

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

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Report

TO: Members of the Judicial Council

FROM: Christine M. Hansen, Director, Finance Division, 415-865-7951
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DATE: December 8, 2004

SUBJECT: Methodology and Allocation of Revenue from the Trial Court
Improvement Fund pursuant to Rule 6.105 implementing
Government Code section 77205(a)
(Action Required)

Issue Statement

Pursuant to 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 68085(a)(4) 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.

Background

Senate Bill 940 (Chapter 275, Statutes of 2003) requires 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 which, one-time moneys may be allocated as an incentive for trial courts to establish or enhance collection programs. Rule 6.105 (see page 6), included for council review and approval as item 10, implements Government Code section 77205(a) (see page 7.) Pursuant to rule 6.105, staff are providing for council approval the methodology for yearly allocating 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 for FY 2003–2004.

Recommendations

Staff recommend that the Judicial Council approve:

1. The methodology for allocating 80 percent of the 50/50 Excess Fines Split Revenue deposited into the Improvement Fund (see page 8.)
2. The specific amounts to be allocated for FY 2003–2004, including 20 percent (\$1,785,868) to be distributed to the trial courts located in counties that contributed to the 50/50 Excess Fines Split Revenue; 30 percent (\$2,678,802) to be distributed to the Trial Court Trust Fund; and 30 percent (\$2,678,802) to be retained in the Improvement Fund. The specific amounts to be distributed to each trial court are indicated in Chart 1 attached.
3. Delegate authority to the Administrative Director of the Courts to make any needed corrections if adjustments are made by the State Controller’s Office to the 50/50 Excess Fines Split Revenue deposited into the Improvement Fund prior to distribution.

Rationale for Recommendation

The proposed allocation methodology provides the means for determining and distributing the 50/50 Excess Fines Split Revenue to the trial courts in the counties from which the revenue was deposited, to the Trial Court Trust Fund to support local trial court operations, and to the Improvement Fund to support projects and initiatives that benefit the trial courts statewide. Pursuant to Government Code section 77205(h), 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. Historically, while most counties remit their 50/50 Excess Fines Split Revenue on or before August 15, the actual receipts are not finalized until early October due to late remittances and adjustments from prior

years. In addition, occasionally the State Controller's Office will make adjustments to current year receipts after October 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.

Upon approval by the council, the methodology will be issued as a Finance Memo and incorporated into the Trial Court Financial Policies and Procedures Manual. The approved methodology will be used to recommend each year's allocations to the council.

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

During FY 2003–2004, an additional \$8,929,341 was collected over the FY 2002–2003 base year level. Of this amount, staff are recommending:

- 20 percent (\$1,785,868) be distributed to the trial courts located in counties that contributed to the 50/50 Excess Fines Split Revenue;
- 30 percent (\$2,678,802) be distributed to the Trial Court Trust Fund; and
- 30 percent (\$2,678,802) be retained in the Improvement Fund.

The 30 percent to be distributed to the Trial Court Trust Fund will increase the fund balance in the event that revenue issues related to current statutory requirements that sunset June 30, 2005 are not resolved:

- The first issue is the projected loss of \$31 million required from the counties to backfill a reduction to the funding for trial court operations.
- The second is the pending loss of \$17.4 million in additional security surcharges that apply to unlimited jurisdiction (including probate and excluding adoption cases) and limited jurisdiction cases over \$10,000.
- The third is the loss of \$600,000 in \$20 security fee revenue pursuant to Penal Code section 1465.8 in juvenile cases heard in juvenile court as a result of the 2nd District Court of Appeal decision in *Egar v. Superior Court* (2004) 120 Cal.App.4th 1306. Passage of the pending uniform civil fee proposal and an agreement on undesignated fees will resolve this issue.

The 30 percent to be retained in the Improvement Fund will be used to support ongoing statewide technology and administrative infrastructure projects on behalf

of the trial courts that were previously approved by the council, and to address possible funding deficiencies that a number of trial courts have advised AOC Finance Division staff are projected.

An amount up to the remaining 20 percent (\$1,785,868), as authorized by Government Code section 68085(a)(4), will be distributed to the AOC to address statewide administrative infrastructure needs on behalf of the trial courts.

Alternative Actions Considered

The rule and statute require that the council approve the allocation methodology. Staff considered the following alternatives:

1. Of the 80 percent that is to be allocated, distribute more than 20 percent to the trial courts and less to the Trial Court Trust Fund and the Improvement Fund. Individual trial courts could benefit from increased allocations to meet one-time obligations and funding shortfalls, as well as to cover the start-up costs of implementing enhanced collections programs in conjunction with their local counties. However, reducing the allocation to the Trial Court Trust Fund could lead to additional funding reductions for all trial courts if insufficient funds are available to support base operations supported through the Trial Court Trust Fund. Reducing the allocation to the Improvement Fund could jeopardize or further delay technology projects and other initiatives that benefit trial courts on a statewide basis. As a result, staff do not recommend this alternative.
2. Of the 80 percent that is to be allocated, distribute less than 20 percent to the trial courts and more to the Trial Court Trust Fund and the Improvement Fund. Both funds, especially the Trial Court Trust Fund, could benefit from additional resources due to the sunset of two substantial revenue streams and the elimination of the security fee on juvenile cases. While the passage of the pending uniform civil fee proposal is by no means assured, in the future, that initiative promises to address current reductions and shortfalls in the Trial Court Trust Fund with a simplified and more easily implemented civil fee structure. However, reducing the allocation to the trial courts in the counties that contributed to the increased 50/50 Excess Fines Split Revenue could negatively impact the incentive to implement new and improved enhanced collections programs with their counties, and would reduce available funds to address one-time needs. As a result, staff do not recommend this alternative.
3. Of the 80 percent that is to be allocated, base the amounts to be distributed to the trial courts solely on the basis of those fines and fees under the control of the trial courts as opposed to those under the control of the counties. While a strong argument can be made for this alternative, counties could make the same argument regarding the imposition of fines and fees beyond their control.

The statute requires that the amount of 50/50 Excess Fines Split Revenue deposited to the Improvement Fund in any given year be compared to the amount deposited in FY 2002–2003. In order to determine which fines and fees actually contributed to the increased revenues, additional reporting requirements would need to be imposed upon both the trial courts and the counties that would be unreasonably burdensome. As a result, staff do not recommend this alternative.

Comments From Interested Parties

The proposed distribution was provided for review at the regional trial court meetings held in early November. Representatives of the Superior Court of Ventura County asked questions about the amounts to be allocated and recommended that staff take into account additional factors in determining the amounts to be distributed. That is, trial courts have control over the imposition of certain fees and fines that contribute to increased revenues; however, the counties have control over others, such as indexing and reporting fees that were exceptionally high in FY 2002–2003. As such, the base year amounts may represent anomalies that either inflate the base year in some cases, making it difficult for a trial court to exceed the base year as revenues beyond their control decline, or reduce the base year amount in others to such an extent that increases appear exceptionally large.

The statute requires that the allocation “each year” be based on the extent to which the revenues exceed those deposited in FY 2002–2003. The revenues are remitted to the State by the counties and posted to the appropriate fiscal year by the State Controller’s Office. The State Controller’s Office postings for each fiscal year are adjusted on the basis of audit findings and the documentation provided by trial courts and/or counties that identify other revenues belonging to a specific fiscal year. The proposed methodology provides a means for making appropriate adjustments each year both to the base year and the year under comparison.

Implementation Requirements and Costs

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

Attachments

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 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.

Methodology for Allocation of 50/50 Excess Fines Split Revenue per Government Code Section 77205(a) and Rule 6.105

In accordance with Government Code section 77205(a) and rule 6.105, the dollar amount at the end of the fiscal year that exceeds the amount remitted by the county to the State in FY 2002–2003, including authorized adjustments for 50/50 Excess Fines Split Revenue, will be made available in the following fiscal year for distribution. This includes the amounts to be distributed as follows:

- 80 percent to be allocated among:
 1. The trial courts in the counties from which the revenue was deposited;
 2. The Trial Court Trust Fund to support local trial court operations among other trial courts pursuant to Government Code section 68085(a)(1), and;
 3. The Trial Court Improvement Fund, to support ongoing statewide technology and administrative infrastructure projects on behalf of the trial courts.
- A maximum of 20 percent to the Administrative Office of the Courts (AOC) to meet the administrative infrastructure needs of the trial courts in accordance with Government Code section 68085(a)(4).

As soon as practicable after the end of each fiscal year, AOC staff will determine the amount of 50/50 Excess Fines Split Revenue that is available for distribution. For purposes of determining the total excess funding for a particular fiscal year, if the actual amount of the 50/50 Excess Fines Split Revenue that was remitted by a county for any given year includes prior year(s) adjustments as the result of misreporting or miscalculating the amounts previously deposited, the adjusted amount(s) will be posted to the fiscal year(s) for which the collected revenues belong rather than the year in which they were received. By doing so, the actual increase or decrease in 50/50 Excess Fines Split Revenue from all counties can be accurately calculated and any amounts exceeding the FY 2002–2003 base year can be distributed fairly among the trial courts located in those counties.

1. Once the prior-year adjustments have been posted, staff will compare the total amount to the FY 2002–2003 base year total to determine the net increase. If the county does not have a net revenue increase in 50/50 Excess Fines Split Revenue deposited into the Trial Court Improvement Fund for the current year, the amount in that county will be adjusted to “zero” so that the total excess amount from all counties can be calculated accurately.
2. After staff have determined the net increase in 50/50 Excess Fines Split Revenue, 80 percent of the amount available will be distributed three ways: to the trial courts that produced the excess in order to support trial court operations; to the Trial Court

Trust Fund to support local trial court operations among other trial courts; and to the Trial Court Improvement Fund to support ongoing statewide technology and administrative infrastructure projects on behalf of the trial courts.

- a) A minimum of 20 percent will be distributed to those trial courts located in counties that contributed to the excess revenues, based on their percentage of collections.
 - b) To determine the distribution of the remaining 60 percent, staff will review the current and projected fund balances and funding commitments from the Trial Court Trust Fund and the Trial Court Improvement Fund to determine the level of funding that is required from the 50/50 Excess Fines Split Revenue to:
 - 1) support trial court operations and fund critical projects and programs that support trial courts;
 - 2) ensure that each fund maintains a prudent reserve to meet trial court cash flow and emergency funding needs; and
 - 3) accommodate changes in revenues due to variable revenue projections.
 - c) In determining the amounts from the 60 percent available for distribution to the Trial Court Trust Fund and the Trial Court Improvement Fund, staff must take into consideration statewide trial court funding needs, including the impact of unallocated reductions, and to identify areas that could be appropriately addressed with a one-time allocation of 50/50 Excess Fines Split Revenue. These could include the need to maintain sufficient Trial Court Trust Fund reserves in order to meet trial court cash flow and to fund emergency needs. Based on this analysis, staff will determine how much of the remaining 60 percent is needed in the Trial Court Trust Fund and Trial Court Improvement Fund.
 - d) If the full 60 percent is not needed to meet statewide needs in the Trial Court Trust Fund and Trial Court Improvement Fund, the remainder will be added to the 20 percent to be disbursed to the trial courts in the counties that generated the excess revenue, and distributed according to their percentage of the increase.
3. The amounts to be distributed will be presented to the Judicial Council for approval as soon as practicable. Upon approval, the distribution will be made to the trial courts through the usual distribution process in the month following the Judicial Council meeting where the amounts to be distributed were approved.
 4. Trial courts may use the amounts distributed for expenditures allowed by rule 810 in order to fulfill one-time obligations and to address cash flow issues. In addition, on a one-time basis, trial courts may use these amounts to offset the costs of establishing or improving their enhanced collections efforts. These amounts cannot be used for new, ongoing commitments or obligations.

Chart 1, 50/50 Excess Split Revenue Increase from FY 2002-03 to FY2003-04 and Distribution to Courts

FY03-04 Actual: as of 11/08/04		FY 02-03 Actual	FY 03-04 Actual ²⁾	Change (\$) 03 vs. 02 ³⁾	Change (\$) 03 vs. 02 ⁴⁾	Increase (%) 03 vs. 02 ⁵⁾	Distribution 20% of Total ⁶⁾
		i	ii	iii = ii - i	iv = ii - i	v=iv / H63	vi=v * F64
01	Alameda	1,756,180	2,282,840	526,660	526,660	5.11%	91,244
02	Alpine	52,890	55,199	2,309	2,309	0.02%	400
03	Amador	53,662	90,082	36,419	36,419	0.35%	6,310
04	Butte	316,805	351,516	34,711	34,711	0.34%	6,014
05	Calaveras	107,728	62,411	(45,316)	-	-	0
06	Colusa	159,377	178,911	19,535	19,535	0.19%	3,384
07	Contra Costa	1,913,325	2,058,419	145,094	145,094	1.41%	25,137
08	Del Norte	183,843	233,265	49,422	49,422	0.48%	8,562
09	El Dorado	239,781	273,132	33,351	33,351	0.32%	5,778
10	Fresno	1,944,703	2,664,501	719,798	719,798	6.98%	124,705
11	Glenn	237,830	296,278	58,448	58,448	0.57%	10,126
12	Humboldt	0	82,398	82,398	82,398	0.80%	14,275
13	Imperial	379,607	250,627	(128,980)	-	-	0
14	Inyo	198,690	199,213	523	523	0.01%	91
15	Kern	2,099,967	3,267,017	1,167,050	1,167,050	11.32%	202,191
16	Kings	315,420	359,082	43,662	43,662	0.42%	7,564
17	Lake	177,900	152,746	(25,154)	-	-	0
18	Lassen	212,822	218,877	6,055	6,055	0.06%	1,049
19	Los Angeles ¹⁾	12,743,381	12,500,923	(242,458)	-	-	0
20	Madera	0	240,620	240,620	240,620	2.33%	41,687
21	Marin	477,179	415,418	(61,761)	-	-	0
22	Mariposa	3,145	12,399	9,254	9,254	0.09%	1,603
23	Mendocino	294,992	381,345	86,353	86,353	0.84%	14,961
24	Merced	555,480	559,459	3,979	3,979	0.04%	689
25	Modoc	0	1,238	1,238	1,238	0.01%	214
26	Mono	0	-	-	-	-	0
27	Monterey	222,156	50,413	(171,743)	-	-	0
28	Napa	361,257	371,225	9,968	9,968	0.10%	1,727
29	Nevada	0	62,189	62,189	62,189	0.60%	10,774
30	Orange	5,084,038	5,810,330	726,292	726,292	7.05%	125,830
31	Placer	1,114,332	1,297,674	183,342	183,342	1.78%	31,764
32	Plumas	93,428	106,612	13,184	13,184	0.13%	2,284
33	Riverside	3,343,986	4,642,587	1,298,601	1,298,601	12.60%	224,982
34	Sacramento	2,637,044	3,187,574	550,530	550,530	5.34%	95,379
35	San Benito	271,658	155,989	(115,669)	-	-	0
36	San Bernardino	4,187,192	5,230,738	1,043,546	1,043,546	10.12%	180,794
37	San Diego	4,276,751	5,373,452	1,096,701	1,096,701	10.64%	190,003
38	San Francisco	1,878,248	1,714,216	(164,032)	-	-	0
39	San Joaquin	803,605	1,172,104	368,498	368,498	3.57%	63,842
40	San Luis Obispo	490,350	556,329	65,978	65,978	0.64%	11,431
41	San Mateo	931,995	1,043,883	111,888	111,888	1.09%	19,385
42	Santa Barbara	912,513	882,688	(29,825)	-	-	0
43	Santa Clara	2,450,302	2,462,296	11,994	11,994	0.12%	2,078
44	Santa Cruz	257,807	293,803	35,996	35,996	0.35%	6,236
45	Shasta	443,683	556,760	113,077	113,077	1.10%	19,591
46	Sierra	21,280	23,350	2,071	2,071	0.02%	359
47	Siskiyou	345,163	480,862	135,699	135,699	1.32%	23,510
48	Solano	615,263	936,731	321,468	321,468	3.12%	55,694
49	Sonoma	1,051,276	950,478	(100,798)	-	-	0
50	Stanislaus	508,179	930,894	422,716	422,716	4.10%	73,235
51	Sutter	170,808	252,341	81,534	81,534	0.79%	14,126
52	Tehama	234,259	294,974	60,715	60,715	0.59%	10,519
53	Trinity	30,984	36,336	5,353	5,353	0.05%	927
54	Tulare	664,421	499,022	(165,399)	-	-	0
55	Tuolumne	163,731	160,677	(3,054)	-	-	0
56	Ventura	2,070,951	2,341,614	270,663	270,663	2.63%	46,892
57	Yolo	545,787	421,252	(124,535)	-	-	0
58	Yuba	160,692	209,878	49,186	49,186	0.48%	8,521
	Total	60,767,847	69,697,189	8,929,341	10,308,066	100.00%	1,785,868

Statewide Increase	8,929,341
Up to 80% to Three Areas	7,143,473
20% of Total to Trial Courts	1,785,868
30% of Total to TCTF	2,678,802
30% of Total Retained in TCIF	2,678,802
Subtotal Three Areas	7,143,473
Maximum 20% for Administrative Infrastructure Needs	1,785,868
Total Distribution	8,929,341

20% of Statewide Increase 1,785,868 8,929,341 80% of statewide 7,143,473

Updated on: 12/7/2004

NOTE: Highlighted cells indicate that adjustments are made.

- Per the State Controller's Office, Los Angeles remitted \$10,443,381 for FY 2002-03 and \$14,800,923 for FY 2003-04. Per Los Angeles County's e-mail on 8/17/04, \$2.3M from Probation Department of the \$14.8M reported in FY 2003-04 should be FY02-03's collection. For distribution purpose, the adjustments were made.
- Data for FY 2003-04 is based on the State Controller's Office's postings as of 12/06/04, including any Prior Year adjustments.
- 44 counties (75.9%) have revenue increases from FY 2002-03 to FY 2003-04. The net increase amount is \$8.93M.
- Same calculation methodology as for column iii, except the negative amounts are taken out in order to identify the "real" increase from each county.
- The calculation is: the net increase in FY 2003-04 over FY 2002-03's actual divided by the statewide "true" increase, (note that the counties with a negative amount are taken out), so that the net contribution to this "true" statewide increase is displayed as a % increase from each court.
- Based on the statewide total excess amount that has been identified, the allocations to each qualified court are calculated on the percent that each county has contributed to the statewide total increased amount.