

Chief Justice Testimony

The following testimony was given by Chief Justice Paul DeMuniz on January 7 to the Interim Committee on Court Facilities

Re: Court Facilities Governance and Funding Proposal

“Thank you for the diligent work of this committee. There is consensus among the Legislative Branch, the Judicial Branch, the counties and the Oregon State Bar that action is needed in the 2009 Legislative Session to address the court facility crisis in our state. The Interim Committee on Court Facilities under your leadership has developed a professional assessment of the condition of the facilities and produced the data needed to prioritize improvement. As the committee concludes its work, I believe it is necessary to discuss the next steps to continue our progress.

“In my view, the next step in addressing the court facility crisis is to put in place a strategy that will provide an objective method to prioritize court facility projects and oversee improvement, renovation or replacement of court facilities. In that regard, I believe a successful strategy should address a method for paying the debt service on bonds issued for improvements and payments for ongoing maintenance and operations of the courthouses. Whatever approach is put in place should be flexible to accommodate the county ownership of Oregon's court facilities, the co-location of the courts with many county services in the courthouses and the wide variation in county finances.

“Set forth below is the strategy that I believe will best address our court facility crisis.

Governance

A Court Facilities Capital Review Board should be established to provide ongoing review and approval of court facility capital improvement plans. The Board should include representatives from all three branches of government, the counties and the bar. The Board should have its own professional staff with experience in capital finance and construction and should be established in either the Judicial Branch or the Executive Branch. The Board would:

- Adopt standards for reasonable and sufficient court facilities
- Ensure capital facility improvement plans are consistent with court facility standards for Oregon
- Distribute funds for debt service, maintenance, and operations of court facilities

Standards

The Interim Committee on Court Facilities should make recommendations to the 2009 Legislature on the process and content of court facilities standards. There are several options, each of which will require some additional resources:

- Recommend that an independent body develop standards

- Adopt the assessment criteria after a period of input from interested parties
- Assign responsibility for adoption of standards to the Court Facilities Capital Review Board
- Assign responsibility for adoption of standards to the Office of the State Court Administrator

Financing

There are at least three financial issues that need to be addressed to create a long term solution to the court facility crisis in Oregon.

1. Financing for court capital improvements

Multiple bonding options should be identified or created that allow for counties to retain ownership or for ownership to be transferred to the state. These could include:

- Certificates of Participation (COPs) backed by the General Fund of the State or the Counties
- COPs with matching funds from the counties (similar to the Community College Model)
- Revenue Bonds
- Local Government General Obligation Bonds
- Tax Increment Bonds (for courthouses within Urban Renewal Districts)
- New borrowing mechanisms established by the Legislature

2. Debt Service Payments

Regardless of which entity (State or County) issues the bonds, a revenue source needs to be established to pay a portion or all of the debt service. Options could include:

- A revenue source dedicated to pay debt service at state and/or county level
- A revenue source that provides a debt service/interest payment subsidy to the counties paying debt service on bonds. Remainder of debt service would be responsibility of the county building the courthouse

3. Maintenance and Operations Costs

Dedicated funding for ongoing maintenance and operations cost reimbursement needs to be established for those counties that make capital improvements approved by the Court Facilities Capital Review Board. Policy makers may want to consider whether those courthouses that are already in a suitable condition due to prior investments by the county should receive the maintenance and operational cost reimbursement as well. The revenue source for these costs be the same as the debt service payment/subsidy.

Recommended Process

In order to move forward with these proposals, I respectfully request that the committee consider and undertake the following:

1. Complete the Interim Committee on Court Facilities Report to the 2009 Legislature and forward on the report, assessment documents, and data.
2. Recommend that a standing Committee on Court Facilities be established for the 2009-11 biennium. That committee should be assigned the responsibility to:
 - Create a Court Facilities Capital Review Board and establish a position to staff the committee
 - Establish statewide court facility standards
 - Evaluate revenue sources for debt service and maintenance costs
 - Request that the Ways and Means Committee establish a General Fund or Other Fund appropriation to fund the establishment of capital improvement plans in each county
 - Establish timeframes for completion of the capital improvement plans by the counties

It has been my great privilege to work collaboratively with you and each member of the committee on a matter of grave concern to Oregonians. I am most appreciative of your thoughtful leadership and careful consideration of the complex issues that must be confronted to solve this public safety/infra-structure crisis.

Respectfully,
Paul J. De Muniz
Chief Justice