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FACT SHEET

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Senate Bill 1407—Impacts of Delay Judicial Branch Court Construction Program

Senate Bill 1407 (Stats. 2008, ch. 311), authorized up to \$5 billion in bonds to build or renovate courthouses in 32 counties. These projects are necessary to replace or improve courthouses with the most severe problems—safety and security, structural deterioration, and overcrowding—for the protection of the public, court staff, and judicial officers, and to improve access to justice in California. As noted in Chief Justice Tani Cantil-Sakauye’s Access 3D vision, physical access to justice requires safe, secure, accessible courthouses, open where and when the public needs them.

SB 1407 projects are funded by court users from increased fees, penalties, and assessments that generate approximately \$270 million in annual revenues. However, due to the state’s budget problems that began in 2009, court construction funds were diverted for several years to other needs within the state. These diversions required 11 projects to be indefinitely delayed.

Court Construction Funds Diverted

Since 2009, \$1.8 billion in court construction funds¹ have been used to address the state’s budget shortfall, including:

- Loans to the General Fund totaling \$440 million, for which repayment has been delayed.
- A 2011 redirection of construction funds to the General Fund—not the courts—of \$310 million, more than an entire year’s worth of SB 1407 program revenues.
- A 2012 redirection of \$240 million to court operations, backfilling a General Fund reduction, plus an ongoing \$50 million redirection to begin in fiscal year 2013-14.

¹ The total of \$1.8 billion in court construction funds diverted includes loans and redirections from the State Court Facilities Construction Fund and the Immediate and Critical Needs Account of the State Court Facilities Construction Fund.

- Over the same two years, the Judicial Council redirected a further \$122 million of construction funds to judicial branch operations to soften the impact of General Fund reductions.
- Another \$313 million intended for repairs and enhancements of court facilities was redirected to court operations to backfill for budget reductions to the courts, adding to a significant backlog of deferred maintenance in the judicial branch.
- In fiscal year 2013–2014, the Legislature redirected another \$200 million of court construction funds to court operations to backfill a \$200 million cut in General Fund, delayed repayment of a \$90 million loan, and passed a new requirement that the New Long Beach Courthouse (an average of \$60 million per year for the next 35 years) be paid for with court construction funds.

In response, the judicial branch had to delay the start of design or construction for many projects, cancel 2 courthouse projects, reduce budgets on all others, and indefinitely delay 11 projects.

All of these delays exacerbate the already significant problems associated with our aging and increasingly unsafe facilities. The delays are costly to the state in other ways as well. These delays will:

- Continue to expose the public, judicial officers, and court staff to hazardous conditions posed by structurally unsafe and unsound buildings;
- Prolong risks to the personal safety of the public, judicial officers, and court staff created by security deficiencies in the buildings—one of the primary drivers of need for new facilities;
- Impair the state’s ability to create an estimated 104,000 direct and indirect new jobs, critically needed to put Californians back to work; and
- Cost the state hundreds of millions of dollars in lost buying power.

Physical Risks

California’s courthouses suffer from years of neglect. Courthouses slated for replacement using the funds generated by SB 1407 are unsafe for the public and staff in many ways. They often lack adequate fire alarm systems, emergency evacuation systems, or other basic life safety systems. Many courthouses are seismically deficient and could be condemned, or worse, collapse in a moderate earthquake—a recent example of the risks posed by seismically deficient courthouses is the August 2014 magnitude 6.0 earthquake centered on Napa, which resulted in damage and closure of the historic Napa Superior Courthouse.

Roofs and windows leak, often causing severe water damage and, in some cases, indoor air-quality hazards. Aging and outdated systems—elevators, power, heating and ventilation, plumbing—fail frequently, hindering already backlogged court operations and affecting the public’s timely access to justice.

Delaying replacement of and repairs to these buildings extends hazards that have long been identified as unacceptable. For example, in Los Angeles County, the Mental Health Courthouse (a former pickle factory) has no physical capacity to properly hear specialized cases, such as when patients attend court and must remain on a gurney. Judicial officers and court staff must conduct those proceedings in the sallyport area, which is open to public view and the delivery location for in-custody court participants.

Security Risks

The courthouse projects authorized by SB 1407 are the most immediately and critically needed in the state. Delaying construction prolongs many risks to public safety.

The antiquated physical layout of many courthouses creates security risks. These buildings need to be replaced or remodeled to eliminate or reduce the danger. A March 2009 incident in a Stockton courtroom, in which a defendant was shot to death after he attacked the judge with a handmade weapon, illustrates courtroom security challenges and highlights the need for modern, secure courthouses. In many courthouses, in-custody defendants move through the same hallways used by the public. This leads to intimidation of victims and witnesses and to contamination of jurors. Many courthouses lack space for attorneys to confer confidentially with clients. In the El Dorado Courthouse, for example, the public defender must confer with clients in the open holding cell or in the ladies’ room. Inadequate security is also a major concern in courthouses that deal with gang-related criminal proceedings. These problems illustrate why the Judicial Council prioritized security in the planning for new and renovated courthouses.

Jobs Impact

At a time when the state’s economy needs new jobs, the SB 1407 court construction program presents an unparalleled opportunity for economic stimulus. The \$5 billion of construction originally authorized by SB 1407 was estimated to create over 100,000 jobs through direct employment and the related boost to local economies.

Many SB 1407 projects are in areas experiencing protracted high unemployment, such as Riverside, Imperial, and Stanislaus Counties. The impacts of delay will be

felt throughout the construction industry and related trades, including both skilled and unskilled labor.

Escalating Costs

The construction market is starting to improve, and the sooner courthouse projects are designed and bid, the lower the cost to the state. Repeated delays likely will cause cautious private sector participants to increase their bids to mitigate the perceived increased risk of uncertainty in doing business with the State of California. In addition, this program has benefited from historically low interest rates, resulting in lower long-term costs of construction, which is typically financed rather than cash funded. Financing construction now—while the financing costs are relatively low—makes the most of the historic low borrowing rates.

Judicial Branch Oversight

The Judicial Council, under the leadership of the Chief Justice, has taken action to ensure that the program is well-managed:

- July 2011: The Chief Justice created the Court Facilities Working Group to oversee the judicial branch facilities program. The 21-member panel, chaired by Administrative Presiding Justice Brad R. Hill of the Court of Appeal, Fifth Appellate District in Fresno, includes judicial officers, court executives, and experts in public building programs.
- December 2011: The Judicial Council accepted the working group's first recommendations, which included canceling two courthouse projects and reducing costs on all others.
- Early 2012: The working group engaged an independent expert firm, Pegasus-Global Holdings Inc., to audit the court construction program. All of the auditor's recommendations have been or are being implemented.
- April 2012: The Judicial Council adopted a cost-reduction plan for SB 1407 projects. This effort is ongoing, but already has identified more than \$380 million in budget savings.
- October 2012: Because of funding sweeps and redirections, the Judicial Council indefinitely delayed seven courthouse projects.
- January 2013: The Judicial Council indefinitely delayed four projects, including the Sacramento Criminal Courthouse, as a result of the fiscal year 2013–2014 Budget Act, which requires payment of the annual service fee for the Governor George Deukmejian Courthouse in Long Beach from SB 1407 funds. The project was originally planned to be funded from the General Fund. It also broadened oversight of facility modifications and maintenance by another group of judges and court executives through the Trial Court Facility Modification Working Group.

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- February 2013: The Judicial Council delayed the start of design on 10 projects until fiscal year 2014–2015 due to a one-time \$200 million cut from the General Fund.
- July 2014: The Judicial Council sponsored legislation (AB 1476) signed by the Governor to appropriate design funds for the new Sacramento Criminal Courthouse with SB 1407 funds

Courthouse Project Delays

Construction fund diversions are crippling progress on many essential courthouses:

Indefinitely delayed by Judicial Council, Oct 26, 2012	
County	Project Name
Kern	New Delano Courthouse
	New Mojave Courthouse
Los Angeles	New Glendale Courthouse
	New Santa Clarita Courthouse
Monterey	New South Monterey County Courthouse
Placer	New Tahoe Area Courthouse
Plumas	New Quincy Courthouse

Delayed to fund new Long Beach Courthouse, July 1, 2013	
County	Project Name
Fresno	Renovate Fresno County Courthouse
Los Angeles	New Southeast Los Angeles Courthouse
Nevada	New Nevada City Courthouse
Sacramento	New Sacramento Criminal Courthouse Site acquisition was approved to proceed and the site was acquired in July 2014. Consistent with Judicial Council action of July 2014, AB 1476 authorized funds for design, which is underway.

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More information:

VIDEO: California Courthouse Construction: Immediate and Critical Needs:
<http://youtu.be/h1rPymFWCWU>

Judicial Branch Facilities Program: www.courts.ca.gov/programs-facilities.htm

Court Facilities Advisory Committee: www.courts.ca.gov/15693.htm