

Transfer of county courthouses to state is behind schedule

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When legislation first paved the way for the state to take responsibility for California's 451 county courthouses, many in disrepair, officials were given three years to do the job. But with the deadline now two months away, only a few dozen courthouses — 49 by mid-April — have actually shifted to state control.

"It was just more complicated and time-consuming than many people thought initially," said Rubin Lopez, who recently retired from the California State Association of Counties (CSAC) and was hired back as a consultant to help with the transfer process. "We were way over-optimistic in the time frame."

CSAC and California's Judicial Council are currently seeking urgency legislation (SB 145, Corbett) to extend the June 30 transfer deadline to Dec. 31, 2008. In addition, Sen. Ellen Corbett has asked groups of local court and county officials to explore ways of streamlining the transfer process.

Complicated building-by-building negotiations, extensive paperwork, shared facilities issues, poor seismic safety ratings, liability problems and, in some counties, an initial reluctance have all been blamed for bogging down the process.

But the tide may be turning, officials say. Most of the completed transfers have taken place in the last four months. And state court officials hope to have 100 facilities transferred by the end of June and another 200 completed by mid-2008.

Legislation signed last fall (SB 10-Dunn) lifted one large hurdle. Previously, the state could not assume responsibility for court facilities that had a "level V" (on a I to VII scale) seismic safety rating. Buildings with unacceptable ratings, however, housed more than half of California's court space. And officials in some counties were not interested in transferring any of their facilities if even one was unacceptable.

“What it did was just shut down negotiations,” said Eraina Ortega, a governmental affairs manager for the state’s Administrative Office of the Courts (AOC). “It was a big cloud hanging over the transfer discussions.”

Senate Bill 10, however, revised the Trial Court Facilities Act of 2002 (SB 1732) to allow the transfer of such buildings as long as the county agrees to retain any existing liability for earthquake-related damage for 35 years or until the courthouse is repaired or replaced.

In building-by-building negotiations with the AOC, county officials have three options: transfer of title, transfer of responsibility or an MOU for continued use of a historic facility. Then, once an agreement is struck, the county continues to pay a facilities maintenance fee. But as part of the trade-off, the flat fee — based on certain historic local payments — will never be increased.

CSAC officials point out that counties are required by law to provide suitable court facilities. And the cost of doing so is only going to rise — unless they turn the job over to the state. Counties will have to “weigh out if it makes sense to them,” says Lopez, but he sees a potential boon. “I think the counties that have jumped,” he said, “are going to recognize that they have one less headache.”

Five years ago, the court transfer legislation capped a string of landmark structural changes that have in recent years transformed California’s courts from primarily county-supported operations into a single system funded and operated by the state.

At the time, an extensive study also found that more than half of the state’s court space was in functionally marginal or deficient buildings. Many were aging, overcrowded facilities that lacked security. Courts could be found stashed in cramped trailers with no running water. At one, a mop closet served as a judge’s chambers. In another, sewage seeped through the ceiling. And in still another, a children’s waiting room was closed due to extremely high levels of mold.

“With funding of the court system now a state responsibility, and with the many competing demands upon county government, the lack of local interest and

ability to allocate scarce resources to courthouses is understandable,” Chief Justice Ronald M. George told legislators in February. “But many decades of neglect have left the infrastructure of the court system in a very precarious condition.”

Nobody is expecting a quick fix. But a multibillion-dollar renovation and rebuilding plan is in place. The long-range plan, based on master plans from all 58 counties, prioritizes 181 improvement projects — 94 new courthouses, 45 renovations and 42 court expansions — at an estimated cost of more than \$9 billion.

So far, funding for such projects has come from the state’s court construction fund, the general fund and local sources. But Gov. Arnold Schwarzenegger recently proposed a \$2 billion bond issue for court construction as part of a strategic growth plan — another reason why court officials hope to complete the transfers by 2008. Such funding could only be spent on courthouses already under the state umbrella. “We don’t want to be in a position of having to skip immediate-need projects,” said Kim Davis, director of AOC’s Office of Court Construction and Management.

Some see the shift to state control as an opportunity to help put California’s courts on more equal footing — and, in turn, to improve equal access to justice statewide.

Take Merced County, for example. Failed efforts for a new courthouse span back three decades. Eventually, Merced’s court complex expanded into a hodgepodge of buildings and trailers, including one without running water. There were 19 court entrances at one point — too many to monitor. And up until three years ago, lines of prisoners were regularly led in chains across parking lots and down public sidewalks to court.

“We were dependent on our county for facilities,” said Kathie Goetsch, Merced County’s court executive officer. “But there are competing interests for our dollars and we never got them. We never had the priority.”

With Merced's court officials pledging to use court funds for the down payment and future mortgage payments, the county eventually agreed to take out a construction loan — only it was \$3 million short. "A lot of people were throwing in the towel," Goetsch recalls.

But then the state stepped in with the \$3 million and, last month, a new 57,000-square-foot Merced courthouse finally opened its doors. Seven smaller facilities, including the trailers, were vacated. The state bought out a wing in one remaining courthouse and is planning to remodel. And two new much-needed judges will arrive in June.

Plumas County Court Executive Officer Debbie Norrie points out that AOC's resources and real estate expertise alone are a big help to counties with small courts. Plumas County, whose Portola courthouse was rated the "worst" in the state, is working with the AOC on plans for a new, state-funded courthouse that will be shared with neighboring Sierra County. "We couldn't possibly have done this work ourselves," Norrie said.

Portola's existing courthouse features a cramped, leaky courtroom with a homemade bench and, until recently, plastic lawn chairs. Visitors often have to wait outside in the snow. And in the event of trouble, the closest help is several blocks away — a sheriff's substation that may or may not be manned.

Still, court officials in some counties are frustrated by the slow-moving process — and by their lack of a seat at the bargaining table. And some question whether the state will have any better luck than the counties in coming up with funding.

Ortega can understand the frustration of being one of 58 counties in line for improvements. But she points to proposed state funding for nine new court projects this year alone. "I do think the state has made a commitment to improve court facilities," she said. "That incremental process has given us progress."