

**TRIAL COURT FACILITIES LEGISLATION – SB 1732 (ESCUZIA)  
FREQUENTLY ASKED QUESTIONS (FAQS)  
SET NO. 1 (AUGUST 28, 2003)**

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**Introduction**

The attached questions and answers concern SB 1732 (Trial Court Facilities Act of 2002 – Stats. 2002, Ch. 1082) and are intended to respond to several significant questions raised by counties and courts about the implementation of this important legislation. However, the document is presented for informational purposes only; it does not constitute and should not be relied upon as legal advice. The information in this document is believed to be accurate at this time. Additional question and answer documents may be published at a later date if the need arises. Most of the answers contain references to relevant statutory sections of SB 1732. These references should be used as a guide to the applicable law.

The document is the work of the Administrative Office of the Courts and the California State Association of Counties staff but does not represent any official or legal position of the Judicial Council, the Administrative Office of the Courts, or the California State Association of Counties.

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**General Provisions and Definitions**

**Q-1: Who is responsible for the court facilities until transfer?**

A-1: Except for new judgeships and related court support positions created after July 1, 1996, the county remains responsible for court facilities, as previous to SB 1732, until the transfer of each individual facility.

**Q-2: Until the transfer of facilities, what are the roles of the court and the county relative to responsibility for facilities?**

A-2: Every court has a unique relationship with its county, and all parties should work together to reach mutually satisfactory solutions. The management staff of the Administrative Office of the Courts' (AOC's) Office of Capital Planning, Design, and Construction is available for assistance, as is California State Association of Counties (CSAC).

**Q-3: Do judges or the courts now have, or will they have in the future, authority to initiate building projects or use court construction funds under the prior law or under SB 1732?**

A-3: Until transfer of any given facility, the county remains responsible and has the authority to initiate building projects or use local courthouse construction funds. However, a county is still required to solicit the review and comments of the judges of the court before any construction or remodeling of court facilities occurs, and those comments must not be disregarded without reasonable grounds. The court has no authority to encumber or expend current local courthouse construction funds. After transfer, the Judicial Council is required to submit annually to the Governor and the Legislature the cost of projects proposed to be funded with money from the State Court Facilities Construction Fund to be included in the Governor's budget. The AOC will consult with the judges and the courts on all projects to be planned and funded, but courts will not have independent authority to expend any state funds, including the 25 percent local designated funds. The AOC is considering a variety of mechanisms to provide for the best response to unanticipated emergency needs of local facilities.

**Q-4: What happens if the court changes use of facilities from limited civil and misdemeanor matters to felony and unlimited civil matters?**

A-4: The county is obligated to provide necessary and suitable facilities for the reasonable needs of the court, consistent with the county's fiscal condition, until responsibility for the facility is transferred to the state. A

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court's change of use is subject to this obligation. Nevertheless, discussion between the court and county is encouraged to avoid misunderstand and foster collaboration regarding facility use.

**Q-5. What role does the court play in the transfer negotiations?**

A-5. SB 1732 states that the Judicial Council, in consultation with the superior court, shall enter into an agreement with each county. The role of the superior court of each county will be to work closely with the Judicial Council and the AOC concerning the transfer of responsibility for court facilities.

**Q-6: What suggestion can be made to counties and local courts with respect to how they can prepare for the negotiations?**

A-6. The counties and the courts should be familiar with the types, locations, and observable conditions of the court buildings and either the relative uses of space by the courts and counties or the exact square footages that are occupied in each facility. They should select representatives and prepare to discuss the issues that may become terms of each negotiation.

**Q-7: How will current court facilities projects be handled prior to transfer?**

A-7: Section 70331 addresses pending projects and provides that the Judicial Council may require counties to complete the phases of a pending project that have been committed as a condition of transfer of responsibility of a facility.

**Q-8: What is the definition of a “court facility”? (Ref: Section 70301(d))  
Do multiple-use buildings shared by the court and other agencies on the basis of time fit the definition of a court facility? (Ref: Section 70301(i))**

A-8: Section 70301(d) provides a detailed definition of “court facilities,” which includes courtrooms, judges chambers, HVAC systems, areas within a building required or used for court functions, grounds, and parking spaces historically available for court facilities users. A building that is used for both court and noncourt functions would be a “shared use” court facility, as defined in Section 70301(i), regardless of the amount of time used for different functions.

**Q-9: Who determines what is “necessary and suitable”, local judges or the Judicial Council? (Ref: Section 70311)**

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A-9: These terms have not been defined precisely in statute. For that reason, it is hoped that the court and the county will reach a mutual agreement as to the application of these terms in their community. If that is not possible, the AOC and CSAC may be able to offer assistance. If efforts to mutually resolve a disagreement fail, Section 70311 provides for handling in the same manner as under former Section 68073.

**Q-10: What is the definition of “exclusive use,” and what are the implications of “user rights”?**

A-10: “Exclusive use” is not defined in SB 1732, but refers to the areas used exclusively by the court for court purposes and by the county for county purposes. “User rights” is defined in Section 70301(n) as the right to exclusive use of noncommon areas within a “shared use” (Section 70301(i)) building as well as shared use of common areas of the building and appurtenant grounds and parking.

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**Timing, Transition Issues, and Responsibility**

**Transfer Agreements (Memoranda of Understanding -- MOUs)**

**Q-11: When will court buildings transfer to the state and the AOC start managing them? Is there an implementation plan that can be shared with the courts?**

A-11: Transfer will occur anytime from July 1, 2004, to June 30, 2007. The timing of transfer of specific courts and individual facilities is not yet known and cannot be known until negotiations are concluded on specific buildings.

**Q-12: Will all buildings transfer at the same time?**

A-12: Statewide, no. Transfer will occur throughout the period July 1, 2004, through June 30, 2007. A county with few separate court facilities may see all its facilities transfer at the same time. A county with multiple court facilities may reasonably expect that varying dates of transfer may be necessary.

**Q-13: In real estate terms, what is the nature of the facilities transfer?**

A-13: It should be recalled that SB 1732 calls for a transfer of responsibility for trial court facilities. The transfer can be a change of legal title for a facility or a change in responsibility for providing day-to-day management, maintenance, interior nonstructural alterations, and minor repairs.

**Q-14: When will the schedule for negotiating facility transfers be published? What is the target date for completion of procedures for transfer?**

A-14: In August 2003, CSAC and AOC will work toward establishing a schedule for initial negotiations and procedures for transfer. During the summer of 2003, the AOC and CSAC, in consultation with the courts, counties, and Department of Finance, will develop procedures for implementing the transfers.

**Q-15: Who will negotiate for the state?**

A-15: A team will be formed for each court, led by the senior management of the AOC's Office of Court Construction and Management, the court's

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representatives, transaction attorneys, and real estate professionals representing the Judicial Council. This team will represent the state.

**Q-16: What is the expectation for the size of a county's negotiation team?**

A-16: There is no statutory requirement for the size of a county's negotiating team. However, each county is expected to be represented by people who are familiar with the subject matter at any given meeting. Therefore, the size and composition of county negotiation teams may vary to meet the needs of the specific county. It's advised that a team be composed of a core group of people who may attend most of the meetings. Depending on the topics planned for discussion, other appropriate individuals may also attend.

**Q-17: How are leases handled in transfer? (Ref: Section 70323(c))**

A-17: In general, a lease may be transferred to the AOC if the landlord agrees and the terms are acceptable to the AOC. If not, the county must continue to hold and pay the lease until it expires. Upon expiration, the AOC can enter into a new lease, or find other space. The county may not extend any current lease paid for from local Courthouse Construction Funds more than five years without the consent of the AOC.

**Q-18: If a building has bonded indebtedness, will the title be prevented from transferring to the state unless and until that indebtedness and the revenue to pay for it are transferred? Who decides this? (Ref: Section 70323)**

A-18: Either title will not transfer to the parties indicated in the MOU until the debt is retired or, if the county and state agree, the debt and funding for it can be transferred to the state together with the title (see Section 70325). Responsibility, however, can transfer before a transfer of title.

**Q-19: What happens to the revenue stream for the Courthouse Construction Fund when a building is encumbered?**

A-19: If title to a building whose responsibility is to be transferred to the state is subject to an encumbrance secured by the Courthouse Construction Fund, the county will retain the revenue stream for that payment until the debt is paid.

**Q-20: Will the county have the option of not transferring responsibility for a building used for the courts?**

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A-20: Generally, responsibility for a facility must transfer unless the facility is deficient. Title must transfer for a building exclusively used by the court unless the building is encumbered or is historical in which case title won't transfer unless the county chooses to do so. The manner of holding title to shared use buildings is subject to agreement between the county and the Judicial Council. However, all transfer of responsibility, and the attendant release of a county's responsibility to provide necessary and suitable court facilities, will depend on the conclusion of negotiations and the completion of a transfer agreement prior to July 1, 2007.

**Q-21: What will happen if the Judicial Council doesn't want to accept transfer of a marginal facility that is inconsistent with the court's master plan, and the council is interested instead in a replacement facility? In this example, a replacement facility costs less than a remodeled existing facility.**

A-21: A physically "marginal" (as per Task Force on Court Facilities rating methodology) building may still transfer, but the functionality of the building is subject to further discussion. It is important to note that both facility assessments completed by the task force and current master plan projects are not final determinants in transfer negotiations. The bases for rejection of a building for transfer are provided in SB 1732. The correction of identified deficiencies by the county such that transfer may occur are subject to negotiation between the state and the county.

**Q-22: For courts that are currently requesting additional space, how will shifts in occupancy between now and the date of transfer affect negotiations?**

A-22: The shift in occupancy will not affect negotiations. Courts are encouraged to work in partnership with their counties. When planning to occupy additional space, courts are advised to inform the AOC and seek its assistance or guidance. Also, counties are encouraged to inform the AOC of negotiations with their courts.

**Q-23: What benefits would a county derive from transferring court facilities to the state?**

A-23: The advantage is that the county will no longer be responsible for maintaining transferred facilities; when all facilities within a county are transferred, the county will be relieved of responsibility for meeting court facility needs. In addition, the county will be relieved of its deferred and ongoing maintenance responsibilities. After transfer, the county will remain responsible for payment of a set dollar amount (i.e., county facility



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payment) based upon the historical costs of operation of the building.

**Q-24: Which section of the Government Code calls for transfer of the Courthouse Construction Fund to the state?**

A-24: Section 70402.

**Q-25: If a county has obligated its courthouse as collateral for county financing, how does the state anticipate this in the negotiation and transfer of the courthouse to the state?**

A-25: The courthouse would be treated as an encumbered facility. Generally, transfer of responsibility would take place with the county retaining responsibility for the encumbrance until it is paid. Title may pass to the state, once the encumbrance is discharged.

**Q-26: What happens if a court facility does not transfer (i.e., is rejected, is a historical building, etc.) but agreement is reached on the Memorandum of Understanding (MOU)? Who is responsible for the new or expanded court facilities?**

A-26: If responsibility for a facility does not transfer to the state, the county retains responsibility. However, if an agreement to transfer responsibility is finalized (i.e., an MOU is executed and effective), a county will be released of its responsibility for maintenance or expansion of a facility. Note that for historical buildings, responsibility may transfer, but title may not. New and expanded facilities are treated similarly to other facilities in regard to whether they transfer.

**Q-27: Will facilities always transfer on a fiscal year break (July 1), or are other dates possible?**

A-27: Transfers are not limited to fiscal year breaks but may occur on any date agreed to in the MOU that is within the July 1, 2004 through June 30, 2007 statutory timeframe.

**Q-28: Will the AOC consider reaching an agreement for a future effective transfer -- that is, reach an agreement on MOU terms in 2004 but with an effective transfer date of June 2007?**

A-28. That's a possibility. The transfers could occur concurrently with or after the negotiations are completed, depending on the specific terms of each MOU.

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**Q-29: It appears the county has no control over the criteria to be used by the state in determining the acceptability of the facilities. Given that, how can a county plan for, budget, and control costs prior to transferring facilities?**

A-29: Criteria for rejection are described in section 70326. Maintenance and operation of a facility remain county responsibilities until the responsibility for the facility transfers to the state. However, the intended goal of SB 1732 is to transfer facilities to the state.

**Q-30: Is it the intent of the AOC, in conjunction with CSAC, to develop standardized or “boilerplate” language in advance of negotiations with counties, or is it likely that each agreement will, in large part, be unique to the particular building?**

A-30: The AOC is developing a set of MOU “templates” that are applicable to various situations (such as historical buildings, shared use buildings, and buildings occupied solely by the courts and others), which will then be customized in each negotiation. The AOC will ask CSAC to review and comment on these templates.

**Q-31: Who are the contact persons at the AOC and at CSAC?**

A-31: At the AOC: Ms. Kim Davis, Acting Director, Office of Court Construction and Management (415-865-7971, kim.davis@jud.ca.gov). At CSAC, the lead contact is Mr. Rubin Lopez, Legislative Representative (916-327-7500, ext. 513, rlopez@counties.org).

**Rejection of Facilities**

**Q-32: Will responsibility for all buildings transfer to the state?  
(Ref: Section 70326)**

A-32. Not necessarily. Deficient buildings will not transfer, and leases not transferred to the state will remain with the county. Of course, if negotiations for an agreement to transfer responsibility for a facility are not concluded prior to July 1, 2007, the county shall continue to be responsible for that facility.

**Q-33: Who determines that a building is deficient and will not transfer?  
(Ref: Section 70326)**

A-33: The AOC, with the court’s input, will evaluate each facility in regard to the criteria specified in Section 70326: significant threat to life, safety, or

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health; unacceptable seismic safety risk; and deficiencies that in their totality are significant to functionality. The evaluation will be presented to the county during the negotiations. The county may appeal the evaluation to the dispute resolution committee, and the Director of Finance has the final determination. Alternatively, the county may agree with the evaluation and elect to remedy or make provisions in the MOU for the remedying of the particular deficiencies prior to transfer.

**Q-34: What are the county’s responsibilities for court facilities if a building is rejected as deficient? (Ref: Section 70326(c))**

A-34: The county will continue to be responsible for providing necessary and suitable facilities for the court, and that responsibility will not be reduced or eliminated (Section 70311).

**Q-35: If a facility is rejected as “seriously deficient,” will the court be required to remain in the facility subject to court responsibility, or will the court be moved to new facilities?**

A-35: For rejected facilities, a county’s obligation to provide “suitable and necessary” facilities will continue. If the reasons for rejection constitute a failure to provide “suitable and necessary” facilities, a county would be required to repair the existing facility or provide an alternate facility, consistent with Section 70311.

**Q-36: Many courthouses do not have separate hallways for in-custody defendants to reach the courtrooms, or any way to separate prisoners from the public in the halls. Have there been any preliminary thoughts on whether this situation would require the rejection of the facility if there were no way to remedy it?**

A-36: Lack of secure circulation was considered an overriding functional deficiency by the Task Force on Court Facilities and will most probably figure prominently in the determination of functional deficiencies under Section 70326.

**Q-37: If a court building was rated “physically adequate but functionally marginal or deficient” by the task force evaluation, does this mean it may not transfer?**

A-37: Deficiencies that “in their totality are significant to the functionality of the facility” are specified as a basis for rejection of a building under Section 70326. SB 1732 does not refer to the use of the Task Force on Court

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Facilities' physical and functional ratings as a basis for rejection or transfer.

**Historical Buildings**

**Q-38: What qualifies a courthouse as an “historical building”?  
(Ref: Section 70301)**

A-38: An “historical building” is one that is on a local, state, or national historical registry or list or meets the criteria of section 18955 of the California Health and Safety Code or title 16 of the United States Code. It does not have to be registered.

**Q-39: Will historical buildings transfer? (Ref: Section 70329)**

A-39: The county has the right to retain the legal title to a defined historical building, and transfer only the responsibility, if the building otherwise meets the criteria for transfer. The court has the right to stay in the building; or, if the Judicial Council agrees, the county may provide alternative facilities of at least comparable size, condition, and utility.

**Q-40: If an historical courthouse transferred to the state, would alterations be subject to the Secretary of the Interior’s standards for improvement? What agency would review changes subject to these standards? Would there be an opportunity for local input? Would agency comments be considered advisory or compulsory?**

A-40: Historical courthouses that are registered landmarks will be subject to the same standards for review and modification under state ownership as other state owned buildings. Local input would be solicited on an advisory basis if the state were to dispose of an historical building as surplus property (Section 70391).

**Seismic Safety Assessments**

**Q-41: What is the AOC schedule for seismic evaluations?**

A-41: Engineers began the process in April 2003 with the first phase of evaluation, based on available documents. This will be followed by a second phase: on-site review and detailed evaluation. A final report should be issued in the fall of 2003.

**Q-42: What is the definition of a seismically inadequate building?  
(Ref: Sections 70326, 70327)**

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A-42: A seismically deficient building has seismically hazardous conditions and an unacceptable seismic safety rating. The technical method for establishing these deficiencies was developed by the Department of General Services and the Office of the State Architect for general use in evaluating state buildings. Deficiency is determined by structural engineering review.

**Q-43: If a county building is seismically unacceptable, does the county have any discretion about transfer?**

A-43: The statute explicitly disallows transfer to the state unless provision is made in the negotiations and MOU for correction of the deficiency. Therefore, it is contemplated that corrections of deficiencies that would constitute the grounds for rejecting a transfer of responsibility, including seismically hazardous conditions, will be an essential part of transfer negotiations.

**Q-44: What are the county's options if it does not correct seismic deficiencies? Will responsibility and title remain with the county?**

A-44: Section 70326 directs that responsibility for deficient buildings will not transfer unless provision is made for correction of the deficient item. If responsibility does not transfer, the cost of providing those court facilities remain with the county.

### **Parking**

**Q-45: How is the October 1, 2001 parking baseline determined? (Ref: Section 70330)**

A-45: The AOC is working with the counties and the courts, through the court master planning process, to determine as accurately as possible the number of defined, designated parking spaces as of that date, for purposes of planning and transfer negotiations.

**Q-46: Will the basis for a county's "county facilities payment" include an allowance for the cost of parking? (Ref: Section 70356(e))**

A-46: Yes, the "county facilities payment" does include the cost of maintaining parking spaces or garages dedicated to the court or for jurors if responsibility for the garage or parking area is transferred.

### **Dispute Resolution Committee**

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**Q-47: If the county disagrees with the Court Facilities Dispute Resolution Committee (CFDRC) recommendation, to whom does it appeal?  
(Ref: Sections 70303, 70333)**

A-47: The Director of Finance makes the final determination.

**Q-48: What general areas are expected to be presented to the CFDRC for resolution?**

A-48: Section 70303 identifies several specific areas that may be appealed to the CFDRC: (1) buildings rejected for transfer of responsibility because of deficiencies as provided in Section 70328; (2) failure to reach agreement on transfer of responsibility for a building as provided in Section 70333; (3) disputes regarding the appropriateness of expenditures from a local courthouse construction fund as provided in Section 70403; and (4) the amount of a county facilities payment as provided either in Section 70366(e) or Section 70367(e).

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**Administration of Shared-Use Buildings**

**Definition of Shared Use/Transfer of Title or Responsibility**

**Q-49: Will the AOC have responsibility for management oversight in shared use facilities? (Ref: Section 70312; 70344(b))**

A-49: Possibly, depending on the agreement negotiated between the county and the AOC-court team. There are three basic options: (1) the county provides the management under contract to the AOC for the court portion; (2) the AOC provides full management and the county contracts with the AOC for these services for its portion; or (3) each party manages its portion independently, but major repairs and operation impacts will require coordination under the MOU. It is also possible that the building occupants will jointly agree to contract to a third party for management, with each paying its proportional share.

**Q-50: What is the standard methodology for the usable space calculation used by DGS? (Ref: Sections 70301(d); 70327(e)(1), (2); 70354)**

A-50: Building Owners and Managers Association (BOMA) standards are used.

**Q-51: Are the areas used by court security, such as inmate holding rooms and related office and support areas, included in the court's or the county's areas? (Ref: Section 70301(d)(1)-(9))**

A-51: Inmate holding is considered part of the court's space. The facilities used to support the sheriff, the jail, and other justice-agency partners, are and will continue to be, noncourt space.

**Q-52: What is included in the costs of a move-out by a tenant in a shared use building?**

A-52: If either the court or the county occupies 80 percent or more of a shared use building, the Judicial Council, on behalf of the court, or the county may require the other entity to vacate the building. The entity vacating the building will be given reasonable notice and will be compensated by the other entity for its equity in the facility and for relocation costs at the fair market rate.

**Q-53: If shared-use facilities are inadequate for present courthouse needs, and projected growth over next five years, do the provisions of SB 1732 (or any other statute or legislation) preclude use of nontrial court trust fund money to lease needed space, pending**

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**recommendations or actions written into the court facilities master plan?**

A-53: Until transfer of responsibility is complete, counties are responsible for providing suitable and necessary court facilities. It is within the discretion of counties to use an appropriate funding source such as the Courthouse Construction Fund, Criminal Justice Fund, or the General Fund.

**Q-54: If the title of a shared-use building transfers to the state, how will the state ensure that county functions will not be unreasonably displaced to inconvenient or inappropriate locations? If title does not transfer, how can appropriate facilities be ensured for the court pending future disposition by the county? (Ref: Sections 70312, 70344(b))**

A-54: If the state takes title to a shared-use facility, the county cannot be made to relocate unless its part of the building is less than 20 percent and it is reimbursed for the cost of moving and equity in the facility. The reverse is true if the court's part of the building is less than 20 percent. These issues would be addressed during MOU negotiations.

**Q-55: How important is the building occupancy percentage to the decision to transfer ownership? If court functions occupy 80 percent or more of a building, should the transfer be considered absolute, or will each situation be considered individually? (Ref. Section 70344)**

A-55: The intent of the 80 percent occupancy criterion is to determine the principal use of and responsibility for a court facility. However, there may be situations in which courts have less than 80 percent occupancy but are projected to expand in the future into noncourt areas, and others in which courts have a majority occupancy but cannot continue to use the facility for the long term. Each situation will be reviewed individually.

**Continued Responsibility by County and State**

**Q-56. How will the management and financing of maintenance and operations of shared-use buildings work, following disposition or transfer? (Ref: Section 70343)**

A-56. As addressed in SB 1732, the court and county will be responsible for their proportionate shares of the cost of day-to-day maintenance of the space in the building. The operation and management of buildings will be negotiated as a matter of transfer and terms of the individual MOU for each facility. Both parties will have to agree on a process to address



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major renovation and systems replacement projects and mutually commit to funding these projects.

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**County Facilities Payments**

**County Responsibility for Ongoing Operations**

**Q-57: Is there a comprehensive list for defining of “major building repairs” that might be a term of negotiation of county facilities payments (CFPs)? (Ref: Section 70366(a)(2))**

A-57: No, SB 1732 does not provide such a list.

**Q-58: Is de-escalation possible for five-year CFP calculations?**

A-58: It is highly unlikely that de-escalation will occur during the timeframe between the five-year period of expenses considered as a basis for the CFP and the date of transfer.

**Q-59: What is the continuing responsibility of the county if the court moves out of a shared building in five years? Does the CFP continue?**

A-59: Section 70342 outlines the process for either the county or the court to expand or contract the amount of space it occupies in a shared-use building. The CFP is unaffected, although separate compensation for the change in the use of space may be negotiated.

**Q-60: If the county provides secure transportation of persons in custody between the jail and the court, will the county have any say in locating of courts (for future court facilities)?**

A-60: Under Section 70393, the counties are to make recommendations to the court and the Judicial Council regarding the locations of new facilities.

**Q-61: If the county decides to build new courtrooms, including juvenile detention facilities, at several locations and starts that construction within the next two years, will the county be obligated to include some amount for maintenance of those courtrooms in its CFP?**

A-61: The determination of the time frame for the basis of the CFP calculation (fiscal year 1995-1996 to fiscal year 1999-2000) is provided in section 70356. All costs related to facilities that are operational during this time period are included in the CFP, but facilities that open after this period are not (except for lease payments).

**Basis of Payments and Exclusions**

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**Q-62: The county facilities payment is based on historical patterns for facilities operations and maintenance costs. What about the calculation of indirect costs? How will costs be determined in cases where counties have not kept meaningful records? Who audits the county's records? (Ref: *Legislative Counsel's Digest*, § 1(d)(8); Gov. Code, Section 70354 et seq.)**

A-62: Each county will first submit its calculation on the standard itemized forms that will be approved by the Director of Finance and then provided to the counties by the AOC. If the AOC believes the submittal does not accurately represent the actual or complete costs, the AOC will conduct an audit. Where there are no meaningful records, a reasonable basis must be established that reflects similar costs in comparable jurisdictions.

**Q-63: Are the inflation indices, which will be used to adjust the values of the counties' facilities payments, based on national or local areas? When will the AOC provide these numbers? (Ref: Section 70355)**

A-63: The indexes are national indices published by the U.S. Bureau of Labor Statistics. DOF will provide these numbers as the process of transfer negotiation and CFP calculation moves forward.

**Q-64: Will a county's facilities payment include the county management fees and related fees, particularly where fees are paid under the terms of a lease? (Ref: Sections 70356(f), 70359)**

A-64: County management fees and other fees related to court facilities that have been paid by the county are included. All rent, expenses, and fees (for example, pass-through maintenance costs) paid under a lease agreement are included in the CFP.

**Q-65: Is there a remedy for the inability of the county to make a CFP payment? What if an agreed-upon methodology for payment is challenged?**

A-65: There is no provision in the legislation for inability to pay. Disagreements are brought to the Dispute Resolution Committee. Interest at one and one-half percent (1-1/2%) per month is charged on delinquent payments (Section 70353(b)).

**Forms and Instructions; Terms of Payment**

**TRIAL COURT FACILITIES LEGISLATION – SB 1732 (ESCUZIA)  
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**Q-66: What specific data will the court be required to track and report to the AOC for the Judicial Council’s annual report to the Legislature on facilities expenditures? (Ref: Section 70352)**

A-66: It is likely that revenue collection and case filings will be the important data supplied by the court. Unless the Judicial Council or AOC delegates authority to the local court to expend these special funds, it is unlikely that reporting will be required from the court.

**Q-67: What specific information about insurance costs will the county need to obtain prior to negotiations for the transfer of each facility, if any? (Ref: Section 70358)**

A-67: Historical costs, policy coverage, or other data to substantiate actual costs will be needed.

**Q-68: Where specific exclusions are made from a county’s facilities payment, what is an example of a “capital project that alters the facilities’ function or capacity”? What is a “special improvement”? (Ref: Section 70360)**

A-68: By way of example, a conversion of office space to a cafeteria would alter function. An addition or annex would alter capacity. Installing a wheelchair ramp or a lift for ADA compliance would be a special improvement because it would not need to be installed again.

**Dispute Resolution Committee**

**Q-69: Can the AOC or the courts dispute a decision by the DOF on a county’s payment? Will the AOC consult with the court before commenting on county-submitted declarations?**

A-69: The DOF decision is final. The court will be part of the AOC team and will assist in reviewing the declaration.

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**State Court Facilities Construction Fund**

**Fund Designation of 25 percent for Trial Court Projects**

**Q-70: Isn't 25 percent of the collected revenues from a particular county for the construction fund to be set aside for that local court? When and how will the trial courts receive their 25 percent share of this fund? (Ref: Section 70372, 70374)**

A-70: Yes, Section 70374(d) specifies that 25 percent of the revenue will be designated for court projects in that county. The Judicial Council will administer those funds and projects in accordance with that court's master plan and needs, and based on consultation with the court. The funds will not be placed in superior court accounts.

**Current Use of Courthouse Construction Funds**

**Q-71: What assumptions can be made about the stability of the current courthouse construction funds? Will the new penalties and surcharges dilute that revenue stream?**

A-71: It is estimated that there will not be a significant reduction in filings, based on historical data collected from three counties that have significant civil surcharges. Under SB 1732 local funds are not reduced until responsibility transfers and any encumbrance is paid off.

**Q-72: When will the courthouse construction funds be managed by the state?**

A-72: Until responsibility for a facility transfers, facilities will continue to be managed by the county. After the transfer of responsibility occurs and local courthouse construction funds are transferred to the state, SB 1732 calls for each county to pay a CFP, which will be deposited into the Court Facilities Trust Fund. Money deposited into this fund is to be administered by the Judicial Council, and in this process, money that was collected from a given county may not necessarily equal funds expended on court facilities in that county.

Second, the legislation created the State Court Facilities Construction Fund. This fund consists of courthouse construction funds collected from trial courts and supported by additional penalties from criminal (including traffic and parking) offenses and surcharges on civil, family law, and probate actions. Money deposited into this fund is managed by the Judicial Council to help fund acquisition, rehabilitation, and construction of

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court facilities. The Judicial Council and the AOC will establish criteria for prioritizing these projects.

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**Authority and Responsibility**

**Q-73: How is the county kept apprised of AOC delegation of authority to the local court under SB 1732? (Ref: Section 70392(e))**

A-73: This should be delineated clearly in the MOU, both for delegation in effect at the time of transfer and for communicating future delegation.

**Operations and Maintenance**

**Q-74: How does the AOC envision operating and maintaining the transferred facilities? (Ref: Sections 70312, 70391)**

A-74: The long-term facilities management organization is currently being planned. It is anticipated that there will be a distribution of responsibility among the local courts, AOC regional facility offices, and the AOC's headquarters office, based upon required response times, complexity of tasks, and integration with planning, budgeting, design, and Judicial Council leadership.

**Capital Projects After Transfer**

**Q-75: How will renovation and new construction projects be prioritized? (Ref: Section 70391)**

A-75: The responsibility for allocation of resources for court facilities capital projects throughout the state will rest with the Judicial Council and the Legislature. The council will establish criteria for prioritizing projects, based in part on master plans developed for the counties, and establish policies and procedures for capital outlay oversight and implementation. Criteria may include fire and life safety needs, security deficiencies, accessibility upgrades, relief of overcrowding, and other critical needs. The Judicial Council will also balance these needs against actual revenue collections from the new fees under SB 1732 and recommend a prudent fiscal approach to the Legislature.

**Q-76: What will be the process for trial courts to get approval for new projects or dispose of active projects, prior to transfer of title or responsibility to the state? What about existing projects with scope or cost increases? How will emergency or critical projects be handled to meet local needs?**

A-76: Until transfer, the county remains responsible and will consult with the court on facility needs. The county is responsible for all aspects of current

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projects -- scope, funding, and management. If pending legislation (SB 256, Escutia) is enacted, the approval of the AOC will be required for use of Courthouse Construction Funds for new projects.



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**Transitional Funding**

**Q-77: What will happen to past, current, and future debts of the counties for courthouse projects? What will happen to the management of the associated projects pending this legislation? (Sections 70402, 70323, 76100 et seq,)**

A-77: Unless otherwise negotiated for transfer along with the titles of the properties and the associated revenue stream(s), those debts will continue to be paid from the designated sources, and the associated projects completed. Title will transfer by June 30, 2007, or the date of the last debt payment, whichever is later unless title or responsibility is to remain with the county under the MOU.

**Q-78: What will happen to any unencumbered balance left in the court's allocated court construction fund at the date of final transfer of title or responsibility of the last property to the state?**

A-78: Any amount remaining in the county's courthouse construction fund will transfer to the State Courthouse Construction Fund at the earlier of the date of court transfer of responsibility or July 1, 2007, subject to the need to pay any encumbrances. In the later event, the fund will transfer upon retirement of the encumbrance.

**Q-79: Why does the county need to advise or consult with the court or the AOC if it plans to use or otherwise obligate the courthouse construction fund prior to transfer?**

A-79: The county is required under Section 70311 to consult with the court prior to constructing or renovating facilities.

**Q-80: Which section speaks to the \$1.50 parking fee issue?**

A-80: Under Section 70372(b), an added state court construction penalty of \$1.50 will be included in the total penalty, fine, or forfeitures. Additionally, the fees are established and defined under section 76000(b), (c), and (d), assuming that the collections have been authorized by the county board of supervisors, as required.