities to house them. The
23 Legislature further finds and declares that it is in the public interest to create the San Joaquin
24 County Regional Justice Facility Financing Agency so that regional justice facility and
25 prevention program needs may be addressed in an expeditious and appropriate fashion. The
26 Legislature further finds and declares that it is in the public interest to allow the voters to
27 approve a general tax for the general governmental purposes of the San Joaquin County Regional
28 Justice Facility Financing Agency.

29 26290.2. “Bonds” means indebtedness and securities of any kind or class, including bonds,
30 notes, bond anticipation notes, and commercial paper.

31 26290.3. “Agency” means the San Joaquin County Regional Justice Facility Financing
32 Agency.

33 26290.4. “County” means the County of San Joaquin.

34 26290.5. “Board of supervisors” means the Board of Supervisors of the County of San
35 Joaquin.

36 26290.6. “Master plan” means the plan for construction and acquisition of adult detention
37 facilities, sheriff facilities, functionally related court facilities, and structures necessary or
38 convenient thereto. The plan shall be developed and approved, and may be amended from time to
39 time, by the board of supervisors. The master plan may include, but is not limited to, the
40 following:

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

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

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

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

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

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

11 26290.7. "Prevention program" means a program, administered by the county, designed to
12 decrease the number of inmates incarcerated in county adult detention facilities by providing
13 alternatives to incarceration, or by providing counseling, diversion, or intervention programs, or
14 by providing both. Alternatives to incarceration, include, but are not limited to, alternative work
15 programs, work furlough programs, half-way houses, and own recognizance services.
16 Counseling, diversion, or intervention programs, include, but are not limited to, drug and alcohol
17 counseling, parole counseling, and pretrial screening.

18 26290.8. "Functionally related court facility" means a court facility that is used solely for
19 criminal prosecutions and handling inmates.

20 Article 2. Creation of the Agency, Powers and Duties, Membership

21 26291. There is hereby created the San Joaquin County Regional Justice Facility Financing
22 Agency in the county.

23 26291.1. (a) The board of directors of the agency shall be comprised of five members, as
24 follows:

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

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

29 (3) The Sheriff of San Joaquin County.

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

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

37 26291.2. The agency may adopt a seal and alter it at its pleasure.

38 26291.3. The agency may sue and be sued, except as otherwise provided by law, in all
39 actions and proceedings, in all courts and tribunals of competent jurisdiction.

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

43 26291.4. The agency may compensate the members of its board of directors for all
44 reasonable and necessary expenses incurred in the course of performing their duties.

45 26291.5. All reasonably necessary staff shall be provided by the county or hired by the
46 agency. The county shall be reimbursed by the agency for the costs of any staff services provided
47 to the agency by the county in accordance with an agreement entered into between the agency
48 and county.

1 26291.6. The agency may enter into contracts. The agency may employ attorneys and
2 consultants as necessary or convenient to carrying out its purposes and powers.

3 26291.7. The agency shall have the power to do all of the following:

4 (a) Administer this chapter.

5 (b) Finance the construction, acquisition, and furnishing of adult detention facilities, sheriff
6 facilities, functionally related court facilities, and structures necessary or convenient thereto, in
7 compliance with a master plan.

8 (c) Exercise the power of eminent domain for acquisition, and finance the acquisition of, the
9 lands, easements, and rights-of-way necessary for the general governmental purposes of the
10 agency set forth in this section.

11 (d) Hold title as necessary to land or facilities and convey title to such land or facilities to the
12 county.

13 (e) Retire all or a portion of any capital debt previously incurred for any adult detention
14 facilities, sheriff facilities, or functionally related court facilities which exists on the date the
15 election is held for voter approval of the retail transactions and use tax ordinance authorized by
16 this chapter.

17 (f) Finance all or part of the cost of any prevention program.

18 (g) Reimburse costs incurred by the county in implementing the master plan, reimburse costs
19 incurred by the county in the operation of any facility constructed or acquired pursuant to this
20 chapter, or reimburse costs incurred by prevention programs provided the board of supervisors
21 certifies to the agency that progress toward completion of adult detention facilities, sheriff
22 facilities, and functionally related court facilities has progressed substantially in accordance with
23 the master plan.

24 (h) Construct, furnish, and acquire adult detention facilities, sheriff facilities, functionally
25 related court facilities, and structures necessary or convenient thereto, in accordance with the
26 master plan.

27 26291.8. The agency may do all things necessary or convenient to carry out the purposes of
28 this chapter.

29 26291.9. The initial meeting of the agency shall be held in the county when called by the
30 board of supervisors. At that meeting, or at any subsequent meeting of the agency called by the
31 board of supervisors for the purposes of approving the transactions and use tax ordinance and
32 ballot proposition, the agency may approve a transactions and use tax ordinance and may call an
33 election in accordance with Article 3 (commencing with Section 26292) which election,
34 notwithstanding any other provision of law, may be held within 60 days of the calling of the
35 election. The board of supervisors or the agency may file written arguments, including rebuttal
36 arguments, in favor of the ballot proposition. No arguments shall exceed 500 words in length.

37 Article 3. Transactions and Use Tax

38 26292. The Legislature, by the enactment of this article, intends the additional funds
39 provided by this article to supplement existing local revenues being used for the development of
40 regional justice facilities. Government agencies are encouraged to maintain their existing
41 commitment of local funds for regional justice facility purposes.

42 26292.1. A retail transactions and use tax ordinance applicable in the incorporated and
43 unincorporated territory of the county may be adopted by the agency in accordance with Section
44 26292.5 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and
45 Taxation Code, if the ordinance is adopted by a two-thirds vote of the board of directors of the
46 agency and if two-thirds of the electors voting on the measure vote to approve its imposition at a
47 special election called for that purpose by the agency. The tax ordinance shall take effect at the
48 close of the polls on the day of the election at which the proposition is adopted. The initial
49 collection of the transactions and use tax shall take place in accordance with Section 26292.4.

1 26292.2. The ordinance shall state the tax rate and may state a term during which the tax will
2 be imposed. The purposes for which the tax may be imposed are the general governmental
3 purposes of the agency as set forth in Section 26291.7.

4 26292.3. (a) The county shall conduct an election called by the agency. The election shall be
5 held within the incorporated and unincorporated areas of the county.

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

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

10 26292.4. (a) Any transactions and use tax ordinance adopted pursuant to this article shall
11 become operative on the first day of the first calendar quarter commencing more than 110 days
12 after adoption of the ordinance.

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

16 26292.5. The agency, subject to the approval of the voters, may impose a tax rate of one-half
17 of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the
18 Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect any tax otherwise
19 authorized.

20 26292.6. The combined rate of tax imposed in San Joaquin County by any entity pursuant to
21 Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251) of
22 Division 2 of the Revenue and Taxation Code, this chapter, and any other provision of law
23 authorizing the imposition of local sales or transactions and use taxes shall not exceed 2.25
24 percent. Neither this chapter nor any ordinance or resolution approved pursuant to this chapter
25 shall affect any tax otherwise authorized.

26 26292.7. (a) The agency, as part of the ballot proposition to approve the imposition of a retail
27 transactions and use tax, may seek authorization to issue bonds payable from the proceeds of the
28 tax and establish the appropriation limit of the agency for purposes of Article XIII B of the
29 California Constitution.

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

34 26292.8. (a) The bonds authorized by the voters concurrently with the approval of the retail
35 transactions and use tax may be issued by the agency at any time, and from time to time, payable
36 from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds
37 may be secured by a pledge of revenues from the proceeds of the tax.

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

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

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

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

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

47 26292.9. The agency may provide for the bonds to bear a variable or fixed interest rate, for
48 the manner and intervals in which the rate shall vary, and for the dates on which the interest shall
49 be payable.

1 26293. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and
2 from time to time, by vote of the board of directors of the agency.

3 26293.1. Any bonds issued pursuant to this article are a legal investment for all trust funds;
4 for the funds of insurance companies, commercial [sic] savings banks, and trust companies; and
5 for state school funds. Whenever any money or funds may, by any law now or hereafter enacted,
6 be invested in bonds of cities, counties, school districts, or other districts within the state, those
7 funds may be invested in the bonds issued pursuant to this article, and whenever bonds of cities,
8 counties, school districts, or other districts within this state may, by any law now or hereafter
9 enacted, be used as security for the performance of any act or the deposit of any public money,
10 the bonds issued pursuant to this article may be so used. The provisions of this article are in
11 addition to all other laws relating to legal investments and shall be controlling as the latest
12 expression of the Legislature with respect thereto.

13 26293.2. Any action or proceeding wherein the validity of the adoption of the retail
14 transactions and use tax ordinance provided for in this article or the issuance of any bonds
15 thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall
16 be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the
17 Code of Civil Procedure. Otherwise, the bonds and all proceedings in relation thereto, including
18 the adoption and approval of the ordinance, shall be held to be valid and in every respect legal
19 and incontestable.

20 26293.3. The agency has no power to impose any tax other than the transactions and use tax
21 imposed upon approval of the voters in accordance with this chapter.

22 26293.4. If any provision of this chapter or the application thereof to any person or
23 circumstance is held invalid, that invalidity shall not affect other provisions or applications of the
24 chapter which can be given effect without the invalid provision or application, and to this end the
25 provisions of this chapter are severable.

26 **Gov't Code §§ 26295-26298.58 (repealed). Orange County Regional Justice Facilities Act**

27 SEC. _____. Chapter 13.7 (commencing with Section 26295) of Part 2 of
28 Division 2 of Title 3 of the Government Code is repealed.

29 **Comment.** Sections 26295-26298.58 are repealed as unnecessary and obsolete. They have
30 never been used for their intended purpose and conditions have changed since they were enacted
31 in 1989. For instance, counties are no longer responsible for trial court operations and facilities.
32 That is now a state responsibility, allocated primarily to the judiciary under the Lockyer-Isenberg
33 Trial Court Funding Act, 1997 Cal. Stat. ch. 850, and the related Trial Court Facilities Act, 2002
34 Cal. Stat. ch. 1082. See, e.g., Sections 70311-70312 (responsibility for court operations &
35 facilities), 70391 (Judicial Council responsibility & authority for court facilities), 77003 (“court
36 operations” defined), 77200 (state funding of trial court operations); Cal. R. Ct. 10.810 (court
37 operations).

38
39 **Note.** The text of the repealed chapter is set out below.

40 CHAPTER 13.7. ORANGE COUNTY REGIONAL JUSTICE FACILITIES ACT

41 Article 1. General Provisions, Findings, and Definitions

42 26295. This chapter shall be known and may be cited as the Orange County Regional Justice
43 Facilities Act.

44 26295.2. The Legislature hereby finds and declares that the existing state of overcrowding in
45 jails and court facilities in Orange County is so great as to significantly impede the

1 administration of justice and create a situation wherein persons who are a danger to society are
2 required to be released into that society for lack of adequate facilities to house them. The
3 Legislature further finds and declares that it is in the public interest to create the Orange County
4 Regional Justice Facilities Commission so that regional justice facility needs may be addressed
5 in an expeditious and appropriate fashion on a countywide basis. The Legislature further finds
6 and declares that it is in the public interest to allow the voters to approve a general tax for the
7 general governmental purposes of the Orange County Regional Justice Facilities Commission.

8 26295.4. As used in this chapter, “commission” means the Orange County Regional Justice
9 Facilities Commission created pursuant to Article 2 (commencing with Section 26296).

10 26295.6. As used in this chapter, “bonds” means indebtedness and securities of any kind or
11 class, including bonds, notes, bond anticipation notes, and commercial paper.

12 26295.8. As used in this chapter, “county” means the County of Orange.

13 26295.10. As used in this chapter, “board of supervisors” means the Board of Supervisors of
14 the County of Orange.

15 26295.12. As used in this chapter, “master plan” means the plan for construction, furnishing,
16 acquisition, maintenance, and operation of adult and juvenile detention facilities and courthouse
17 facilities, and structures necessary or convenient to those facilities. The master plan shall be
18 developed and approved, and may be amended from time to time, by the commission. Subject to
19 the limitations on the commission’s powers, as set forth in subdivision (c) of Section 26296.14,
20 the master plan may include, but is not limited to, all of the following:

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

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

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

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

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

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

35 26295.14. As used in this chapter, “outstanding,” when used as of any particular time with
36 reference to bonds issued by the commission, means all bonds theretofore and thereupon being
37 authenticated and delivered by an authenticating agent duly appointed by the commission or its
38 authorized designee except:

39 (a) Bonds theretofore canceled by an authenticating agent or surrendered to such
40 authenticating agent for cancellation.

41 (b) Bonds that are owned or held by or for the account of the commission or any other
42 obligor on the bonds, or any person directly or indirectly controlling or controlled by, or under
43 direct or indirect common control with, the commission or any other obligor on the bonds.

44 (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other bonds
45 shall have been authenticated and delivered.

46 (d) Refunding bonds issued pursuant to Section 26298.42, except to the extent that the
47 principal amount of the refunding bonds exceeds the principal amount of the bonds to be
48 refunded with the proceeds of such refunding bonds.

49 Article 2. Creation of Commission, Powers and Duties, Membership

1 26296. There is hereby created the Orange County Regional Justice Facilities Commission in
2 the county.

3 26296.2. (a) The commission shall be comprised of five members, as follows:

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

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

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

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

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

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

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

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

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

29 26296.4. The commission at its first meeting, and thereafter annually at the first meeting held
30 on a date as the commission may determine, shall elect a chairperson from its members, who
31 shall preside at all meetings, and a vice chairperson, who shall preside in the chairperson's
32 absence. In the event of the absence or inability to act of both the chairperson and vice
33 chairperson, the members present, by an order entered in the minutes, shall select one of their
34 members to act as chairperson pro tempore who, while so acting, shall have all of the authority
35 of the chairperson.

36 26296.6. The commission shall establish rules for its proceedings consistent with the law of
37 the State of California.

38 26296.8. A majority of the members of the commission shall constitute a quorum for the
39 transaction of business, and all official acts of the commission shall require the affirmative vote
40 of a majority of its members constituting a quorum.

41 26296.10. The acts of the commission shall be expressed by motion, resolution, or ordinance.

42 26296.12. All meetings of the commission shall be conducted in the manner prescribed by
43 the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of
44 Title 5.

45 26296.14. (a) The commission shall do all of the following:

46 (1) Adopt an annual budget.

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

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

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

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

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

9 26296.16. Notice of time and place of the public hearing for the adoption of the annual
10 budget shall be published one time in a newspaper of general circulation not later than the 15th
11 day prior to the date of the hearing. The proposed annual budget shall be available for public
12 inspection at least 15 days prior to the hearing.

13 26298.18. The commission shall appoint an executive director who shall act for the
14 commission under its direction. The commission may appoint other officers as it deems
15 necessary to carry out its duties and functions.

16 26296.20. Members of the commission may be compensated at a rate not exceeding one
17 hundred dollars (\$100) for any day attending to the business of the commission, but not to
18 exceed four hundred dollars (\$400) in any month, and may be reimbursed for necessary travel
19 and other expenses incurred in the performance of their duties, as authorized by the commission.

20 26296.22. (a) Except as otherwise provided in subdivisions (b) and (c), the commission shall
21 enter into a contract with the Board of Administration of the Public Employees' Retirement
22 System, and the board shall enter into that contract, to include all of the employees of the
23 commission in that retirement system, and the employees shall be entitled to substantially similar
24 health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of
25 Division 5 of Title 2.

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

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

33 26296.24. The commission has perpetual succession and may adopt a seal and alter it at its
34 pleasure.

35 26296.26. The commission may sue and be sued, except as otherwise provided by law, in all
36 actions and proceedings, in all courts and tribunals of competent jurisdiction.

37 26296.28. All claims for money or damages against the commission are governed by
38 Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other
39 statutes or regulations expressly applicable thereto.

40 26296.30. The commission may make contracts and enter into stipulations of any nature
41 whatsoever, including, but not limited to, contracts and stipulations to indemnify and save
42 harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the
43 powers granted in this chapter. The commission may contract with any department or agency of
44 the United States of America, with any public agency, or with any person upon terms and
45 conditions as the commission finds is in its best interest including, but not limited to, contracts
46 for alcohol detoxification diversion programs. The commission may employ attorneys and
47 consultants necessary and convenient to carrying out its purposes and powers.

1 at the option of the commission, the ordinance may be required to be approved by two-thirds of
2 the electors voting on the measure.

3 26298.4. The ordinance shall state the nature of the tax to be imposed, the tax rate, the
4 purposes for which the revenue derived from the tax will be used, and the term during which the
5 tax shall be imposed. The proposition shall include an appropriations limit for the agency
6 pursuant to Section 4 of Article XIII B of the California Constitution.

7 26298.6. (a) The county shall conduct the election, as called by the commission, regarding
8 the imposition of a retail transactions and use tax ordinance. The commission shall reimburse the
9 county for its cost in conducting that portion of the regular election directly related to the
10 commission measure or in conducting the special election, as applicable.

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

13 26298.8. The commission, subject to the approval of the voters, may impose a tax rate of
14 one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of
15 Division 2 of the Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect
16 any tax otherwise authorized.

17 26298.10. (a) The actual wording of the proposition on any short form of ballot card, label,
18 or other device, regardless of the system of voting used, shall read as follows:

19
20 "ADULT AND JUVENILE DETENTION YES ____
21 FACILITIES AND COURTHOUSE
22 FACILITIES — ORANGE COURTY REGIONAL
23 JUSTICE FACILITIES COMMISSION

24 To construct, furnish, acquire, maintain, and operate adult and juvenile detention
25 facilities and courthouse facilities in the county, this proposition authorizes the Orange
26 County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales
27 tax solely for adult and juvenile detention facilities and courthouse facilities purposes."
28 In approving this proposition the voters are also approving an appropriations limit for
29 the Orange County Regional Justice Facilities Commission.

NO ____

30
31 (b) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code,
32 shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon
33 at an election.

34 26298.12. (a) The commission may, as part of the same ballot proposition to approve the
35 imposition of a retail transactions and use tax, seek authorization to issue bonds payable solely
36 from the proceeds of the retail transactions and use tax.

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

39
40 "ADULT AND JUVENILE DETENTION YES ____
41 FACILITIES AND COURTHOUSE
42 FACILITIES — ORANGE COURTY REGIONAL
43 JUSTICE FACILITIES COMMISSION

44 To construct, furnish, acquire, maintain, and operate adult and juvenile detention
45 facilities and courthouse facilities in the county, this proposition authorizes the Orange
46 County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales

1 tax solely for adult and juvenile detention facilities and courthouse facilities purposes
2 and/or to issue bonds payable from the proceeds of that sales tax.” In approving this
3 proposition the voters are also approving an appropriations limit for the Orange County
4 Regional Justice Facilities Commission.

NO _____

5
6 (c) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code,
7 shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon
8 at an election.

9 26298.16. (a) Any transactions and use tax ordinance adopted pursuant to this article shall
10 become operative as provided in Section 7265 of the Revenue and Taxation Code.

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

14 26298.17. The combined rate of any transactions and use tax imposed pursuant to this
15 chapter and all other transactions and use taxes imposed pursuant to the Transactions and Use
16 Tax Law (Part 1.6 (commencing with Section 7251) of the Revenue and Taxation Code) or any
17 other provision of law shall not exceed 1 percent. No tax shall be considered in accordance with
18 this part if, upon its adoption, the combined rate will exceed 1 percent.

19 26298.18. The revenues from the taxes imposed pursuant to this article may be allocated by
20 the commission for the following purposes:

21 (a) To administer this chapter.

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

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

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

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

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

35 26298.20. (a) The commission shall establish a procedure for reviewing and evaluating
36 requests by the county and the cities in the county for revenues of the commission to be used for
37 the adult and juvenile detention facilities and courthouse facilities purposes specified in Section
38 26298.18, and shall review and evaluate, from time to time, those requests. After approving such
39 a request of the county or any city in the county, the commission may allocate to the county or
40 city any lawfully available moneys of the commission, including, but not limited to, the revenues
41 from the taxes imposed pursuant to this article and the proceeds of any limited tax bonds
42 authorized by the voters pursuant to Section 26298.12, in amounts as the commission shall
43 determine, to fund, in whole or in part, those detention or courthouse facilities purposes.

44 (b) In connection with any allocation of moneys to the county or any city in the county
45 pursuant to subdivision (a), the commission shall enter into an allocation or funding agreement
46 with the county or city pursuant to which the commission shall commit the moneys allocated
47 under subdivision (a) to the county or city. The moneys shall be used solely for the purposes
48 approved by the commission under subdivision (a). Each allocation or funding agreement shall
49 contain terms and conditions as the commission shall determine and may provide, without

1 limitation, the purpose or purposes for which the allocation may be used, that the amount to be
2 allocated may be advanced by the commission in a lump sum or in a series of payments at a date
3 or dates determined by the commission, which may be in one or more fiscal years of the
4 commission, that the allocation will be in the form of a conditional or unconditional grant or
5 contribution or as a loan or other advance against an obligation of the county or city to repay the
6 same, and the terms and conditions relating the obligation to repay the same, including the
7 interest rate to be paid and the date or dates that payments are to be made to the commission on
8 account of that obligation.

9 26298.22. (a) No modification, amendment, or rescission of any allocation or funding
10 agreement between the commission and the county shall become effective unless the board of
11 supervisors, by resolution, first approves the modification, amendment, or rescission.

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

15 26298.24. When adopting its annual budget pursuant to Section 26296.14, the commission
16 shall provide that the lawfully available moneys of the commission shall be used first for the
17 payment of debt service on all outstanding limited tax bonds of the commission (unless
18 otherwise provided in the resolution providing for the issuance of such bonds) and (unless
19 otherwise provided in an allocation or funding agreement) for the payment of all allocations
20 required to be made pursuant to allocation or funding agreements between the commission and
21 the county or any city in the county prior to the payment of operating costs and expenses and any
22 other lawful costs and expenses of the commission.

23 26298.28. If a retail transactions and use tax is adopted pursuant to this article, the
24 commission shall prepare and submit a report to the board of supervisors and to the city council
25 of each city in the county on or before January 1 of the year following the end of the first full
26 fiscal year after that date that the taxes are imposed pursuant to this article and annually
27 thereafter. The report shall evaluate, and report the progress made in, the implementation of the
28 master plan in the preceding fiscal year.

29 26298.30. (a) The bonds authorized by the voters concurrently with the approval of the retail
30 transactions and use tax may be issued by the commission at any time, and from time to time,
31 payable solely from the proceeds of the tax. The bonds shall be referred to as “limited tax
32 bonds.”

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

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

1 26298.32. (a) Limited tax bonds shall be issued pursuant to a resolution adopted at any time,
2 and from time to time, by the commission by a two-thirds vote of all members of the
3 commission. Each resolution shall provide for the issuance of bonds in amounts as the necessity
4 therefor may appear, until the full amount of the bonds authorized shall have been issued. The
5 full amount of bonds may be divided into two or more series and different dates of payment fixed
6 for the bonds of each series. A bond need not mature on its anniversary date.

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

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

14 (2) The estimated cost of accomplishing the purposes.

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

16 (4) The maximum term the bonds, proposed to be issued, shall run before maturity, which
17 shall not exceed 31 years from the date thereof or the date of each series thereof.

18 (5) The maximum rate of interest to be paid, which shall not exceed the maximum interest
19 rate specified from time to time in Section 53531 of the Government Code, without regard to any
20 other limitation.

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

23 (7) A pledge of retail transactions and use taxes to the limited tax bonds, either before or
24 after giving effect to the payment of maintenance and operations expenses as defined by the
25 commission in the resolution, and a statement that the bonds shall have priority over the use of
26 any of the funds for “pay-as-you-go” financing except to the extent that the priority is expressly
27 restricted in the resolution. However, the resolution shall not provide for the pledge of retail
28 transactions and use taxes that have been allocated to the county or any city therein pursuant to
29 Section 26298.20, except to the extent that the proceeds of any limited tax bonds are to be so
30 allocated in lieu of those retail transactions and use taxes.

31 (8) The form of the bonds, including, without limitation, registered bonds and coupon bonds,
32 to the extent permitted by federal law, and the form of any coupons to be attached thereto, the
33 registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when
34 the whole or any part of the principal shall become due and payable.

35 (c) The resolution may also contain any other matters authorized by this article or any other
36 law.

37 26298.34. (a) The commission may provide for the bonds to bear interest at a variable or
38 fixed interest rate, for the manner and intervals, in which the rate shall vary, and for the dates on
39 which the interest shall be payable.

40 (b) In the resolution or resolutions providing for the issuance of the bonds, the commission
41 may also provide for call and redemption of the bonds prior to maturity at times and prices and
42 upon other terms as it may specify. However, no bond shall be subject to call or redemption prior
43 to maturity unless it contains a recital to that effect or unless a statement to that effect is printed
44 thereon.

45 (c) The principal of and interest on the bonds shall be payable in lawful money of the United
46 States at the office of the treasurer of the county or at such other place or places as may be
47 designated, or at either place or places at the option of the holders of the bonds.

48 (d) The bonds, or each series thereof, shall be dated and numbered consecutively and shall be
49 signed by the chairperson or vice chairperson of the commission and the treasurer, or other
50 officer of the commission performing the duties of a treasurer, of the commission, and the
51 official seal of the commission shall be attached thereto. The interest coupons, if any, of the
52 bonds shall be signed by the treasurer, or other officer performing the duties of a treasurer, of the

1 commission. All of the signatures and seal may be printed, lithographed, or mechanically
2 reproduced. However, the bonds shall be valid or become obligatory for any purpose until
3 manually signed by an authenticating agent duly appointed by the commission or its authorized
4 designee. If any officer whose signature appears on bonds or coupons ceases to be such an
5 officer before the delivery of the bonds, the officer's signature is as effective as if the officer had
6 remained in office.

7 26298.36. The bonds may be sold as the commission determines by resolution. The
8 commission may sell the bonds at a price below par, but the discount on any bonds so sold shall
9 not exceed 5 percent of the par value thereof.

10 26298.38. Delivery of any bonds issued pursuant to this chapter may be made at any place
11 either inside or outside the state, and the purchase price may be received in cash or bank credits.

12 26298.40. All accrued interest and premiums received on the sale of bonds shall be placed in
13 the fund to be used for the payment of principal of and interest on the bonds and the remainder of
14 the proceeds of the bonds shall be placed in the treasury of the commission and applied to secure
15 the bonds or for the purposes for which the debt was incurred. However, when those purposes
16 have been accomplished, any moneys remaining shall be either (a) transferred to the fund to be
17 used for the payment of principal of and interest on the bonds or (b) placed in a fund to be used
18 for the purchase of outstanding bonds of the commission from time to time in the open market at
19 those prices and in that manner, either at public or private sale or otherwise, as the commission
20 may determine. Bonds so purchased shall be canceled immediately.

21 26298.42. (a) The commission may provide for the issuance, sale, or exchange of refunding
22 bonds to redeem or retire any bonds issued by the commission upon the terms, at the times and in
23 the manner which it determines.

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

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

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

42 26298.44. (a) The commission may borrow money in anticipation of the sale of bonds which
43 have been authorized pursuant to this article, but which have not been sold and delivered, and
44 may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes
45 from time to time, but the maximum maturity of any bond anticipation notes, including the
46 renewals thereof, shall not exceed five years from the date of delivery of the original bond
47 anticipation notes.

48 (b) The bond anticipation notes, and the interest thereon, may be paid from any moneys of
49 the commission available therefor, including the revenues from the retail transactions and use
50 taxes imposed pursuant to this article. If not previously otherwise paid, the bond anticipation

1 notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next
2 sale of the bonds of the commission in anticipation of which the notes were issued.

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

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

11 26298.46. Any bonds issued under provisions of this article shall be legal investment for all
12 trust funds, for the funds of insurance companies, commercial and savings banks, and trust
13 companies, and for state school funds. Whenever any money or funds may, by any law now or
14 hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or
15 other districts within the state, those moneys or funds may be invested in the bonds issued under
16 this article. Whenever bonds of cities, cities and counties, counties, school districts, or other
17 districts within this state may, by any law now or hereafter enacted, be used as security for the
18 performance of any act or the deposit of any public moneys, the bonds issued under this article
19 may be so used. This article shall be in addition to all other laws relating to legal investments and
20 shall be controlling as the latest expression of the Legislature with respect thereto.

21 26298.48. Notwithstanding any other provision of law:

22 (a) The commission and its revenues are exempt from all taxes on, or measured by, income.

23 (b) Bonds issued by the commission are exempt from all property taxation, and the interest
24 on the bonds is exempt from all taxes on income.

25 (c) All property owned by the commission is exempt from property taxes, assessments, and
26 other public charges secured by liens.

27 26298.50. (a) Bonds issued under this chapter do not constitute a debt or liability of the state
28 or of any other public agency, other than the commission, or a pledge of the faith and credit of
29 the state or of any other public agency, other than the commission, but shall be payable solely
30 from the funds provided therefor. All the bonds shall contain on the face thereof a statement to
31 the following effect:

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

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

38 26298.52. Neither the members of the board of directors of the commission, nor any person
39 executing the bonds, are liable personally on the bonds, or are subject to any personal liability or
40 accountability by reason of the issuance thereof.

41 26298.54. Any action or proceeding wherein the validity of the adoption of the retail
42 transactions and use tax ordinance provided for in this article or the issuance of any bonds
43 thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall
44 be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the
45 Code of Civil Procedure, and shall be commenced within six months from the date of the
46 election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation
47 thereto, including the adoption and approval of the ordinance and the retail transactions and use
48 tax provided for therein, shall be held to be valid and in every respect legal and incontestable.

1 26298.56. The county and each city within the county are authorized to contribute to the
2 commission such amounts as the county and each city, in their discretion, deem appropriate.
3 These amounts may be used by the commission for any lawful purpose. The commission may
4 commit to repay any portion or all of the amounts contributed, together with interest thereon at a
5 rate not exceeding the interest rate specified from time to time in Section 53531 or the
6 Government Code, from any lawful source, including, but not limited to, revenues derived from
7 the retail transactions and use tax ordinance adopted pursuant to this chapter.

8 26298.58. If any provision of this chapter or the application thereof to any person or
9 circumstance is held invalid, the invalidity shall not affect other provisions or applications of this
10 chapter which can be given effect without the invalid provision or application, and to this end the
11 provisions of this chapter are severable.

12 **Gov't Code §§ 26299.000-26299.083 (repealed). County Regional Justice Facilities**
13 **Financing Act**

14 SEC. _____. Chapter 13.8 (commencing with Section 26299.000) of Part 2 of
15 Division 2 of Title 3 of the Government Code is repealed.

16 **Comment.** Sections 26299.000-26299.083 are repealed as unnecessary and obsolete. They
17 have never been used for their intended purpose and conditions have changed since they were
18 enacted in 1989. For instance, municipal courts have been eliminated through trial court
19 unification in every county. Further, counties are no longer responsible for trial court operations
20 and facilities. That is now a state responsibility, allocated primarily to the judiciary under the
21 Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850, and the related Trial Court
22 Facilities Act, 2002 Cal. Stat. ch. 1082. See, e.g., Sections 70311-70312 (responsibility for court
23 operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities),
24 77003 ("court operations" defined), 77200 (state funding of trial court operations); Cal. R. Ct.
25 10.810 (court operations).

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

27 CHAPTER 13.8. COUNTY REGIONAL JUSTICE FACILITIES FINANCING ACT

28 Article 1. General Provisions

29 26299.000. This chapter shall be known and may be cited as the County Regional Justice
30 Facilities Financing Act.

31 26299.001. The Legislature hereby finds and declares that the existing state of overcrowding
32 in jail facilities in counties is so great as to significantly impede the administration of justice and
33 create a situation wherein persons who are a danger to society may be required to be released
34 into that society for lack of adequate facilities to house them.

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

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

42 26299.002. Unless the provision or context otherwise requires, the definitions contained in
43 this article govern the construction of this chapter. The definition of a word applies to any of that
44 word's variants.

45 26299.003. "Agency" means a county regional justice facilities financing agency.

1 26299.004. “Board of directors” means the board of directors of a county regional justice
2 facilities financing agency established pursuant to this chapter.

3 26299.005. “Board of supervisors” means the board of supervisors of a county.

4 26299.006. “Bonds” means indebtedness and securities of any kind or class, including bonds,
5 notes, bond anticipation notes, and commercial paper.

6 26299.007. “County” means Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus,
7 and Ventura Counties.

8 26299.008. “Court facilities” means the municipal and superior courts of the county, as well
9 as any other facilities used for adult or juvenile court matters, criminal prosecutions, handling
10 inmates, or a combination thereof.

11 26299.009. “Master plan” means the plan for construction and acquisition of juvenile and
12 adult detention facilities, countywide law enforcement facilities, court facilities, and other
13 structures necessary or convenient thereto. The plan shall be developed and approved, and may
14 be amended from time to time, by the board of supervisors. The master plan may include, but is
15 not limited to, the following:

16 (a) The number of adult and juvenile detention facilities, countywide law enforcement
17 facilities, court facilities, and other structures necessary or convenient thereto to be constructed,
18 furnished, or acquired.

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

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

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

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

26 26299.010. “Outstanding,” when used as of any particular time with reference to bonds
27 issued by the agency, means all bonds theretofore and thereupon being authenticated and
28 delivered by an authenticating agent duly appointed by the agency or its authorized designee
29 except:

30 (a) Bonds theretofore canceled by an authenticating agent or surrendered to such
31 authenticating agent for cancellation.

32 (b) Bonds that are owned or held by or for the account of the agency or any other obligor on
33 the bonds, or any person directly or indirectly controlling or controlled by, or under direct or
34 indirect common control with, the agency or any other obligor on the bonds.

35 (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other bonds
36 shall have been authenticated and delivered.

37 (d) Refunding bonds issued pursuant to Section 26299.073, except to the extent that the
38 principal amount of the refunding bonds exceeds the principal amount of the bonds to be
39 refunded with the proceeds of those refunding bonds.

40 26299.011. “Prevention program” means a program designed to decrease the number of
41 inmates incarcerated in county juvenile and adult detention facilities by providing alternatives to
42 incarceration, or by providing counseling diversion, or interversion [sic] programs, work
43 furlough programs, halfway houses, and own recognizance services. Counseling, diversion, or
44 intervention programs, include, but are not limited to, drug and alcohol counseling, probation
45 counseling, pretrial screening, and community programs intended to reduce or prevent juvenile
46 criminal activity.

1 26299.013. “Qualifying facilities” means any of the adult and juvenile detention facilities,
2 countywide law enforcement facilities, court facilities, and other structures necessary or
3 convenient thereto, which may be constructed, furnished, or acquired pursuant to this chapter.

4 26299.014. This chapter shall be liberally construed in order to effectuate its purposes. No
5 inadvertent error, irregularity, informality, or the inadvertent neglect or omission of any officer,
6 in any procedure taken under this division, other than fraud, shall void or invalidate that
7 proceeding or any levy imposed to finance regional justice facilities needs or improvements.

8 Article 2. Creation of Agency, Powers and Duties, Membership

9 26299.020. (a) A county regional justice facilities financing agency may be established in
10 any county, as defined in Section 26299.007, with membership and terms determined as provided
11 in Section 26299.021, upon a finding of the board of supervisors that it is in the public interest to
12 do so. Any such finding shall be adopted by resolution of the board of supervisors.

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

16 26299.021. The number, membership, and terms of office of the board of directors of a
17 county regional justice facilities financing agency established pursuant to Section 26299.020,
18 shall be determined by one of the following means:

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

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

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

27 (1) The county sheriff.

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

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

34 (1) The sheriff.

35 (2) The district attorney.

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

40 (4) Two members of the board of supervisors.

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

44 26299.022. The term of any member serving on the board of directors by virtue of holding
45 another public office shall terminate when that member ceases holding the other public office
46 and a new member has been properly seated. The new member of the agency shall hold office for
47 the remainder of the term of the member who was replaced by the new member.

48 26299.023. Vacancies occurring on the board of directors shall be filled by the appointing
49 authority for the unexpired term.

1 26299.024. The board of supervisors shall call the first meeting of the board of directors and
2 shall designate one of the members of the board of directors to serve as the chairperson at that
3 meeting. Thereafter, a chairperson and vice chairperson of the board of directors shall be elected
4 annually by vote of a majority of the members of the board of directors of the agency and shall
5 serve for a period of one calendar year. The chairperson shall preside at all meetings, and the
6 vice chairperson shall preside in the absence of the chairperson.

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

11 26299.025. A majority of the members of the agency shall constitute a quorum for the
12 transaction of business, and all official acts of the agency shall require the affirmative vote of a
13 majority of its members constituting a quorum, unless a two-thirds vote is required by this
14 chapter.

15 26299.026. The acts of the agency shall be expressed by motion, resolution, or ordinance.

16 26299.027. The board of directors shall adopt those rules and procedures, consistent with the
17 laws of the state, as it deems necessary to conduct its business.

18 26299.028. All meetings of the agency shall be conducted in the manner prescribed by the
19 Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of
20 Title 5.

21 26299.029. In carrying out its purposes and powers, the agency may:

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

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

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

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

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

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

38 (f) Appoint policy committees as deemed necessary.

39 26299.030. The agency shall do all of the following:

40 (a) Adopt an annual budget.

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

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

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

47 26299.031. In carrying out the purposes of this chapter the agency shall have the power to do
48 all of the following:

49 (a) Administer this chapter.

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

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

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

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

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

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

25 (h) Finance all or part of the cost of any prevention program, as defined in Section
26 26299.011.

27 26299.032. In carrying out the purposes of this chapter the agency may finance the
28 construction, acquisition, and furnishing of other county or city criminal justice and law
29 enforcement facilities, provided the board of supervisors certifies to the agency that all current
30 master plan requirements have been met.

31 26299.033. Notwithstanding any other provision of this chapter to the contrary, the board of
32 directors of an agency shall have no power to determine the geographic locations at which any of
33 the qualifying facilities specified in this chapter shall be sited.

34 26299.034. Notice of the time and place for the public hearing for the adoption of the annual
35 budget shall be published one time in a newspaper of general circulation not later than the 15th
36 day prior to the date of the hearing. The proposed annual budget shall be available for public
37 inspection at least 15 days prior to the hearing.

38 26299.035. Members of the board of directors of the agency may be compensated at a rate
39 not exceeding one hundred dollars (\$100) for any day attending to the business of the agency,
40 but not to exceed four hundred dollars (\$400) in any month, and may be reimbursed for
41 reasonable and necessary travel and other expenses incurred in the performance of their duties,
42 as authorized by the agency.

43 26299.036. (a) Except as otherwise provided in subdivisions (b) and (c), the agency shall
44 enter into a contract with the Board of Administration of the Public Employees' Retirement
45 System, and the board shall enter into that contract, to include all of the employees of the agency
46 in that retirement system, and the employees shall be entitled to substantially similar health
47 benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division
48 5 of Title 2.

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

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

7 26299.037. At the initial meeting of the agency, or at any subsequent meeting, the agency
8 may approve a transactions and use tax ordinance and ballot proposition, and may call an
9 election in accordance with Article 3 (commencing with Section 26299.040).

10 Article 3. Transactions and Use Tax

11 26299.040. The Legislature, by the enactment of this chapter, intends that the additional
12 funds provided governmental agencies by this chapter shall supplement existing local revenues
13 being used for the development and operation of regional justice facilities, and that local
14 agencies maintain their existing commitment of local funds for regional justice facilities
15 purposes.

16 26299.041. (a) A retail transactions and use tax ordinance applicable in the incorporated and
17 unincorporated territory of a county may be imposed by the agency in accordance with this
18 chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation
19 Code, if the tax ordinance is adopted by a two-thirds vote of the agency and imposition of the tax
20 is subsequently approved by two-thirds of the electors voting on the measure at a special election
21 called for that purpose by the board of supervisors, at the request of the agency, and a county
22 regional justice facilities master plan is adopted pursuant to Section 26299.009.

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

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

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

36 26299.041. A tax ordinance adopted pursuant to Section 26299.041 shall take effect at the
37 close of the polls on the day of the election at which the proposition is adopted. The initial
38 collection of the transactions and use tax shall take place in accordance with Section 26299.049.

39 27300.043. The agency, in the ordinance adopted pursuant to Section 26299.041, shall state
40 the nature of the tax to be imposed, the tax rate, the period during which the tax will be imposed,
41 which of the financing activities enumerated in Section 26299.031 the agency proposes to
42 exercise, and the specific activities and purposes, if any, for which the agency proposes to
43 allocate any fixed portion of the tax proceeds. The purposes for which the tax may be imposed
44 are the general governmental purposes of the agency as set forth in Section 26299.031.

45 The proposition shall include an appropriations limit for the agency pursuant to Section 4 of
46 Article XIII B of the California Constitution.

47 26299.044. (a) The county shall conduct a special election called by the agency for the
48 purpose of approving a transactions and use tax ordinance adopted by the agency. The election
49 shall be held within the incorporated and unincorporated areas of the county.

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

3 (c) If the measure is approved by the voters, the cost incurred by the county in conducting
4 the special election shall be reimbursed by the agency from proceeds of the retail transactions
5 and use tax.

6 26299.045. The agency by two-thirds vote of its board of directors, subject to the approval of
7 the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6
8 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Neither this
9 chapter nor the ordinance shall affect any tax otherwise authorized.

10 26299.046. The revenues from the tax imposed pursuant to this chapter may be allocated by
11 the agency for the following purposes:

12 (a) To administer this chapter.

13 (b) To pay the costs of the financing, construction, acquisition, furnishing, maintenance, and
14 operation of adult and juvenile detention facilities, countywide law enforcement facilities, court
15 facilities, and other structures necessary or convenient thereto, in compliance with the adopted
16 master plan.

17 (c) To finance all or any portion of the cost of any prevention program, as defined in Section
18 26299.011.

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

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

23 (f) To retire all or a portion of any capital debt previously incurred for any adult or juvenile
24 detention facilities, countywide law enforcement facilities, court facilities, and other structures
25 necessary or convenient thereto which exists on the date the election is held for voter approval of
26 the retail transactions and use tax.

27 (g) To pay all debt service and any other related costs and expenses of any bonds issued
28 pursuant to this chapter.

29 26299.047. When adopting its annual budget pursuant to Section 26299.030, the agency shall
30 provide that the lawfully available moneys of the agency shall be used first for the payment of
31 debt service on all outstanding limited tax bonds of the agency unless otherwise provided in the
32 resolution providing for the issuance of such bonds, and, unless otherwise provided in an
33 allocation or funding agreement, for the payment of all allocations required to be made pursuant
34 to allocation or funding agreements between the agency and the county or any city in the county
35 prior to the payment of operating costs and expenses and any other lawful costs and expenses of
36 the agency.

37 26299.048. If a retail transactions and use tax is adopted pursuant to this chapter, the agency
38 shall prepare and submit a report to the board of supervisors and to the city council of each city
39 in the county on or before January 1 of the year following the end of the first full fiscal year after
40 that date that the taxes are imposed pursuant to this chapter and annually thereafter. The report
41 shall evaluate, and report progress made in, the implementation of the adopted master plan in the
42 preceding fiscal year.

43 26299.049. (a) Any transactions and use tax ordinance adopted pursuant to this chapter shall
44 become operative as provided in Section 7265 of the Revenue and Taxation Code, or its
45 successor.

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

1 26299.050. (a) The combined rate of any transactions and use tax imposed in a county
2 pursuant to this chapter and all other transactions and use taxes imposed in that county pursuant
3 to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of
4 the Revenue and Taxation Code), or any other provision of law shall not exceed 1 percent.

5 (b) No tax shall be considered in a county in accordance with this part if, upon adoption, the
6 combined rate of transactions and use taxes in the county will exceed 1 percent.

7 Article 4. Bonds

8 26299.060. (a) As part of the ballot proposition to approve the imposition of a retail
9 transactions and use tax pursuant to this chapter, authorization may be sought to issue bonds
10 payable from the proceeds of the tax to finance capital outlay expenditures as may be provided
11 for in the master plan for county regional justice facilities adopted pursuant to Section
12 26299.009.

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

27 26299.061. (a) The bonds authorized by the voters concurrently with the approval of the
28 retail transactions and use tax may be issued by the agency at any time, and from time to time,
29 payable from the proceeds of the tax. The bonds shall be referred to as “limited tax bonds.”

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

34 26299.062. Limited tax bonds issued under this chapter may be used only for the following
35 purposes:

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

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

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

40 26299.063. Limited tax bonds shall be issued pursuant to a resolution adopted at any time,
41 and from time to time, by a two-thirds vote of the board of directors of the agency. Each
42 resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the
43 full amount of bonds authorized have been issued. The full amount of bonds may be divided into
44 two or more series and different dates of payment fixed for the bonds of each series. A bond
45 need not mature on its anniversary date.

46 26299.064. (a) A resolution providing for the issuance of bonds pursuant to this chapter shall
47 state all of the following:

48 (1) The purposes for which the proposed debt is to be incurred, which may include all costs
49 and estimated costs incidental to, or connected with, the accomplishment of those purposes,

1 including without limitation, engineering, inspection, legal, fiscal agents, financial consultant
2 and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue
3 during the construction period and for a period not to exceed three years thereafter, and expenses
4 of all proceedings for the authorization, issuance, and sale of the bonds.

5 (2) The estimated cost of accomplishing those purposes.

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

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

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

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

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

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

21 26299.065. The agency may provide for the limited tax bonds to bear a variable or fixed
22 interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which
23 the interest shall be payable.

24 26299.066. (a) In the resolution authorizing the issuance of the bonds, the agency may also
25 provide for the call and redemption of the bonds prior to maturity at the times and prices and
26 upon other terms as specified.

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

30 26299.067. The principal of and interest on the bonds shall be payable in lawful money of
31 the United States at the office of the treasurer of the agency, or at such other places as may be
32 designated, or at both the office and other places at the option of the holders of the bonds.

33 26299.068. (a) The bonds, or each series thereof, shall be dated and numbered consecutively
34 and shall be signed by the chairperson or vicechairperson of the agency at the treasurer of the
35 agency, and the official seal, if any, of the agency shall be attached.

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

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

43 26299.069. The bonds may be sold as the agency determines by resolution. The agency may
44 sell the bonds at a price below par, whether by negotiated or public sale.

45 26299.070. Delivery of any bonds issued pursuant to this chapter may be made at any place
46 either inside or outside the state, and the purchase price may be received in cash or bank credits.

47 26299.071. All accrued interest and premiums received on the sale of the bonds shall be
48 placed in the fund to be used for the payment of the principal of and interest on the bonds, and
49 the remainder of the proceeds of the bonds shall be placed in the treasury of the agency and

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

7 26299.072. (a) The agency may provide for the issuance, sale, or exchange of refunding
8 bonds to redeem or retire any bonds issued by the agency upon the terms, at the times and in the
9 manner which it determines.

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

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

26 (d) The provisions of this chapter for the issuance and sale of bonds apply to the issuance
27 and sale or [sic] refunding bonds.

28 26299.073. Refunding bonds may be issued in a principal amount sufficient to pay all, or any
29 part of, the principal of the outstanding bonds, the premiums, if any, due upon call and
30 redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

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

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

38 26299.074. (a) The agency may borrow money in anticipation of the sale of bonds which
39 have been authorized pursuant to this chapter, but which have not been sold or delivered, and
40 may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes
41 from time to time, provided that the maximum maturity of any bond anticipation notes, including
42 the renewals thereof, shall not exceed five years from the date of delivery of the original bond
43 anticipation notes.

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

49 (c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate
50 amount of the bonds which the agency has been authorized to issue, less the amount of any

1 bonds therefor issued and then outstanding. The bond anticipation notes shall be issued and sold
2 in the same manner as the bonds.

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

6 26299.075. Any limited tax bonds issued pursuant to this chapter are a legal investment for
7 all trust funds; for the funds of insurance companies, commercial and savings banks, and trust
8 companies; and for state school funds. Whenever any money or funds may, by any law now or
9 hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or
10 other districts within the state, that money or funds may be invested in the bonds issued pursuant
11 to this chapter. Whenever bonds of cities, cities and counties, counties, school districts, or other
12 districts within this state may, by any law now or hereafter enacted, be used as security for the
13 performance of any act or the deposit of any public moneys, the bonds issued pursuant to this
14 chapter may be so used. The provisions of this chapter are in addition to all other laws relating to
15 legal investments and shall be controlling as the latest expression of the Legislature with respect
16 thereto.

17 26299.076. Notwithstanding any other provision of law:

18 (a) The agency and its revenues are exempt from all taxes on, or measured by, income.

19 (b) Bonds issued by the agency are exempt from all property taxation, and the interest on the
20 bonds is exempt from all taxes on income.

21 (c) All property owned by the agency is exempt from property taxes, assessments, and other
22 public charges secured by liens.

23 26299.077. (a) Bonds issued pursuant to this chapter do not constitute a debt or liability of
24 the state or of any other public agency, other than the county regional justice facilities financing
25 agency issuing the bonds, or a pledge of the faith and credit of the state or of any other public
26 agency, other than the issuing agency, but shall be payable solely from the funds provided
27 therefor. All of the bonds shall contain on the face thereof a statement to the following effect:

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

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

34 26299.078. Neither the members of the board of directors of the agency, nor any person
35 executing the bonds, are liable personally on the bonds, or are subject to any personal liability or
36 accountability by reason of the issuance thereof.

37 26299.079. Any action or proceeding wherein the validity of the adoption of the retail
38 transactions and use tax ordinance provided for in this chapter or the issuance of any bonds
39 thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall
40 be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the
41 Code of Civil Procedure within six months from the date of the election at which the ordinance is
42 approved. Otherwise, the bonds and all proceedings in relation thereto, including the adoption
43 and approval of the ordinance and the retail transactions and use tax provided for therein, shall
44 be held to be valid and in every respect legal and incontestable.

45 26299.080. The county and each city within the county is authorized to contribute to the
46 agency such amounts as the county and each city, in their discretion, deem appropriate. These
47 amounts may be used by the agency for any lawful purpose. The agency may commit to repay all
48 or any portion of the amounts contributed, together with interest thereon at a rate not exceeding

1 the interest rate specified from time to time in Section 53531 of the Government Code, from any
2 lawful source, including, but not limited to, revenues derived from the retail transactions and use
3 tax which may be imposed pursuant to this chapter.

4 26299.081. The agency has no power to impose any tax other than the transactions and use
5 tax imposed upon approval of the voters in accordance with this chapter.

6 26299.082. It is the intent of the Legislature in enacting this chapter to ensure that counties
7 are not deprived of state funds which might be made available to finance needed regional justice
8 facilities, including adult and juvenile detention facilities, countywide law enforcement facilities,
9 court facilities, other structures necessary or convenient thereto, and prevention programs
10 subsequent to the enactment of this chapter, whether those funds be provided by statute or
11 constitutional amendment.

12 26299.083. If any provision of this chapter or the application thereof to any person or
13 circumstance is held invalid, that invalidity shall not affect other provisions or applications of the
14 chapter which can be given effect without the invalid provision or application, and to this end the
15 provisions of this chapter are severable.