

# COURT FACILITY TRANSFER PROCESS

## AB 1491 (Jones, 2008<sup>1</sup>) – Reauthorization Measure Enacted

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**B** **ACKGROUND.** By way of brief background, SB 1732 (Escutia, 2002)<sup>2</sup>, the Trial Court Facilities Act of 2002, set out a framework and procedures for transferring responsibility for court facilities from the counties to the state through negotiated transfer agreements. CSAC jointly sponsored SB 1732 with the Judicial Council. The measure represented the third and final step in centralizing with the state responsibility and authority for court operations, court employees, and court-related facilities. Counties continue to believe that there are important and valid policy reasons for seeing to successful conclusion the historic trial court funding and operational reforms that were begun under the Trial Court Funding Act of 1997 (AB 233, Escutia and Pringle).

When SB 1732 was enacted in 2002, it embodied the consensus recommendations of the Task Force on Court Facilities, including its overarching recommendation that responsibility for trial court facilities be transferred from the counties to the state. While provisions in SB 1732 envisioned that transfers would be concluded before June 30, 2007, an array of challenges and transactional complexities impeded the successful execution of transfer agreements within the time frame originally anticipated.

**R** **EAUTHORIZATION EFFORT.** Efforts to secure an extension to the provisions of SB 1732 during the 2007 legislative year were unsuccessful. As a result, beginning on July 1, 2007, statutory authority to transfer either responsibility or title for court facilities from the counties to the state ceased. Before the transfer deadline lapsed on the final day of June 2007, approximately 115 court facility transfers in over 30 counties were executed. According to the data tracked by the Judicial Council, 11 counties statewide fully completed the transfer process before the June 2007 transfer deadline established in SB 1732.

When the Legislature returned in January 2008, CSAC and the Judicial Council engaged in a joint effort to secure statutory authority to extend the court facility transfer period. Drawing largely from estimated court facility transfer timeframes developed by the AOC and reviewed by counties late, a negotiated framework for the reauthorization measure emerged.

On April 23, 2008, the Governor signed [AB 1491 \(Jones\)](#), the court facility reauthorization bill, into law. Given that it was an urgency measure, the provisions of AB 1491 became effective immediately.

**S** **PECIFIC PROVISIONS.** Briefly, AB 1491 does all of the following:

1. Extends the ultimate court facility transfer deadline to **December 31, 2009**.
2. Establishes “tiers” intended to encourage expeditious transfers, as follows:

TIME PERIOD (BASED ON DATE OF TRANSFER EXECUTION)	DESCRIPTION
Before 9/30/08	County Facility Payment (CFP, which, effectively, is an ongoing Maintenance of Effort paid to the state) is

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<sup>1</sup> Chapter 9, Statutes of 2008.

<sup>2</sup> Chapter 1082, Statutes of 2002.

TIME PERIOD (BASED ON DATE OF TRANSFER EXECUTION)	DESCRIPTION
	calculated pursuant to provisions of SB 1732 (2002) – “standard” CFP
10/1/08 to 3/31/09 (Tier 1)	Standard CFP + inflationary “price” factor (2.4%) <sup>3</sup>
4/1/09 to 12/31/09 (Tier 2)	Standard CFP + State Appropriations Limit (SAL) growth factor (4.95% for transfers executed in 2008–09; 1.41% for transfers executed in 2009-10) <sup>4</sup>
On or after 1/1/10	No further transfer agreements can be executed

3. Establishes a process to suspend the application of the Tier 1 inflator if certain conditions exist, a joint county/AOC certification is signed, and the facility transfer agreement is executed on or before 12/31/08.
4. Provides that a single agreement (rather than one agreement per facility) may be used to execute a “global” transfer agreement for multiple or all court facilities within a county.
5. Corrects an erroneous cross reference.

**IMPORTANT NOTES.** Counties should note the following points regarding the mechanics of how inflators, if applicable, operate.

The Tier 1 and Tier 2 inflators operate independently; a CFP could be subject to one or the other – depending on the date of the transfer execution – but not both. (EXAMPLE: A CFP that accompanies a transfer agreement executed on April 27, 2009, would be escalated only by the Tier 2 inflator of 4.95%.)

Any CFP adjusted by either a Tier 1 or Tier 2 inflator would be calculated as follows:

- BASE (i.e., the “standard” CFP) x INFLATOR (2.4%, 4.95%, **or** 1.41%, depending on the timing of the transfer) = ADJUSTED CFP
- The adjusted CFP would be fixed at that level for the life of the CFP payments.

**QUESTIONS.** For further information on court facilities transfers, counties should contact either Elizabeth Howard ([ehoward@counties.org](mailto:ehoward@counties.org) or 916/650-8131) or Rosemary Lamb ([rlamb@counties.org](mailto:rlamb@counties.org) or 916/650-8116).

<sup>3</sup> An August 2007 letter from the Department of Finance fixes the “price” factor for 2008-09 at 2.4 percent, which will be applicable to any court facility transfers that are subject to the Tier 1 inflator (i.e., those transferred between October 1, 2008 and March 31, 2009). (Source: [Department of Finance 2008-09 Budget Letter Number 07-17, August 16, 2007.](#))

<sup>4</sup> The Governor’s 2008-09 May Revision identifies the SAL growth factor as 4.95 percent, which will be applicable to any court facility transfers subject to the Tier 2 inflator that transfer in Fiscal Year 2008–09. (Source: [Governor’s Budget May Revision 2008-09](#), Section: Statewide Issues, page 81.) In July 2009, Department of Finance officials identified the 2009–10 SAL growth factor as 1.41 percent, which will apply to transfer agreements executed in Fiscal Year 2009–10 (i.e., those transferred on or after July 1, 2009 and on or before December 31, 2009).