

BOARD of SUPERVISORS



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MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector

FROM: Brent Jalipa, Assistant Clerk
Budget and Finance Committee

DATE: November 9, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by the Office of the Controller:

File No. 211109

Ordinance amending the Administrative Code to delete the Trial Courts Courthouse Construction Fund; and to reduce amounts that the City previously added to court-imposed penalties, fines, or forfeitures in San Francisco to support the acquisition, rehabilitation, construction, and financing of courtrooms or courtroom buildings.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: brent.jalipa@sfgov.org.

c: Amanda Kahn Fried, Office of the Treasurer and Tax Collector

1 [Administrative Code - Trial Courts Courthouse Construction Fund - Termination of Penalties
2 for Court Construction]

3 **Ordinance amending the Administrative Code to delete the Trial Courts Courthouse**
4 **Construction Fund; and to reduce amounts that the City previously added to court-**
5 **imposed penalties, fines, or forfeitures in San Francisco to support the acquisition,**
6 **rehabilitation, construction, and financing of courtrooms or courtroom buildings.**

7
8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Background.

17 California Government Code Sections 76100 and 70625 authorize the Board of
18 Supervisors (the "Board") to establish a Courthouse Construction Fund for the purpose of
19 assisting the City and County of San Francisco (the "City") in the acquisition, rehabilitation,
20 construction, and financing of courtrooms or courtroom buildings containing facilities
21 necessary for or incidental to the operation of the justice system, and require the City to place
22 certain surcharges on court filing fees and court-imposed fines, penalties, and forfeitures into
23 the Fund.

24 In compliance with an earlier iteration of the Government Code, the Board of
25 Supervisors established the Courthouse Temporary Construction Fund and authorized the
collection of an additional penalty of \$7 for every \$10 or fraction thereof on certain court-

1 imposed fines, penalties, and forfeitures, to be placed into that fund. In 1992, following a
2 change in State law, the Board enacted Resolution No. 714-92, which renamed the fund as
3 the Courthouse Construction Fund.

4 In Resolution No. 713-92, under Government Code Sections 76000, et seq., the Board
5 authorized an additional penalty of \$2.50 for every parking offense where a parking penalty,
6 fine, or forfeiture is imposed by the courts in San Francisco, and required the Treasurer to
7 deposit the surcharge in the Courthouse Construction Fund. The same resolution required
8 the Treasurer to deposit into the Fund \$.01 for every \$10 or fraction thereof collected for every
9 court-imposed fine, penalty, or forfeiture for criminal offenses and violations of the Vehicle
10 Code other than parking offenses.

11 In Ordinance No. 316-00, the Board codified the Trial Courts Courthouse Construction
12 Fund (the "Fund") in Administrative Code Section 10.100-353.

13 Under Government Code Section 70402, any amount in the Fund must be transferred
14 to the State Court Facilities Construction Fund at the later of either (1) the date of the last
15 transfer of responsibility for court facilities from the City to the Judicial Council or December
16 31, 2009, whichever is earlier; or (2) the date of the final payment of the bonded indebtedness
17 for any court facility that is paid from that fund is retired. The City's bond indebtedness on the
18 Civic Center Courthouse concluded on April 1, 2021, triggering the requirement for the City to
19 transfer any remaining monies in the Fund.

20
21 Section 2. Termination of Surcharges.

22 (a) The \$2.50 added penalty authorized under Government Code Section 76000(b)
23 and approved by the Board in Resolution No. 713-92 is hereby reduced by \$1.50 as provided
24 in Section 76000(d), such that the total amount of the added penalty shall be \$1. That
25

1 remaining \$1 penalty authorized under California Government Code Section 76000 shall be
2 deposited into the City's General Fund as provided in that Section.

3 (b) The \$7 additional penalty approved in Resolution No. 713-92 authorized by
4 Section 76000(a) is hereby reduced by \$0.01 as provided in Section 76000(e), such that the
5 total amount of the additional penalty under California Government Code Section 76000 shall
6 be \$6.99.

7
8 Section 3. Chapter 10, Article XIII, of the Administrative Code is hereby amended by
9 deleting Section 10.100-353, as follows:

10
11 **~~SEC. 10.100-353. TRIAL COURTS COURTHOUSE CONSTRUCTION FUND.~~**

12 ~~(a) Establishment of Fund. The Trial Courts Courthouse Construction Fund is established as~~
13 ~~a category four fund for the purpose of receiving all funds collected pursuant to Resolution No. 713-92~~
14 ~~of the Board of Supervisors of the City and County of San Francisco as authorized by Section 76238 of~~
15 ~~the California Government Code from surcharges on first filing fees, and all funds collected pursuant~~
16 ~~to Resolution No. 713-92 as authorized by Sections 76000 and 76100 of the California Government~~
17 ~~Code from penalty assessments in criminal and parking cases.~~

18 ~~(b) Use of Fund. The monies in this fund are payable only for the purpose of assisting the City~~
19 ~~and County of San Francisco (the "City") in the acquisition, rehabilitation, construction and financing~~
20 ~~of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to~~
21 ~~the operation of the justice system at the time necessary therefor. In conjunction therewith, the monies~~
22 ~~in such fund including interest, may be applied to pay or reimburse the City for any lease rental~~
23 ~~payments or debt service payments or any other costs and expenses incurred by the City in connection~~
24 ~~with any lease financing or other financing entered into for the purpose of acquiring, rehabilitating, or~~
25 ~~constructing courtrooms, a courthouse building or buildings or courtroom facilities as hereinabove~~

1 ~~described. Such payments may be applied, upon the recommendation of the Director of Public Finance,~~
2 ~~to the prepayment or early retirement of lease revenue bonds or any other type of indebtedness or~~
3 ~~obligation issued or executed and delivered for the foregoing purposes. The monies in such fund,~~
4 ~~including interest, may also be used to rehabilitate existing courtrooms or an existing courtroom~~
5 ~~building or buildings for other uses if new courtrooms or a courtroom building or buildings are~~
6 ~~acquired, constructed or financed, or to acquire, rehabilitate, construct or finance excess courtrooms~~
7 ~~or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.~~
8 ~~Should any such excess courtrooms or courtroom buildings be leased or rented for uses other than the~~
9 ~~operation of the justice system until such time as such excess courtrooms or excess courtroom building~~
10 ~~or buildings are needed for the operation of the justice system, any amounts received as lease or rental~~
11 ~~payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Construction~~
12 ~~Fund.~~

13 ~~(c) **Administration of Fund.** All funds shall be expended as jointly determined by the~~
14 ~~Courthouse Construction Fund Committee (consisting of the Presiding Judges of the Superior and~~
15 ~~Municipal Courts, the Executive Officer of the Superior Court and the Clerk of the Municipal Court),~~
16 ~~with the approval of the Board of Supervisors. The fund shall be maintained by the Controller's Office~~
17 ~~which shall record all receipts and expenditures.~~

18
19 Section 4. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 5. The Clerk of the Board of Supervisors is directed to file a copy of this
2 ordinance in the Board file for Resolution No. 713-92.

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4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____/s/_____
7 JON GIVNER
8 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Trial Courts Courthouse Construction Fund - Termination of Penalties for Court Construction]

Ordinance amending the Administrative Code to delete the Trial Courts Courthouse Construction Fund; and to reduce amounts that the City previously added to court-imposed penalties, fines, or forfeitures in San Francisco to support the acquisition, rehabilitation, construction, and financing of courtrooms or courtroom buildings.

Existing Law

State law authorizes the City to establish a courthouse construction fund for the purpose of assisting in the acquisition, rehabilitation, construction, and financing of courtrooms or courtroom buildings. State law requires the City to place certain surcharges on court filing fees and court-imposed fines, penalties, and forfeitures into the courthouse construction fund. Implementing this State law, the Board of Supervisors has established the Trial Courts Courthouse Construction Fund (the "Fund").

Under State law, the Board has authorized the collection of an additional penalty of \$7 for every \$10 or fraction thereof on certain court-imposed fines, penalties, and forfeitures, and has required the Treasurer to deposit one cent of each \$7 to be placed into the Fund. The Board also has authorized an additional penalty of \$2.50 for every parking offense where a parking penalty, fine, or forfeiture is imposed by the courts in San Francisco, and has required the Treasurer to deposit that surcharge into the Fund as well.

Under State law, any amount remaining in the Fund must be transferred to the State after the final payment of the bonded indebtedness for any court facility that is paid from the Fund. The City's bond indebtedness on the Civic Center Courthouse concluded on April 1, 2021, triggering the requirement for the City to transfer any remaining monies in the Fund. No money currently remains in the Fund.

Amendments to Current Law

The proposed ordinance would eliminate the Trial Courts Courthouse Construction Fund. The proposed ordinance would also reduce the \$7 additional penalty on court-imposed fines, penalties, and forfeitures by one cent, so that the additional penalty will be \$6.99. And the proposed ordinance would reduce the \$2.50 additional penalty on parking penalty, fine, or forfeiture by \$1.50, so that the additional penalty will be \$1. These reductions are required by State law.

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