



LACBA

**Los Angeles County
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February 8, 2010

Judicial Council of California
455 Golden Gate Avenue
San Francisco, California 94102

Re: Budget Priorities and California Courts

Dear Council Members:

The Los Angeles County Bar Association ("LACBA") is the largest metropolitan bar association in the United States, having over 25,000 members. I am writing on behalf of LACBA to respond to the recent article authored by Judge Mary Ann O'Malley and Robert Balgenorth, president of the State Building & Construction Trades Council of California.

The premise of the article, that it is more important to create 105,000 construction jobs throughout the state over the next few years, than to keep trial courts in Los Angeles (representing about 28% of the State's trial courts) properly functioning, is of great concern to the lawyers of Los Angeles. In fact, it is very difficult for us to understand why a member of the judiciary would take such a position.

The fiscal crisis is requiring the Los Angeles Superior Court ("LASC") to eliminate (through layoffs and attrition) over 450 staff positions prior to the end of the current fiscal year. By September of this year another 500 people will be laid off. If the crisis is unabated, over the next 2 1/2 years an additional 800 plus of staff will be laid off for a total staff reduction of about 34%. These layoffs and attrition will translate into the closing of courtrooms and courts. Justice in Los Angeles will be significantly diminished and delayed.

The impact on civil litigation will be significant. The impact on LASC's Family and Juvenile courts will be devastating. There has been a consensus for many years that Juvenile and Family Courts have been underfunded by not having their proper share of judicial resources. The *Elkins* Commission confirms this unfortunate situation, and you will have its final report shortly. The business of family and juvenile courts represent the future – the future of families and children -- nothing can be more important for our society. If the crisis is not addressed without delay, the

LASC will lose one-third of its family and juvenile courts. The delays and impact on families and children will be unconscionable.

The Micronomics, Inc. study, with which you have been provided, concludes that the budget allocation reductions already imposed on the LASC will, in current and future years, result in over 155,000 lost jobs, billions of dollars of damage to state and local economies and the legal profession, and lost state and local revenues of over \$1 billion. Is building new court houses in these economic times at the expenses of closing courtrooms and courts worth this price? We think not.

Everyone involved in the administration of justice in California acknowledges that California trial courts must be adequately funded. Now is the time to turn rhetoric into action. The Legislature is not in a position to adequately fund our trial courts. The only resources available to the Judicial Branch as a temporary means of saving our trial courts are SB 1407 and CCMS funds.

We urge you to reject the notion that construction jobs are more important than keeping courtrooms and courts open for the people's business, and to devote an adequate amount of SB 1407 and CCMS funds to the protection of trial court operations.

Respectfully submitted,



Don Mike Anthony
President, LACBA

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CAPITOL WEEKLY

THE NEWSPAPER OF CALIFORNIA GOVERNMENT AND POLITICS

Bad idea: Using court construction funds to cover operational costs

By Mary Ann O'Malley, Bob Balgenorth | 02/04/10 12:00 AM PST

It's no secret that construction workers in California have borne the brunt of the Great Recession. Our state's 12.4 percent unemployment rate remains one of the highest in the country. In the last two years some 300,000 construction workers have been thrown out of work. The construction industry here is facing an alarming 30 percent unemployment rate. These men and women need work. And they need it now.

The economic outlook is bleak, but there is some hope. Two years ago the legislature passed and the governor signed a critical piece of legislation to begin repairing and replacing the most dilapidated and dangerous courthouses in the state without using a single dollar of the state's general fund. SB 1407 provides the revenue from increased fines and fees to support \$5 billion in bonds to construct or renovate 41 courthouses in 34 counties, a mere portion of the most critically necessary projects.

Aging and unsafe court facilities have suffered from years of deferred maintenance. The safety of the people who work in and use these facilities and the quality of our judicial system lie in the balance. As Governor Schwarzenegger said when he signed this bill, "Improving our state's aging court facilities has been an integral part of my promise to Californians to rebuild our infrastructure and increase public safety. This bill not only delivers on that promise to finance desperately needed construction projects, but it will also help create thousands of jobs for California workers."

Nonetheless, there are shortsighted proposals to reduce and delay courthouse construction projects by shifting the revenue from court fees and fines to ongoing operational expenses. Indeed, the presiding judge of the Superior Court of Los Angeles has been urging this tack. In seeking support from business groups and law firms, the presiding judge fails to recognize the critical infrastructure needs that exist throughout the rest of the state. In many cases the courthouse is the only courthouse in the county. Thankfully, 53 out of the 58 presiding superior court judges in the state openly oppose LA's position. In the interest of a functional judiciary system, our infrastructure needs, and a stronger economy, this idea should be rejected.

First, delays in implementation would prolong security risks. In March 2009, a defendant in a Stockton courtroom was shot to death after he attacked the judge with a handmade weapon. No barrier separated the witness stand from the judge's bench, illustrating the direct relationship of security to courthouse design and construction. (A new Stockton courthouse is now in the design phase.) In many of the courthouses to be replaced, in-custody defendants move through the same hallways used by the public, which can easily lead to intimidation of victims, witnesses, and jurors. Inadequate security is a major concern in courthouses that deal with gang-related criminal proceedings. Many courthouses are seismically deficient as well. In fact, several have seismic ratings indicating substantial level of risk to life and safety due to a seismic event.

Implementation of SB 1407 presents an unparalleled opportunity for economic stimulus at a time when the state's economy is at historic lows. The Administrative Office of the Courts estimates that the \$5 billion in construction projects will create 105,000 jobs through direct employment and provide an indirect boost to local economies. The negative impact of delay would be felt throughout the construction industry and related trades.

Lastly, delays would escalate costs. As bad as the current recession is, it also brings a window of opportunity for reduced pricing on land, design, and construction. Assuming typical construction escalation costs, delaying for one year would undermine the state's buying power by an estimated \$300 million. If construction is delayed, cautious private sector participants will increase their bids to mitigate the perceived increased risk of uncertainty in doing business with the State of California. This risk assessment could lead to unnecessary increased costs and reduced buying power.