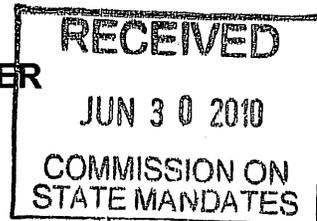




**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
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LOS ANGELES, CALIFORNIA 90012-3873  
PHONE: (213) 974-8301 FAX: (213) 626-5427



WENDY L. WATANABE  
AUDITOR-CONTROLLER

MARIA M. OMS  
CHIEF DEPUTY

June 29, 2010

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS  
JOHN NAIMO  
JUDI E. THOMAS

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Dear Ms. Higashi:

**LOS ANGELES COUNTY TEST CLAIM  
SHERIFF COURT-SECURITY SERVICES**

The County of Los Angeles respectfully submits the enclosed test claim to recover the cost of security services provided to the Los Angeles County Superior Court. The Los Angeles County Sheriff's Department is the service provider and the related costs have been incurred since July 28, 2009 under the Superior Court Law Enforcement Act of 2002.

If you have any questions, please contact Leonard Kaye at (213) 974-9791 or via e-mail at [lkaye@auditor.lacounty.gov](mailto:lkaye@auditor.lacounty.gov).

Very truly yours,

Wendy L. Watanabe  
Auditor-Controller

WLW:MMO:JN:CY:Ik

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Enclosure

**1. TEST CLAIM TITLE**

Sheriff Court-Security Services

**2. CLAIMANT INFORMATION**

Los Angeles County

Name of Local Agency or School District

Wendy L. Watanabe

Claimant Contact

Auditor-Controller

Title

500 West Temple Street, Room 525

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City, State, Zip

(213) 974-8301

Telephone Number

(213) 626-5427

Fax Number

wwatanabe@auditor.lacounty.gov

E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Leonard Kaye

Claimant Representative Name

Principal Accountant - Contract

Title

Los Angeles County

Organization

500 West Temple Street, Room 603

Street Address

Los Angeles, California 90012-3873

City, State, Zip

(213) 974-9791

Telephone Number

(213) 617-8106

Fax Number

lkaye@auditor.lacounty.gov

E-Mail Address

*For CSM Use Only*

Filing Date: **RECEIVED**  
**JUN 30 2010**  
**COMMISSION ON STATE MANDATES**

Test Claim #: **09-TC-03**

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

*Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.*

See test claim legislation on the following page i.

Copies of all statutes and executive orders cited are attached.

- See Table of Contents on page ii :
- 5. Written Narrative: pages \_\_\_\_\_ to \_\_\_\_\_.
- 6. Declarations: pages \_\_\_\_\_ to \_\_\_\_\_.
- 7. Documentation: pages \_\_\_\_\_ to \_\_\_\_\_.

Test Claim Legislation  
Los Angeles County Test Claim  
Sheriff Court-Security Services

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 as a result of the following State test claim legislation (statutes, regulations, executive orders):

Government Code Section 69926 as amended by Statutes 2009, Chapter 22 (SB 13) and as added by Statutes 2002, Chapter 1010 (SB 1396); and, Government Code Sections 69927(a)(6) as amended and renumbered by Statutes 2009, Chapter 22 (SB 13) and as added as 69927(a)(5) by Statutes 2002, Chapter 1010 (SB 1396); and, Government Code Sections 69927(b) as amended by Statutes 2009, Chapter 22 (SB 13) and as added by Statutes 2002, Chapter 1010 (SB 1396); and Government Code Sections 69920, 69921, 69921.5, 69922, and 69925 added by Statutes 2002, Chapter 1010 (SB 1396); and, Government Code Section 77212.5 as added by Statutes 1998, Chapter 764 (AB 92) and repealed but replaced and modified by Statutes 2002, Chapter 1010 (SB 1396) under Government Code Section 69926; and, Rule 10.810 of the California Rules of Court Sections (a), (b), (c), (d) and Function 8 (Court Security). Rule 10.810 was amended and renumbered effective January 1, 2007; adopted as rule 810 effective July 1, 1988; previously amended effective July 1, 1989, July 1, 1990, July 1, 1991, and July 1, 1995. Subdivision (d) was amended effective January 1, 2007 and previously was amended and relettered effective July 1, 1995. Rule 10.810 is identical to former rule 810, except for the rule number. All references in statutes or rules to rule 810 apply to this rule.

**Los Angeles County Test Claim  
Sheriff Court-Security Services**

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*“Courthouses must be a safe harbor to which members of the public come to resolve disputes that often are volatile. Once courthouses themselves are perceived as dangerous, the integrity and efficacy of the entire judicial process is in jeopardy.”<sup>1</sup>*

The landmark Superior Court Law Enforcement Act of 2002 (Act)<sup>2</sup> helped make the courthouse a safe harbor. Trial courts throughout California were uniformly required to improve court security ... to ensure public safety.

County sheriffs played a major role in this effort. Detailed agreements were developed to ensure that sheriff's court security services met high security standards. Court security funds were appropriated by the Legislature. And, counties were reimbursed their court security costs ... that is, up until recently.

On July 28, 2009, the Legislature stopped paying counties for the costs of retiree health benefits of Sheriff personnel who were assigned court security duties. Specifically, Government Code Section 69926(b) as amended by the Statutes of 2009, Chapter 22 (SB 13)<sup>3</sup>, indicated that retiree health benefit costs are no longer allowable costs ... are no longer to be paid to the counties.

This claim is filed to recover retiree health benefit costs, which the Legislature refuses to pay, under a Constitutional remedy which the Legislature cannot limit.

Specifically, this claim is filed under article XIII B, section 6 of the California Constitution. Pertinent provisions of the court security ‘test claim legislation’<sup>4</sup> are

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<sup>1</sup> As noted by Ronald M. George, Chief Justice of the California Supreme Court, on page 1 of the Administrative Office of the Courts “Fact Sheet” issued in July 2009, attached as Exhibit 6.

<sup>2</sup> This provision of this Act are found in the Statutes of 2002, Chapter 1010 (SB 1396), attached as Exhibit 2.

<sup>3</sup> Statutes of 2009, Chapter 22 (SB 13), is attached, in pertinent part, as Exhibit 1.

<sup>4</sup> The ‘test claim legislation’ is: Government Code Section 69926 as amended by Statutes 2009, Chapter 22 (SB 13) and as added by Statutes 2002, Chapter 1010 (SB 1396); and, Government Code Sections 69927(a)(6) as amended and renumbered by Statutes 2009, Chapter 22 (SB 13) and as added as 69927(a)(5) by Statutes 2002, Chapter 1010 (SB 1396); and, Government Code Sections 69927(b) as amended by Statutes 2009, Chapter 22 (SB 13) and as added by Statutes 2002, Chapter 1010 (SB 1396); and Government Code Sections 69920, 69921, 69921.5, 69922, and 69925 added by Statutes 2002, Chapter 1010 (SB 1396); and, Government Code Section 77212.5 as added by Statutes 1998, Chapter 764 (AB 92) and repealed but replaced and modified by Statutes 2002, Chapter 1010 (SB 1396) under Government Code Section 69926; and, Rule

examined. No funding disclaimers are found. Reimbursement is required as claimed herein.

### AB 92

AB 92, enacted as Chapter 764 of the Statutes of 1998 on September 23, 1998, mandated that county sheriffs enter into agreements with State-administered trial courts to provide security services. Specifically, Government Code Section 77212.5 was added by Chapter 764 to require that:

“Commencing on July 1, 1999, and thereafter, the trial courts of each county in which court security services are otherwise required by law to be provided by the sheriff’s department shall enter into an agreement with the sheriff’s department that was providing court security services as of July 1, 1998, regarding the provision of court security services.”  
(Emphasis added.)

This mandate explicitly specified that sheriff departments enter into agreements with the State’s trial courts to provide court security services. These requirements and their associated costs were new and subject to reimbursement under article XIII B, section 6 of the California Constitution, as noted by the Legislature in Section 2 of AB 92:

“Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act

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10.810 of the California Rules of Court Sections (a), (b), (c), (d) and Function 8 (Court Security). Rule 10.810 was amended and renumbered effective January 1, 2007; adopted as rule 810 effective July 1, 1988; previously amended effective July 1, 1989, July 1, 1990, July 1, 1991, and July 1, 1995. Subdivision (d) was amended effective January 1, 2007 and previously was amended and re-lettered effective July 1, 1995. Rule 10.810 is identical to former rule 810, except for the rule number. All references in statutes or rules to rule 810 apply to this rule.

shall become operative on the same date that the act takes effect pursuant to the California Constitution.”

In addition, the Legislative Counsel opined that (AB 92) court security duties imposed on county sheriffs were likely to be reimbursable under article XIII B, section 6 of the California Constitution. Specifically, Legislative Counsel noted that:

“This bill would require the trial courts in such a county, commencing July 1, 1999, and thereafter, to enter into an agreement with the sheriff’s department that was providing court security services as of July 1, 1998, regarding the provision of court security services, thereby imposing a state-mandated local program. (2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.”

Prior to AB 92, the Trial Court Funding Act of 1997 transferred the responsibility for all trial court “operations costs,” as defined in California Rule of Court (CRC) 810, from the County to the State, making the State fully responsible for all trial “court operations” costs, and capping the county’s trial court funding responsibility at a fixed annual maintenance of effort (MOE) amount, based upon amounts spent in a 1994-95 base year.

In enacting the Trial Court Funding Act of 1997, the Legislature declared its intent to:

- (1) “Provide state responsibility for funding of trial court operations commencing in the 1997-98 fiscal year.”  
1997 Cal. Stats., ch 850, §3(a).

- (2) "Provide that county contributions to trial court operations shall be permanently capped at the same dollar amount as that county provided to court operations in the 1994-95 fiscal year...." 1997 Cal. Stats., ch 850, §3(b).

Beginning in 1997, county sheriffs who had historically provided trial court security were required to continue to provide those services by contract with the trial courts they served, with funding provided by the State through the State Judicial Council and its administrative agency, the State Administrative Office of the Courts (AOC) for all "court operations" costs as defined in CRC 810 as it read on July 1, 1996, and which specifically included in such costs, the salary, wages, and benefits of sheriff employees providing court security.

Under AB 92, the State provided option counties, including Los Angeles County, with State grants to be used for trial "court operations" costs defined in Government Code Section 77003, and CRC 810.

Of course, reimbursement for new state-mandated court security services under article XIII B, section 6 of the California Constitution is not required if otherwise provided in accordance with Government Code Section 17556 (e):

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds ...

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate." (Emphasis added.)

It should be noted, then, that a 'test claim' may not have been filed to recover Sheriff's court security cost as State revenue "sufficient to fund the cost of the state mandate" may have been provided under AB 92 State grants.

SB 1396

The AB 92 state-mandated court security program in Government Code Section 77212.5 was repealed by SB 1396, enacted as Chapter 1010 of the Statutes of 2002 on September 23, 1998. However, SB 1396 also replaced the prior state-mandated court security program in Government Code Section 77212.5 with an expanded version in Government Code Section 69926 as follows:

“(a) This section applies to the superior court and the sheriff or marshal’s department in those counties in which either of the following apply:

(1) The sheriff’s department was otherwise required by law to provide court security services on and after July 1, 1998.

(2) Court security was provided by the marshal’s office on and after July 1, 1998, the marshal’s office was subsequently abolished and succeeded by the sheriff’s department, and the successor sheriff’s department is required to provide court security services as successor to the marshal.

(b) The superior court and the sheriff or marshal shall enter into an annual or multiyear memorandum of understanding specifying the agreed upon level of court security services, cost of services, and terms of payment.

(c) The sheriff or marshal shall provide information as identified in the contract law enforcement template by April 30 of each year to the superior court in that county, specifying the nature, extent, and basis of the costs, including negotiated or projected salary increases of court law enforcement services that the sheriff proposes to include in the budget of the court security program for the following state budget year. Actual court security allocations shall be subject to the approval of the Judicial Council and the funding provided by the Legislature. It is the intent of the Legislature that proposed court security expenditures submitted by the Judicial Council to the Department of Finance for inclusion in the Governor’s Budget shall be as defined in the contract law enforcement template.

(d) If the superior court and the sheriff or marshal are unwilling or unable to enter into an agreement pursuant to this section on or before August 1 of any fiscal year, the court or sheriff or marshal may request the continuation of negotiations between the superior court and the sheriff or marshal for a

period of 45 days with mediation assistance, during which time the previous law enforcement services agreement shall remain in effect. Mutually agreed upon mediation assistance shall be determined by the Administrative Director of the Courts and the president of the California State Sheriffs' Association." (Emphasis added.)

Accordingly, under Government Code Section 69926, the sheriff is mandated to enter into an annual or multiyear memorandum of understanding specifying the agreed upon level of court security services, cost of services, and terms of payment and will be paid for such services from the State budget of the court security program for the following state budget year.

#### State-mandated Court Security Program

SB 1396 describes and defines the State-mandated court security program in Government Code Sections 69920 and 69921 as follows:

69920. This article shall be known and may be cited as the Superior Court Law Enforcement Act of 2002.

69921. For purposes of this article:

(a) "Contract law enforcement template" means a document that is contained in the Administrative Office of the Courts' financial policies and procedures manual that accounts for and further defines allowable costs, as described in paragraphs (3) to (6), inclusive, of subdivision (a) of Section 69927.

(b) "Court attendant" means a nonarmed, nonlaw enforcement employee of the superior court who performs those functions specified by the court, except those functions that may only be performed by armed and sworn personnel. A court attendant is not a peace officer or a public safety officer.

(c) "Court security plan" means a plan that is provided by the superior court to the Administrative Office of the Courts that includes a law enforcement security plan and all other court security matters.

(d) "Law enforcement security plan" means a plan that is provided

by a sheriff or marshal that includes policies and procedures for providing public safety and law enforcement services to the court.

(e) "Superior court law enforcement functions" means all of the following:

(1) Bailiff functions, as defined in Sections 830.1 and 830.36 of the Penal Code, in criminal and noncriminal actions, including, but not limited to, attending courts.

(2) Taking charge of a jury, as provided in Sections 613 and 614 of the Code of Civil Procedure.

(3) Patrolling hallways and other areas within court facilities.

(4) Overseeing prisoners in holding cells within court facilities.

(5) Escorting prisoners in holding cells within court facilities.

(6) Providing security screening within court facilities.

(7) Providing enhanced security for bench officers and court personnel, as agreed upon by the court and the sheriff or marshal."

In addition to specifying the types of mandated court security services, SB 1396 specifies how levels of such services are to be set in Government Code Section 69921.5 as follows:

"The duties of the presiding judge of each superior court shall include the authority to contract, subject to available funding, with a sheriff or marshal, for the necessary level of law enforcement services in the courts."

Also, SB 1396 specifies the types of court actions requiring the attendance of the sheriff in Government Code Section 6922 as follows:

"Except as otherwise provided by law, whenever required, the sheriff shall attend all superior court held within his or her county. A sheriff shall attend a noncriminal, nondelinquency action, however, only if the

presiding judge or his or her designee makes a determination that the attendance of the sheriff at that action is necessary for reasons of public safety. The court may use court attendants in courtrooms hearing those noncriminal, nondelinquency actions. Notwithstanding any other provision of law, the presiding judge or his or her designee may provide that a court attendant take charge of a jury, as provided in Sections 613 and 614 of the Code of Civil Procedure. The sheriff shall obey all lawful orders and directions of all courts held within his or her county.”

Importantly, the sheriff is required to collaborate with the presiding judge in order to develop efficient practices in delivering court security services under Government Code Section 69925 which provides that:

“On and after July 1, 2003, the sheriff or marshal, in conjunction with the presiding judge, shall develop an annual or multiyear comprehensive court security plan that includes the mutually agreed upon law enforcement security plan to be utilized by the court. The Judicial Council shall provide for the subject areas to be addressed in the plan and specify the most efficient practices for providing court security services. The Judicial Council shall establish a process for the review of court security plans by the Judicial Council in the California Rules of Court. The Judicial Council shall annually submit to the Senate Judiciary Committee and Assembly Judiciary Committee a report summarizing the court security plans reviewed by the Judicial Council, including, but not limited to, a description of each plan, the cost involved, and whether each plan complies with the rules for the most efficient practices for providing court security services.” (Emphasis added.)

Therefore, SB 1396 mandates that the State’s Judicial Council control, oversee and administer the development of court services and their efficient delivery. However, the Legislature, in SB 1396 did not propose to achieve these efficiencies by eliminating reimbursement for retiree health benefits for Sheriff’s personnel assigned court security duties.

### Retiree Health Benefit Costs

In fact, SB 1396 does not address retiree health benefit costs at all. Government Code Section 69927(a)(5), added by SB 1396, only provides an illustrative, but not a comprehensive or exhaustive, listing of allowable benefit costs as follows:

“(a) It is the intent of the Legislature in enacting this section to develop a definition of the court security component of court operations that modifies Function 8 of Rule 810 of the California Rules of Court in a manner that will standardize billing and accounting practices and court security plans, and identify allowable law enforcement security costs after the operative date of this article. It is not the intent of the Legislature to increase or decrease the responsibility of a county for the cost of court operations, as defined in Section 77003 or Rule 810 of the California Rules of Court, as it read on July 1, 1996, for court security services provided prior to January 1, 2003. It is the intent of the Legislature that a sheriff or marshal’s court law enforcement budget may not be reduced as a result of this article. Any new court budget may not be reduced as a result of this article. Any new court security costs permitted by this article shall not be operative unless the funding is provided by the Legislature ....

(5) “Allowable costs for security personnel services,” as defined in the contract law enforcement template, means the salary and benefits of an employee, including, but not limited to, county health and welfare, county incentive payments, deferred compensation plan costs, FICA or Medicare, general liability premium costs, leave balance payout commensurate with an employee’s time in court security services as a proportion of total service credit earned after January 1, 1998, premium pay, retirement, state disability insurance, unemployment insurance costs, worker’s compensation paid to an employee in lieu of salary, worker’s compensation premiums of supervisory security personnel through the rank of captain, line personnel, inclusive of deputies, court attendants, contractual law enforcement services, prisoner escorts within the courts, and weapons screening personnel, court required training, and overtime and related benefits of law enforcement supervisory and line personnel. “ (Emphasis added.)

Therefore, county sheriffs are not limited to the above listing of allowable benefit costs.

Accordingly, retiree health benefit costs are allowable here.

Moreover, as previously noted, Government Code Section 69926(b) as added by SB1396 provides merely that:

“The superior court and the sheriff or marshal shall enter into an annual or multiyear memorandum of understanding specifying the agreed upon level of court security services, cost of services, and terms of payment.”

And, retiree health benefits are allowable here as well.

Also, retiree health benefits are allowable as ‘benefits’ under the California Rules of Court (CRC) Rule 10.810 (formerly Rule 810 on July 1, 1996) in Function 8 as “salary, wages and benefits (including overtime) of sheriff ... employees who perform the court’s security”. Consequently, the elimination of retiree health benefits would violate the Legislature’s provision in Government Code Section 69927(b) as added by SB1396, that:

“Nothing in this article may increase a county’s obligation or require any county to assume the responsibility for a cost of any service that was defined as a court operation cost, as defined by Function 8 of Rule 810 of the California Rules of Court, as it read on July 1, 1996, or that meets the definition of any new law enforcement component developed pursuant to this article.”

But all this was forgotten by the Legislature when retiree health benefit reimbursements for the Sheriff’s court security employees were deleted in SB 13.

### SB13

Government Code Section 69926(b) was amended and expanded by SB13, which was enacted as Chapter 22, Statutes of 2009 on July 28, 2009. This section now provides that:

“The superior court and the sheriff or marshal shall enter into an annual or multiyear memorandum of understanding specifying the agreed upon level of court security services, cost of services, and terms of payment. The cost of services specified in the memorandum of understanding shall be based on the estimated average cost of salary and benefits for equivalent personnel classifications in that county, not including overtime

pay. In calculating the average cost of benefits, only those benefits listed in paragraph (6) of subdivision (a) of Section 69927 shall be included. For purposes of this article, "benefits" excludes any item not expressly listed in this subdivision, including, but not limited to, any costs associated with retiree health benefits. As used in this subdivision, retiree health benefits includes, but is not limited to, the current cost of health benefits for already retired personnel and any amount to cover the costs of future retiree health benefits for either currently employed or already retired personnel." (Emphasis added.)

However, paragraph (6) of subdivision (a) of Section 69927 does not list retiree health benefits as an unallowable cost. This paragraph provides that:

““Allowable costs for security personnel services,” as defined in the contract law enforcement template, means the salary and benefits of an employee, including, but not limited to, county health and welfare, county incentive payments, deferred compensation plan costs, FICA or Medicare, general liability premium costs, leave balance payout commensurate with an employee’s time in court security services as a proportion of total service credit earned after January 1, 1998, premium pay, retirement, state disability insurance, unemployment insurance costs, workers’ compensation paid to an employee in lieu of salary, workers’ compensation premiums of supervisory security personnel through the rank of captain, line personnel, inclusive of deputies, court attendants, contractual law enforcement services, prisoner escorts within the courts, and weapons screening personnel, court required training, and overtime and related benefits of law enforcement supervisory and line personnel.

(A) The Administrative Office of the Courts shall use the average salary and benefits costs approved for court law enforcement personnel as of June 30 of each year in determining the funding request that will be presented to the Department of Finance.

(B) Courts and court security providers shall manage their resources to minimize the use of overtime.” (Emphasis added.)

Again, it should be noted that county sheriffs are not limited to the above listing of allowable benefit costs.

Accordingly, retiree health benefit costs are allowable under paragraph (6) of subdivision (a) of Section 69927.

In addition, retiree health benefits are allowable as 'benefits' under the California Rules of Court (CRC) Rule 10.810 (formerly Rule 810 on July 1, 1996) in Function 8 as "salary, wages and benefits (including overtime) of sheriff ... employees who perform the court's security". Consequently, the elimination of retiree health benefits would violate the Legislature's provision in Government Code Section 69927(b) as amended by SB13, that:

"Nothing in this article may increase a county's obligation or require any county to assume the responsibility for a cost of any service that was defined as a court operation cost, as defined by Function 8 of Rule 810 of the California Rules of Court, as it read on January 1, 2007, or that meets the definition of any new law enforcement component developed pursuant to this article."

Even though Government Code Section 69927(b) prohibits an increase in the county's obligation for a court operation cost, defined by Function 8 of Rule 810 of the California Rules of Court, as it read on January 1, 2007. Nevertheless, the Legislature did so. The obligation to pay for retiree health benefit costs were shifted from the State to counties. Such a shift was addressed in *Lucia Mar* by the California Supreme Court.

### Lucia Mar

*Lucia Mar School District v. Bill Honig, et al.* (44 Cal.3d 830) stands for the fundamental proposition that under article XIII B, section 6 of the California Constitution, schools and local agencies have rights to recover State-mandated program costs when these obligations are shifted from the State to them, as is the case here. In this regard the Court finds that:

"The intent of the section would plainly be violated if the state could, while retaining administrative control of programs it has supported with state tax money, simply shift the cost of the programs to local government on the theory that the shift does not violate \*\*\*681section 6 of article XIII B because the programs are not "new." Whether the shifting of costs is accomplished by compelling local governments to \*\*323 pay the cost of entirely new programs created by the state, or to accept financial

responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIII B, seems equally violative of the fundamental purpose underlying section 6 of that article.<sup>FN7</sup> We conclude, therefore, that because section 59300 shifts partial financial responsibility for the support of students in the state operated schools from the state to school districts-an obligation the school districts did not have at the time article XIII B was adopted-it calls for plaintiffs to support a “new program” within the meaning of section 6.” (44 Cal.3d 830, 834)

Here, of course, the partial financial responsibility shifted was for retiree health benefit costs. Like the shift in Lucia Mar, the result was that a new ‘program’ was created. Specifically, this ‘program’ was created on July 28, 2009 --- when Government Code Section 69926(b) was amended by SB13 (Chapter 22, Statutes of 2009) shifted the costs of retiree health benefits from the State to the County.

It should be noted that there are no statutory funding disclaimers under Government Code Section 17556 which would bar recovery of retiree health benefit costs under article XIII B, section 6 of the California Constitution.

#### Section 17556

There are seven disclaimers specified in Government Code Section 17556 which could serve to bar recovery of “costs mandated by the State”, as defined in Government Code Section 17514. These seven disclaimers do not apply to the instant claim, as shown, in seriatim, for pertinent sections of Government Code Section 17556.

- (a) “The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the Program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency to implement a given program shall constitute a request within the meaning of this paragraph.

- (a) is not applicable as the subject law was not requested by the County claimant or any local agency or school district.
- (b) The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
- (b) is not applicable because the subject law did not affirm what had been declared existing law or regulation by action of the courts.
- (c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.
- (c) is not applicable as no federal law or regulation is implemented in the subject law.
- (d) The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
- (d) is not applicable because the subject law did not provide or include any authority to levy any service charges, fees, or assessments which are sufficient to reimbursement the county for all costs necessarily incurred in complying with the test claim legislation.
- (e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate.
- (e) is not applicable as no offsetting savings are provided in the subject law and no revenue to fund the subject law was provided by the legislature. Any reimbursements for duplicative activities

claimed herein will be deducted from those claimed under the test claim legislation detailed herein.

(f) The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in, a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute

or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

(f) is not applicable as the duties imposed in the subject law were not included in a ballot measure.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

(g) is not applicable as the subject law did not create or eliminate a crime or infraction and did not change that portion of the statute not relating directly to the penalty enforcement of the crime or infraction.”

Therefore, the above seven disclaimers will not bar local governments' reimbursement of its costs in implementing the requirements set forth in the captioned test claim legislation as these disclaimers are all not applicable to the subject claim.

#### Costs Mandated by the State

State reimbursement for retiree health benefits under article XIII B, section 6 of the California Constitution, requires, in pertinent part, that:

“Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State

shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service ... “ (Emphasis added.)

This ‘new program’ requirement was met, as previously discussed, when Government Code Section 69926(b) was amended by SB13 (Chapter 22, Statutes of 2009) shifted the costs of retiree health benefits from the State to the County on July 28, 2009.

State reimbursement for retiree health benefits under article XIII B, section 6 of the California Constitution further provides that the Legislature may, but need not, provide a subvention of funds for the following mandates:

- “(1) Legislative mandates requested by the local agency affected.
- (2) Legislation defining a new crime or changing an existing definition of a crime.
- (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”

Certainly, the County did not request to assume the financial obligation of retiree health benefit costs, so this funding disclaimer is not applicable here.

In addition, the test claim legislation did not define a new crime or change the definition of a crime, as previously noted under the disclaimer funding section, so this funding disclaimer is not applicable here.

None of the mandates claimed herein or in the test claim legislation are found in legislation enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975. The oldest legislation included in this test claim is AB 92, enacted as Chapter 764 of the Statutes of 1998 on September 23, 1998.

In addition, a test claim must be timely filed in accordance with 17551(c) which requires that:

“(c) Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.”

This test claim was timely filed within a year of enactment of SB13 (Chapter 22, Statutes of 2009) which shifted the costs of retiree health benefits from the State to the County on July 28, 2009.

The retiree health benefit costs claimed herein are quantified in the attached declaration of Steve Smith and in the Statewide cost surveys following Mr. Smith's declaration. These costs are far in excess of \$1,000 per annum, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

In conclusion, under article XIII B, section 6 of the California Constitution and Sections 17500 et. seq. of the Government Code, reimbursement of retiree health benefit costs is required as claimed herein.



**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET, ROOM 525  
LOS ANGELES, CALIFORNIA 90012-3873  
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE  
AUDITOR-CONTROLLER

MARIA M. OMS  
CHIEF DEPUTY

ADDRESS ALL CORRESPONDENCE TO:  
ACCOUNTING DIVISION  
500 W. TEMPLE ST., ROOM 603  
LOS ANGELES, CA 90012-2713

**LOS ANGELES COUNTY TEST CLAIM  
SHERIFF COURT-SECURITY SERVICES**

**Declaration of Steven J. Smith**

Steven J. Smith makes the following declaration and statement under oath:

I, Steven J. Smith, Chief Accountant for the Accounting Division of the Auditor-Controller Department of the County of Los Angeles (County), am responsible for analyzing, reporting and recovering the County's trial court costs, including the County Sheriff's court security costs, in accordance with California law; and, I have been doing so for the past twenty years.

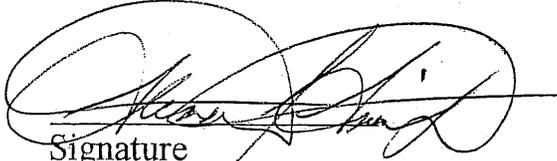
I declare that I have prepared the attached schedule which show best estimates of County court security retiree health benefit costs for the 2009-10 and 2010-11 fiscal years.

I declare that I have attached responses from other counties indicating their best estimates of County court security retiree health benefit costs for the 2009-10 and 2010-11 fiscal years.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and to those matters, I believe them to be true.

June 29, 2010 in Los Angeles  
Date and Place

  
Signature

**Attachment to the Declaration of Steven J. Smith**

**Los Angeles County  
Sheriff Court Security – Retiree Health Benefit Costs**

The County of Los Angeles (County) is in the process of filing a ‘test claim’ with the Commission on State Mandates (which is due by June 30, 2010) for retiree health benefit costs for sheriff staff providing security (trial court) services mandated under Govt. Code section 69926. On July 20, 2009, this section was subsequently amended to now expressly exclude retiree health benefit costs that were previously reimbursed. The County’s test claim seeks to recover these excluded costs.

As part of the requirement for filing a test claim, a statewide cost survey must be completed. Los Angeles County has been identified as one of the five counties that are affected by this exclusion. If successful, State reimbursement for retiree health benefit costs will be made for the 2009-10 and subsequent years.

The best estimates of Sheriff’s security service trial court retiree health benefit costs by fiscal year are:

<u>\$4,813,476</u>	for 2009-10
<u>\$4,890,183</u>	for 2010-11

Prepared by Steven J. Smith of Los Angeles County

**Statewide Cost Survey  
Sheriff Security Services - Trial Courts**

The County of Los Angeles is in the process of filing a 'test claim' with the Commission on State Mandates (which is due by June 30, 2010) for retiree health benefit costs for sheriff staff providing security (trial court) services mandated under Govt. Code section 69926. On July 20, 2009, this section was subsequently amended to now expressly exclude retiree health benefit costs that were previously reimbursed. Our test claim seeks to recover these excluded costs.

As part of the requirement for filing a test claim, a statewide cost survey must be completed. Your county has been identified as one of the five counties that are affected by this exclusion. If we are successful, State reimbursement for retiree health benefit costs will be made for the 2009-10 and subsequent years.

Please let us know your best estimates of your Sheriff's security service trial court retiree health benefit costs for:

	<u>(Retiree Health Savings Plan)</u>	<u>(Retiree Medical Offset)</u>	<u>Total</u>
2009-10	\$89,865	\$102,652	\$192,517
2010-11	\$94,900	\$ 65,992	\$160,892
	-----	-----	-----
Totals	\$184,765	\$168,644	\$353,409

Submitted by: Laura Castleman, (916) 874-2768, of Sacramento County

Thank you for your prompt response !

**Statewide Cost Survey  
Sheriff Security Services - Trial Courts**

The County of Los Angeles is in the process of filing a 'test claim' with the Commission on State Mandates (which is due by June 30, 2010) for retiree health benefit costs for sheriff staff providing security (trial court) services mandated under Govt. Code section 69926. On July 20, 2009, this section was subsequently amended to now expressly exclude retiree health benefit costs that were previously reimbursed. Our test claim seeks to recover these excluded costs.

As part of the requirement for filing a test claim, a statewide cost survey must be completed. Your county has been identified as one of the five counties that are affected by this exclusion. If we are successful, State reimbursement for retiree health benefit costs will be made for the 2009-10 and subsequent years.

Please let us know your best estimates of your Sheriff's security service trial court retiree health benefit costs for:

\_\_\_\_\_ 69,463.00 \_\_\_\_\_ 2009-10

\_\_\_\_\_ 69,463.00 \_\_\_\_\_ 2009-11

Submitted by Han Nguyen \_\_\_\_\_ of Kern \_\_\_\_\_ County

Thank you for your prompt response !

**Statewide Cost Survey  
Sheriff Security Services - Trial Courts**

The County of Los Angeles is in the process of filing a 'test claim' with the Commission on State Mandates (which is due by June 30, 2010) for retiree health benefit costs for sheriff staff providing security (trial court) services mandated under Govt. Code section 69926. On July 20, 2009, this section was subsequently amended to now expressly exclude retiree health benefit costs that were previously reimbursed. Our test claim seeks to recover these excluded costs.

As part of the requirement for filing a test claim, a statewide cost survey must be completed. Your county has been identified as one of the five counties that are affected by this exclusion. If we are successful, State reimbursement for retiree health benefit costs will be made for the 2009-10 and subsequent years.

Please let us know your best estimates of your Sheriff's security service trial court retiree health benefit costs for:

\_\_\_\$455,915\_\_\_ 2009-10

\_\_\_\$582,768\_\_\_ 2010-11

Submitted by Thuy Nguyen of Santa Clara County

Thank you for your prompt response!

**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**



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MARIA M. OMS  
CHIEF DEPUTY

ROBERT A. DAVIS  
JOHN NAIMO  
JUDI E. THOMAS

**Los Angeles County Test Claim  
Sheriff Court-Security Services**

**Declaration of Leonard Kaye**

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, Los Angeles County's [County] representative in this matter, have prepared the subject test claim.

I declare that it is my information and belief that retiree health benefit costs incurred in performing State-mandated Sheriff court-security services are reimbursable "costs mandated by the State", as defined in Government Code section 17514.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and as to those matters I believe them to be true.

6/28/10; Los Angeles, CA

Date and Place

*Leonard Kaye*

Signature

**Senate Bill No. 13**

**CHAPTER 22**

An act to amend Section 6322.1 of the Business and Professions Code, to amend Sections 68086.1, 69926, 69927, 69957, 70602, 70603, 70611, 70612, 70613, 70614, 70621, 70626, 70650, 70651, 70652, 70653, 70654, 70655, 70656, 70658, and 70670 of, to add Sections 68106.2, 68511.9, and 77202.5 to, and to add and repeal Sections 68106 and 68106.1 of, the Government Code, to amend Section 103470 of the Health and Safety Code, to amend Section 5023.5 of, and to amend, repeal, and add Section 1465.8 of, the Penal Code, to amend Section 7660 of the Probate Code, and to amend Sections 1955 and 1961 of the Welfare and Institutions Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 2009. Filed with  
Secretary of State July 28, 2009.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 13, Ducheny. Courts omnibus bill: public safety.

(1) Existing law sets the fees at \$15 or \$20 for various court services, including, but not limited to, issuing a writ for the enforcement of an order or judgment, issuing an abstract of judgment, recording or registering any license or certificate, issuing an order of sale, and filing and entering an award under the Workers' Compensation Law.

This bill would increase those fees by \$10, and would provide that the \$10 fee increase shall be transmitted quarterly for deposit in the Trial Court Trust Fund and, commencing July 1, 2011, used by the Judicial Council for implementing and administering the civil representation pilot program described in (5) below.

(2) Under existing law, \$25 of each specified filing fee in connection with certain civil proceedings is required to be used for services of an official court reporter in civil proceedings.

This bill would increase the amount of those filing fees required to be used for services of an official court reporter in civil proceedings to \$30.

(3) Under existing law, to the extent that a memorandum of understanding for trial court employees designates certain days as unpaid furlough days for employees assigned to regular positions in the superior court, the court may not be in session on those days except as ordered by the presiding judge.

This bill, until July 1, 2010, would authorize the Judicial Council to provide that the courts be closed for the transaction of judicial business for one day per month, which would be treated as a holiday, and to adopt court rules to implement these provisions, subject to specified conditions. The bill would authorize a judge or justice to sign a form, to be prepared by the

Administrative Office of the Courts, stating that the judge or justice voluntarily agrees to irrevocably waive an amount equal to 4.62% of his or her monthly salary, as specified. The bill also would require a 4.62% reduction in the compensation due to the sheriff for court security services because of the closure of the courts under these provisions, and would, where a memorandum of understanding has been executed, require the court and the sheriff, county, or sheriff and county to negotiate that reduction in good faith and amend the memorandum of understanding accordingly. By imposing additional duties on county officials, the bill would create a state-mandated local program.

(4) Existing law authorizes the Judicial Council to regulate the budget and fiscal management of the trial courts. The Judicial Council is required to adopt rules to provide for reasonable public access to budget allocation and expenditure information at the state and local level, and to adopt rules ensuring that, upon written request, the trial courts provide, in a timely manner, information relating to the administration of the courts, including financial information and other information that affects the wages, hours, and working conditions of trial court employees.

This bill would provide that any person shall have the right to obtain specified budget, expenditure, and personnel records of the courts, except as specified. The bill would require the Judicial Council to adopt rules of court that provide public access to nondeliberative or nonadjudicative court records, budget, and management information on or before January 1, 2010.

(5) Existing law requires the Judicial Council to provide an annual status report to the chairpersons of the budget committee in each house of the Legislature and the Joint Legislative Budget Committee regarding the California Case Management System and Court Accounting and Reporting System, as specified. Under existing law, the office of the State Chief Information Officer is responsible for the approval and oversight of information technology projects.

This bill would provide that the California Case Management System, and all other administrative and infrastructure information technology projects of the Judicial Council or the courts with total costs estimated at more than \$5,000,000, shall be subject to the review and recommendations of the office of the State Chief Information Officer, as specified. The bill would require the State Chief Information Officer to submit a copy of those reviews and recommendations to the Joint Legislative Budget Committee.

(6) The Superior Court Law Enforcement Act of 2002 authorizes the presiding judge of each superior court to contract with a sheriff or marshal for the necessary level of law enforcement services in the courts. Existing law requires the sheriff or marshal and presiding judge of any county to develop a court security plan to be utilized by the court, as specified, and requires the Judicial Council to establish a process for its review of court security plans in the California Rules of Court. Existing law requires the superior court and the sheriff or marshal to enter into a memorandum of understanding specifying the agreed upon level of court security services and their cost and terms of payment, and requires the sheriff or marshal to

provide specified information to the courts by April 30 of each year, with actual court security allocations subject to the approval of the Judicial Council. Existing law requires the Administrative Office of the Courts to use the actual salary and benefits costs approved for court law enforcement personnel as of June 30 of each year in determining the annual funding request for the courts that will be presented to the Department of Finance.

This bill would provide that the cost of services specified in the memorandum of understanding shall be based on the estimated average cost of salary and benefits for equivalent personnel classifications in that county, not including overtime pay. In calculating the average cost of benefits, the bill would provide that only specified benefits may be included. The bill would require the Administrative Office of the Courts to use the average salary and benefits costs approved for court law enforcement personnel as of June 30 of each year in determining the annual funding request for the courts that will be presented to the Department of Finance.

(7) Existing law permits limited use of electronic recording devices in court proceedings under certain circumstances, but prohibits a court from expending funds for electronic recording technology or equipment to make an unofficial record of an action or proceeding or to use that technology or equipment to make the official record of an action or proceeding in any circumstance that is not authorized. Existing law also requires each superior court to report semiannually to the Judicial Council, and the Judicial Council to report semiannually to the Legislature, regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

This bill would prohibit a court from expending funds for or using electronic recording technology or equipment to make an unofficial record of an action or proceeding, including for purposes of judicial notetaking, or to make the official record of an action or proceeding in any circumstance that is not authorized. The bill would authorize a court to use electronic recording equipment for the internal personnel purpose of monitoring judicial officer performance, if notice is provided to litigants that the proceeding may be recorded for that purpose, as specified. The bill would require a court, prior to purchasing or leasing any electronic recording technology or equipment, to obtain advance approval from the Judicial Council.

(8) Existing law states the intent of the Legislature to establish a moratorium on increases in filing fees until January 1, 2012.

This bill would provide that, due to the economic crisis facing California in the 2009–10 fiscal year, a first paper filing fee increase is included in conjunction with the Budget Act of 2009. This bill would increase those first paper filing fees by \$5.

(9) Existing law requires the Legislature to make an annual appropriation to the Judicial Council for the general operations of the trial courts based upon the request of the Judicial Council. Existing law requires the annual budget request to include, among other items, a cost-of-living and growth adjustment based on the year-to-year change in the state appropriations limit, and additional funding for the trial courts for costs resulting from the

implementation of statutory changes that result in either an increased level of service or a new activity that directly affects the programmatic or operational needs of the courts.

This bill would require the Judicial Council to report all approved allocations and reimbursements to the trial courts in each fiscal year, including funding received through augmentations for costs resulting from the implementation of statutory changes, as described above, to the chairs of the Senate and Assembly Committees on Budget and the Judiciary on or before September 30 following the close of each fiscal year. The bill would specify the information to be included in the report, and would require the Administrative Office of the Courts to summarize that information by court and report it to the chairs of the Senate and Assembly Committees on Budget and the Judiciary on or before November 1, 2009, and each November 1 thereafter. The bill would require the trial courts to report to the Judicial Council on or before September 15 of each year all court revenues, expenditures, reserves, and fund balances from the prior fiscal year, as specified, and would require the Judicial Council to summarize and report that information to the chairs of those committees, and to post that information on a public Internet Web site, on or before December 31 of each year.

(10) Existing law imposes a fee of \$20 upon every conviction for a criminal offense, other than parking offenses, for funding of court security.

This bill would increase that court security fee to \$30 until July 1, 2011.

(11) Existing law authorizes the Department of Corrections and Rehabilitation to contract with providers of emergency health care services. The department is prohibited from reimbursing a noncontracting hospital or provider of ambulance or other emergency or nonemergency response service at a rate that exceeds the reasonable and allowable costs of the hospital or other provider for those services. The department is required to work with the State Department of Health Care Services in order to establish the costs allowable under these provisions.

This bill, instead, would authorize the Department of Corrections and Rehabilitation to contract with providers of health care services and health care network providers, subject to maximum reimbursement rates, except as specified. The bill would authorize the department to reimburse a noncontract provider of hospital or physician services, or ambulance or any other emergency or nonemergency response service, only at a rate equal to or less than the amount payable under the Medicare Fee Schedule. The bill would authorize the Secretary of the Department of Corrections and Rehabilitation to adopt regulations to implement these provisions, and to change the maximum reimbursement rates, as specified.

(12) Existing law establishes the Youthful Offender Block Grant Program to enhance the capacity of county departments to provide appropriate rehabilitative and supervision services to youthful offenders. Existing law requires the Director of Finance to determine for each fiscal year the total amount of the Youthful Offender Block Grant pursuant to a specified formula and the allocation for each county, and to report those findings to the

Controller to make an annual allocation to each county from the Youthful Offender Block Grant Fund. Existing law requires each county, on or before January 1, 2008, to prepare and submit to the Corrections Standards Authority for approval a Juvenile Justice Development Plan for youthful offenders that includes a description of the programs, placements, services, or strategies to be funded by the block grant allocation.

This bill instead would require the allocation amount for each county from the Youthful Offender Block Grant Fund to be allocated in 4 equal installments, to be paid in September, December, March, and June, pursuant to the existing formula. The bill would require each county, on or before May 1 of each year, to prepare and submit to the Corrections Standards Authority for approval a Juvenile Justice Development Plan on its proposed expenditures for the next fiscal year of block grant funds that includes a description of the programs, placements, services, or strategies to be funded by the block grant allocation and other specified information. The bill would require each county receiving block grant funds, by October 1 of each year, to submit an annual report to the authority on its utilization of the block grant funds in the preceding fiscal year. By increasing the duties of local officials, the bill would impose a state-mandated local program.

This bill would require the Corrections Standards Authority to develop and provide a format for the Juvenile Justice Development Plan, and would authorize the authority to develop and provide a dual format for counties for the submission together of that plan and the county multiagency juvenile justice plan, as specified. The bill would require the authority to prepare and make available to the public on its Internet Web site summaries of the annual county reports on the utilization of block grant funds, and would require the authority, by March 15 of each year, to prepare and submit to the Legislature a report summarizing county utilizations of block grant funds in the preceding fiscal year.

(13) This bill would provide that its provisions are severable.

(14) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.

(15) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(16) This bill would declare that it is to take effect immediately as an urgency statute.

(A) The degree to which the project is within approved scope, cost, and schedule.

(B) Project issues, risks, and corresponding mitigation efforts.

(C) The current estimated schedule and costs for project completion.

SEC. 7. Section 69926 of the Government Code is amended to read:

69926. (a) This section applies to the superior court and the sheriff or marshal's department in those counties in which either of the following apply:

(1) The sheriff's department was otherwise required by law to provide court security services on and after July 1, 1998.

(2) Court security was provided by the marshal's office on and after July 1, 1998, the marshal's office was subsequently abolished and succeeded by the sheriff's department, and the successor sheriff's department is required to provide court security services as successor to the marshal.

(b) The superior court and the sheriff or marshal shall enter into an annual or multiyear memorandum of understanding specifying the agreed upon level of court security services, cost of services, and terms of payment. The cost of services specified in the memorandum of understanding shall be based on the estimated average cost of salary and benefits for equivalent personnel classifications in that county, not including overtime pay. In calculating the average cost of benefits, only those benefits listed in paragraph (6) of subdivision (a) of Section 69927 shall be included. For purposes of this article, "benefits" excludes any item not expressly listed in this subdivision, including, but not limited to, any costs associated with retiree health benefits. As used in this subdivision, retiree health benefits includes, but is not limited to, the current cost of health benefits for already retired personnel and any amount to cover the costs of future retiree health benefits for either currently employed or already retired personnel.

(c) The sheriff or marshal shall provide information as identified in the contract law enforcement template by April 30 of each year to the superior court in that county, specifying the nature, extent, and basis of the costs, including negotiated or projected salary increases of court law enforcement services that the sheriff proposes to include in the budget of the court security program for the following state budget year. Actual court security allocations shall be subject to the approval of the Judicial Council and the funding provided by the Legislature. It is the intent of the Legislature that proposed court security expenditures submitted by the Judicial Council to the Department of Finance for inclusion in the Governor's Budget shall be as defined in the contract law enforcement template.

(d) If the superior court and the sheriff or marshal are unwilling or unable to enter into an agreement pursuant to this section on or before August 1 of any fiscal year, the court or sheriff or marshal may request the continuation of negotiations between the superior court and the sheriff or marshal for a period of 45 days with mediation assistance, during which time the previous law enforcement services agreement shall remain in effect. Mutually agreed upon mediation assistance shall be determined by the Administrative Director of the Courts and the president of the California State Sheriffs' Association.

SEC. 8. Section 69927 of the Government Code is amended to read:

69927. (a) It is the intent of the Legislature in enacting this section to develop a definition of the court security component of court operations that modifies Function 8 of Rule 10.810 of the California Rules of Court in a manner that will standardize billing and accounting practices and court security plans, and identify allowable law enforcement security costs after the operative date of this article. It is not the intent of the Legislature to increase or decrease the responsibility of a county for the cost of court operations, as defined in Section 77003 or Rule 10.810 of the California Rules of Court, as it read on January 1, 2007, for court security services provided prior to January 1, 2003. It is the intent of the Legislature that a sheriff's or marshal's court law enforcement budget not be reduced as a result of this article. Any new court security costs permitted by this article shall not be operative unless the funding is provided by the Legislature.

(1) The Judicial Council shall adopt a rule establishing a working group on court security. The group shall consist of six representatives from the judicial branch of government, as selected by the Administrative Director of the Courts, two representatives of the counties, as selected by the California State Association of Counties, and three representatives of the county sheriffs, as selected by the California State Sheriffs' Association. It is the intent of the Legislature that this working group may recommend modifications only to the template used to determine that the security costs submitted by the courts to the Administrative Office of the Courts are permitted pursuant to this article. The template shall be a part of the trial court's financial policies and procedures manual and used in place of the definition of law enforcement costs in Function 8 of Rule 10.810 of the California Rules of Court. If the working group determines that there is a need to make recommendations to the template that specifically involve law enforcement or security personnel in courtrooms or court detention facilities, the membership of the working group shall change and consist of six representatives from the judicial branch of government selected by the Administrative Director of the Courts, two representatives of the counties selected by the California State Association of Counties, two representatives of the county sheriffs selected by the California State Sheriffs' Association, and two representatives of labor selected by the California Coalition of Law Enforcement Associations.

(2) The Judicial Council shall establish a working group on court security to promulgate recommended uniform standards and guidelines that may be used by the Judicial Council and any sheriff or marshal for the implementation of trial court security services. The working group shall consist of representatives from the judicial branch of government, the California State Sheriffs' Association, the California State Association of Counties, the Peace Officer's Research Association of California, and the California Coalition of Law Enforcement Associations, for the purpose of developing guidelines. The Judicial Council, after requesting and receiving recommendations from the working group on court security, shall promulgate and implement rules, standards, and policy directions for the trial courts in

order to achieve efficiencies that will reduce security operating costs and constrain growth in those costs.

(3) When mutually agreed to by the courts, county, and the sheriff or marshal in any county, the costs of perimeter security in any building that the court shares with any county agency, excluding the sheriff's or marshal's department, shall be apportioned based on the amount of the total noncommon square feet of space occupied by the court and any county agency.

(4) "Allowable costs for equipment, services, and supplies," as defined in the contract law enforcement template, means the purchase and maintenance of security screening equipment and the costs of ammunition, batons, bulletproof vests, handcuffs, holsters, leather gear, chemical spray and holders, radios, radio chargers and holders, uniforms, and one primary duty sidearm.

(5) "Allowable costs for professional support staff for court security operations," as defined in the contract law enforcement template, means the salary, benefits, and overtime of staff performing support functions that, at a minimum, provide payroll, human resources, information systems, accounting, or budgeting.

Allowable costs for professional support staff for court security operations in each trial court shall not exceed 6 percent of total allowable costs for law enforcement security personnel services in courts with total allowable costs for law enforcement security personnel services less than ten million dollars (\$10,000,000) per year. Allowable costs for professional support staff for court security operations for each trial court shall not exceed 4 percent of total allowable costs for law enforcement security personnel services in courts with total allowable costs for law enforcement security personnel services exceeding ten million dollars (\$10,000,000) per year. Additional costs for services related to court-mandated special project support, beyond those provided for in the contract law enforcement template, are allowable only when negotiated by the trial court and the court law enforcement provider. Allowable costs shall not exceed actual costs of providing support staff services for law enforcement security personnel services.

The working group established pursuant to paragraph (1) of subdivision (a) may periodically recommend changes to the limit for allowable costs for professional support staff for court security operations based on surveys of actual expenditures incurred by trial courts and the court law enforcement provider in the provision of law enforcement security personnel services. Limits for allowable costs as stated in this section shall remain in effect until changes are recommended by the working group and adopted by the Judicial Council.

(6) "Allowable costs for security personnel services," as defined in the contract law enforcement template, means the salary and benefits of an employee, including, but not limited to, county health and welfare, county incentive payments, deferred compensation plan costs, FICA or Medicare, general liability premium costs, leave balance payout commensurate with an employee's time in court security services as a proportion of total service

credit earned after January 1, 1998, premium pay, retirement, state disability insurance, unemployment insurance costs, workers' compensation paid to an employee in lieu of salary, workers' compensation premiums of supervisory security personnel through the rank of captain, line personnel, inclusive of deputies, court attendants, contractual law enforcement services, prisoner escorts within the courts, and weapons screening personnel, court required training, and overtime and related benefits of law enforcement supervisory and line personnel.

(A) The Administrative Office of the Courts shall use the average salary and benefits costs approved for court law enforcement personnel as of June 30 of each year in determining the funding request that will be presented to the Department of Finance.

(B) Courts and court security providers shall manage their resources to minimize the use of overtime.

(7) "Allowable costs for vehicle use for court security needs," as defined in the contract law enforcement template, means the per-mile recovery cost for vehicles used in rendering court law enforcement services, exclusive of prisoner or detainee transport to or from court. The standard mileage rate applied against the miles driven for the above shall be the standard reimbursable mileage rate in effect for judicial officers and employees at the time of contract development.

(b) Nothing in this article may increase a county's obligation or require any county to assume the responsibility for a cost of any service that was defined as a court operation cost, as defined by Function 8 of Rule 10.810 of the California Rules of Court, as it read on January 1, 2007, or that meets the definition of any new law enforcement component developed pursuant to this article.

SEC. 9. Section 69957 of the Government Code is amended to read:

69957. (a) Whenever an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use and shall only be purchased for use as provided by this section. A court shall not expend funds for or use electronic recording technology or equipment to make an unofficial record of an action or proceeding, including for purposes of judicial notetaking, or to make the official record of an action or proceeding in circumstances not authorized by this section.

(b) Notwithstanding subdivision (a), a court may use electronic recording equipment for the internal personnel purpose of monitoring judicial officer

30061 of the Government Code. A county may elect to submit both plans using the dual format and under guidelines established by the Corrections Standards Authority.

(c) Each county receiving an allocation from the Youthful Offender Block Grant fund described in Section 1951 shall, by October 1 of each year, submit an annual report to the Corrections Standards Authority on its utilization of the block grant funds in the preceding fiscal year. The report shall be in a format specified by the authority and shall include all of the following:

(1) A description of the programs, placements, services, and strategies supported by block grant funds in the preceding fiscal year, and an accounting of all of the county's expenditures of block grant funds for the preceding fiscal year.

(2) Performance outcomes for the programs, placements, services, and strategies supported by block grant funds in the preceding fiscal year, including, at a minimum, the following:

(A) The number of youth served including their characteristics as to offense, age, gender, race, and ethnicity.

(B) As relevant to the program, placement, service, or strategy, the rate of successful completion by youth.

(C) For any program or placement supported by block grant funds, the arrest, rearrest, incarceration, and probation violation rates of youth in any program or placement.

(D) Quantification of the annual per capita cost of the program, placement, strategy, or activity.

(d) The authority shall prepare and make available to the public on its Internet Web site summaries of the annual county reports submitted in accordance with subdivision (c). By March 15 of each year, the authority also shall prepare and submit to the Legislature a report summarizing county utilizations of block grant funds in the preceding fiscal year, including a summary of the performance outcomes reported by counties for the preceding fiscal year.

(e) The authority may modify the performance outcome measures specified in paragraph (2) of subdivision (c) if it determines that counties are substantially unable to provide the information necessary to support the measures specified. Prior to making that modification, the authority shall consult with affected county and state juvenile justice stakeholders. In the event that any adjustment of the performance outcome measures is made, the outcome measures shall, to the extent feasible, remain consistent with the performance outcome measures specified in subparagraph (C) of paragraph (4) of subdivision (b) of Section 30061 of the Government Code for programs receiving juvenile justice grants from the Supplemental Law Enforcement Services Fund.

SEC. 35. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 36. This act addresses the fiscal emergency declared by the Governor by proclamation on July 1, 2009, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 37. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 38. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement provisions related to public safety and the courts in the Budget Act of 2009, it is necessary for this act to take effect immediately.

**Senate Bill No. 1396**

**CHAPTER 1010**

An act to add Article 8.5 (commencing with Section 69920) to Chapter 5 of Title 8 of, and to repeal Sections 26603 and 77212.5 of, the Government Code, relating to judicial security.

[Approved by Governor September 27, 2002. Filed with Secretary of State September 27, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

**SB 1396, Dunn. Judicial security.**

The California Rules of Court, as adopted by the Judicial Council, provide a framework for the operation of the courts, including the respective costs deemed necessary for court security. Existing law requires the sheriff's office or marshal's department of any county to provide court security services.

This bill would enact the Superior Court Law Enforcement Act of 2002, which would require the sheriff or marshal and presiding judge of any county to develop a court security plan to be utilized by the court, as specified, and require the sheriff or marshal to provide specified information to the court by April 30 of each year, with actual court security allocations subject to the approval of the Judicial Council. The bill would require the superior court and the sheriff or marshal of any county to enter into an annual or multiyear memorandum of understanding specifying the level of court security services, costs of services, and terms of payment, and permit the court to contract for those services, as specified. The bill would permit, if no agreement is reached, the court, sheriff, or marshal to request mediation assistance, as specified, for a period of 45 days. The bill would further permit the court to use court attendants, as defined. The bill would also define related terms, declare the intent of the Legislature to modify Function 8 of Rule 810 of the California Rules of Court, and impose various duties on the Judicial Council.

Existing law requires a sheriff to attend all superior courts within the county, whenever required, as specified, and obey all lawful orders and directions of the courts. Existing law, as of July 1, 1998, and under specified circumstances, requires a sheriff to provide court security.

This bill would revise and recast those provisions, and require a sheriff to attend a noncriminal, nondelinquency action, under a specified circumstance. The bill would permit the use of court attendants, as defined, in a court hearing those actions.

This bill would impose additional duties on local employees, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Article 8.5 (commencing with Section 69920) is added to Chapter 5 of Title 8 of the Government Code, to read:

Article 8.5. Superior Court Security

69920. This article shall be known and may be cited as the Superior Court Law Enforcement Act of 2002.

69921. For purposes of this article:

(a) "Contract law enforcement template" means a document that is contained in the Administrative Office of the Courts' financial policies and procedures manual that accounts for and further defines allowable costs, as described in paragraphs (3) to (6), inclusive, of subdivision (a) of Section 69927.

(b) "Court attendant" means a nonarmed, nonlaw enforcement employee of the superior court who performs those functions specified by the court, except those functions that may only be performed by armed and sworn personnel. A court attendant is not a peace officer or a public safety officer.

(c) "Court security plan" means a plan that is provided by the superior court to the Administrative Office of the Courts that includes a law enforcement security plan and all other court security matters.

(d) "Law enforcement security plan" means a plan that is provided by a sheriff or marshal that includes policies and procedures for providing public safety and law enforcement services to the court.

(e) "Superior court law enforcement functions" means all of the following:

(1) Bailiff functions, as defined in Sections 830.1 and 830.36 of the Penal Code, in criminal and noncriminal actions, including, but not limited to, attending courts.

(2) Taking charge of a jury, as provided in Sections 613 and 614 of the Code of Civil Procedure.

(3) Patrolling hallways and other areas within court facilities.

(4) Overseeing prisoners in holding cells within court facilities.

(5) Escorting prisoners in holding cells within court facilities.

(6) Providing security screening within court facilities.

(7) Providing enhanced security for bench officers and court personnel, as agreed upon by the court and the sheriff or marshal.

69921.5. The duties of the presiding judge of each superior court shall include the authority to contract, subject to available funding, with a sheriff or marshal, for the necessary level of law enforcement services in the courts.

69922. Except as otherwise provided by law, whenever required, the sheriff shall attend all superior court held within his or her county. A sheriff shall attend a noncriminal, nondelinquency action, however, only if the presiding judge or his or her designee makes a determination that the attendance of the sheriff at that action is necessary for reasons of public safety. The court may use court attendants in courtrooms hearing those noncriminal, nondelinquency actions. Notwithstanding any other provision of law, the presiding judge or his or her designee may provide that a court attendant take charge of a jury, as provided in Sections 613 and 614 of the Code of Civil Procedure. The sheriff shall obey all lawful orders and directions of all courts held within his or her county.

69925. On and after July 1, 2003, the sheriff or marshal, in conjunction with the presiding judge, shall develop an annual or multiyear comprehensive court security plan that includes the mutually agreed upon law enforcement security plan to be utilized by the court. The Judicial Council shall provide for the subject areas to be addressed in the plan and specify the most efficient practices for providing court security services. The Judicial Council shall establish a process for the review of court security plans by the Judicial Council in the California Rules of Court. The Judicial Council shall annually submit to the Senate Judiciary Committee and Assembly Judiciary Committee a report summarizing the court security plans reviewed by the Judicial Council, including, but not limited to, a description of each plan, the cost involved, and whether each plan complies with the rules for the most efficient practices for providing court security services.

69926. (a) This section applies to the superior court and the sheriff or marshal's department in those counties in which either of the following apply:

(1) The sheriff's department was otherwise required by law to provide court security services on and after July 1, 1998.

(2) Court security was provided by the marshal's office on and after July 1, 1998, the marshal's office was subsequently abolished and succeeded by the sheriff's department, and the successor sheriff's department is required to provide court security services as successor to the marshal.

(b) The superior court and the sheriff or marshal shall enter into an annual or multiyear memorandum of understanding specifying the agreed upon level of court security services, cost of services, and terms of payment.

(c) The sheriff or marshal shall provide information as identified in the contract law enforcement template by April 30 of each year to the superior court in that county, specifying the nature, extent, and basis of the costs, including negotiated or projected salary increases of court law enforcement services that the sheriff proposes to include in the budget of the court security program for the following state budget year. Actual court security allocations shall be subject to the approval of the Judicial Council and the funding provided by the Legislature. It is the intent of the Legislature that proposed court security expenditures submitted by the Judicial Council to the Department of Finance for inclusion in the Governor's Budget shall be as defined in the contract law enforcement template.

(d) If the superior court and the sheriff or marshal are unwilling or unable to enter into an agreement pursuant to this section on or before August 1 of any fiscal year, the court or sheriff or marshal may request the continuation of negotiations between the superior court and the sheriff or marshal for a period of 45 days with mediation assistance, during which time the previous law enforcement services agreement shall remain in effect. Mutually agreed upon mediation assistance shall be determined by the Administrative Director of the Courts and the president of the California State Sheriffs' Association.

69927. (a) It is the intent of the Legislature in enacting this section to develop a definition of the court security component of court operations that modifies Function 8 of Rule 810 of the California Rules of Court in a manner that will standardize billing and accounting practices and court security plans, and identify allowable law enforcement security costs after the operative date of this article. It is not the intent of the Legislature to increase or decrease the responsibility of a county for the cost of court operations, as defined in Section 77003 or Rule 810 of the California Rules of Court, as it read on July 1, 1996, for court security services provided prior to January 1, 2003. It is the intent of the Legislature that a sheriff or marshal's court law enforcement budget may not be reduced as a result of this article. Any new court

security costs permitted by this article shall not be operative unless the funding is provided by the Legislature.

(1) The Judicial Council shall adopt a rule establishing a working group on court security. The group shall consist of six representatives from the judicial branch of government, as selected by the Administrative Director of the Courts, two representatives of the counties, as selected by the California State Association of Counties, and three representatives of the county sheriffs, as selected by the California State Sheriffs' Association. It is the intent of the Legislature that this working group may recommend modifications only to the template used to determine that the security costs submitted by the courts to the Administrative Office of the Courts are permitted pursuant to this article. The template shall be a part of the trial court's financial policies and procedures manual and used in place of the definition of law enforcement costs in Function 8 of Rule 810 of the California Rules of Court. If the working group determines that there is a need to make recommendations to the template that specifically involve law enforcement or security personnel in courtrooms or court detention facilities, the membership of the working group shall change and consist of six representatives from the judicial branch of government selected by the Administrative Director of the Courts, two representatives of the counties selected by the California State Association of Counties, two representatives of the county sheriffs selected by the California State Sheriffs' Association, and two representatives of labor selected by the California Coalition of Law Enforcement Associations.

(2) When mutually agreed to by the courts, county, and the sheriff or marshal in any county, the costs of perimeter security in any building that the court shares with any county agency, excluding the sheriff or marshal's department, shall be apportioned based on the amount of the total noncommon square feet of space occupied by the court and any county agency.

(3) "Allowable costs for equipment, services, and supplies," as defined in the contract law enforcement template, means the purchase and maintenance of security screening equipment and the cost of ammunition, batons, bulletproof vests, handcuffs, holsters, leather gear, chemical spray and holders, radios, radio chargers and holders, uniforms, and one primary duty sidearm.

(4) "Allowable costs for professional support staff for court security operations," as defined in the contract law enforcement template, means the salary, benefits, and overtime of staff performing support functions that, at a minimum, provide payroll, human resources, information systems, accounting, or budgeting.

Allowable costs for professional support staff for court security operations in each trial court shall not exceed 6 percent of total allowable costs for law enforcement security personnel services in courts whose total allowable costs for law enforcement security personnel services is less than ten million dollars (\$10,000,000) per year. Allowable costs for professional support staff for court security operations for each trial court shall not exceed 4 percent of total allowable costs for law enforcement security personnel services in courts whose total allowable costs for law enforcement security personnel services exceeds ten million dollars (\$10,000,000) per year. Additional costs for services related to court-mandated special project support, beyond those provided for in the contract law enforcement template, are allowable only when negotiated by the trial court and the court law enforcement provider. Allowable costs shall not exceed actual costs of providing support staff services for law enforcement security personnel services.

The working group established pursuant to paragraph (1) of subdivision (a) of Section 69927 may periodically recommend changes to the limit for allowable costs for professional support staff for court security operations based on surveys of actual expenditures incurred by trial courts and the court law enforcement provider in the provision of law enforcement security personnel services. Limits for allowable costs as stated in this section shall remain in effect until changes are recommended by the working group and adopted by the Judicial Council.

(5) "Allowable costs for security personnel services," as defined in the contract law enforcement template, means the salary and benefits of an employee, including, but not limited to, county health and welfare, county incentive payments, deferred compensation plan costs, FICA or Medicare, general liability premium costs, leave balance payout commensurate with an employee's time in court security services as a proportion of total service credit earned after January 1, 1998, premium pay, retirement, state disability insurance, unemployment insurance costs, worker's compensation paid to an employee in lieu of salary, worker's compensation premiums of supervisory security personnel through the rank of captain, line personnel, inclusive of deputies, court attendants, contractual law enforcement services, prisoner escorts within the courts, and weapons screening personnel, court required training, and overtime and related benefits of law enforcement supervisory and line personnel.

(A) The Administrative Office of the Courts shall use the actual salary and benefits costs approved for court law enforcement personnel as of June 30 of each year in determining the funding request that will be presented to the Department of Finance.

(B) Courts and court security providers shall manage their resources to minimize the use of overtime.

(6) "Allowable costs for vehicle use for court security needs," as defined in the contract law enforcement template, means the per mile recovery cost for vehicles used in rendering court law enforcement services, exclusive of prisoner or detainee transport to or from court. The standard mileage rate applied against the miles driven for the above shall be the standard reimbursable mileage rate in effect for judicial officers and employees at the time of contract development.

(b) Nothing in this article may increase a county's obligation or require any county to assume the responsibility for a cost of any service that was defined as a court operation cost, as defined by Function 8 of Rule 810 of the California Rules of Court, as it read on July 1, 1996, or that meets the definition of any new law enforcement component developed pursuant to this article.

SEC. 2. Section 26603 of the Government Code is repealed.

SEC. 3. Section 77212.5 of the Government Code is repealed.

SEC. 4. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Assembly Bill No. 92

CHAPTER 764

An act to add Section 77212.5 to the Government Code, relating to courts.

[Approved by Governor September 22, 1998. Filed with Secretary of State September 23, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 92, Cardoza. Courts: security services.

(1) Existing law requires the sheriff in certain counties to provide security services to the trial courts.

This bill would require the trial courts in such a county, commencing July 1, 1999, and thereafter, to enter into an agreement with the sheriff's department that was providing court security services as of July 1, 1998, regarding the provision of court security services, thereby imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 77212.5 is added to the Government Code, to read:

77212.5. Commencing on July 1, 1999, and thereafter, the trial courts of each county in which court security services are otherwise required by law to be provided by the sheriff's department shall enter into an agreement with the sheriff's department that was providing court security services as of July 1, 1998, regarding the provision of court security services.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of

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the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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# 2010 California Rules of Court

## Rule 10.810. Court operations

### (a) Definition

Except as provided in subdivision (b) and subject to the requirements of subdivisions (c) and (d), "court operations" as defined in Government Code section 77003 includes the following costs:

- (1) (*judicial salaries and benefits*) salaries, benefits, and public agency retirement contributions for superior and municipal court judges and for subordinate judicial officers;
- (2) (*nonjudicial salaries and benefits*) salaries, benefits, and public agency retirement contributions for superior and municipal court staff whether permanent, temporary, full- or part-time, contract or per diem, including but not limited to all municipal court staff positions specifically prescribed by statute and county clerk positions directly supporting the superior courts;
- (3) salaries and benefits for those sheriff, marshal, and constable employees as the court deems necessary for court operations in superior and municipal courts and the supervisors of those sheriff, marshal, and constable employees who directly supervise the court security function;
- (4) court-appointed counsel in juvenile dependency proceedings, and counsel appointed by the court to represent a minor as specified in Government Code section 77003;
- (5) (*services and supplies*) operating expenses in support of judicial officers and court operations;
- (6) (*collective bargaining*) collective bargaining with respect to court employees; and
- (7) (*indirect costs*) a share of county general services as defined in subdivision (d), Function 11, and used by the superior and municipal courts.

*(Subd (a) amended effective July 1, 1995; previously amended effective January 1, 1989, July 1, 1990, and July 1, 1991.)*

### (b) Exclusions

Excluded from the definition of "court operations" are the following:

- (1) law library operations conducted by a trust pursuant to statute;
- (2) courthouse construction and site acquisition, including space rental (for other than court records storage), alterations/remodeling, or relocating court facilities;

- (3) district attorney services;
- (4) probation services;
- (5) indigent criminal and juvenile delinquency defense;
- (6) civil and criminal grand jury expenses and operations (except for selection);
- (7) pretrial release services;
- (8) equipment and supplies for use by official reporters of the courts to prepare transcripts as specified by statute; and
- (9) county costs as provided in subdivision (d) as unallowable.

*(Subd (b) amended effective July 1, 1995; adopted effective July 1, 1988 as subd (c); previously amended effective January 1, 1989, and July 1, 1990.)*

**(c) Budget appropriations**

Costs for court operations specified in subdivision (a) shall be appropriated in county budgets for superior and municipal courts, including contract services with county agencies or private providers except for the following:

- (1) salaries, benefits, services, and supplies for sheriff, marshal, and constable employees as the court deems necessary for court operations in superior and municipal courts;
- (2) salaries, benefits, services, and supplies for county clerk activities directly supporting the superior court; and
- (3) costs for court-appointed counsel specified in Government Code section 77003.

Except as provided in this subdivision, costs not appropriated in the budgets of the courts are unallowable.

*(Subd (c) amended effective July 1, 1995; adopted as subd (d) effective July 1, 1990.)*

**(d) Functional budget categories**

Trial court budgets and financial reports shall identify all allowable court operations in the following eleven (11) functional budget categories. Costs for salary, wages, and benefits of court employees are to be shown in the appropriate functions provided the individual staff member works at least 25 percent time in that function. Individual staff members whose time spent in a function is less than 25 percent are reported in Function 10, All Other Court Operations. The functions and their respective costs are as follows:

**Function 1. Judicial Officers**

Costs reported in this function are
Salaries and state benefits of

Costs reported in this function are
Arbitrators' fees in mandatory judicial arbitration programs
Salaries, wages, and benefits of court staff providing child custody and visitation mediation and related investigation services, e.g., Director of Family Court Services mediators conciliators investigators clerical support staff
Contract mediators providing child custody and visitation mediation services
Salaries, wages, benefits, fees, and contract costs for other arbitration and mediation programs (programs not mandated by statute), e.g., arbitration administrators clerical support staff arbitrators' fees and expenses
Costs not reported in this function include
Related data processing (Function 9)
Any other related services, supplies, and equipment (Function 10)

**Function 7. Court-Appointed Counsel (Noncriminal)**

Costs reported in this function are
Expenses for court-appointed counsel as specified in Government Code § 77003

**Function 8. Court Security**

Court security services as deemed necessary by the court. Includes only the duties of (a) courtroom bailiff, (b) perimeter security (i.e., outside the courtroom but inside the court facility), and (c) at least .25 FTE dedicated supervisors of these activities.
Costs reported in this function are
Salary, wages, and benefits (including overtime) of sheriff, marshal, and constable employees who perform the court's security, i.e., bailiffs weapons-screening personnel

Salary, wages, and benefits (including overtime) of court staff performing court security, e.g., court attendants
Contractual security services
Salary, wages, and benefits of supervisors of sheriff, marshal, and constable employees whose duties are greater than .25 FTE dedicated to this function
Sheriff, marshal, and constable employee training
Purchase of security equipment
Maintenance of security equipment
Costs not reported in this function include
Other sheriff, marshal, or constable employees (unallowable)
Court attendant training (Function 10)
Overhead costs attributable to the operation of the sheriff and marshal offices (unallowable)
Costs associated with the transportation and housing of detainees from the jail to the courthouse (unallowable)
Service of process in civil cases (unallowable)
Services and supplies, including data processing, not specified above as allowable
Supervisors of bailiffs and perimeter security personnel of the sheriff, marshal, or constable office who supervise these duties less than .25 FTE time (unallowable)

**Function 9. Information Technology**

Costs reported in this function are
Salaries, wages, and benefits of court employees who plan, implement, and maintain court data processing and information technologies, e.g., programmers analysts

Contract and consulting services associated with court information/data processing needs and systems
County Information Systems/Data Processing Department charges made to court for court systems, e.g., jury-related systems court and case management, including courts' share of a criminal justice information system accounts receivable/collections systems
Related services, supplies, and equipment, e.g., software purchases and leases maintenance of automation equipment training associated with data processing systems' development
Costs not reported in this function include
Information technology services not provided directly to the courts (i.e., services used by other budget units)
Data processing for county general services, e.g., payroll, accounts payable (Function 11)

#### Function 10. All Other Court Operations

Costs reported in this function are
Salaries, wages, and benefits (including any pay differentials and overtime) of court staff (a) not reported in Functions 2-9, or (b) whose time cannot be allocated to Functions 2-9 in increments of at least 25 percent time (.25 FTE);
Judicial benefits, county-paid
Allowable costs not reported in Functions 2-9.
(Nonjudicial staff) Cost items may include, for example, juvenile traffic hearing officer mental health hearing officer court-appointed hearing officer (pro tem) executive officer court administrator clerk of the court administrative assistant personnel staff legal research personnel; staff attorney; planning and research staff secretary courtroom clerk clerical support staff calendar clerk deputy clerk accountant cashier counter clerk microfilming staff management analyst probate conservatorship and guardianship investigators probate examiner training staff employed by the court

Personnel costs not reported in this function:
Any of the above not employed by the court
(Services and supplies) Cost items may include, for example, office supplies printing postage communications publications and legal notices, by the court miscellaneous departmental expenses books, publications, training fees, and materials for court personnel (judicial and nonjudicial) travel and transportation (judicial and nonjudicial) professional dues memberships and subscriptions statutory multidistrict judges' association expenses research, planning, and program coordination expenses small claims advisor program costs court-appointed expert witness fees (for the court's needs) court-ordered forensic evaluations and other professional services (for the court's own use) pro tem judges' expenses micrographics expenses public information services vehicle use, including automobile insurance equipment (leased, rented, or purchased) and furnishings, including interior painting, replacement/maintenance of flooring, and furniture repair maintenance of office equipment janitorial services legal services for allowable court operations (County Counsel and contractual) fidelity and faithful performance insurance (bonding and personal liability insurance on judges and court employees) insurance on cash money and securities (hold-up and burglary) general liability/comprehensive insurance for other than faulty maintenance or design of facility (e.g., "slip and fall," other injury, theft and damage of court equipment, slander, discrimination) risk management services related to allowable insurance space rental for court records county records retention/destruction services county messenger/mail service court audits mandated under Government Code § 71383
Service and supply costs not reported in this function include Civic association dues (unallowable) Facility damages insurance (unallowable) County central service department charges not appropriated in the court budget (unallowable)

### Function 11. County General Services ("Indirect Costs")

General county services are defined as all eligible accounting, payroll, budgeting, personnel, purchasing, and county administrator costs rendered in support of court operations. Costs for included services are allowable to the extent the service is provided to the court. The following costs, regardless of how characterized by the county or by which county department they are performed, are reported in this function only and are subject to the statutory maximum for indirect costs as specified in

Government Code § 77003. To the extent costs are allowable under this rule, a county's approved Cost Plan may be used to determine the specific cost although the cost categories, or functions, may differ.

Cost items within the meaning of rule 10.810(a)(7) and the county departments often performing the service may include, for example, County Administrator budget development and administration interdepartmental budget unit administration and operations personnel (labor) relations and administration Auditor-Controller payroll financial audits warrant processing fixed asset accounting departmental accounting for courts, e.g., fines, fees, forfeitures, restitutions, penalties, and assessments; accounting for the Trial Court Special Revenue Fund accounts payable grant accounting management reporting banking Personnel recruitment and examination of applicants maintenance and certification of eligible lists position classification salary surveys leave accounting employment physicals handling of appeals Treasurer/Tax Collector warrant processing bank reconciliation retirement system administration receiving, safeguarding, investing, and disbursing court funds Purchasing Agent process departmental requisitions issue and analyze bids make contracts and agreements for the purchase or rental of personal property store surplus property and facilitate public auctions

Unallowable costs Unallowable court-related costs are those (a) in support of county operations, (b) expressly prohibited by statute, (c) facility-related, or (d) exceptions of the nature referenced in Functions 1-11.

Unallowable cost items, including any related data processing costs, are not reported in Functions 1-11 and may include, for example, Communications central communication control and maintenance for county emergency and general government radio equipment Central Collections processing accounts receivable for county departments (not courts) County Administrator legislative analysis and activities preparation and operation of general directives and operating procedures responses to questions from the Board, outside agencies, and the public executive functions: Board of Supervisors county advisory councils Treasurer/Tax Collector property tax determination, collection, etc. General Services rental and utilities support coordinate county's emergency services Property Management negotiations for the acquisition, sale, or lease of property, except for space rented for storage of court records making appraisals negotiating utility relocations assisting County Counsel in

condemnation actions preparing deeds, leases, licenses, easements collecting rents building lease management services (except for storage of court records) Facility-related construction services right-of-way and easement services purchase of land and buildings construction depreciation of buildings/use allowance space rental/building rent (except for storage of court records) building maintenance and repairs (except interior painting and to replace/repair flooring) purchase, installation, and maintenance of H/V/A/C equipment maintenance and repair of utilities utility use charges (e.g., heat, light, water) elevator purchase and maintenance alterations/remodeling landscaping and grounds maintenance services exterior lighting and security insurance on building damages (e.g., fire, earthquake, flood, boiler and machinery) grounds' liability insurance parking lot or facility maintenance juror parking

*(Subd (d) amended effective January 1, 2007; previously amended and relettered effective July 1, 1995.)*

*Rule 10.810 amended and renumbered effective January 1, 2007; adopted as rule 810 effective July 1, 1988; previously amended effective July 1, 1989, July 1, 1990, July 1, 1991, and July 1, 1995.*

**Advisory Committee Comment**

Rule 10.810 is identical to former rule 810, except for the rule number. All references in statutes or rules to rule 810 apply to this rule.





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## FACT SHEET

July 2009

### Court Security

*"Courthouses must be a safe harbor to which members of the public come to resolve disputes that often are volatile. Once courthouses themselves are perceived as dangerous, the integrity and efficacy of the entire judicial process is in jeopardy."*

Hon. Ronald M. George  
Chief Justice of California

#### **Introduction—Securing Our Courts**

Per the Superior Court Law Enforcement Act of 2002 (Gov. Code, §§ 69920–69927), the presiding judge of each court contracts with a sheriff or marshal for the necessary level of law enforcement services (subject to the court's available funding). Working with court leaders and the sheriffs and marshals, the Administrative Office of the Courts (AOC) also plays an important role in enhancing security throughout California's court system. Our goal is ensuring that all courts provide a safe and secure environment.

#### **Security Funding**

During its 2003 session, the California Legislature expressed concern with the ongoing rise in court security expenditures and looked for a means to cooperatively establish standards for providing court security services. To facilitate the development and implementation of these uniform standards and guidelines, Government Code section 69927 was amended to form two working groups related to court security.

The first, authorized under Government Code section 69927(a)(2) and established under rule 10.170 of the California Rules of Court, is called the Working Group on Court Security. It is composed of 15 members (representatives from the judicial branch, sheriffs, counties, and law enforcement labor organizations) and a nonvoting chair. It is staffed by AOC and charged with recommending uniform standards and guidelines for the implementation of trial court security services.

## *Court Security*

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### **Cost-saving methods**

To advance cost savings, some courts use multiple security staff classification levels. For example, civilian court employees such as court attendants are used to provide security in certain noncriminal cases. This allows lower salary and benefit expenses.

- Government Code section 69921 defines a court attendant as “a nonarmed, nonlaw enforcement employee of the superior court who performs those functions specified by the court, except those functions that may only be performed by armed sworn personnel. A court attendant is not a peace officer or a public safety officer.” Courts may use court attendants in courtrooms hearing noncriminal and nondelinquency actions, when the presiding judge finds that having the sheriff present is not necessary.
- Courtroom attendant duties include reporting security violations to the appropriate law enforcement agency, taking charge of juries, accepting legal documents, and serving as a liaison between judicial officers, court staff and attorneys, witnesses, and parties. In some courts, the court attendant is the only person charged with maintaining security in the courtroom, while in others, attendants are used to supplement the sheriff’s security staff both in the courtroom and at weapons screening stations.

### **Unanticipated costs**

High-profile or multiple-defendant cases often require a higher level of court security services than most trial courts can pay for out of existing funds. Additional security costs arise from transporting defendants, providing security for the jury and media, and managing the public.

- Security for high-profile and high-security cases reduces the amount of funding and staff resources available for a court’s ongoing security needs and also reduces funding for other areas of court operations.
- Trial courts may apply for a reimbursement of extraordinary costs associated with homicide trials. This limited funding is intended to address the impact of individual homicide trials that, because of special circumstances, result in costs that exceed the limited funds available in small courts for such programs. Reimbursement can be requested for temporary help, overtime, and one-time costs such as witness fees, court reporter fees, transcript preparation charges, court interpreter costs, and security costs. High-profile nonhomicide cases that result in extraordinary court security costs are, however, not eligible for reimbursement.

## *Court Security*

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### **Security Needs**

Results from surveys and needs assessments show that the use of outdated and inadequate court facilities cause courts and sheriffs alike to implement security procedures that were expensive and failed to meet the courts' security needs.

Examples of costly or unsafe court security procedures resulting from inadequate facilities include:

- *Lack of weapons screening.* Initial assessments indicated that some courts, particularly those located in historic or small buildings, did not have the physical capacity to accommodate the x-ray machine, magnetometer, and staff required to operate a weapons screening station. Other court facilities had multiple entrances, making it difficult to implement weapons screening at a reasonable cost. Measures have been taken toward rectifying this situation.
- *Lack of holding cells.* Many court facilities lack on-site holding cells for in-custody defendants transferred from the jail for court appearances. As a result, some courts must hold such defendants in empty courtrooms, monitored by several security staff. In other courts, the in-custody defendants are brought to the courthouse in small groups and held in the courtroom or hallway, while monitored by deputy sheriffs.
- *Insufficient hallway space and waiting areas.* Many courts also do not have sufficient hallway and waiting areas to allow for reasonable separation between defendants, victims, jurors, and the public. As a result, court security staff is needed to keep order in public areas outside the courtroom.
- *Unsafe circulation areas.* Many court facilities do not have adequate separate circulation areas for inmates, judges, and staff. This can result in security staff using inefficient or unsafe paths to transport in-custody inmates. The internal circulation patterns for a general-purpose court facility in which in-custody cases are heard should include three separate and distinct zones: for public, private, and secured circulation. The public circulation zone provides access from each public point of entry into the building. The private circulation zone provides limited-access corridors between specific functions for court staff, judicial officers, escorted jurors, and security personnel. The secured circulation zone for in-custody defendants should be completely separate from the public and private circulation zones and should provide access between the secured in-custody entrance (sally port), central holding and intake areas, attorney interview rooms, courtroom holding areas, and the courtrooms themselves.

## *Court Security*

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court security plan should address, the process for plan submission and review, and efficient practices for providing court security services. The Judicial Council approved rule 10.172, which became effective on January 1, 2009. An optional online planning tool was created by OERS to assist courts in creating comprehensive plans.

OERS staff and the Working Group on Court Security also proposed a rule of court regarding standing court security committees, which was approved as rule 10.173 and made effective on January 1, 2009. They continue collaboration on recommendations for uniform standards and guidelines that may be used for the implementation of trial court security services, recommendations to achieve efficiencies that will reduce court security operating costs and constrain growth, and recommendations regarding security considerations for court facilities.

### **Planning for the Future**

OERS is working on security-related issues with several groups in addition to the Working Group on Court Security:

- The Court Emergency Response and Security Task Force, which evaluates court security issues and develops recommendations for the Judicial Council to manage, maintain, and improve security in the courts through statewide systems and progressive initiatives to increase efficiency.
- The Appellate Court Security Committee, an informal committee comprised of justices from the Courts of Appeal with representatives from the California Highway Patrol, which works to identify necessary security improvements for the appellate courts and establishes milestones for achieving those improvements.
- The Court Security Education Committee, one of several committees staffed by the AOC Education Division/Center for Judicial Education and Research, which helps to develop curriculum to improve the knowledge of presiding judges, judicial officers, court executive officers, and managers about safety and security in and outside the courtroom.

As the AOC is committed to ensuring the safety of all employees, court personnel, and the public, OERS will continue to develop a comprehensive emergency planning and security program that seeks to provide the highest level of protection for the individuals, facilities, and property of the AOC and all California courts.

#### **Contact:**

AOC Office of Emergency Response and Security, 415-865-8991 or [oers@jud.ca.gov](mailto:oers@jud.ca.gov)

Test Claim Certification  
Los Angeles County Test Claim  
Sheriff Court-Security Services

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Wendy L. Watanabe  
Authorized Official

Wendy L. Watanabe  
Signature of Authorized Official

Auditor-Controller  
Title

6/29/2010  
Date

# Commission on State Mandates

Original List Date: 7/1/2010

Mailing Information: Completeness Determination

Last Updated:

List Print Date: 07/02/2010

## Mailing List

Claim Number: 09-TC-03

Issue: Sheriff Court-Security Services

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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