



Court Reporting, State Owned Buildings and Court Employees

Fall Conference with County Auditors, Hosted by San Bernardino County

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Background

- Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233)
 - Transferred **fiscal responsibility** for trial court operations from counties to the state.
 - Trial Court Trust Fund created to consolidate and provide funding for the state's trial courts.
 - **Judicial Council** was given the responsibility to allocate state funds to the courts and to establish rules for budget submission and management.
 - Counties were no longer responsible for future growth in court operating costs; financial obligation capped at the **1994-95** fiscal year level.



Background

- Trial Court Facilities Act of 2002 (Government Code Sections 70301 to 70508); provided key definitions in Section 70301 for the following:
 - Bonded Indebtedness
 - County facilities payment
 - Court facilities (consist of the following):
 - *Rooms for holding superior court*
 - *Chambers of the judges of the court*
 - *Rooms for attendants of the court*
 - *Heat, ventilation, air-conditionings, light, and fixtures*
 - Deferred maintenance
 - Historical building
 - Maintenance
 - Unacceptable seismic safety rating (risk levels)

Background

- Trial Court Employment Protection and Governance Act (SB 2149) (Government Code Sections 71600 to 71675)
 - Effective January 1, 2001
 - Provided all 58 trial courts to become successor employers for trial court employees
 - Established personnel systems for trial court employees under a new local court governance structure
 - Courts to begin separating by taking over financial accounting and payroll services from counties



Other Relevant Code Sections for ACs

- Court Fines and Fees – Monthly Submissions on the TC-31 Form (Report to State Controller of Remittance to State Treasurer)
 - Auditor Mandate to Transmit Each Month per Government Code Section 68101(b).
 - Subject to Audit by State Controller per Government Code Sections 68103, 68104 and 12410; typically, every 3 to 5 years.
 - Remittance of 50-50 Excess Split Revenue to the State Controller's Office per Government Code Section 77205.
- Court Facilities Payments
 - Remitted Quarterly to the State Controller per Government Code 70353 using TC-31.
 - MOE Payment (Trial Court Trust Fund) per Government Code 77201.





Court Fines and Fees

- Courts collect fines and fees from individuals for court-related matters (e.g., traffic tickets, court penalties).
- County (Revenue Services Division of Treasurer-Tax Collector's Office) collects delinquent (30 days+) court fines and fees.
- Revenue Services compiles and sends a monthly report to Auditor and Courts detailing all delinquent fines and fees collections.
- The Courts prepare and submit a TC-31 form detailing fines and fees collected to the Auditor; Courts wire transfer corresponding funds to the Auditor (includes the amounts to be remitted to the SCO, as well as the County and cities share).
- Auditor prepares a separate TC-31 form for County-collected fines and fees; TC-31s (County and Courts) remitted to SCO.
 - TC-31s **must** be submitted to the SCO by the 15th of each month (45 days after the collection period); fines incurred if not done timely.



Court Fines and Fees

- Legislative Changes Impact Fines and Fees Collected
 - Certain fees may no longer be collectible or new fees).
 - Auditor tends to lead the discussion on where new fines and fees needs to be distributed (State, County and Cities).
- Courts and County work together on submission of delinquent court fines and fees for discharge to Board of Supervisors.
- Courts and County work together on annual remittance of the 50-50 Excess Split Revenue to the SCO; remitted using TC-31.
- SCO conducts Court Revenue Audits (typically a 3 to 4-year timeframe):
 - To evaluate County and Courts methods to collect and account for court revenues
 - To determine whether the County and Courts properly remitted court revenues pursuant to the TC-31 process.

Court Facilities Legislation through 2012

SB 1732 – Chapter 1082, Statutes of 2002	SB 12 – Chapter 10, Statutes of 2009
SB 256 – Chapter 592, Statutes of 2003	AB 1164 – Chapter 140, Statutes of 2009
SB 749 – Chapter 249, Statutes of 2004	SB 1330 – Chapter 328, Statutes of 2010
AB 1435 – Chapter 410, Statutes of 2005	SB 1062 – Chapter 709, Statutes of 2010
SB 10 – Chapter 444, Statutes of 2006	SB 857 – Chapter 720, Statutes of 2010
SB 82 – Chapter 176, Statutes of 2007	AB 1620 – Chapter 726, Statutes of 2010
AB 1491 – Chapter 9, Statutes of 2008	SB 82 – Chapter 12, Statutes of 2011
SB 1407 – Chapter 311, Statutes of 2008	SB 428 – Chapter 304, Statutes of 2011
SB 4 – Chapter 2, Statutes of 2009	SB 1021 – Chapter 41, Statutes of 2012

Task Force on Court Facilities - Duties

- Task Force on Court Facilities created by Assembly Bill 233 – Chapter 850, Statutes of 1997
- Duties of the task force:
 - Document state of existing court facilities
 - Document need for new or modified court facilities and extent they are used
 - Document funding mechanisms available for maintenance, operation, construction and renovation of court facilities
 - Examine existing standards for court facility construction
 - Document impact of state actions on court facilities and other state and local justice facilities
 - Review and recommend operational changes which may mitigate the need for additional court facilities
 - Review and provide recommendations on concepts regarding needs of the court, including security
 - Recommend specific funding responsibilities among various entities of government for support of trial court facilities and facility maintenance
 - Recommend funding sources and financing mechanisms for support of court facilities and facilities maintenance



Task Force on Court Facilities - Recommendation

- Responsibility for trial court facilities funding and operations be shifted from County to State
 - Judicial branch of government now wholly responsible for its programs and operations, with exception of trial court facilities. The judiciary should have responsibility for all of its functions related to its operations and staff, including facilities
- Uniting responsibility for operations and facilities increases likelihood that operation costs will be considered when facility decisions are made, thereby enhancing economical, efficient and effective court operations

Task Force on Court Facilities - Recommendation

- Government Code (GC) Section 70311 (old GC Section 68073)
 - (a) Commencing July 1, 1997, and each year thereafter, no county or city and county is responsible to provide funding for “court operations,” as defined in Section 77003 and Rule 810 of the California Rules of Court, as it read on July 1, 1996
 - (b) Except as provided in Section 70312, commencing July 1, 1996 and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for Judicial and court support positions created prior to July 1, 1996
- GC Section 70312
 - If responsibility for court facilities is transferred from the county to the Judicial Council pursuant to this chapter, the county is relieved of any responsibility under Section 70311(b) for providing those facilities, including deferred maintenance, except for the county facilities payment (CFP) required by Section 70353.



Superior Court Facilities – State Buildings

- Authority - Government Code Sections 70301-70508
 - Chapter 5.7 – Superior Court Facilities
- Transfer of Court Buildings from County to State
 - Ratings
 - Buildings rated level I-IV were transferable
 - Buildings rated level V became transferable in 2006 via AB 10 so long as liability for all earthquake-related damage remains with the Counties as if the building was not transferred
 - Buildings rated level VI-VII were not transferable
 - Debt Free
 - Court facilities could be transferred with bonded indebtedness if the County guaranteed payment of the bonded indebtedness. In essence, court facilities had to be debt free to be transferred. No debt obligations to the State for transferred court facilities.
- Dates to transfer – GC Section 70321
 - July 1, 2003 to June 30, 2007, later extended to December 2009 by AB 1491
- Per Judicial Council, 500 of 532 court facilities were transferred to State buildings as of August of 2009.





Superior Court Facilities – State Buildings

- Transfer Agreements for Court Facilities
 - All transfer agreements had to be executed no later than December 31, 2009
 - Each agreement was a memorandum of understanding between the Judicial Council, Administrative Office of the Courts, The County, and The Superior Court of California in the County
 - Multiple buildings could be transferred in a single agreement
 - However, each transferred building required the calculation of a County Facilities Payment which is a set amount required to be paid each year. (no inflationary rate after date of transfer)
 - NOTE - Highly recommend you locate all of these agreements in your County and keep them safe – they are likely in that file cabinet with all the dusty files.

Superior Court Facilities – State Buildings

- County Facilities Payment (CFP) – GC Sections 70351-70370
 - The intent of the Legislature in requiring a CFP for each building was to provide a source of funding for ongoing operations and maintenance of court facilities by requiring each county to pay to the state the amount that county historically expended for operation and maintenance of court facilities, thus a County Facilities Payment. On going operations above the CFP became the responsibility of the State.
 - Santa Barbara County's own Bob Geis, Theo Fallati and SACCA team represented the counties in the effort to create the CFP forms and instruction with Judicial Council's Administration Office of the Courts.
 - The CFP amount was based on a five year average of expenses on court facilities from fiscal years 1995-1996 to 1999-2000. Except for court facilities rental or leasing included in the CFP, the remaining portion of the CFP was then adjusted by an inflation index up to the actual transfer date of the building.



Superior Court Facilities – State Buildings

- County Facilities Payment (CFP) - continued
 - All CFPs were reviewed and approved by the Judicial Council, Administrative Office of the Courts and the Department of Finance.
 - For shared buildings, you prorate the CFP based on courts square footage usages divided by the entire usable square footage of the building
 - Currently, Counties who have CFPs should be receiving an annual letter from the Judicial Council that shows each transferred building and its CFP amount, which is paid quarterly to State Controller on July 1, October 1, January 1 and April 1 each fiscal year using the TC-31 form.
- QUESTIONS TO CONSIDER
 - *What happens to CFP if the State stops using the court facility?*
 - *What happens to CFP if the court facility is destroyed?*
 - *What happens to CFP if the State sales the court facility?*
 - *What happens to CFP if the State builds a new court facility?*
- See GC Section 70391 for State sale of surplus court facilities, examples in GC Section 70395-70397.2.; and look to your transfer agreements for any possible answers to the above questions.

Superior Court Facilities – State Buildings

- County Facilities Payment (CFP) - continued
 - For those counties who did not transfer responsibility for court facilities (approximately 32 court facilities) to the State there is no CFP – FOR NOW
 - GC Section 70311(b) applies to you until the Judicial Council chooses to seek an alternative court facility
 - A CFP will be estimated for the first year of a new court facility which replaces a non-transferred court facility. Then actual costs of the first year will become the CFP for that new court facility. An adjustment will be made to the first year estimate based on first year actuals and a true up will be made.
 - CAUTION – make sure you are only covering the county share of court facilities as of the dates mentioned in GC Sections 70311. Any growth in judgeships and their support staff resulting in increased court facility need should be fully a State responsibility.



Superior Court Facilities – State Buildings

- Courthouse Construction Fund – GC Section 76100
 - If all court facilities within the County were transferred from the County to the State, then the entire Courthouse Construction Fund should have been transferred within 45 days to the State Court Facilities Construction Fund
 - If only some court facilities within the County were transferred from the County to the State, then the percentage of county transferred court facilities to all county court facilities of the Courthouse Construction Fund should have been transferred within 45 days to the State Court Facilities Construction Fund.
- GC Section 70375 says that whatever the percentage of county transferred court facilities is, then that same percentage should reduce the additional penalty for local courthouse construction fund. Exception exists within code section. See also GC Section 70402.
- The State enacted their own fees and fines to directly fund the State Court Facilities Construction Fund in addition to the above transfers.



Court Employees

- Government Code Section 20460 - For all counties that contracted with CalPERS as of January 1, 2001, requires trial court and county to **jointly participate** in the CalPERS retirement system.
 - A county shall not be responsible for the employer or employee contributions of the trial court employees.
 - A trial court shall not be responsible for the employer or employee contributions of county employees.
 - The issue only impacts CalPERS counties, not 1937 Act counties.
 - Trial court employees are included in the Miscellaneous Plan.
 - CalPERS calculates one employer contribution rate.
 - The assets and liabilities are not separated between trial courts and the county.

Court Employees

- Pension Obligation Bonds (Solano, Butte and Sierra Counties)
 - Bond proceeds used to pay down CalPERS unfunded liability.
 - Bonds are only issued by the County.
 - CalPERS applies bond proceeds to total plan assets and liabilities.
 - Trial courts inherently receive a contribution rate advantage.
 - County must manually estimate the contribution rate advantage and bill trial courts for the difference.
- PEPPRA and Normal/UAAL Separation
 - PEPPRA required new employee contributions to be **50%** of the normal cost
 - CalPERS subsequently only calculated a normal cost rate and a lump sum amount for the UAAL (an amount that can be prepaid).
 - Counties/trial courts then had to calculate an additional rate for the UAAL with a **signed MOU** between parties.

Court Employees

- GASB 68 – “Accounting and Financial Reporting of Pensions”
 - Required the reporting of the **net pension liability** on the County’s balance sheet.
 - CalPERS reports the assets and liabilities of the joint plan (inclusive of trial courts).
 - Each county then calculated an estimate of the trial court’s share of the net pension liability and excludes this portion from the County’s financial statements, footnote disclosures and other financial sections of the ACFR....*effective FYE June 30, 2015.*
 - In 2018, State Controller acknowledged that the trial court’s pension liabilities should be reported in the State’s ACFR from a funding perspective
 - In FY17/18, the State began reporting pension information for the 22 1937 Act counties.
 - In FY18/19, the State began reporting pension information for the 36 CalPERS counties.

Court Employees

- Legislative and Support Efforts by the Association
 - SB 733, Senator Aanestad, February 22, 2005 – Public Employee's Retirement (Butte/Solano Counties bill)
 - SB 421, Senators Aanestad and Wiggins – February 21, 2007 – Public Employee's Retirement (Butte/Solano Counties bill)
 - In 2014-15, Association meetings with our legislative advocate, judicial council, local trial courts, CEO/CAOs – letters sent to CSAC asking for legislation.
 - In 2016, Association meeting with CSAC, DOF and Association's legislative advocate.
 - DOF indicated trial court employees were county employees and counties were responsible for reporting on counties financial statements.
 - In 2017, Association survey conducted 49 of 58 counties not reporting trial court's share as a liability in County financial statements.
 - Materiality of liability exposure reported to State Controller

Court Employees

- Senate Bill (SB) 548 – Niello, April 24, 2023 – Public Employees' Retirement: Joint County and Trial Court Contracts
 - Approved by Governor on October 4, 2023
 - Amended Government Code Sections 7522.02, 20460.1 and 71624 and added Government Code Sections 20471.2 and 20815.6 to the California Public Employees' Retirement Law (PERL)
 - County and trial court may jointly request the separation of their contract; law prohibits the separation of the contract for being a cause for modification of employee retirement benefits.
 - Upon request by county and trial court and receipt of specified information, the bill requires CalPERS to perform a calculation of the assets and liabilities under the joint contract for purposes of separating the contract.
 - Upon separation of the contract, the assets and liabilities of the trial court will be moved to its individual contract.
 - Contract irrevocable and both parties not permitted to reestablish joint contract.



Parting Comments

- Need CalPERS Counties to Work with Court Executive Officers to jointly ask CalPERS for separate actuarial study
 - Will need support from your CAO/CEO
- Once we have a model or two, the Association should work closely with other CalPERS counties to expedite and close the transition of trial court employees.
- Become familiar with all MOEs and MOUs between the County and the Trial Courts
 - Court employees
 - Collections
 - Facilities
- Association to Sponsor Legislation to Remove Remaining County Ties
 - Collections and facilities





Comments and Questions?