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STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Pre-Print RECOMMENDATION

Trial Court Restructuring Clean-Up: Regional Justice Facilities Acts

Note: This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

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SUMMARY OF RECOMMENDATION

California's trial court system was dramatically restructured around the turn of the century. As a result, hundreds of provisions throughout the codes became obsolete, in whole or in part.

At the request of the Legislature, the Law Revision Commission has been reviewing the codes and recommending revisions to remove material made obsolete by trial court restructuring. The Commission has done extensive work on this legislative assignment over the years, but more work remains to be done.

Among other things, the codes include the following Acts:

- The San Joaquin County Regional Justice Facility Financing Act (Gov't Code §§ 26290-26293.4).
- The Orange County Regional Justice Facilities Act (Gov't Code §§ 26295-26298.58).
- The County Regional Justice Facilities Financing Act (Gov't Code §§ 26299.000-26299.083), which applies to Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties.

These Acts (collectively, the "Regional Justice Facilities Acts") contain material that appears to be obsolete due to trial court restructuring. The Acts also contain legislative findings about the condition of local justice facilities from over thirty years ago, as well as other material that might be outdated.

Revising the Acts to reflect current conditions would require considerable effort and call for various policy decisions. Such an undertaking appears unnecessary, however, because outreach to the affected courts and counties revealed little interest in retaining the Regional Justice Facilities Acts, which have never been used for their intended purposes.

The Commission thus recommends that the Regional Justice Facilities Acts be repealed. They do not appear to be needed and retaining them in the codes could lead to occasional wasted efforts or confusion.

This recommendation was prepared pursuant to Government Code Section 71674 and Resolution Chapter 158 of the Statutes of 2018.

TRIAL COURT RESTRUCTURING CLEAN-UP: REGIONAL JUSTICE FACILITIES ACTS

California made several major reforms of its trial court system around the turn of the century. Those reforms necessitated extensive statutory revisions, throughout the codes. At the request of the Legislature, the Law Revision Commission has been reviewing the codes and recommending revisions to remove material made obsolete by trial court restructuring. Over the years, many bills have been enacted to implement its recommendations, but there is still work to be done.

This recommendation focuses on three statutes in the Government Code relating to funding for regional justice facilities (hereafter, the "Regional Justice Facilities Acts").[1] Those statutes contain material that is obsolete due to developments stemming from trial court restructuring, particularly a shift in responsibility for court facilities.

Updating that material would require significant effort and entail policy decisions that might be beyond the Commission's authority. As explained below, however, such analysis appears to be unnecessary due to an apparent lack of interest in retaining the Regional Justice Facilities Acts. The Commission thus recommends that they be repealed.

This report begins by summarizing the trial court restructuring reforms and the Commission's role in that process. It then describes the Regional Justice Facilities Acts, as well as a few constitutional challenges to those statutes. Lastly, the Commission explains why those Acts should be repealed as obsolete.

Trial Court Restructuring and the Commission's Role

The restructuring of California's trial court system was extensive, complex, and occurred in several stages, as explained below.

Former Structure

In the late 1990's, California had two types of trial courts: municipal courts (with limited jurisdiction) and superior courts (with jurisdiction of all other cases).[2] Both types were county-operated, received county funding, and were

1. Gov't Code §§ 26290-26293.4 (San Joaquin County Regional Justice Facility Financing Act), 26295-26298.58 (Orange County Regional Justice Facilities Act), 26299.000-26299.083 (County Regional Justice Facilities Financing Act). Unless otherwise indicated, all further statutory references in this recommendation are to the Government Code.

2. See former Cal. Const. art. VI, §§ 4, 5, 10, which are reproduced in *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1, 21 (1994) (hereafter, "*TCU: Constitutional Revision*"). California also had justice courts until the mid-1990's, when they were eliminated statewide pursuant to a ballot measure approved by the voters. See 1994 Cal. Stat. res. ch. 113 (SCA 7 (Dills)) (Prop. 191, approved Nov. 8, 1994).

largely staffed with county employees.[3] Trial court facilities were owned, constructed, and maintained by the counties.[4]

Key Structural Changes

Around the turn of the century, three major reforms occurred:

- *Lockyer-Isenberg Trial Court Funding Act*. Under this 1997 legislation,[5] the state assumed full responsibility for funding trial court operations.[6] The goal was to eliminate disparities in funding from county to county, helping to ensure equal service in courts across the state.[7]
- *Trial court unification*. In 1998, the voters approved a measure that permitted trial court unification on a county-by-county basis: On a vote of a majority of the municipal court judges and a majority of the superior court judges in a county, the municipal and superior courts in that county could unify their operations in the superior court.[8] By early 2001, the trial courts in all of California's 58 counties had unified.[9] Each county now has a unified superior court, which handles all trial court operations in that county.
- *Enactment of the Trial Court Employment Protection and Governance Act ("TCEPGA")*. This legislation was enacted in 2000.[10] It established a new personnel system for trial court employees, in which they are employed by the superior court itself (not by the county or the state).[11]

Follow-Up Legislation on Court Facilities

The reforms described above did not directly resolve the fate of trial court facilities. Instead, the Trial Court Funding Act created a task force "to review and report the status of court facilities throughout the state, and to make recommendations for specific funding responsibilities among the entities of

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Any California Law Revision Commission document referred to in this report can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

3. See, e.g., Senate Committee on Judiciary Analysis of AB 233 (June 10, 1997); *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 76-79 (1998) (hereafter, "*TCU: Revision of Codes*"); J. Clark Kelso, Analysis of Existing Court Staffing Statutes (DRAFT: Jan. 24, 2000) (on file with Commission).

4. See, e.g., *Statutes Made Obsolete by Trial Court Restructuring: Part 2* (hereafter, "*TCR: Part 2*"), 33 Cal. L. Revision Commission Reports 169, 177 (2003) ("Court facilities have historically been county structures.").

5. 1997 Cal. Stat. ch. 850; see generally Sections 77000-77655.

6. See Section 77200.

7. See Section 77100(c)-(d).

8. See 1996 Cal. Stat. res. ch. 36 (SCA 4 (Lockyer)) (Prop. 220, approved June 2, 1998).

9. See https://www.courts.ca.gov/documents/unidate.pdf.

10. 2000 Cal. Stat. ch. 1010; see generally Sections 71600-71675.

11. See, e.g., Senate Committee on Judiciary Analysis of SB 2140 (May 9, 2000).

government (i.e., state and/or county) with regards to court facilities maintenance and construction."[12]

The task force visited court facilities throughout the state and submitted its final report to the Legislature in 2001.[13] Its overarching recommendation was that "responsibility for trial court facilities funding and operation be shifted from the counties to the state."[14]

The task force gave four main reasons for that recommendation, which the Legislature endorsed in the Trial Court Facilities Act, enacted in 2002.[15] A key theme was that *the judiciary* should control both court operations and court facilities:

> (1) The *judicial branch* of government is now wholly responsible for its programs and operations, with the exception of trial court facilities. The *judiciary* should have the responsibility for all of its functions related to its operations and staff, including facilities.
>
> (2) *Uniting responsibility for operations and facilities* increases the likelihood that operational costs will be considered when facility decisions are made, and enhances economical, efficient, and effective court operations.
>
> (3) The state, being solely responsible for creating new judicial positions, drives the need for new court facilities.
>
> (4) Equal access to justice is a key underpinning of our society and the rule of law. It is also a paramount goal of the Judicial Council, the policymaking body of the judicial branch. The state can best ensure uniformity of access to all court facilities in California.[16]

Consistent with those findings, the Trial Court Facilities Act grants the judicial branch broad authority with respect to court facilities, while still ensuring that other voices are heard and taken into account.[17]

Of particular importance, the Trial Court Facilities Act set a deadline for each county to negotiate agreements transferring its court facilities (and responsibility for maintaining those facilities) to the state.[18] The court facility transfers took longer than expected, but were essentially completed by the end of 2009.[19]

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12. Senate Committee on Judiciary Analysis of SB 1732 (April 16, 2002), p. 1.

13. See Section 77654; Senate Committee on Judiciary Analysis of SB 1732 (April 16, 2002), p. 2.

14. 2002 Cal. Stat. ch. 1082, § 1 (legislative findings for Trial Court Facilities Act).

15. 2002 Cal. Stat. ch. 1082 (SB 1732 (Escutia)); see generally Sections 70301-70403.

16. 2002 Cal. Stat. ch. 1082, § 1 (emphasis added). For further background on the Trial Court Facilities Act, see Assembly Committee on Judiciary Analysis of SB 1732 (June 25, 2002); Senate Committee on Judiciary Analysis of SB 1732 (April 16, 2002).

17. See, e.g., Section 70391.

18. See former Section 70321 (2002 Cal. Stat. ch. 1082, § 4).

19. See, e.g., Section 70321.

Role of the Law Revision Commission in Trial Court Restructuring

At the direction of the Legislature, the Law Revision Commission was involved in trial court restructuring from the outset. In 1993-94, the Commission helped to draft the constitutional revisions necessary to accomplish trial court unification.[20] It later drafted the extensive statutory revisions necessary to accommodate county-by-county unification.[21]

After the trial courts in all counties unified, the Commission prepared a massive report proposing further statutory revisions (and a few constitutional revisions) to reflect the elimination of the municipal courts. As requested by the Legislature, that 2001 report also included proposed legislation to reflect the enactment of the Trial Court Funding Act and the TCEPGA.[22]

Since then, the Commission has continued to review the codes and periodically recommend revisions to reflect trial court unification, enactment of the Trial Court Funding Act, and enactment of the TCEPGA.[23] Virtually all of the Commission's proposed legislation on trial court restructuring has become law.[24]

Throughout this work, the Legislature, the Governor, and the general public made the key policy decisions; the Commission was not involved in such decision-making. Instead, the Commission's role was to use its drafting expertise to conform the codes and the California Constitution to the new policies governing California's trial court system, without disrupting other existing policy choices.[25]

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20. See *TCU: Constitutional Revision, supra* note 2; see also 1993 Cal. Stat. res. ch. 96; *Trial Court Unification: Transitional Provisions for SCA 3,* 24 Cal. L. Revision Comm'n Reports 627 (1994).

21. See *TCU: Revision of Codes, supra* note 3; see also 1997 Cal. Stat. res. ch. 102; 1998 Cal. Stat. res. ch. 91; *Report of the California Law Revision Commission on Chapter 344 of the Statutes of 1999 (Senate Bill 210)*, 29 Cal. L. Revision Comm'n Reports 657 (1999).

22. See *Statutes Made Obsolete by Trial Court Restructuring: Part 1,* 32 Cal. L. Revision Comm'n Reports 1 (2002) (hereafter, "*TCR: Part 1*").

23. For a list of the Commission's recommendations on trial court restructuring, see *Statutes Made Obsolete by Trial Court Restructuring (Part 6): Court Facilities,* 46 Cal. L. Revision Comm'n Reports 25, 34 n.26 (2019) (hereafter, "*TCR: Court Facilities"*). See also *Trial Court Restructuring Clean-Up: Obsolete "Constable" References,* 45 Cal. L. Revision Comm'n Reports 441 (2018); *Trial Court Restructuring Clean-Up: Task Force on Trial Court Employees,* 46 Cal. L. Revision Comm'n Reports 1 (2019); *Trial Court Restructuring Clean-Up: Obsolete References to Marshals,* 46 Cal. L. Revision Comm'n Reports 105 (2019).

The Commission has also completed work on a set of legislatively-mandated projects that derived from its work on trial court unification. See *Trial Court Restructuring Clean-Up: Completion of Studies Under Government Code Section 70219,* 47 Cal. L. Revision Comm'n Reports __ (2020).

24. For details, see *TCR: Court Facilities*, *supra* note 23, at 35, n. 27. The proposed legislation in the 2018 and 2019 reports cited in note 23 *supra* was introduced in 2020 as Assembly Bill 1984 (Maienschein).

25. See *TCU: Constitutional Revision, supra* note 2, at 13 ("The Commission has not been authorized to report to the Legislature concerning the wisdom or desirability of trial court unification, and has not considered the question."); *TCU: Revision of Codes, supra* note 3, at 60 ("[T]he Commission has narrowly limited its recommendations to generally preserve existing procedures in the context of unification. The objective of the proposed revisions is to preserve existing rights and procedures despite unification, with no disparity of treatment between a party appearing in municipal court and a similarly situated party appearing

Because court facilities issues were unsettled, the Commission did not address such issues in its 2001 report or shortly thereafter.[26] Recently, however, the Commission turned to those issues and finalized a recommendation on how to update various court facility provisions to reflect the trial court restructuring reforms, including the enactment and implementation of the Trial Court Facilities Act.[27]

The Commission examined the Regional Justice Facilities Acts in preparing that new recommendation, but decided to address them separately because they raised special issues. Those three statutes and their history are described next.

Regional Justice Facilities Acts

"Part 2. Board of Supervisors" of Division 2 of Title 3 of the Government Code includes three adjacent chapters relating to "regional justice facilities":

- The San Joaquin County Regional Justice Facility Financing Act (Sections 26290-26293.4) (reproduced at pages 17-21) (hereafter, the "San Joaquin County Act").
- The Orange County Regional Justice Facilities Act (Sections 26295-26298.58) (reproduced at pages 21-32) (hereafter, the "Orange County Act").
- The County Regional Justice Facilities Financing Act (Sections 26299.000-26299.083) (reproduced at pages 32-43) (hereafter, the "Multi-County Act"). This Act pertains to Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties.[28]

These Acts were all enacted in the late 1980's. As discussed below, they are similar, but not identical, in content.

Description of the Acts

Each of the Regional Justice Facilities Acts contains a provision with legislative findings and declarations, which state that it is in the public interest to:

(1) Address overcrowding of local jails and court facilities.

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in superior court as a result of unification of the municipal and superior courts in the county."); 2000 Cal. Stat. ch. 1010, § 14 (enacting Section 71674, which only directed Commission to "determine whether any provisions of law are obsolete as a result of the enactment of [the TCEPGA], the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 …, or the implementation of trial court unification, and … recommend to the Legislature any amendments to remove those obsolete provisions."); 2002 Cal. Stat. ch. 784, § 360 (amending Section 71674 to continue Commission's authority to "determine whether any provisions of law are obsolete as a result of the enactment of [the TCEPGA], the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 …, or the implementation of trial court unification, and … recommend to the Legislature any amendments to remove those obsolete provisions.").

26. See *TCR: Part 1, supra* note 22, at 21; *TCR: Part 2, supra* note 4, at 176-77.

27. See *TCR: Court Facilities*, *supra* note 23.

28. See Section 26299.007.

(2) Create, or authorize the creation of, a new governmental entity with responsibilities relating to regional justice facilities.

(3) Allow voters to decide whether to impose a countywide tax to fund regional justice facilities.

For example, Section 26295.2 in the Orange County Act states:

> 26295.2. The Legislature hereby finds and declares that the existing state of overcrowding in jails and court facilities in Orange County is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house them. The Legislature further finds and declares that it is in the public interest to create the Orange County Regional Justice Facilities Commission so that regional justice facility needs may be addressed in an expeditious and appropriate fashion on a countywide basis. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a general tax for the general governmental purposes of the Orange County Regional Justice Facilities Commission.[29]

Consistent with the legislative findings, each Act provides for creation of a new governmental entity and specifies its composition, powers, duties, limitations, and other attributes. For example, the Orange County Act creates the Orange County Regional Justice Facilities Commission (hereafter, "Orange County Commission"), comprised of two members of the board of supervisors, two members of city councils in the county, and one other citizen.[30] The Orange County Commission is responsible for soliciting proposals for "adult and juvenile detention facilities and courthouse facilities" in the county and then developing a "master plan."[31]

Subject to specified limitations, the "master plan" may include, but is not limited to, all of the following:

> (a) The adult detention facilities to be constructed, furnished, acquired, maintained or operated throughout the county.
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> (b) The juvenile detention facilities to be constructed, furnished, acquired, maintained, or operated throughout the county.
>
> (c) The *courthouse facilities* to be constructed, furnished, acquired, maintained, or operated throughout the county.
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> (d) The time schedule according to which the facilities referenced in subdivisions (a), (b), and (c) shall be constructed, furnished, or acquired.
>
> (e) Projections of revenues, including revenues expected to be derived from the tax provided for in this chapter, together with other federal, state, and local funds, and funds from the sale of bonds under this chapter, and expenditures for capital,

29. The corresponding provisions in the other Acts are Section 26290.1 (San Joaquin County Act) and Section 26299.001 (Multi-County Act).

30. See Section 26296.2.

31. See Section 26297.1.

> maintenance, and operations purposes for adult and juvenile detention facilities and *courthouse facilities* purposes.
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> (f) Those other requirements as the commission, in carrying out its responsibility for the provision of detention and *court facilities and services*, deems necessary and appropriate.[32]

The Orange County Commission has "no power to determine the geographic locations at which any of the detention or court facilities … shall be sited or the design or construction standards which shall apply to those detention or court facilities."[33] For purposes of allocating revenues pursuant to the tax feature of the Act, "the commission shall coordinate the *construction, furnishing, acquisition, maintenance, and operation of all* adult and juvenile detention facilities and *courthouse facilities within the county pursuant to the master plan*."[34]

The tax in question is a retail transactions and use tax, which is intended to "supplement existing local revenues being used for the development of adult and juvenile detention facilities and courthouse facilities within the county."[35] Orange County and cities within it are "encouraged to maintain their existing commitment of local funds for adult and juvenile detention facilities and courthouse facilities purposes."[36] The retail transactions and use tax must be approved by the Orange County voters at an election.[37] Voter approval is also necessary for the Commission to issue bonds payable from the proceeds of the tax.[38]

The San Joaquin County Act and the Multi-County Act differ from the above-described Orange County scheme in some respects. For example, the San Joaquin County Act only pertains to "construction and acquisition of adult detention facilities, sheriff facilities, *functionally related court facilities,* and structures necessary or convenient thereto."[39] A "functionally related court facility" is "a court facility that is used solely for criminal prosecutions and handling inmates."[40]

The entity created by the San Joaquin County Act is the San Joaquin County Regional Justice Facility Financing Agency, comprised of two members of the board of supervisors, two public members, and the local sheriff.[41] That entity has broad powers to implement the master plan for "construction and acquisition of adult detention facilities, sheriff facilities, functionally related court facilities, and

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32. Section 26295.12 (emphasis added).
33. Section 26295.14(c).
34. Section 26297 (emphasis added).
35. Section 26298.
36. *Id*.
37. See Sections 26298.2-26298.10.
38. Section 26298.12.
39. Section 26290.6 (emphasis added).
40. Sections 26290.8.
41. See Sections 26291, 26291.1.

structures necessary or convenient thereto,[42] but the master plan is to be developed and approved by the board of supervisors.[43] The master plan may include, but is not limited to, the following:

> (a) The number of adult detention facilities, sheriff facilities, functionally related court facilities, to be constructed, furnished, or acquired.
> (b) The geographic location at which the facilities referenced in subdivision (a) shall be sited.
> (c) The time schedule according to which the facilities referenced in subdivision (a) shall be constructed, furnished, or acquired.
> (d) Construction standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.
> (e) Design standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.
> (f) Those other requirements as the board of supervisors, in carrying out its responsibility for the provision of regional detention services, deems necessary and appropriate.[44]

The corresponding provision in the Multi-County Act is closely similar, but it refers simply to "court facilities," not "functionally related court facilities." Further, the Multi-County Act does not actually create any new governmental entity. Rather, it authorizes each county covered by the Act (Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties) to create a "county regional justice facilities financing agency" if the local board of supervisors finds that it is in the public interest to do so.[45] The rules regarding composition of the board of a county regional justice facilities financing agency are different from, and more complicated than, the corresponding rules under the San Joaquin Act and the Orange County Act.[46] There are also various other distinctions between the three Acts, but this description should suffice for present purposes.

Constitutional Challenges

Soon after enactment of the Orange County Act and the Multi-County Act, the Howard Jarvis Taxpayers' Association challenged those Acts as "unconstitutional and invalid as in conflict with article XIII A, section 4 of the California Constitution (Proposition 13)."[47] As originally enacted, the Acts only required a

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42. See, e.g., Sections 26291.7, 26291.8.

43. Section 26290.6.

44. *Id*.

45. See Section 26299.020.

46. See Section 26299.021.

47. Howard Jarvis v. Taxpayers' Ass'n v. Board of Equalization, 20 Cal. App. 4th 1598, 1601, 25 Cal. Rptr. 2d 330 (1993).

majority vote (not a 2/3 vote) in favor of the tax for each county. The trial court held that unconstitutional and the defendants appealed.

While the *Howard Jarvis* appeal was pending, the Legislature amended the Acts to provide an *option* of requiring a 2/3 vote instead of a majority vote.[48] In addition, Los Angeles County (with permission from the court of appeal) conducted a vote on a justice facilities tax. The voters rejected the proposed tax by an almost two-to-one margin.[49] Orange County held a similar election and the voters rejected the proposed justice facilities tax by an almost three-to-one margin.[50]

The court of appeal issued its decision in *Howard Jarvis* in late 1993. Because the Legislature had amended the Acts to include an option for a 2/3 vote, the court of appeal declined to declare the Acts altogether void. Instead, it ruled that any tax ordinance under the Acts "is invalid *if* it is not approved by at least two-thirds of the county's voters, as required by Proposition 13."[51]

In reaching that conclusion, the court of appeal relied on the California Supreme Court's 1991 decision in *Rider v. County of San Diego*,[52] which held that a similar tax under the San Diego Regional Justice Facility Financing Act (hereafter, "the San Diego Act") violated Proposition 13.[53] Unlike the versions of the Orange County Act and Multi-County Act in the *Howard Jarvis* appeal, the San Diego Act did not include an option for a 2/3 vote.[54] The Legislature repealed the invalidated San Diego Act in 1993.[55]

In contrast, the Legislature did not make any changes to the Orange County Act or the Multi-County Act shortly after the *Howard Jarvis* decision. Fourteen years later, however, it amended those Acts to *require* a 2/3 vote.[56] The same 2007 bill also amended the San Joaquin Act and ten other statutes (unrelated to court facilities) in a similar manner, because they appeared potentially vulnerable on the

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48. 1990 Cal. Stat. ch. 527, §§ 1, 2, 3.

49. *Howard Jarvis,* 20 Cal. App. 4th at 1602 n.2.

50. *Id.*

51. *Id.* at 1605-06 (emphasis added). The court of appeal recognized one exception to the 2/3 vote requirement: It did not apply to any prevention program under the Multi-County Act. See *id.* at 1606.

52. 1 Cal. 4th 1, 820 P.2d 1000, 2 Cal. Rptr. 2d 490 (1991).

53. See *id.* at 4 (retail transaction and use tax imposed for purpose of financing construction and operation of criminal detention and/or courthouse facilities in San Diego County "is invalid because it was not approved by at least two-thirds of the County's voters, as required by section 4").

54. See Rider v. County of San Diego, 1 Cal. 4th 1, 820 P.2d 1000, 2 Cal. Rptr. 2d 490 (1991).

55. See 1993 Cal. Stat. ch. 1060, § 1 (SB 263 (Melo & Killea)), repealing former Gov't Code §§ 26250-26285).

56. See 2007 Cal. Stat. ch. 343, §§ 9.2, 9.3 (SB 144 (Committee on Local Government)). This bill made a 2/3 vote mandatory, but it did not delete Sections 26298.2(b) and 26299.041(b)-(d), which permit a 2/3 vote as an alternative procedure. That appears to have been an oversight.

same constitutional grounds.[57] In addition, the bill (the Local Government Omnibus Act of 2007) made numerous other uncontroversial reforms relating to local government.[58]

The legislative history of that omnibus bill gives no indication that the Legislature evaluated the continuing utility of the Orange County Act, the Multi-County Act, or the San Joaquin Act.[59] To the best of the Commission's knowledge, none of those Acts has ever been implemented for its intended purposes.

Reexamination of the Regional Justice Facilities Acts in Light of Trial Court Restructuring

The Commission's role is to determine whether any provisions of law are obsolete as a result of the implementation of trial court unification, the enactment of the TCEPGA, or the enactment of the Trial Court Funding Act of 1997.[60] The Commission "shall recommend to the Legislature any amendments to remove those obsolete provisions."[61]

The Trial Court Facilities Act[62] followed from, and is closely linked to, the Trial Court Funding Act.[63] The Commission's role logically includes identifying and recommending removal of material that became obsolete due to enactment of the Trial Court Facilities Act.

Material in the Regional Justice Facilities Acts Made Obsolete by Trial Court Restructuring

The Regional Justice Facilities Acts discussed above appear to contain some material made obsolete by trial court restructuring. Most glaringly, a provision in the Multi-County Act still refers to municipal courts:

> 26299.008. "Court facilities" means the *municipal* and superior courts of the county, as well as any other facilities used for adult or juvenile court matters, criminal prosecutions, handling inmates, or a combination thereof.[64]

The Commission flagged that municipal court reference in its 2001 tentative recommendation on trial court restructuring,[65] but ultimately left the section alone because court facilities issues were still unsettled.[66]

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57. See 2007 Cal. Stat. ch. 343, § 9.1.

58. See 2007 Cal. Stat. ch. 343; Senate Floor Analysis of SB 144 (June 27, 2007).

59. See, e.g., Senate Floor Analysis of SB 144 (Aug. 29, 2007), pp. 6-7.

60. Section 71674.

61. *Id*.

62. Sections 70301-70508.

63. See text accompanying notes 12-19 *supra*.

64. Emphasis added.

65. Tentative Recommendation on *Statutes Made Obsolete by Trial Court Restructuring* (Nov. 2001) (hereafter, *"2001 TR"*), p. 163.

66. See *TCR: Part 1, supra* note 22, at 21.

More fundamentally, all three of the Regional Justice Facilities Acts may conflict to some extent with the Trial Court Facilities Act. Under that Act, the Judicial Council and the individual superior courts have key roles with regard to court facilities, but other entities are also involved to some extent.

Of particular note, subdivisions (a) and (b) of Section 70391 say that the Judicial Council shall:

> (a) Exercise full responsibility, jurisdiction, control, and authority as an owner would have over trial court facilities the title of which is held by the state, including, but not limited to, the acquisition and development of facilities.
>
> (b) Exercise the full range of policymaking authority over trial court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not expressly otherwise limited by law.

Section 70391 also authorizes the Judicial Council to:

- Dispose of surplus court facilities, subject to various restrictions;[67]
- Establish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities;[68]
- Establish and consult with local project advisory groups on the construction of new trial court facilities;[69]
- Manage court facilities in consultation with the trial courts;[70]
- Prepare funding requests for court facility construction, repair, and maintenance;[71] and
- Take various other actions with respect to court facilities.

In contrast to the approach taken in Section 70391 and the remainder of the Trial Court Facilities Act, the Regional Justice Facilities Acts predate the trial court restructuring reforms and were thus built on the premise that *the pertinent county (or counties)* bore responsibility for trial court facilities, as well as detention facilities. Unsurprisingly, those Acts allocate key roles to boards of supervisors and their members (as detailed above), and give relatively little control to the Judicial Council, trial courts, and trial court personnel. Such an approach is now outdated and the statutory provisions implementing it are obsolete.

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67. Section 70391(c).

68. Section 70391(e). This authority includes, but is not limited to, "facilities planning, acquisition, construction, design, operation, and maintenance."

69. Section 70391(f). The local project advisory groups may include "the trial court, the county, the local sheriff, state agencies, bar groups, including, but not limited to, the criminal defense bar, and members of the community." *Id.*

70. Section 70391(g).

71. Section 70391(j).

Best Approach to the Material Made Obsolete by Trial Court Restructuring

Reconciling the Regional Justice Facilities Acts with the Trial Court Facilities Act could perhaps be done, but it would require care and entail significant policy decisions that may go beyond the Commission's statutory clean-up role in this study. To give just a few examples:

- Should the Regional Justice Facilities Acts be amended to apply only to detention facilities, deleting all references to court facilities? Would this preclude using these Acts for purposes of building a detention facility that includes a courtroom? If so, is that advisable?
- If the Acts continue to apply to courts, should any adjustments be made in the composition of the boards of the governmental entities created or authorized by the Acts? If so, precisely what adjustments should be made?
- If the Acts continue to apply to courts, should changes be made in who has responsibility for preparing a "master plan"? If so, what changes should be made?

Because the Regional Justice Facilities Acts have never actually served their intended purposes, the Commission wondered whether it would make sense for anyone to invest resources in answering these types of questions. It therefore circulated a discussion draft to all of the affected courts and counties, the Judicial Council, and other interested persons, to determine whether there was any interest in updating the Acts to remove the obsolete material.[72]

Despite extensive efforts to obtain input, not all of the entities responded and those that did were, with one exception, either neutral on updating the Acts[73] or affirmatively recommended repealing them.[74] The sole exception was Humboldt County Superior Court, which recommended revising the Multi-County Act so extensively as to bear little resemblance to current law (the proposed revisions

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72. Discussion Draft on *Trial Court Restructuring Clean-Up: Regional Justice Facilities Acts* (Jan. 2020).

73. See CLRC Staff Memorandum 2020-14, Exhibit p. 22 (Los Angeles Superior Court "does not have an opinion as to whether the County Regional Justice Facilities Act (Govt. Code §§ 26299.000-26299.083) should remain or be repealed."); see also *id*. (Los Angeles Superior Court "has confirmed with the County of Los Angeles that it does not have an opinion on whether to amend the law or leave as is.").

The Judicial Council did not submit a formal comment on the discussion draft, but one of its supervising attorneys discussed the matter with some of his colleagues and reported that "we don't have an opinion as to whether [the Regional Justice Facilities Acts] should be eliminated or not — that seems to be more of a county matter." *Id*. at Exhibit p. 20.

74. See *id*. at Exhibit p. 21 (County of San Bernardino recommends repeal of Multi-County Act as "outdated and redundant" because "counties are no longer responsible for financing court facilities and there are several other statutes upon which the County may rely to place transactions taxes on the ballot to finance jails and public safety facilities."); *id*. at Exhibit p. 23 (San Bernardino County Superior Court suggests that "the provisions of Government Code sections 26299.000 to 26299.083 may be repealed without harm"); *id*. at Exhibit p. 24 (Ventura County Superior Court says Multi-County Act is "obsolete due to the many changes over the past 22 years to trial court funding and trial court facilities management," so "it is a good time to remove these statutes from the books.").

would even change the type of entity created by the Act and its purpose).[75] If needed, such a reform probably could be best achieved by writing on a clean slate, rather than reinventing the Multi-County Act.

Because there appears to be little interest in retaining the Regional Justice Facilities Acts as originally conceived and investing the effort to update them, the simplest way to remove the material made obsolete by trial court restructuring would be to repeal the Acts outright. They appear to be unnecessary given the existence of other funding mechanisms for court facilities and detention facilities, which the state has been using for many years instead of the mechanisms contemplated by the Acts. Moreover, the legislative findings in the Acts are over thirty years old and might not accurately reflect current conditions and legislative priorities. Keeping the Acts in the codes, without updating their obsolete aspects, could also cause occasional confusion and wasted effort, as people run across them and try to assess their meaning in light of the trial court restructuring reforms.

For all of these reasons, the Commission recommends that the San Joaquin County Regional Justice Facility Financing Act, the Orange County Regional Justice Facilities Act, and the County Regional Justice Facilities Financing Act be repealed. That would simplify the codes for the benefit of the public, without causing any negative effects.

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75. See *id*. at Exhibit pp. 1-19; see also *id*. at pp. 7-10 (discussing comments of Humboldt County Superior Court).

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PROPOSED LEGISLATION

Gov't Code §§ 26290-26293.4 (repealed). San Joaquin County Regional Justice Facility Financing Act

SEC. ____. Chapter 13.6 (commencing with Section 26290) of Part 2 of Division 2 of Title 3 of the Government Code is repealed.

Comment. Sections 26290-26293.4 are repealed as unnecessary and obsolete. They have never been used for their intended purpose and conditions have changed since they were enacted in 1988. For instance, counties are no longer responsible for trial court operations and facilities. That is now a state responsibility, allocated primarily to the judiciary under the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850, and the related Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082. See, e.g., Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities), 77003 ("court operations" defined), 77200 (state funding of trial court operations); Cal. R. Ct. 10.810 (court operations).

Note. The text of the repealed chapter is set out below.

CHAPTER 13.6. SAN JOAQUIN COUNTY REGIONAL JUSTICE FACILITY FINANCING ACT

Article 1. General Provisions, Findings, and Definitions

26290. This chapter shall be known and may be cited as the San Joaquin County Regional Justice Facility Financing Act.

26290.1. The Legislature hereby finds and declares that the existing state of overcrowding in the jails, sheriff, and court facilities in San Joaquin County is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house them. The Legislature further finds and declares that it is in the public interest to create the San Joaquin County Regional Justice Facility Financing Agency so that regional justice facility and prevention program needs may be addressed in an expeditious and appropriate fashion. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a general tax for the general governmental purposes of the San Joaquin County Regional Justice Facility Financing Agency.

26290.2. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

26290.3. "Agency" means the San Joaquin County Regional Justice Facility Financing Agency.

26290.4. "County" means the County of San Joaquin.

26290.5. "Board of supervisors" means the Board of Supervisors of the County of San Joaquin.

26290.6. "Master plan" means the plan for construction and acquisition of adult detention facilities, sheriff facilities, functionally related court facilities, and structures necessary or convenient thereto. The plan shall be developed and approved, and may be amended from time to time, by the board of supervisors. The master plan may include, but is not limited to, the following:

(a) The number of adult detention facilities, sheriff facilities, functionally related court facilities, to be constructed, furnished, or acquired.

(b) The geographic location at which the facilities referenced in subdivision (a) shall be sited.

(c) The time schedule according to which the facilities referenced in subdivision (a) shall be constructed, furnished, or acquired.

(d) Construction standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(e) Design standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(f) Those other requirements as the board of supervisors, in carrying out its responsibility for the provision of regional detention services, deems necessary and appropriate.

26290.7. "Prevention program" means a program, administered by the county, designed to decrease the number of inmates incarcerated in county adult detention facilities by providing alternatives to incarceration, or by providing counseling, diversion, or intervention programs, or by providing both. Alternatives to incarceration, include, but are not limited to, alternative work programs, work furlough programs, half-way houses, and own recognizance services. Counseling, diversion, or intervention programs, include, but are not limited to, drug and alcohol counseling, parole counseling, and pretrial screening.

26290.8. "Functionally related court facility" means a court facility that is used solely for criminal prosecutions and handling inmates.

Article 2. Creation of the Agency, Powers and Duties, Membership

26291. There is hereby created the San Joaquin County Regional Justice Facility Financing Agency in the county.

26291.1. (a) The board of directors of the agency shall be comprised of five members, as follows:

(1) Two members of the board of supervisors who shall be appointed by, and serve at the pleasure of, the board of supervisors.

(2) Two public members who shall be appointed by, and serve at the pleasure of, the board of supervisors.

(3) The Sheriff of San Joaquin County.

(b) The senior member of the two appointed members of the board of supervisors shall serve as the chairperson of the board of directors of the agency through December 31, 1990. Thereafter, the chairperson of the board of directors of the agency shall be elected by vote of a majority of the members of the board of directors of the agency and shall serve for a period of one calendar year.

(c) The board of directors shall adopt those rules and procedures as it deems necessary to conduct its business.

26291.2. The agency may adopt a seal and alter it at its pleasure.

26291.3. The agency may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

All claims for money or damages against the agency are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other statutes or regulations expressly applicable thereto.

26291.4. The agency may compensate the members of its board of directors for all reasonable and necessary expenses incurred in the course of performing their duties.

26291.5. All reasonably necessary staff shall be provided by the county or hired by the agency. The county shall be reimbursed by the agency for the costs of any staff services provided to the agency by the county in accordance with an agreement entered into between the agency and county.

26291.6. The agency may enter into contracts. The agency may employ attorneys and consultants as necessary or convenient to carrying out its purposes and powers.

26291.7. The agency shall have the power to do all of the following:

(a) Administer this chapter.

(b) Finance the construction, acquisition, and furnishing of adult detention facilities, sheriff facilities, functionally related court facilities, and structures necessary or convenient thereto, in compliance with a master plan.

(c) Exercise the power of eminent domain for acquisition, and finance the acquisition of, the lands, easements, and rights-of-way necessary for the general governmental purposes of the agency set forth in this section.

(d) Hold title as necessary to land or facilities and convey title to such land or facilities to the county.

(e) Retire all or a portion of any capital debt previously incurred for any adult detention facilities, sheriff facilities, or functionally related court facilities which exists on the date the election is held for voter approval of the retail transactions and use tax ordinance authorized by this chapter.

(f) Finance all or part of the cost of any prevention program.

(g) Reimburse costs incurred by the county in implementing the master plan, reimburse costs incurred by the county in the operation of any facility constructed or acquired pursuant to this chapter, or reimburse costs incurred by prevention programs provided the board of supervisors certifies to the agency that progress toward completion of adult detention facilities, sheriff facilities, and functionally related court facilities has progressed substantially in accordance with the master plan.

(h) Construct, furnish, and acquire adult detention facilities, sheriff facilities, functionally related court facilities, and structures necessary or convenient thereto, in accordance with the master plan.

26291.8. The agency may do all things necessary or convenient to carry out the purposes of this chapter.

26291.9. The initial meeting of the agency shall be held in the county when called by the board of supervisors. At that meeting, or at any subsequent meeting of the agency called by the board of supervisors for the purposes of approving the transactions and use tax ordinance and ballot proposition, the agency may approve a transactions and use tax ordinance and may call an election in accordance with Article 3 (commencing with Section 26292) which election, notwithstanding any other provision of law, may be held within 60 days of the calling of the election. The board of supervisors or the agency may file written arguments, including rebuttal arguments, in favor of the ballot proposition. No arguments shall exceed 500 words in length.

Article 3. Transactions and Use Tax

26292. The Legislature, by the enactment of this article, intends the additional funds provided by this article to supplement existing local revenues being used for the development of regional justice facilities. Government agencies are encouraged to maintain their existing commitment of local funds for regional justice facility purposes.

26292.1. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the agency in accordance with Section 26292.5 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the ordinance is adopted by a two-thirds vote of the board of directors of the agency and if two-thirds of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the agency. The tax ordinance shall take effect at the close of the polls on the day of the election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 26292.4.

26292.2. The ordinance shall state the tax rate and may state a term during which the tax will be imposed. The purposes for which the tax may be imposed are the general governmental purposes of the agency as set forth in Section 26291.7.

26292.3. (a) The county shall conduct an election called by the agency. The election shall be held within the incorporated and unincorporated areas of the county.

(b) The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county.

(c) The cost incurred by the county in conducting the election shall be reimbursed by the agency from proceeds of the transactions and use tax.

26292.4. (a) Any transactions and use tax ordinance adopted pursuant to this article shall become operative on the first day of the first calendar quarter commencing more than 110 days after adoption of the ordinance.

(b) Prior to the operative date of the ordinance, the agency shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

26292.5. The agency, subject to the approval of the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect any tax otherwise authorized.

26292.6. The combined rate of tax imposed in San Joaquin County by any entity pursuant to Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, this chapter, and any other provision of law authorizing the imposition of local sales or transactions and use taxes shall not exceed 2.25 percent. Neither this chapter nor any ordinance or resolution approved pursuant to this chapter shall affect any tax otherwise authorized.

26292.7. (a) The agency, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, may seek authorization to issue bonds payable from the proceeds of the tax and establish the appropriation limit of the agency for purposes of Article XIII B of the California Constitution.

(b) The maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the transactions and use tax for a period of not more than the number of years for which the transactions and use tax authorized by this article is to be imposed.

26292.8. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the agency at any time, and from time to time, payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax.

(b) The pledge of the transactions and use tax revenues for the limited tax bonds authorized under this article shall have priority over the use of any of the revenues for other purposes except to the extent that the priority is expressly restricted in the resolution authorizing the issuance of the bonds.

(c) The proceeds of the bonds may be used for the following purposes:

(1) To finance the activities set forth in paragraphs (2), (3), (5), and (8) of subdivision (a) of Section 26291.7.

(2) To pay the costs incurred for the issuance of the bonds.

(3) To fund a reserve fund for the bonds.

26292.9. The agency may provide for the bonds to bear a variable or fixed interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

26293. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by vote of the board of directors of the agency.

26293.1. Any bonds issued pursuant to this article are a legal investment for all trust funds; for the funds of insurance companies, commerical [sic] savings banks, and trust companies; and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, those funds may be invested in the bonds issued pursuant to this article, and whenever bonds of cities, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued pursuant to this article may be so used. The provisions of this article are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

26293.2. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this article or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. Otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and incontestable.

26293.3. The agency has no power to impose any tax other than the transactions and use tax imposed upon approval of the voters in accordance with this chapter.

26293.4. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Gov't Code §§ 26295-26298.58 (repealed). Orange County Regional Justice Facilities Act

SEC. ____. Chapter 13.7 (commencing with Section 26295) of Part 2 of Division 2 of Title 3 of the Government Code is repealed.

Comment. Sections 26295-26298.58 are repealed as unnecessary and obsolete. They have never been used for their intended purpose and conditions have changed since they were enacted in 1989. For instance, counties are no longer responsible for trial court operations and facilities. That is now a state responsibility, allocated primarily to the judiciary under the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850, and the related Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082. See, e.g., Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities), 77003 ("court operations" defined), 77200 (state funding of trial court operations); Cal. R. Ct. 10.810 (court operations).

Note. The text of the repealed chapter is set out below.

CHAPTER 13.7. ORANGE COUNTY REGIONAL JUSTICE FACILITIES ACT

Article 1. General Provisions, Findings, and Definitions

26295. This chapter shall be known and may be cited as the Orange County Regional Justice Facilities Act.

26295.2. The Legislature hereby finds and declares that the existing state of overcrowding in jails and court facilities in Orange County is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society are required to be released into that society for lack of adequate facilities to house them. The Legislature further finds and declares that it is in the public interest to create the Orange County Regional Justice Facilities Commission so that regional justice facility needs may be addressed in an expeditious and appropriate fashion on a countywide basis. The Legislature further finds and declares that it is in the public interest to allow the voters to approve a general tax for the general governmental purposes of the Orange County Regional Justice Facilities Commission.

26295.4. As used in this chapter, "commission" means the Orange County Regional Justice Facilities Commission created pursuant to Article 2 (commencing with Section 26296).

26295.6. As used in this chapter, "bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

26295.8. As used in this chapter, "county" means the County of Orange.

26295.10. As used in this chapter, "board of supervisors" means the Board of Supervisors of the County of Orange.

26295.12. As used in this chapter, "master plan" means the plan for construction, furnishing, acquisition, maintenance, and operation of adult and juvenile detention facilities and courthouse facilities, and structures necessary or convenient to those facilities. The master plan shall be developed and approved, and may be amended from time to time, by the commission. Subject to the limitations on the commission's powers, as set forth in subdivision (c) of Section 26296.14, the master plan may include, but is not limited to, all of the following:

(a) The adult detention facilities to be constructed, furnished, acquired, maintained or operated throughout the county.

(b) The juvenile detention facilities to be constructed, furnished, acquired, maintained, or operated throughout the county.

(c) The courthouse facilities to be constructed, furnished, acquired, maintained, or operated throughout the county.

(d) The time schedule according to which the facilities referenced in subdivisions (a), (b), and (c) shall be constructed, furnished, or acquired.

(e) Projections of revenues, including revenues expected to be derived from the tax provided for in this chapter, together with other federal, state, and local funds, and funds from the sale of bonds under this chapter, and expenditures for capital, maintenance, and operations purposes for adult and juvenile detention facilities and courthouse facilities purposes.

(f) Those other requirements as the commission, in carrying out its responsibility for the provision of detention and court facilities and services, deems necessary and appropriate.

26295.14. As used in this chapter, "outstanding," when used as of any particular time with reference to bonds issued by the commission, means all bonds theretofore and thereupon being authenticated and delivered by an authenticating agent duly appointed by the commission or its authorized designee except:

(a) Bonds theretofore canceled by an authenticating agent or surrendered to such authenticating agent for cancellation.

(b) Bonds that are owned or held by or for the account of the commission or any other obligor on the bonds, or any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the commission or any other obligor on the bonds.

(c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other bonds shall have been authenticated and delivered.

(d) Refunding bonds issued pursuant to Section 26298.42, except to the extent that the principal amount of the refunding bonds exceeds the principal amount of the bonds to be refunded with the proceeds of such refunding bonds.

Article 2. Creation of Commission, Powers and Duties, Membership

26296. There is hereby created the Orange County Regional Justice Facilities Commission in the county.

26296.2. (a) The commission shall be comprised of five members, as follows:

(1) Two members of the board of supervisors who shall be appointed by, and serve at the pleasure of, the board of supervisors.

(2) One member of the city council of a city in the county, who shall be appointed by, and serve at the pleasure of, the county city selection committee created pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5.

(3) One member of the city council of a city in the county, other than the city specified in paragraph (2), who shall be appointed by, and serve at the pleasure of, the county city selection committee specified in paragraph (2).

(4) One citizen, who shall be appointed by a majority vote of the other four members of the commission.

(b) Each member of the board of directors may appoint an alternate member to the commission, to represent, including, without limitation, to appear for and vote on behalf of, that member.

(c)(1) Except as provided in paragraph (2), all members of the commission shall be appointed for terms of four years and until their successors are appointed and qualified.

(2) For the initial members of the commission, two shall serve for terms of two years, two shall serve for terms of three years, and one shall serve for a term of four years. The respective terms of each of the initial members shall be determined by the members of the commission by lot. Thereafter, persons appointed as members of the commission shall be appointed for terms of four years.

(3) The term of any member serving on the commission as a result of holding another public office shall terminate when that member ceases holding the other public office and a new member has been properly seated. The new member of the commission shall hold office for the remainder of the term of the member who was replaced by the new member.

(4) Vacancies occurring shall be filled by the appointing authority for the unexpired term.

26296.4. The commission at its first meeting, and thereafter annually at the first meeting held on a date as the commission may determine, shall elect a chairperson from its members, who shall preside at all meetings, and a vice chairperson, who shall preside in the chairperson's absence. In the event of the absence or inability to act of both the chairperson and vice chairperson, the members present, by an order entered in the minutes, shall select one of their members to act as chairperson pro tempore who, while so acting, shall have all of the authority of the chairperson.

26296.6. The commission shall establish rules for its proceedings consistent with the law of the State of California.

26296.8. A majority of the members of the commission shall constitute a quorum for the transaction of business, and all official acts of the commission shall require the affirmative vote of a majority of its members constituting a quorum.

26296.10. The acts of the commission shall be expressed by motion, resolution, or ordinance.

26296.12. All meetings of the commission shall be conducted in the manner prescribed by the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

26296.14. (a) The commission shall do all of the following:

(1) Adopt an annual budget.

(2) Cause a postaudit of the financial transactions and records of the commission to be made at least annually by a certified public accountant.

(b) The commission may do all of the following:

(1) Adopt an administrative code, by ordinance, which shall prescribe the powers and duties of commission officers, the method of appointment of commission employees, and methods, procedures, and systems of operation and management of the commission.

(2) Do any and all things necessary to carry out the purposes of this chapter.

(c) Notwithstanding subdivision (a) or (b), the commission shall have no power to determine the geographic locations at which any of the detention or court facilities specified in this chapter shall be sited or the design or construction standards which shall apply to those detention or court facilities.

26296.16. Notice of time and place of the public hearing for the adoption of the annual budget shall be published one time in a newspaper of general circulation not later than the 15th day prior to the date of the hearing. The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

26298.18. The commission shall appoint an executive director who shall act for the commission under its direction. The commission may appoint other officers as it deems necessary to carry out its duties and functions.

26296.20. Members of the commission may be compensated at a rate not exceeding one hundred dollars ($100) for any day attending to the business of the commission, but not to exceed four hundred dollars ($400) in any month, and may be reimbursed for necessary travel and other expenses incurred in the performance of their duties, as authorized by the commission.

26296.22. (a) Except as otherwise provided in subdivisions (b) and (c), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the employees of the commission in that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system of which the employees of the county are members, in lieu of contracting with the board.

(c) Notwithstanding subdivision (a) or (b), to the extent that the commission contracts with the county or other agencies to utilize employees of the county or other agencies as employees of the commission, the commission need not establish any retirement benefits program for those employees.

26296.24. The commission has perpetual succession and may adopt a seal and alter it at its pleasure.

26296.26. The commission may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

26296.28. All claims for money or damages against the commission are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other statutes or regulations expressly applicable thereto.

26296.30. The commission may make contracts and enter into stipulations of any nature whatsoever, including, but not limited to, contracts and stipulations to indemnify and save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this chapter. The commission may contract with any department or agency of

the United States of America, with any public agency, or with any person upon terms and conditions as the commission finds is in its best interest including, but not limited to, contracts for alcohol detoxification diversion programs. The commission may employ attorneys and consultants necessary and convenient to carrying out its purposes and powers.

26296.34. The purchase of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure required exceeds twenty-five thousand dollars ($25,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. The publication shall be made at least 10 days before the date for the receipt of the bids. The commission, at its discretion, may reject any and all bids and readvertise.

26296.36. If, after rejecting bids received under Section 26296.34 the commission determines and declares, by a two-thirds vote of all of its members, that the supplies, equipment, or materials may be purchased at a lower price in the open market, the commission may proceed to purchase those supplies, equipment, or materials in the open market without further observance of the provisions of this article regarding contracts, bids, advertisement, or notice.

26296.38. Notwithstanding Section 26296.34, the commission may direct the purchase of any supply, equipment, or material without observance of any provision in this article regarding contracts, bids, advertisement, or notice upon a finding by two-thirds of all members of the commission that there is only a single source of procurement therefor and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, or material already in use.

Article 3. Detention and Courthouse Facilities

26297. For purposes of allocating revenues pursuant to Section 26298.18, the commission shall coordinate the construction, furnishing, acquisition, maintenance, and operation of all adult and juvenile detention facilities and courthouse facilities within the county pursuant to the master plan.

26297.1. (a) The master plan shall be developed and approved by the commission. The master plan may be approved before or after the adoption of the retail transactions and use tax ordinance specified in Article 4 (commencing with Section 26298).

(b) Incident to the development of the master plan, the commission shall solicit proposals for adult and juvenile detention facilities and courthouse facilities purposes from the county and the cities in the county. The commission shall adopt a procedure for evaluating these proposals in consultation with the county and the cities in the county. However, nothing in this subdivision shall require the commission to include any of these proposals into the master plan.

(c) The master plan may be amended from time to time by the commission, in its sole discretion.

Article 4. Transactions and Use Taxes in the County of Orange

26298. The Legislature, by the enactment of this article, intends the additional funds provided by this article to supplement existing local revenues being used for the development of adult and juvenile detention facilities and courthouse facilities within the county. The county and the cities therein are further encouraged to maintain their existing commitment of local funds for adult and juvenile detention facilities and courthouse facilities purposes.

26298.2. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with Section 26298.8 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the ordinance is adopted by a two-thirds vote of the commission and if two-thirds of the electors voting on the measure vote to approve its imposition at an election. This

election may be a special election called for that purpose by the commission or, if the commission so determines, shall be consolidated with a regular election.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be adopted by the commission in accordance with the requirements of subdivision (a), except that, at the option of the commission, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

26298.4. The ordinance shall state the nature of the tax to be imposed, the tax rate, the purposes for which the revenue derived from the tax will be used, and the term during which the tax shall be imposed. The proposition shall include an appropriations limit for the agency pursuant to Section 4 of Article XIII B of the California Constitution.

26298.6. (a) The county shall conduct the election, as called by the commission, regarding the imposition of a retail transactions and use tax ordinance. The commission shall reimburse the county for its cost in conducting that portion of the regular election directly related to the commission measure or in conducting the special election, as applicable.

(b) Any special election shall be called and conducted in the same manner as provided by law for the conduct of special elections by a county.

26298.8. The commission, subject to the approval of the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect any tax otherwise authorized.

26298.10. (a) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

"ADULT AND JUVENILE DETENTION FACILITIES AND COURTHOUSE FACILITIES — ORANGE COUNTY REGIONAL JUSTICE FACILITIES COMMISSION

To construct, furnish, acquire, maintain, and operate adult and juvenile detention facilities and courthouse facilities in the county, this proposition authorizes the Orange County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales tax solely for adult and juvenile detention facilities and courthouse facilities purposes." In approving this proposition the voters are also approving an appropriations limit for the Orange County Regional Justice Facilities Commission.

YES ____

NO ____

(b) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon at an election.

26298.12. (a) The commission may, as part of the same ballot proposition to approve the imposition of a retail transactions and use tax, seek authorization to issue bonds payable solely from the proceeds of the retail transactions and use tax.

(b) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

"ADULT AND JUVENILE DETENTION FACILITIES AND COURTHOUSE FACILITIES — ORANGE COUNTY REGIONAL JUSTICE FACILITIES COMMISSION	YES	____
To construct, furnish, acquire, maintain, and operate adult and juvenile detention facilities and courthouse facilities in the county, this proposition authorizes the Orange County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales tax solely for adult and juvenile detention facilities and courthouse facilities purposes and/or to issue bonds payable from the proceeds of that sales tax." In approving this proposition the voters are also approving an appropriations limit for the Orange County Regional Justice Facilities Commission.	NO	____

(c) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon at an election.

26298.16. (a) Any transactions and use tax ordinance adopted pursuant to this article shall become operative as provided in Section 7265 of the Revenue and Taxation Code.

(b) Prior to the operative date of the ordinance, the commission shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

26298.17. The combined rate of any transactions and use tax imposed pursuant to this chapter and all other transactions and use taxes imposed pursuant to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of the Revenue and Taxation Code) or any other provision of law shall not exceed 1 percent. No tax shall be considered in accordance with this part if, upon its adoption, the combined rate will exceed 1 percent.

26298.18. The revenues from the taxes imposed pursuant to this article may be allocated by the commission for the following purposes:

(a) To administer this chapter.

(b) To pay the costs of the financing, construction, acquisition, furnishing, maintenance, and operation of adult and juvenile detention facilities, courthouse facilities, and structures necessary or convenient thereto, in compliance with the master plan and pursuant to allocation or funding agreements described in Section 26298.20.

(c) To pay the costs of the financing and acquisition of necessary lands, easements, and rights-of-way at sites designated or approved by the commission, including any costs incurred by the commission in acquiring the lands, easements, and rights-of-way.

(d) To hold title as necessary to land or facilities.

(e) To retire all or a portion of any capital debt previously incurred for any adult or juvenile detention facilities or courthouse facilities which exists on the date the election is held for voter approval of the retail transactions and use tax ordinance authorized by this chapter.

(f) To pay all debt service and any other related costs and expenses of any bonds issued under this chapter.

26298.20. (a) The commission shall establish a procedure for reviewing and evaluating requests by the county and the cities in the county for revenues of the commission to be used for the adult and juvenile detention facilities and courthouse facilities purposes specified in Section 26298.18, and shall review and evaluate, from time to time, those requests. After approving such a request of the county or any city in the county, the commission may allocate to the county or city any lawfully available moneys of the commission, including, but not limited to, the revenues

from the taxes imposed pursuant to this article and the proceeds of any limited tax bonds authorized by the voters pursuant to Section 26298.12, in amounts as the commission shall determine, to fund, in whole or in part, those detention or courthouse facilities purposes.

(b) In connection with any allocation of moneys to the county or any city in the county pursuant to subdivision (a), the commission shall enter into an allocation or funding agreement with the county or city pursuant to which the commission shall commit the moneys allocated under subdivision (a) to the county or city. The moneys shall be used solely for the purposes approved by the commission under subdivision (a). Each allocation or funding agreement shall contain terms and conditions as the commission shall determine and may provide, without limitation, the purpose or purposes for which the allocation may be used, that the amount to be allocated may be advanced by the commission in a lump sum or in a series of payments at a date or dates determined by the commission, which may be in one or more fiscal years of the commission, that the allocation will be in the form of a conditional or unconditional grant or contribution or as a loan or other advance against an obligation of the county or city to repay the same, and the terms and conditions relating the obligation to repay the same, including the interest rate to be paid and the date or dates that payments are to be made to the commission on account of that obligation.

26298.22. (a) No modification, amendment, or rescission of any allocation or funding agreement between the commission and the county shall become effective unless the board of supervisors, by resolution, first approves the modification, amendment, or rescission.

(b) No modification, amendment, or rescission of any allocation or funding agreement between the commission and any city within the county shall become effective unless the city council of the city, by resolution, first approves the modification, amendment, or rescission.

26298.24. When adopting its annual budget pursuant to Section 26296.14, the commission shall provide that the lawfully available moneys of the commission shall be used first for the payment of debt service on all outstanding limited tax bonds of the commission (unless otherwise provided in the resolution providing for the issuance of such bonds) and (unless otherwise provided in an allocation or funding agreement) for the payment of all allocations required to be made pursuant to allocation or funding agreements between the commission and the county or any city in the county prior to the payment of operating costs and expenses and any other lawful costs and expenses of the commission.

26298.28. If a retail transactions and use tax is adopted pursuant to this article, the commission shall prepare and submit a report to the board of supervisors and to the city council of each city in the county on or before January 1 of the year following the end of the first full fiscal year after that date that the taxes are imposed pursuant to this article and annually thereafter. The report shall evaluate, and report the progress made in, the implementation of the master plan in the preceding fiscal year.

26298.30. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the commission at any time, and from time to time, payable solely from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds."

(b) Limited tax bonds may not be issued unless the estimated proceeds of the retail transactions and use tax for a period of 30 years after issuance of the bonds shall at least equal the aggregate principal and interest payable with respect to all limited tax bonds then outstanding plus the limited tax bonds proposed to be issued. For purposes of determining the principal amount of limited tax bonds outstanding, limited tax bonds shall be assumed to be paid at par either at their respective maturities or pursuant to mandatory sinking fund installments with respect thereto. For purposes of determining the aggregate interest payable with respect to any issue of limited tax bonds, bonds that bear interest at variable interest rates shall be assumed to bear interest for the terms thereof equal to the interest rate in effect on the date the bonds are issued or, in the case of limited tax bonds already outstanding, equal to the interest rate in effect

on the date that the determination is made. For purposes of determining the estimated proceeds of the retail transactions and use tax for a period of 30 years, a finding made by the commission, incidental to any prospective issuance of bonds, regarding the amount of the estimated proceeds shall be binding and conclusive for all purposes.

(c) The pledge of retail transactions and use taxes to the limited tax bonds authorized under this article shall have priority over the use of any of the funds for "pay-as-you-go" financing except to the extent that priority is expressly restricted in the resolution providing for the issuance of the bonds.

26298.32. (a) Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the commission by a two-thirds vote of all members of the commission. Each resolution shall provide for the issuance of bonds in amounts as the necessity therefor may appear, until the full amount of the bonds authorized shall have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

(b) A resolution providing for the issuance of bonds shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to or connected with the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing the purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds, proposed to be issued, shall run before maturity, which shall not exceed 31 years from the date thereof or the date of each series thereof.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum interest rate specified from time to time in Section 53531 of the Government Code, without regard to any other limitation.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(7) A pledge of retail transactions and use taxes to the limited tax bonds, either before or after giving effect to the payment of maintenance and operations expenses as defined by the commission in the resolution, and a statement that the bonds shall have priority over the use of any of the funds for "pay-as-you-go" financing except to the extent that the priority is expressly restricted in the resolution. However, the resolution shall not provide for the pledge of retail transactions and use taxes that have been allocated to the county or any city therein pursuant to Section 26298.20, except to the extent that the proceeds of any limited tax bonds are to be so allocated in lieu of those retail transactions and use taxes.

(8) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when the whole or any part of the principal shall become due and payable.

(c) The resolution may also contain any other matters authorized by this article or any other law.

26298.34. (a) The commission may provide for the bonds to bear interest at a variable or fixed interest rate, for the manner and intervals, in which the rate shall vary, and for the dates on which the interest shall be payable.

(b) In the resolution or resolutions providing for the issuance of the bonds, the commission may also provide for call and redemption of the bonds prior to maturity at times and prices and upon other terms as it may specify. However, no bond shall be subject to call or redemption prior

to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon.

(c) The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the county or at such other place or places as may be designated, or at either place or places at the option of the holders of the bonds.

(d) The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vice chairperson of the commission and the treasurer, or other officer of the commission performing the duties of a treasurer, of the commission, and the official seal of the commission shall be attached thereto. The interest coupons, if any, of the bonds shall be signed by the treasurer, or other officer performing the duties of a treasurer, of the commission. All of the signatures and seal may be printed, lithographed, or mechanically reproduced. However, the bonds shall be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the commission or its authorized designee. If any officer whose signature appears on bonds or coupons ceases to be such an officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

26298.36. The bonds may be sold as the commission determines by resolution. The commission may sell the bonds at a price below par, but the discount on any bonds so sold shall not exceed 5 percent of the par value thereof.

26298.38. Delivery of any bonds issued pursuant to this chapter may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

26298.40. All accrued interest and premiums received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury of the commission and applied to secure the bonds or for the purposes for which the debt was incurred. However, when those purposes have been accomplished, any moneys remaining shall be either (a) transferred to the fund to be used for the payment of principal of and interest on the bonds or (b) placed in a fund to be used for the purchase of outstanding bonds of the commission from time to time in the open market at those prices and in that manner, either at public or private sale or otherwise, as the commission may determine. Bonds so purchased shall be canceled immediately.

26298.42. (a) The commission may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the commission upon the terms, at the times and in the manner which it determines.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the commission, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the commission.

(c) Pending that use, the escrowed proceeds may be invested and reinvested by the commission or its trustee in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at a time or times appropriate to ensure the prompt payment of principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment thereof may be returned to the commission for use by it in any lawful manner.

(d) The provisions of this article for the issuance and sale of bonds apply to the issuance and sale of refunding bonds.

26298.44. (a) The commission may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this article, but which have not been sold and delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time, but the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any moneys of the commission available therefor, including the revenues from the retail transactions and use taxes imposed pursuant to this article. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the commission in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of bonds which the commission has been authorized to issue, less the amount of any bonds of the authorized issued previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolution or resolution authorizing them may contain provisions, conditions, or limitations which a resolution of the commission authorizing the issuance of bonds may contain.

26298.46. Any bonds issued under provisions of this article shall be legal investment for all trust funds, for the funds of insurance companies, commercial and savings banks, and trust companies, and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or other districts within the state, those moneys or funds may be invested in the bonds issued under this article. Whenever bonds of cities, cities and counties, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public moneys, the bonds issued under this article may be so used. This article shall be in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

26298.48. Notwithstanding any other provision of law:

(a) The commission and its revenues are exempt from all taxes on, or measured by, income.

(b) Bonds issued by the commission are exempt from all property taxation, and the interest on the bonds is exempt from all taxes on income.

(c) All property owned by the commission is exempt from property taxes, assessments, and other public charges secured by liens.

26298.50. (a) Bonds issued under this chapter do not constitute a debt or liability of the state or of any other public agency, other than the commission, or a pledge of the faith and credit of the state or of any other public agency, other than the commission, but shall be payable solely from the funds provided therefor. All the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any public agency, other than the Orange County Regional Justice Facilities Commission, is pledged to the payment of the principal of, or interest on, this bond."

(b) The issuance of bonds under this chapter does not in any manner obligate the state or any other public agency thereof to levy, or to pledge any form of, taxation therefor or to make any appropriation for their payment.

26298.52. Neither the members of the board of directors of the commission, nor any person executing the bonds, are liable personally on the bonds, or are subject to any personal liability or accountability by reason of the issuance thereof.

26298.54. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this article or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and shall be commenced within six months from the date of the election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the retail transactions and use tax provided for therein, shall be held to be valid and in every respect legal and incontestable.

26298.56. The county and each city within the county are authorized to contribute to the commission such amounts as the county and each city, in their discretion, deem appropriate. These amounts may be used by the commission for any lawful purpose. The commission may commit to repay any portion or all of the amounts contributed, together with interest thereon at a rate not exceeding the interest rate specified from time to time in Section 53531 or the Government Code, from any lawful source, including, but not limited to, revenues derived from the retail transactions and use tax ordinance adopted pursuant to this chapter.

26298.58. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Gov't Code §§ 26299.000-26299.083 (repealed). County Regional Justice Facilities Financing Act

SEC. ____. Chapter 13.8 (commencing with Section 26299.000) of Part 2 of Division 2 of Title 3 of the Government Code is repealed.

Comment. Sections 26299.000-26299.083 are repealed as unnecessary and obsolete. They have never been used for their intended purpose and conditions have changed since they were enacted in 1989. For instance, municipal courts have been eliminated through trial court unification in every county. Further, counties are no longer responsible for trial court operations and facilities. That is now a state responsibility, allocated primarily to the judiciary under the Lockyer-Isenberg Trial Court Funding Act, 1997 Cal. Stat. ch. 850, and the related Trial Court Facilities Act, 2002 Cal. Stat. ch. 1082. See, e.g., Sections 70311-70312 (responsibility for court operations & facilities), 70391 (Judicial Council responsibility & authority for court facilities), 77003 ("court operations" defined), 77200 (state funding of trial court operations); Cal. R. Ct. 10.810 (court operations).

Note. The text of the repealed chapter is set out below.

CHAPTER 13.8. COUNTY REGIONAL JUSTICE FACILITIES FINANCING ACT

Article 1. General Provisions

26299.000. This chapter shall be known and may be cited as the County Regional Justice Facilities Financing Act.

26299.001. The Legislature hereby finds and declares that the existing state of overcrowding in jail facilities in counties is so great as to significantly impede the administration of justice and create a situation wherein persons who are a danger to society may be required to be released into that society for lack of adequate facilities to house them.

The Legislature further finds and declares that it is in the public interest to create county regional justice facilities financing agencies so that regional adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and prevention program needs may be addressed in an expeditious and appropriate fashion.

The Legislature further finds and declares that it is in the public interest to allow the voters in each county the opportunity to approve a general tax for the general governmental purposes of county regional justice facilities financing agencies.

26299.002. Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this chapter. The definition of a word applies to any of that word's variants.

26299.003. "Agency" means a county regional justice facilities financing agency.

26299.004. "Board of directors" means the board of directors of a county regional justice facilities financing agency established pursuant to this chapter.

26299.005. "Board of supervisors" means the board of supervisors of a county.

26299.006. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

26299.007. "County" means Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties.

26299.008. "Court facilities" means the municipal and superior courts of the county, as well as any other facilities used for adult or juvenile court matters, criminal prosecutions, handling inmates, or a combination thereof.

26299.009. "Master plan" means the plan for construction and acquisition of juvenile and adult detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto. The plan shall be developed and approved, and may be amended from time to time, by the board of supervisors. The master plan may include, but is not limited to, the following:

(a) The number of adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto to be constructed, furnished, or acquired.

(b) The geographic areas in which the facilities referenced in subdivision (a) shall be sited.

(c) The time schedule according to which the facilities referenced in subdivision (a) shall be constructed, furnished, or acquired.

(d) Construction and design standards which shall apply to facilities constructed, furnished, or acquired pursuant to this chapter.

(e) Those other requirements as the board of supervisors, in carrying out its responsibility for the provision of regional detention services, deems necessary and appropriate.

26299.010. "Outstanding," when used as of any particular time with reference to bonds issued by the agency, means all bonds theretofore and thereupon being authenticated and delivered by an authenticating agent duly appointed by the agency or its authorized designee except:

(a) Bonds theretofore canceled by an authenticating agent or surrendered to such authenticating agent for cancellation.

(b) Bonds that are owned or held by or for the account of the agency or any other obligor on the bonds, or any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the agency or any other obligor on the bonds.

(c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other bonds shall have been authenticated and delivered.

(d) Refunding bonds issued pursuant to Section 26299.073, except to the extent that the principal amount of the refunding bonds exceeds the principal amount of the bonds to be refunded with the proceeds of those refunding bonds.

26299.011. "Prevention program" means a program designed to decrease the number of inmates incarcerated in county juvenile and adult detention facilities by providing alternatives to incarceration, or by providing counseling diversion, or intervertion [sic] programs, work furlough programs, halfway houses, and own recognizance services. Counseling, diversion, or intervention programs, include, but are not limited to, drug and alcohol counseling, probation counseling, pretrial screening, and community programs intended to reduce or prevent juvenile criminal activity.

26299.013. "Qualifying facilities" means any of the adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto, which may be constructed, furnished, or acquired pursuant to this chapter.

26299.014. This chapter shall be liberally construed in order to effectuate its purposes. No inadvertent error, irregularity, informality, or the inadvertent neglect or omission of any officer, in any procedure taken under this division, other than fraud, shall void or invalidate that proceeding or any levy imposed to finance regional justice facilities needs or improvements.

Article 2. Creation of Agency, Powers and Duties, Membership

26299.020. (a) A county regional justice facilities financing agency may be established in any county, as defined in Section 26299.007, with membership and terms determined as provided in Section 26299.021, upon a finding of the board of supervisors that it is in the public interest to do so. Any such finding shall be adopted by resolution of the board of supervisors.

(b) A resolution adopted pursuant to subdivision (a), shall specify the number, membership, and terms of office of members of the board of directors of the agency as determined pursuant to Section 26299.021.

26299.021. The number, membership, and terms of office of the board of directors of a county regional justice facilities financing agency established pursuant to Section 26299.020, shall be determined by one of the following means:

(a)(1) The board of supervisors may establish the number, membership, and terms of office of the board of directors of the agency with the concurrence of the city councils representing both a majority of the cities in the county and a majority of the population in the incorporated area of the county.

(2) Notwithstanding the provisions of paragraph (1), the term of office of members of the board of directors shall be staggered, and shall not exceed four years.

(b) The board of supervisors may establish a board of directors of the agency comprised of five members, as follows:

(1) The county sheriff.

(2) Four other members, appointed by, and serving at the pleasure of, the board of supervisors, who shall have significant experience in detention, corrections, law enforcement, probation, or the judiciary. Not more than two of these four members may be members of the board of supervisors or other elected or appointed officers of the county.

(c) The board of supervisors may establish a board of directors of the agency comprised of seven members, as follows:

(1) The sheriff.

(2) The district attorney.

(3) Two members appointed by, and serving at the pleasure of, the city selection committee created pursuant to Article 1.1 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5, each of whom shall be either a member of the city council or the mayor of a city in the county. These two members may not represent the same city.

(4) Two members of the board of supervisors.

(5) One member appointed by, and serving at the pleasure of, the presiding judge of the superior court, who shall have significant experience in detention, corrections, law enforcement, probation, or the judiciary.

26299.022. The term of any member serving on the board of directors by virtue of holding another public office shall terminate when that member ceases holding the other public office and a new member has been properly seated. The new member of the agency shall hold office for the remainder of the term of the member who was replaced by the new member.

26299.023. Vacancies occurring on the board of directors shall be filled by the appointing authority for the unexpired term.

26299.024. The board of supervisors shall call the first meeting of the board of directors and shall designate one of the members of the board of directors to serve as the chairperson at that meeting. Thereafter, a chairperson and vice chairperson of the board of directors shall be elected annually by vote of a majority of the members of the board of directors of the agency and shall serve for a period of one calendar year. The chairperson shall preside at all meetings, and the vice chairperson shall preside in the absence of the chairperson.

In the event of the absence or inability to act of both the chairperson and vice chairperson, the members present, by an order entered in the minutes, shall select one of their members to act as chairperson pro tempore who, while so acting, shall have all of the authority of the chairperson.

26299.025. A majority of the members of the agency shall constitute a quorum for the transaction of business, and all official acts of the agency shall require the affirmative vote of a majority of its members constituting a quorum, unless a two-thirds vote is required by this chapter.

26299.026. The acts of the agency shall be expressed by motion, resolution, or ordinance.

26299.027. The board of directors shall adopt those rules and procedures, consistent with the laws of the state, as it deems necessary to conduct its business.

26299.028. All meetings of the agency shall be conducted in the manner prescribed by the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

26299.029. In carrying out its purposes and powers, the agency may:

(a) Adopt a seal and alter it at its pleasure.

(b) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

All claims for money or damages against the agency are governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein or by other statutes or regulations expressly applicable thereto.

(c) Subject to the limitations provided for in Section 26299.035, compensate the members of its board of directors for all reasonable and necessary expenses incurred in the course of performing their duties.

(d) Appoint and employ an executive officer and clerical staff as may be necessary for the administration of the affairs of the agency. All other reasonably necessary staff may be hired by the agency or may be provided by the county. The county shall be reimbursed by the agency for the costs of any staff services provided to the agency by the county in accordance with an agreement entered into between the agency and the county.

(e) Enter into contracts. The agency may employ attorneys and consultants as necessary or convenient to carrying out its purpose and powers.

(f) Appoint policy committees as deemed necessary.

26299.030. The agency shall do all of the following:

(a) Adopt an annual budget.

(b) Adopt an administrative code, by ordinance, which prescribes the powers and duties of agency officers, the method of appointment of agency employees, and methods, procedures, and systems of operation and management of the agency.

(c) Cause a postaudit of the financial transactions of the agency to be made at least annually by a certified public accountant.

(d) Do any and all things necessary to carry out the purposes of this chapter.

26299.031. In carrying out the purposes of this chapter the agency shall have the power to do all of the following:

(a) Administer this chapter.

(b) Finance the construction, acquisition, and furnishing of adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto, in compliance with a master plan developed and approved, as amended from time to time, by the board of supervisors for that purpose.

(c) Finance the acquisition of necessary lands, easements, and rights-of-way, including reimbursement to the county for any costs incurred by the county in acquiring such lands, easements, and rights-of-way, at sites designated or approved by the board of supervisors, for the general governmental purposes of the agency set forth in this section.

(d) Hold title as necessary or convenient to land or facilities constructed or acquired pursuant to this chapter, and convey title to such land or facilities to the county.

(e) Finance the operation and maintenance of any qualifying facilities constructed, acquired, or financed, in whole or in part, pursuant to this chapter or any adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto which may become operational after the effective date of any transactions and use tax approved pursuant to this chapter.

(f) Reimburse costs incurred by the county in the operation of any qualifying facilities constructed or acquired pursuant to this chapter, provided the board of supervisors certifies to the agency that progress toward completion of qualifying facilities has advanced substantially in accordance with the master plan, and reimburse costs incurred by the county in implementing the master plan.

(g) Retire all or a portion of any capital debt previously incurred for any adult or juvenile detention facilities, countywide law enforcement facilities, court facilities, or other structures necessary or convenient thereto which exist on the date the election is held for voter approval of the retail transactions and use tax ordinance authorized by this chapter.

(h) Finance all or part of the cost of any prevention program, as defined in Section 26299.011.

26299.032. In carrying out the purposes of this chapter the agency may finance the construction, acquisition, and furnishing of other county or city criminal justice and law enforcement facilities, provided the board of supervisors certifies to the agency that all current master plan requirements have been met.

26299.033. Notwithstanding any other provision of this chapter to the contrary, the board of directors of an agency shall have no power to determine the geographic locations at which any of the qualifying facilities specified in this chapter shall be sited.

26299.034. Notice of the time and place for the public hearing for the adoption of the annual budget shall be published one time in a newspaper of general circulation not later than the 15th day prior to the date of the hearing. The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

26299.035. Members of the board of directors of the agency may be compensated at a rate not exceeding one hundred dollars ($100) for any day attending to the business of the agency, but not to exceed four hundred dollars ($400) in any month, and may be reimbursed for reasonable and necessary travel and other expenses incurred in the performance of their duties, as authorized by the agency.

26299.036. (a) Except as otherwise provided in subdivisions (b) and (c), the agency shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into that contract, to include all of the employees of the agency in that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22750) of Division 5 of Title 2.

(b) For purposes of providing retirement benefits, the agency may contract with the retirement system of which the employees of the county are members, in lieu of contracting with the board.

(c) Notwithstanding subdivision (a) or (b), to the extent that the agency contracts with the county or other agencies to utilize employees of the county or other agencies as employees of the agency, the agency need not establish any retirement benefits program for those employees.

26299.037. At the initial meeting of the agency, or at any subsequent meeting, the agency may approve a transactions and use tax ordinance and ballot proposition, and may call an election in accordance with Article 3 (commencing with Section 26299.040).

Article 3. Transactions and Use Tax

26299.040. The Legislature, by the enactment of this chapter, intends that the additional funds provided governmental agencies by this chapter shall supplement existing local revenues being used for the development and operation of regional justice facilities, and that local agencies maintain their existing commitment of local funds for regional justice facilities purposes.

26299.041. (a) A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the tax ordinance is adopted by a two-thirds vote of the agency and imposition of the tax is subsequently approved by two-thirds of the electors voting on the measure at a special election called for that purpose by the board of supervisors, at the request of the agency, and a county regional justice facilities master plan is adopted pursuant to Section 26299.009.

(b) In addition to the authorization of subdivision (a), a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the agency in accordance with the requirements of subdivision (a), except that, at the option of the agency, the ordinance may be required to be approved by two-thirds of the electors voting on the measure.

(c) A retail transactions and use tax approved by the electors pursuant to this chapter shall remain in effect for not longer than 30 years, or any lesser period of time specified in the tax ordinance. The tax may be continued in effect, or reimposed, by a tax ordinance adopted by a two-thirds vote of the agency and the reimposition of the tax is approved by either a majority or two-thirds of the electors, whichever was required for the initial approval.

(d) The special elections required by subdivisions (a), (b), and (c) for the initial imposition and reimposition, respectively, of a retail transactions and use tax may be consolidated, if the agency so determines, with a regular election.

26299.041. A tax ordinance adopted pursuant to Section 26299.041 shall take effect at the close of the polls on the day of the election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 26299.049.

27300.043. The agency, in the ordinance adopted pursuant to Section 26299.041, shall state the nature of the tax to be imposed, the tax rate, the period during which the tax will be imposed, which of the financing activities enumerated in Section 26299.031 the agency proposes to exercise, and the specific activities and purposes, if any, for which the agency proposes to allocate any fixed portion of the tax proceeds. The purposes for which the tax may be imposed are the general governmental purposes of the agency as set forth in Section 26299.031.

The proposition shall include an appropriations limit for the agency pursuant to Section 4 of Article XIII B of the California Constitution.

26299.044. (a) The county shall conduct a special election called by the agency for the purpose of approving a transactions and use tax ordinance adopted by the agency. The election shall be held within the incorporated and unincorporated areas of the county.

(b) The election shall be called and conducted in the same manner as provided by law for the conduct of special elections by a county.

(c) If the measure is approved by the voters, the cost incurred by the county in conducting the special election shall be reimbursed by the agency from proceeds of the retail transactions and use tax.

26299.045. The agency by two-thirds vote of its board of directors, subject to the approval of the voters, may impose a tax rate of one-half of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Neither this chapter nor the ordinance shall affect any tax otherwise authorized.

26299.046. The revenues from the tax imposed pursuant to this chapter may be allocated by the agency for the following purposes:

(a) To administer this chapter.

(b) To pay the costs of the financing, construction, acquisition, furnishing, maintenance, and operation of adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto, in compliance with the adopted master plan.

(c) To finance all or any portion of the cost of any prevention program, as defined in Section 26299.011.

(d) To pay the costs of the financing and acquisition of necessary lands, easements, and rights-of-way at sites designated or approved by the agency, including any costs incurred by the agency in acquiring lands, easements, and rights-of-way.

(e) To hold title as necessary to land or facilities.

(f) To retire all or a portion of any capital debt previously incurred for any adult or juvenile detention facilities, countywide law enforcement facilities, court facilities, and other structures necessary or convenient thereto which exists on the date the election is held for voter approval of the retail transactions and use tax.

(g) To pay all debt service and any other related costs and expenses of any bonds issued pursuant to this chapter.

26299.047. When adopting its annual budget pursuant to Section 26299.030, the agency shall provide that the lawfully available moneys of the agency shall be used first for the payment of debt service on all outstanding limited tax bonds of the agency unless otherwise provided in the resolution providing for the issuance of such bonds, and, unless otherwise provided in an allocation or funding agreement, for the payment of all allocations required to be made pursuant to allocation or funding agreements between the agency and the county or any city in the county prior to the payment of operating costs and expenses and any other lawful costs and expenses of the agency.

26299.048. If a retail transactions and use tax is adopted pursuant to this chapter, the agency shall prepare and submit a report to the board of supervisors and to the city council of each city in

the county on or before January 1 of the year following the end of the first full fiscal year after that date that the taxes are imposed pursuant to this chapter and annually thereafter. The report shall evaluate, and report progress made in, the implementation of the adopted master plan in the preceding fiscal year.

26299.049. (a) Any transactions and use tax ordinance adopted pursuant to this chapter shall become operative as provided in Section 7265 of the Revenue and Taxation Code, or its successor.

(b) Prior to the operative date of the ordinance, the agency shall contract with the State Board of Equalization to perform all functions incidental to the administration and operation of the ordinance.

26299.050. (a) The combined rate of any transactions and use tax imposed in a county pursuant to this chapter and all other transactions and use taxes imposed in that county pursuant to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or any other provision of law shall not exceed 1 percent.

(b) No tax shall be considered in a county in accordance with this part if, upon adoption, the combined rate of transactions and use taxes in the county will exceed 1 percent.

Article 4. Bonds

26299.060. (a) As part of the ballot proposition to approve the imposition of a retail transactions and use tax pursuant to this chapter, authorization may be sought to issue bonds payable from the proceeds of the tax to finance capital outlay expenditures as may be provided for in the master plan for county regional justice facilities adopted pursuant to Section 26299.009.

(b) Limited tax bonds may not be issued unless the estimated proceeds of the retail transactions and use tax for a period of 30 years after issuance of the bonds shall at least equal the aggregate principal and interest payable with respect to all limited tax bonds then outstanding plus the limited tax bonds proposed to be issued. For purposes of determining the principal amount of limited tax bonds outstanding, limited tax bonds shall be assumed to be paid at par either at their respective maturities or pursuant to mandatory sinking fund installments with respect thereto. For purposes of determining the aggregate interest payable with respect to any issue of limited tax bonds, bonds that bear interest at variable interest rates shall be assumed to bear interest for the terms thereof equal to the interest rate in effect on the date the bonds are issued or, in the case of limited tax bonds already outstanding, equal to the interest rate in effect on the date that the determination is made. For purposes of determining the estimated proceeds of the retail transactions and use tax for a period of 30 years, a finding made by the agency, incidental to any prospective issuance of bonds, regarding the amount of the estimated proceeds shall be binding and conclusive for all purposes.

26299.061. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the agency at any time, and from time to time, payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds."

(b) The pledge of the retail transactions and use tax revenues for the limited tax bonds authorized under this chapter shall have priority over the use of any of the tax revenues for "pay-as-you-go" financing, or any other purposes except to the extent that that priority is expressly restricted in the resolution authorizing the issuance of the bonds.

26299.062. Limited tax bonds issued under this chapter may be used only for the following purposes:

(a) To finance the capital outlay expenditures for those qualifying facilities which the agency is authorized to construct, acquire, or furnish pursuant to Section 26299.032.

(b) To pay costs incurred in the issuance of the limited tax bonds.

(c) To fund a reserve fund for the limited tax bonds.

26299.063. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by a two-thirds vote of the board of directors of the agency. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

26299.064. (a) A resolution providing for the issuance of bonds pursuant to this chapter shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including without limitation, engineering, inspection, legal, fiscal agents, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing those purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not be beyond the date of termination of the imposition of the retail transactions and use tax.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum rate allowed by Section 53531 of the Government Code, payable at intervals determined by the agency.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(7) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when all, or any part, of the principal becomes due and payable.

(b) The resolution may also contain any other matters authorized by this chapter or any other law.

26299.065. The agency may provide for the limited tax bonds to bear a variable or fixed interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

26299.066. (a) In the resolution authorizing the issuance of the bonds, the agency may also provide for the call and redemption of the bonds prior to maturity at the times and prices and upon other terms as specified.

(b) Notwithstanding the provisons [sic] of subdivision (a), no bond is subject to call or redemption prior to maturity, unless it contains a recital to that effect or unless a statement to that effect is printed therein.

26299.067. The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the agency, or at such other places as may be designated, or at both the office and other places at the option of the holders of the bonds.

26299.068. (a) The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vicechairperson of the agency at the treasurer of the agency, and the official seal, if any, of the agency shall be attached.

(b) The interest coupons, if any, of the bonds shall be signed by the treasurer of the agency. All of the signatures and the seal may be printed, lithographed, or mechanically reproduced. However, the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the agency or its authorized designee.

(c) If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

26299.069. The bonds may be sold as the agency determines by resolution. The agency may sell the bonds at a price below par, whether by negotiated or public sale.

26299.070. Delivery of any bonds issued pursuant to this chapter may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

26299.071. All accrued interest and premiums received on the sale of the bonds shall be placed in the fund to be used for the payment of the principal of and interest on the bonds, and the remainder of the proceeds of the bonds shall be placed in the treasury of the agency and applied to secure the bonds or for the purposes for which the debt was incurred. However, when the purposes have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of and interest on the bonds, or (b) placed in a fund to be used for the purchase of the outstanding bonds in the open market at prices and in the manner, either at public or private sale or otherwise, as determined by the agency. Bonds so purchased shall be cancelled immediately.

26299.072. (a) The agency may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the agency upon the terms, at the times and in the manner which it determines.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the agency, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the agency.

(c) Pending that use, the escrowed proceeds may be invested and reinvested by the agency or its trustee in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at a time or times appropriate to ensure the prompt payment of principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment thereof may be returned to the agency for use by it in any lawful manner.

(d) The provisions of this chapter for the issuance and sale of bonds apply to the issuance and sale or [sic] refunding bonds.

26299.073. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(a) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(b) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

26299.074. (a) The agency may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this chapter, but which have not been sold or delivered, and may

issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time, provided that the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any money of the agency available therefor, including the revenues from the retail transactions and use tax which may be imposed pursuant to this chapter. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the agency in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of the bonds which the agency has been authorized to issue, less the amount of any bonds therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the agency authorizing the issuance of bonds may contain.

26299.075. Any limited tax bonds issued pursuant to this chapter are a legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or other districts within the state, that money or funds may be invested in the bonds issued pursuant to this chapter. Whenever bonds of cities, cities and counties, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public moneys, the bonds issued pursuant to this chapter may be so used. The provisions of this chapter are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

26299.076. Notwithstanding any other provision of law:

(a) The agency and its revenues are exempt from all taxes on, or measured by, income.

(b) Bonds issued by the agency are exempt from all property taxation, and the interest on the bonds is exempt from all taxes on income.

(c) All property owned by the agency is exempt from property taxes, assessments, and other public charges secured by liens.

26299.077. (a) Bonds issued pursuant to this chapter do not constitute a debt or liability of the state or of any other public agency, other than the county regional justice facilities financing agency issuing the bonds, or a pledge of the faith and credit of the state or of any other public agency, other than the issuing agency, but shall be payable solely from the funds provided therefor. All of the bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any public agency, other than the ____ County Regional Justice Facilities Financing Agency, is pledged to the payment of the principal of or interest on this bond."

(b) The issuance of bonds pursuant to this chapter does not in any manner obligate the state or any other public agency thereof to levy, or to pledge, any form of taxation therefor or to make any appropriation for their payment.

26299.078. Neither the members of the board of directors of the agency, nor any person executing the bonds, are liable personally on the bonds, or are subject to any personal liability or accountability by reason of the issuance thereof.

26299.079. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this chapter or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure within six months from the date of the election at which the ordinance is approved. Otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the retail transactions and use tax provided for therein, shall be held to be valid and in every respect legal and incontestable.

26299.080. The county and each city within the county is authorized to contribute to the agency such amounts as the county and each city, in their discretion, deem appropriate. These amounts may be used by the agency for any lawful purpose. The agency may commit to repay all or any portion of the amounts contributed, together with interest thereon at a rate not exceeding the interest rate specified from time to time in Section 53531 of the Government Code, from any lawful source, including, but not limited to, revenues derived from the retail transactions and use tax which may be imposed pursuant to this chapter.

26299.081. The agency has no power to impose any tax other than the transactions and use tax imposed upon approval of the voters in accordance with this chapter.

26299.082. It is the intent of the Legislature in enacting this chapter to ensure that counties are not deprived of state funds which might be made available to finance needed regional justice facilities, including adult and juvenile detention facilities, countywide law enforcement facilities, court facilities, other structures necessary or convenient thereto, and prevention programs subsequent to the enactment of this chapter, whether those funds be provided by statute or constitutional amendment.

26299.083. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

CONFORMING REVISIONS

Gov't Code § 53721.5 (repealed). Tax adopted pursuant to San Joaquin County Regional Justice Facility Financing Act

SEC. ____. Section 53721.5 of the Government Code is repealed.

~~53721.5. A transactions and use tax imposed by an ordinance adopted pursuant to Chapter 13.6 (commencing with Section 26290) of Part 2 of Division 2 of Title 3 shall be deemed to be a general tax for the purposes of this article, unless the transactions and use tax ordinance, or an amendment thereto, either declares the tax to be a special tax or requires the proceeds of the tax to be placed in a fund other than the general fund of the San Joaquin County Regional Justice Facilities Financing Agency, or a similar fund, and irrevocably restricts the use of the proceeds to specific purposes of more limited scope and type than the general governmental purposes of the San Joaquin County Regional Justice Facilities Financing Agency set forth in Section 26291.7. The receipt or retention of the proceeds of the transactions and use tax, imposed by an ordinance adopted pursuant to Chapter 13.6 (commencing with Section 26290) of Part 2 of Division 2~~

~~of Title 3 by a bond trustee for bonds secured by the proceeds of the tax shall not cause a general tax to become a special tax.~~

Comment. Section 53721.5 is repealed to reflect the repeal of former Chapter 13.6 (commencing with Section 26290) of Part 2 of Division 2 of Title 3. See *Trial Court Restructuring Clean-Up: Regional Justice Facilities Acts*, 47 Cal. L. Revision Comm'n Reports __ (2020).

Note. Section 53721.5 is in Article 3.7 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. That article was added to the codes by Proposition 62, approved by the voters on Nov. 4, 1986. To maintain voter control over its content, Proposition 62 included a section (Section 53729) that states: "This Article may only be amended by vote of the electorate of the State of California." However, Section 53721.5 was not part of Proposition 62. Section 53721.5 was added to the codes later, through the normal legislative process. See 1988 Cal. Stat. ch. 1634, § 2. Thus, a vote of the electorate is not necessary to repeal Section 53721.5.

Gov't Code § 53721.6 (repealed). Tax adopted pursuant to Orange County Regional Justice Facilities Act or County Regional Justice Facilities Financing Act

SEC. ____. Section 53721.6 of the Government Code is repealed.

~~53721.6. (a) A retail transactions and use tax imposed by an ordinance adopted pursuant to Chapter 13.7 (commencing with Section 26295) or 13.8 (commencing with Section 26299.000) of Part 2 of Division 2 of Title 3 shall be deemed to be a general tax for the purposes of this article unless the transactions and use tax ordinance, or an amendment thereto, either declares the tax to be a special tax or requires the proceeds of the tax to be placed in a fund other than the general fund of the county regional justice facilities financing agency, or a similar fund, and irrevocably restricts the use of the proceeds to specific purposes of more limited scope and type than the general governmental purposes of the county regional justice facilities financing agency set forth in Section 26298.18 or 26299.031.~~

~~(b) The receipt or retention of the proceeds of the transactions and use tax, imposed by an ordinance adopted pursuant to Chapter 13.7 (commencing with Section 26295) or 13.8 (commencing with Section 26299.000) of Part 2 of Division 2 of Title 3 by a bond trustee for bonds secured by the proceeds of the tax shall not cause a general tax to become a special tax.~~

Comment. Section 53721.6 is repealed to reflect the repeals of former Chapters 13.7 (commencing with Section 26295) and 13.8 (commencing with Section 26299.000) of Part 2 of Division 2 of Title 3. See *Trial Court Restructuring Clean-Up: Regional Justice Facilities Acts*, 47 Cal. L. Revision Comm'n Reports __ (2020).

Note. Section 53721.6 is in Article 3.7 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. That article was added to the codes by Proposition 62, approved by the voters on Nov. 4, 1986. To maintain voter control over its content, Proposition 62 included a section (Section 53729) that states: "This Article may only be amended by vote of the electorate of the State of California." However, Section 53721.6 was not part of Proposition 62. Section 53721.6 was added to the codes later (and subsequently amended), through the normal legislative process. See 1989 Cal. Stat. ch. 1335, § 2; 1990 Cal. Stat. ch. 527, § 4. Thus, a vote of the electorate is not necessary to repeal Section 53721.6.