



INTRODUCTION AND LEGISLATIVE BACKGROUND.

SB 1732 by Senator Martha Escutia¹ establishes the governance structure and procedures for the transfer of responsibilities for trial court facilities from counties to the state. It provides an essential and all-important step in completing the historical trial court funding reform effort begun in 1997 with the enactment of the Lockyer-Isenberg Trial Court Funding Act (AB 233, Escutia and Pringle).²

As set forth in AB 233, the Task Force on Court Facilities was charged with the duty of thoroughly examining issues related to court facilities, including making recommendations on which level of government should be responsible for court facilities in the future. The task force began meeting in July of 1998 and concluded its work at a final meeting held in August of 2001. It released its first Interim Report, "Preliminary Determination: Trial Court Facility Guidelines," on October 1, 1999, its subsequent interim report on March 31, 2001, and its final report on October 31, 2001.³

SB 1732 (ESCUTIA) – COURT FACILITIES LEGISLATION	
Significant Dates and Events	
January 1, 2003	<input checked="" type="checkbox"/> Provisions of SB 1732 become effective <input checked="" type="checkbox"/> State Court Facilities Construction Fund established <input checked="" type="checkbox"/> New criminal penalty and civil fee assessment effective
July 1, 2003	<input checked="" type="checkbox"/> Negotiations for transfer may begin <input checked="" type="checkbox"/> County designates persons responsible for negotiation transfer agreements
July 1, 2004	<input checked="" type="checkbox"/> Transfer of responsibility for court facilities may occur
June 30, 2007	<input checked="" type="checkbox"/> Period to negotiate and transfer responsibility for court facilities ends

During the 2002 legislative session, the California State Association of Counties (CSAC) joined the Judicial Council in co-sponsorship of SB 1732 (Escutia), which enacts the task force recommendations. This historic piece of legislation passed the Legislature on August 31

and garnered the Governor’s signature on September 29, 2002, marking an extremely important step in finalizing the advancement trial court funding reform. The following information summarizes the key provisions of SB 1732 and highlights important principles and findings of the Task Force on Court Facilities that remain integral to the implementing legislation.

KEY PROVISIONS OF SB 1732.

- ✧ **Responsibility to the State** – Restates several of the principal recommendations of Task Force on Court Facilities, including its overarching recommendation that responsibility for trial court facilities should be transferred from the counties to the state.
- ✧ **Facilities for New Judges** – States that a county is responsible for the facility needs for judges and court support positions created prior to July 1996 and thus recognizes that the state shall continue to assume responsibility for the facility needs for new judges and support staff indefinitely.

¹ Chapter 1082, Statutes of 2002

² Chapter 850, Statutes of 1997

³ The full text of the interim and final reports can be found at www2.courtinfo.ca.gov/facilities/. At a minimum, readers are encouraged to read the 13-page Executive Summary and Section 5 of the final report for a more complete understanding of the task force work and recommendations.

A Background and Summary of SB 1732:
Historic Legislation on Court Facilities



- ✧ **Dispute Resolution Process** – Creates a three-person Court Facility Dispute Resolution Committee (CFDRC) composed of one person selected by each of the following entities: CSAC, the Judicial Council, and the Director of Finance. The committee is to review and recommend resolutions for disputes between a county and the Judicial Council regarding: (1) rejection of a transfer of responsibility building because of a deficiency; (2) failure to reach agreement on transfer of responsibility for a building; (3) the appropriateness of expenditures from a local courthouse construction fund and (4) the amount of a county facility payment. The Department of Finance, however, shall make final determination in these matters.

Core rationale behind the conclusions of the Task Force on Court Facilities as restated in SB 1732	
<ul style="list-style-type: none"> ▪ The judicial branch of state government is wholly responsible for its programs and operations, with the exception of facilities. The judiciary should have the authority, responsibility, and financial capacity for all of the functions related to its operations and staff, including facilities. ▪ Controlling both operations and facilities ensures that all costs are considered when decisions are made, and ensures economical, efficient, and effective court operations. 	<ul style="list-style-type: none"> ▪ The state, being solely responsible for creating new judgeships, drives the need for new court facilities. ▪ Equal access to justice is a key underpinning of our society and the rule of law. It is also a paramount goal of the Judicial Council, the policy-making body of the judicial branch. The state can best ensure uniformity of access to all court facilities in California.

- ✧ **Relief of Ongoing County Responsibility** – Provides that once responsibility for a facility is transferred from a county to the Judicial Council, a county will be relieved of its deferred and ongoing maintenance responsibilities.
- ✧ **Timeline for Transfer** – Provides that negotiations for transfer of responsibility shall take place between July 1, 2003 and June 30, 2007, but states that transfers may not take place earlier than July 1, 2004.
- ✧ **Transfer of Title** – Provides that in most cases title to buildings used solely for court functions shall transfer to the state. Title to historic buildings, shared use buildings, and buildings subject to bond indebtedness may or may not transfer.
- ✧ **Transfer of Responsibility without Transfer of Title** – Responsibility for court facility may transfer whether or not title transfers to the state.
- ✧ **Buildings Subject to Bond Indebtedness** – Provides a process to deal with the transfer of responsibility for buildings subject to bond indebtedness but also recognizes that a county shall retain the revenue used to pay the bond indebtedness.
- ✧ **Judicial Council to Represent State** – Generally recognizes that the Judicial Council shall represent the state in regard to various aspects of negotiations for transfer of responsibility as well as the administration, maintenance, and construction of court facilities after transfer.
- ✧ **Building-by-Building Agreement for Transfer** – Requires that the Judicial Council and a county enter into an agreement for transfer before a transfer of responsibility will occur. These agreements shall be made on a building-by-building basis.

GUIDING PRINCIPLES FOR TRANSITION OF COURT FACILITIES
<p><i>SB 1732 sets forth the guiding principles for the transition and transfer of court facilities.</i></p> <ul style="list-style-type: none"> ➤ Transfer of responsibility should occur as expeditiously as possible and be completed by June 30, 2007. ➤ Transfers shall be negotiated on a building-by-building basis between the state and counties at the local level. ➤ The Judicial Council shall represent the state in local negotiations with counties. ➤ Generally, fee title should transfer when possible; however, other arrangements may be necessary in regard to joint use and historic buildings. ➤ Generally, courts and counties shall agree to transfers unless a building is rejected. ➤ Counties shall not be entitled to compensation for the transfer. ➤ Generally, the state shall accept building on an as-is basis but may reject for serious deficiencies (as defined in Section 70326). ➤ Counties shall provide funding for facility and operation costs to the state based on historic funding patterns through a "county facility payment," which will not increase over time. ➤ A method shall be created to resolve disputes between Judicial Council and counties (as established in Section 70303).



- ✧ **No Payment for Deferred Maintenance** – States that transfer agreements may not require a county payment for a deficiency caused by deferred maintenance. However, agreements may provide that a county corrects other types of deficiencies prior to transfer.
- ✧ **Deficient Buildings** – Provides that a building shall be deemed deficient (and thus rejected for a transfer of responsibility to the state) if a deficiency or deficiencies: (1) constitute a significant threat to life, safety, or health, (2) include seismically hazardous conditions with unacceptable seismic safety ratings, (3) in their totality are significant to the functionality of the facility.
- ✧ **Seismic Inspections and Evaluations** – Requires that the state provide for a licensed structural engineer to conduct a seismic safety inspect and evaluation.
- ✧ **Pending Court Facility Projects** – Provides that the Judicial Council may, as part of a transfer agreement, require completion of a pending court facility project or phase of such a project “to the extent that county funds or property have been allocated, approved, appropriated, or committed to those phases of the project by resolution or ordinance.”
- ✧ **Joint Responsibility for Implementation Procedures** – Requires that the Judicial Council and CSAC (in consultation with the Department of Finance (DOF), counties, and trial courts) develop procedures for implementing the transfer of responsibility, including forms and instructions regarding the county facility payments.
- ✧ **Rights and Protections for Occupants of Shared Buildings** – Provides that occupants of a shared use building shall retain certain rights and protection for the continued use of the building.
- ✧ **Rights, Authorities, and Responsibilities of Parties** – Lists several and varied ongoing rights, authorities, and responsibilities of the Judicial Council, the Administrative Office of the Courts, and counties in regard to transfer buildings.
- ✧ **County Facility Payment** – Requires counties to pay a county facility payment to the state based on the amount the county historically expended for operation, repair, and maintenance of court facilities. Also delineates the process for establishing the county facility payments. However, in no case shall the payment be required until a transfer of responsibility takes place.
- ✧ **New Fees and Penalties** – Provides for a new surcharge (in addition to any other state or local criminal and traffic penalty) and increased civil filing fees to help offset the state’s responsibility for transferred facilities.

SIGNIFICANT FINDINGS OF TASK FORCE ON COURT FACILITIES

The Task Force on Court Facilities recommendations resulted from a lengthy period of evaluation and study of court facilities throughout the state. The study yielded numerous significant findings that influenced, if not directed, the task force’s ultimate recommendations.

- The existing trial court facilities inventory in California includes 451 facilities totaling 10.1 million usable square feet (USF). Approximately 9.0 million USF (89%) are in county-owned buildings and 1.1 million USF (11%) are in commercially leased buildings.
- Most of California’s trial court facilities are housed in mixed-use buildings, and the courts and court-related agencies (such as public defender, district attorney, and probation) are the dominant use in most buildings. The portfolio of evaluated buildings used for courts is aging, with 30% built before 1960 and 72% built before 1980.
- A number of well-designed and maintained courthouses were found that served the court and community well and are an appropriate reflection of the importance of the rule of law in our society. Unfortunately, five buildings were rated deficient based on the evaluation of the physical condition of the building’s core and shell.
- The functional evaluation of buildings indicates significant need for functional improvement of court buildings statewide. Only 45% of all usable area of courts is located in buildings rated functionally and physically adequate and 22% is located in buildings rated functionally deficient.
- Approximately 21% of all courtrooms were rated deficient for their current use, principally due to deficient holding, security, or in-custody access. These security-related deficiencies strongly affect the ability of courts to function in a manner that ensures safety of court participants and the public. The lack of adequate in-custody defendant holding and secure access circulation leads to the transfer of shackled defendants through public circulation areas in some court facilities.
- In addition to county-owned facilities, approximately 1.1 million USF of court space is currently leased at a cost of \$27.6 million per year.
- Sixty-eight (15%) of the 451 existing court facilities are financed, with an estimated annual debt service of \$95.8 million and an average of 14.4 years remaining on the debt.
- The estimated cost for new facilities to meet projected growth through 2020 is \$2,075 million.
- The estimated annual cost for operations, maintenance, and administration is \$140 million per year for all existing trial court facilities
- The estimated total capital cost of the future need is \$2,075 million, or \$103.8 million annually, over a 20-year planning horizon, with a corresponding increase in operations, maintenance, and administration cost of \$4.0 million.



- ✧ **Local Courthouse Construction Funds** – Requires for the transfer of local county courthouse construction funds to a new State Court Facility Construction Fund when responsibility is transferred or when the bond indebtedness paid from the local fund is retired.
- ✧ **Use of Local Courthouse Construction Funds** – Requires each county to report receipts and expenditures from local courthouse construction funds to the Directors of the AOC and DOF. Counties may be required to repay the state for the improper expenditure of local courthouse construction funds.

NEXT STEPS.

A great deal of work will need to be completed over the next several months to ensure proper implementation of SB 1732. The bill specifically requires that CSAC and Judicial Council work jointly to develop procedures for implementing the transfer of responsibility for court facilities and the forms and instructions for the establishment of the county facility payment. These joint efforts will involve a great deal of consultation and collaboration with the Department of Finance, courts, and counties.

CSAC staff has been advised that the Judicial Council, through the efforts of that Administrative Office of the Courts, is currently in the process of marshalling internal staff and resources that it will need to carry out its new responsibilities under the bill. The Council is in the process of developing timelines and schedules for the completion of its new duties.

Counties are urged to review the text and content of SB 1732 and begin the process of assessing the practical impact of the bill. Counties are encouraged to become familiar with the provisions related to the establishment of the county facility payment and their role in the negotiations for transfer of responsibility. Although actual negotiation for transfer of court facilities will not begin until July 1, 2003, the forms and instruction for the determination of the county facility payment will be developed and sent to counties no later than June 30, 2003. It would be extremely useful to both CSAC and AOC staff to gain an understanding of the questions that may be answered by the instructions to be sent to counties.

CSAC staff has completed a number of visits to counties to discuss SB 1732 and other court facility issues. Staff will continue to extend the offer to make these county visits throughout 2003 and beyond. If your county is interested in scheduling a visit, please contact Rubin Lopez at 916/327-7500, ext. 513 or rlopez@counties.org.