

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Christine M. Hansen, Director, Finance Division, 415-865-7951
Stephen H. Nash, Assistant Director, Finance Division, Office of Budget
Management, 415-865-7584
Ruben Gomez, Manager, AOC Fiscal Administration and Technical Support
Services, 415-865-7686

DATE: November 20, 2006

SUBJECT: Allocation of Revenue from the Trial Court Improvement Fund in
Accordance with rule 6.105 of the California Rules of Court and
Government Code section 77205(a) (Action Required)

Issue Statement

Pursuant to rule 6.105 of the California Rules of Court and Government Code section 77205(a), the Judicial Council must annually allocate 80 percent of the amount of fee, fine, and forfeiture revenue (50/50 Excess Fines Split Revenue) deposited into the Trial Court Improvement Fund (Improvement Fund) in any fiscal year that exceeds the amount of fiscal year (FY) 2002–2003 50/50 Excess Fines Split Revenue as follows:

1. To the trial courts in the counties from which the revenue was deposited;
2. To the Trial Court Trust Fund to support local trial court operations among other trial courts pursuant to section 68085(a)(1) by allocation to those trial courts; and
3. For retention in the Improvement Fund to support ongoing statewide technology and administrative infrastructure projects on behalf of the trial courts.

In addition, Government Code section (GC) 68085(a)(2)(A)¹ authorizes that not more than 20 percent of the total 50/50 Excess Fines Split Revenue be distributed to the Administrative Office of the Courts (AOC) to address the costs of administrative infrastructure needs to support the trial courts.

¹ Assembly Bill (AB) 1806 (Chapter 69, Statutes of 2006) amended GC 68085 and the previous authority of GC 68085(a)(4) was replaced by GC 68085(a)(2)(A).

Background

Senate Bill 940 (Chapter 275, Statutes of 2003) required the council to establish a collaborative court-county working group and to adopt guidelines for a comprehensive program for the collection of moneys imposed by court order, and to establish standard agreements for enhanced collection programs. The statute requires the council each year to allocate part of the 50/50 Excess Fines Split Revenue that exceeds the amount deposited in the 2002–2003 fiscal year to the trial courts located in the counties from which the excess revenues were collected. Of these funds, one-time monies may be allocated as an incentive for trial courts to establish or enhance collection programs.

In December 2004, the Judicial Council approved rule 6.105 of the California Rules of Court which implemented Government Code section 77205(a). This rule required AOC staff to recommend to the council a methodology for the yearly allocation of the portion of the 50/50 Excess Fines Split Revenue deposited into the Improvement Fund that exceeds the amount deposited in FY 2002–2003 and the specific amounts to be distributed in any given year. This methodology was approved by the council in its business meeting on December 10, 2004.

In accordance with rule 6.105 of the California Rules of Court, staff is presenting for council approval recommendations for the yearly allocation of these revenues.

Recommendations

Staff recommends that the Judicial Council approve:

1. Specific amounts to be allocated for FY 2005–2006, including 20 percent of the excess fines split revenue (\$1,944,060) to be distributed to the trial courts located in counties that contributed to the 50/50 Excess Fines Split Revenue, and 60 percent (\$5,832,180) to be retained in the Improvement Fund. The specific amounts to be distributed to each trial court are indicated in Chart 1 which is attached.
2. Delegate authority to the Administrative Director of the Courts to make any needed adjustments to these amounts to the extent that revisions are made by the State Controller's Office to the 50/50 Excess Fines Split Revenue amounts recorded as deposited into the Improvement Fund prior to distribution.

Rationale for Recommendation

In accordance with Government Code section 77205(b), 50/50 Excess Fines Split Revenue is to be remitted to the state no later than 45 days after the end of the fiscal year in which those fees, fines, and forfeitures were collected. While most counties remit their 50/50 Excess Fines Split Revenue before August 15, the actual receipts are not finalized until the end of September due to late remittances and adjustments from prior years. In addition, occasionally the State Controller's Office makes adjustments to current year

receipts after September if they are notified of over- or under-remittances of 50/50 Excess Fines Split Revenues. As a result, delegating authority to the Administrative Director of the Courts will allow corrections to be made to the amounts at the time of distribution, to the extent appropriate.

In summary, each year staff computes the total increased amount in 50/50 Excess Fines Split Revenue as compared to the adjusted FY 2002–2003 base year. The amount to be distributed to each trial court is calculated based on the percent that each county where the trial court is located contributed to the statewide total increased amount.

During FY 2005–2006, an additional \$9,720,300 was collected over the FY 2002–2003 adjusted base year level. From 80 percent of this amount, staff recommends the following for allocation to the trial courts based on the distribution amount to the specific areas pursuant to rule 6.105 of the California Rules of Court:

- 20 percent (\$1,944,060) be distributed to the trial courts located in counties that contributed to the 50/50 Excess Fines Split Revenue;
- 60 percent (\$5,832,180) be retained in the Improvement Fund.

Funding retained in the Improvement Fund will be used to support ongoing statewide technology and administrative infrastructure projects, and one-time increased costs for technology and deployment on behalf of the trial courts that were previously approved by the council. The distribution guidelines require a minimum of 20 percent to be distributed to the trial courts, but do not specify the amount to be distributed to the Trial Court Trust Fund and/or Improvement Fund. In prior years, this amount has been divided equally between the Trial Court Trust Fund and the Trial Court Improvement Fund, supporting trial court operations, various court programs and services, statewide trial court funding needs or issues, as well as various statewide administrative infrastructure projects. This year it is proposed that the full 60 percent be retained in the Improvement Fund to help address significant one-time costs for statewide technology and deployment projects anticipated this year. This change is in conformance with the guidelines and methodology that were approved by the council in December 2004.

An amount up to the remaining 20 percent (\$1,944,060), as authorized by Government Code section 68085(a)(2)(A), will be used to support statewide administrative infrastructure needs.

Alternative Actions Considered

Due to the fact that the Judicial Council approved the allocation methodology in December 2004 and that there has been minimal feedback from the courts since that time, no alternatives were considered.

Comments From Interested Parties

No comments were received.

Implementation Requirements and Costs

The proposal has no implementation costs other than those associated with the distribution of the revenues.

Attachments

Chart 1, 50/50 Excess Revenue Increase from FY 2005-06 over FY 2002-03 Base Year and Distribution to Courts

FY 2005-06 Actual: as of 09/25/2006	02-03 Base on 12/2/05 ¹⁾	Adj. after 12/2/05 ²⁾	02-03 Base Adjusted ³⁾	FY 05-06 Actual ⁴⁾	Increase (\$) 05 vs. 02 ⁵⁾	Increase (\$) 05 vs. 02 ⁶⁾	Increase (%) 05 vs. 02 ⁷⁾	Distribution 20% of Total ⁸⁾	Statewide Increase	9,720,300
	1	2	3 = 1 + 2	4	5 = 4 - 3	6 = 4 - 3 (if >0)	7 = 6 / 12,563,125	8		
01 Alameda	1,756,180	119,033	1,875,213	2,205,493	330,280	330,280	2.63%	51,109	Distribution up to	7,776,240
02 Alpine	52,890	-	52,890	14,528	(38,362)				80% of increase	
03 Amador	53,662	-	53,662	51,780	(1,883)				20% of Total	1,944,060
04 Butte	316,805	-	316,805	313,525	(3,280)				to Trial Courts	
05 Calaveras	107,728	-	107,728	128,735	21,007	21,007	0.17%	3,251	60% to TCIF	5,832,180
06 Colusa	159,377	-	159,377	196,601	37,224	37,224	0.30%	5,760		
07 Contra Costa	1,913,325	-	1,913,325	1,683,683	(229,642)				Subtotal	7,776,240
08 Del Norte	157,395	-	157,395	153,659	(3,736)				Distribution	
09 El Dorado	239,781	-	239,781	260,150	20,369	20,369	0.16%	3,152		
10 Fresno	1,944,703	-	1,944,703	2,982,704	1,038,002	1,038,002	8.26%	160,624		
11 Glenn	237,830	-	237,830	373,410	135,580	135,580	1.08%	20,980		
12 Humboldt	-	-	-	88,735	88,735	88,735	0.71%	13,731		
13 Imperial	379,607	-	379,607	643,762	264,155	264,155	2.10%	40,876		
14 Inyo	198,690	-	198,690	242,417	43,727	43,727	0.35%	6,766		
15 Kern	2,099,967	-	2,099,967	3,457,461	1,357,494	1,357,494	10.81%	210,063		
16 Kings	315,420	-	315,420	388,056	72,636	72,636	0.58%	11,240		
17 Lake	177,900	-	177,900	147,241	(30,659)					
18 Lassen	212,822	(73,618)	139,204	76,222	(62,982)					
19 Los Angeles	13,489,325	-	13,489,325	13,606,842	117,517	117,517	0.94%	18,185		
20 Madera	-	-	-	-	-	-				
21 Marin	477,179	-	477,179	821,534	344,355	344,355	2.74%	53,287		
22 Mariposa	3,145	-	3,145	78,875	75,730	75,730	0.60%	11,719		
23 Mendocino	294,992	-	294,992	432,501	137,509	137,509	1.09%	21,279		
24 Merced	555,480	-	555,480	785,461	229,981	229,981	1.83%	35,588		
25 Modoc	-	-	-	-	-	-				
26 Mono	-	-	-	60,504	60,504	60,504	0.48%	9,363		
27 Monterey	222,156	-	222,156	781,410	559,254	559,254	4.45%	86,541		
28 Napa	361,257	-	361,257	355,388	(5,869)					
29 Nevada	-	-	-	39,858	39,858	39,858	0.32%	6,168		
30 Orange	5,082,040	-	5,082,040	5,369,083	287,043	287,043	2.28%	44,418		
31 Placer	1,114,332	-	1,114,332	1,089,522	(24,810)					
32 Plumas	125,545	-	125,545	98,841	(26,704)					
33 Riverside	3,343,986	-	3,343,986	5,055,935	1,711,949	1,711,949	13.63%	264,913		
34 Sacramento	2,639,042	-	2,639,042	3,048,647	409,605	409,605	3.26%	63,384		
35 San Benito	271,658	-	271,658	197,965	(73,693)					
36 San Bernardino	4,020,834	-	4,020,834	5,900,610	1,879,776	1,879,776	14.96%	290,883		
37 San Diego	4,276,751	-	4,276,751	4,897,768	621,017	621,017	4.94%	96,098		
38 San Francisco	1,878,248	-	1,878,248	1,073,761	(804,487)					
39 San Joaquin	803,605	-	803,605	1,578,937	775,331	775,331	6.17%	119,977		
40 San Luis Obispo	490,350	-	490,350	518,872	28,522	28,522	0.23%	4,414		
41 San Mateo	931,995	-	931,995	730,012	(201,983)					
42 Santa Barbara	912,513	-	912,513	802,139	(110,374)					
43 Santa Clara	2,450,302	124,852	2,575,154	1,694,161	(880,993)					
44 Santa Cruz	257,807	245,889	503,696	609,161	105,465	105,465	0.84%	16,320		
45 Shasta	443,683	-	443,683	483,369	39,686	39,686	0.32%	6,141		
46 Sierra	21,280	-	21,280	17,378	(3,902)					
47 Siskiyou	345,163	-	345,163	242,311	(102,853)					
48 Solano	630,857	-	630,857	1,354,440	723,583	723,583	5.76%	111,970		
49 Sonoma	1,051,276	-	1,051,276	1,049,242	(2,034)					
50 Stanislaus	508,179	-	508,179	1,019,138	510,959	510,959	4.07%	79,068		
51 Sutter	186,126	-	186,126	243,449	57,323	57,323	0.46%	8,870		
52 Tehama	234,259	-	234,259	409,795	175,536	175,536	1.40%	27,163		
53 Trinity	27,362	-	27,362	47,099	19,737	19,737	0.16%	3,054		
54 Tulare	664,421	-	664,421	685,175	20,754	20,754	0.17%	3,211		
55 Tuolumne	182,241	-	182,241	209,546	27,305	27,305	0.22%	4,225		
56 Ventura	2,070,951	-	2,070,951	1,987,709	(83,242)					
57 Yolo	545,787	-	545,787	394,449	(151,339)					
58 Yuba	160,692	(725)	159,967	355,586	195,619	195,619	1.56%	30,271		
Total	61,398,901	415,431	61,814,332	71,534,632	9,720,300	12,563,125	100.00%	1,944,060	Data postings:	9/27/2006

NOTE:

- Numbers in this column were reported to the council on 12/2/2005 for distributions from FY 2004-05 actual receipts.
- Numbers in this column were the revenue adjustments made by the SCO after the numbers were reported to the council on 12/2/2005.
- Numbers in this column are the adjusted FY 2002-03 base collection amount, according to the actual adjustments posted by the State Controller's Office as of 9/27/2006.
- Numbers in this column are the actual revenue collected for FY 2005-06 - remitted by the counties and posted by the SCO as of 09/27/2006.
- Thirty-six counties have revenue increases from FY 2005-06 over FY 2002-03's base amount. The net statewide increased amount is \$9.72 million.
- Same calculation as for column 5, except the negative amounts are taken out in order to identify the "real" increase from each court or county.
- The calculation is: the net increase from FY 2005-06 over adjusted FY 2002-03's base amount divided by the statewide "true" increase (Note, the courts with a negative amount are taken out), so that the net contribution to this "true" statewide increase is converted to a percent from each court.
- Based on the statewide total excess amount that has been determined, the allocations to each qualified court is calculated on the percent that each court has contributed to the statewide total increased amount.

Government Code section 77205(a)

Notwithstanding any other provision of law, in any year in which a county collects fee, fine, and forfeiture revenue for deposit into the county general fund pursuant to Sections 1463.001 and 1464 of the Penal Code, Sections 42007, 42007.1, and 42008 of the Vehicle Code, and Sections 27361 and 76000 of, and subdivision (f) of Section 29550 of, the Government Code that would have been deposited into the General Fund pursuant to these sections as they read on December 31, 1997, and pursuant to Section 1463.07 of the Penal Code, and that exceeds the amount specified in paragraph (2) of subdivision (b) of Section 77201 for the 1997-98 fiscal year, and paragraph (2) of subdivision (b) of Section 77201.1 for the 1998-99 fiscal year, and thereafter, the excess amount shall be divided between the county or city and county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess deposited into the county general fund. The Judicial Council, by court rule, shall allocate 80 percent of the amount deposited in the Trial Court Improvement Fund pursuant to this subdivision each fiscal year that exceeds the amount deposited in the 2002-03 fiscal year among:

- (1) The trial court in the county from which the revenue was deposited.
- (2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.
- (3) For retention in the Trial Court Improvement Fund.

For the purpose of this subdivision, fee, fine, and forfeiture revenue shall only include revenue that would otherwise have been deposited in the General Fund prior to January 1, 1998.

Rule 6.105 is added to the California Rules of Court, effective immediately, to read as follows:

Rule 6.105. Allocation of new fee, fine, and forfeiture revenue

(a) The Judicial Council must annually allocate 80 percent of the amount of fee, fine, and forfeiture revenue deposited in the Trial Court Improvement Fund pursuant to Government Code section 77205(a) that exceeds the amount of fee, fine, and forfeiture revenue deposited in the Trial Court Improvement Fund in fiscal year 2002–2003 to one or more of the following:

(1) To the trial courts in the counties from which the increased amount is attributable;

(2) To other trial courts to support trial court operations; or

(3) For retention in the Trial Court Improvement Fund.

(b) The Administrative Office of the Courts must recommend a methodology for the allocation and must recommend an allocation based on this methodology. Upon approval of a methodology by the council, the Administrative Office of the Courts must issue a Finance Memo setting forth the methodology adopted by the Judicial Council.

Government Code Section 68085(a)

(1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned for the purposes authorized in this section, including apportionment to the trial courts to fund trial court operations, as defined in Section 77003.

(2) The apportionment payments shall be made by the Controller. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

(A) Notwithstanding any other provision of law, in order to promote statewide efficiency, the Judicial Council may authorize the direct payment or reimbursement or both of actual costs from the Trial Court Trust Fund or the Trial Court Improvement Fund to fund the costs of operating one or more trial courts upon the consent of participating courts. These paid or reimbursed costs may be for services provided to the court or courts by the Administrative Office of the Courts or payment for services or property of any kind contracted for by the court or courts or on behalf of the courts by the Administrative Office of the Courts. The amount of appropriations from the Trial Court Improvement Fund under this subdivision may not exceed 20 percent of the amount deposited in the Trial Court Improvement Fund pursuant to subdivision (a) of Section 77205.

The direct payment or reimbursement of costs from the Trial Court Trust Fund may be supported by the reduction of a participating court's allocation from the Trial Court Trust Fund to the extent that the court's expenditures for the program are reduced and the court is supported by the expenditure. The Judicial Council shall provide the affected trial courts with quarterly reports on expenditures from the Trial Court Trust Fund incurred as authorized by this subdivision. The Judicial Council shall establish procedures to provide for the administration of this paragraph in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.

(B) As used in subparagraph (A), the term "costs of operating one or more trial courts" includes any expenses related to operation of the court or performance of its functions, including, but not limited to, statewide administrative and information technology infrastructure supporting the courts. The term "costs of operating one or more trial courts" is not restricted to items considered "court operations" pursuant to Section 77003, but is subject to policies, procedures, and criteria established by the Judicial Council, and may not include an item that is a cost that must otherwise be paid by the county or city and county in which the court is located.