



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

Department Name: General Service  
Department No.: 063  
For Agenda Of: September 11, 2007  
Placement: Administrative  
Estimated Tme: N/A  
Continued Item: No  
If Yes, date from:  
Vote Required: Majority

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TO: Board of Supervisors  
FROM: General Services Robert Nisbet, Director (560-1011)

SUBJECT: **Establishing the County's desire to retain ownership of the Historic Santa Barbara County Courthouse in accordance with Government Code 70329**

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:**

**Recommended Actions:**

That the County asserts its right to retain ownership of the Historic Santa Barbara Courthouse in accordance with Government Code Section 70329 by authorizing the Chair to send the attached letter to the Administrative Director of the Courts.

**Summary Text:**

The Lockyer-Isenberg Trial Court Funding Act of 1997, AB 233 (Escutia and Pringle) provides for transfer of the primary obligation for funding of court operations from the counties to the State. The restructuring of funding for trial court operations accomplished by the Lockyer-Isenberg Trial Court Funding Act of 1997 ended a dual system of county and State funding, and created a more stable and consistent funding source for trial court operations. The Trial Court Facilities Act of 2002 was adopted to provide for the transfer of responsibility for funding and operation of trial court facilities from the counties to the state. The County has 18 separate court facilities and 2 leases that must be transferred to the state.

However, the Act contains a provision that specifically allows counties to retain ownership of historic court facilities yet still give up the responsibility for maintenance provided they make the required Facility Payment (CFP). Attached is a proposed letter to be sent to the Administrative Director of the Courts asserting the county's desire to retain ownership, *yet also retain responsibility for maintenance.*

**Discussion:**

Government Code (GC) Section 70329 pertains to historic court buildings and states:

“(a) Title to a historical building containing court facilities may not be transferred to the state without the express consent of the county's board of supervisors.

(b) If title to a historical building containing court facilities is not transferred to the state, the county may still be relieved of its responsibility to fund court facilities under Section 70312 if the county as part of its agreement under this article either:

(1) Makes the court facilities within the historical building available to the Judicial Council for court use...”

The Board has previously directed staff not to transfer the Santa Barbara Courthouse to the State of California and to maintain control over the upkeep of the facility. The Board has previously determined that simply retaining ownership was not enough if the State was responsible for maintenance. The Code allows for the County to retain responsibility for maintenance with the Administrative Office of the Court’s (AOC) concurrence. GC Section 70312 states:

“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 for providing those facilities. The county is also relieved of any responsibility for deferred or ongoing maintenance for the facility transferred, except for the county facilities payment required by Section 70353. Except as otherwise provided by this chapter, or by the agreement between the Judicial Council and the county under this chapter, the Judicial Council shall have ongoing responsibility for providing trial court facilities.”

“Maintenance and Operation” of a facility has been thoroughly defined and categorized in Rule 810 of the California Rules of Court. Essentially, functions have been divided up between those that are the responsibility of the Court (State Allowable Costs), and those that are the responsibility of the counties (State Unallowable Costs). GC Section 70311(a) reiterates this distinction:

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.

This paragraph is referring to “State Allowable Costs”. The attached letter makes it clear that the County is only retaining responsibility for maintenance and operation for activities that the County is currently responsible for under Rule 810. In other words, the County is retaining responsible for those maintenance and operation activities defined as State Unallowable Costs, but is not by way of this letter, or by any interpretation of provision in the Statute, accepting responsibility for operation activities defined as State responsibilities under Rule 810.

Although this distinction may seem irrelevant, it became an imperative to underscore the difference when negotiations with the AOC on the courthouse reached a stalemate. Initially, the county and the AOC sought to consummate this unique arrangement for the Santa Barbara Courthouse through an MOU. Unfortunately, language inserted into the MOU by Superior Courts began to blur the distinction between operations that are the responsibility of the state, and those that are the responsibility of the county under Rule 810. Specifically, language was inserted that would require the county to provide janitorial service in all court facilities indefinitely. Janitorial service is clearly a responsibility of the state under Rule 810. In spite of all efforts to convince the AOC that this requirement is not in accordance with the law, they have refused to eliminate the language.

Fortunately, there is no legal requirement that local retention of historic courthouses be handled through an MOU. The only requirement is that the Board of Supervisors take action to **not** transfer the facility, and that the Judicial Council agree that the county will retain maintenance responsibilities as defined under Rule 810. The vote of the Board and the attached letter should accomplish the desired outcome.

**Performance Measure:**

N/A

**Fiscal and Facilities Impacts:**

The fiscal and facility impacts are as discussed above: The County will retain responsibility for operation and maintenance costs defined as “State Unallowable Costs” under Rule 810; and in return, the County will be relieved of making a Facility Payment to the State.

**Budgeted:** Yes

**Staffing Impacts:**

**Legal Positions:**  
N/A

**FTEs:**  
N/A

**Special Instructions:** Upon execution of the letter, the original should be delivered to General Services to be mailed to the AOC.

**Attachments:** Letter to the Administrative Director of the Courts.