



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 17, 2020

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**Title**

Allocations and Reimbursements to Trial Courts: Distribution of the Fee for Court Reporter Services in Civil Proceedings Lasting More Than One Hour

**Agenda Item Type**

Action Required

**Effective Date**

January 17, 2020

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

December 16, 2019

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair

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### Executive Summary

The Trial Court Budget Advisory Committee recommends that the fee collected per Government Code section 68086(a)(2)—court reporter services in civil proceedings lasting more than one hour—be distributed back to trial courts on a dollar-for-dollar basis after deposit into the Trial Court Trust Fund and that this revenue stream be excluded from the Workload Formula, for consistency in allowing courts to offset costs as provided in Government Code section 68086(a)(1), court reporter services in civil proceedings lasting less than one hour.

### Recommendation

The Trial Court Budget Advisory Committee unanimously recommends that the Judicial Council approve the following recommendations effective July 1, 2020:

1. Distribute Government Code section 68086(a)(2) fees, deposited into the Trial Court Trust Fund, back to trial courts on a dollar-for-dollar basis; and
2. Exclude court reporter fees in civil proceedings lasting for one hour or more as a funding category in the Workload Formula.

## **Relevant Previous Council Action**

### **Government Code Section 68086**

On December 14, 2012, the Judicial Council approved a recommendation on a new \$30 fee for court reporter services in civil proceedings lasting less than one hour, which specifies that fees collected per Government Code section 68086(a)(1) are first deposited into the Trial Court Trust Fund (TCTF) and then distributed back to the trial courts on a dollar-for-dollar basis (Link A).

Government Code section 68086(a)(2) fees are currently deposited into the TCTF on a statewide level and are not transmitted directly back to the courts from which the fees were collected. It is the authority of the council to allocate funds from the TCTF. Government Code section 68086 is silent as to where the fees collected pursuant to this section should be deposited (Attachment A).

### **Funding Categories**

On July 18, 2019, the council approved a recommendation to adjust each court's workload allocation to include net civil assessments and specific general ledger accounts as part of the Workload Formula effective with fiscal year 2019–20 allocations (Link B).

The Workload Formula is for normal, status quo, core business operations: costs associated with activities that are not captured in the Resource Assessment Study and/or not included in the Workload Formula (e.g., interpreter staff, court reporter staff in nonmandated areas) are excluded. As a result, it was determined that revenues as a result of court reporter proceedings under one hour would not be included in the Workload Formula.

### **Analysis/Rationale**

The approach to the fee distribution for Government Code section 68086(a)(2) was revisited as it compares to section 68086(a)(1) as a result of numerous court inquiries.

### **Recommendation 1: Distribute Government Code section 68086(a)(2) fees, deposited into the Trial Court Trust Fund, back to trial courts on a dollar-for-dollar basis.**

As trial courts are providing court reporters in civil instances both less than one hour and one hour or more and are able to retain fees collected through Government Code section 68086(a)(1) to offset costs, approval of the same approach for section 68086(a)(2) will provide consistency in allowing courts to offset costs here as well.

### **Recommendation 2: Exclude court reporter fees in civil proceedings for one hour or more as a funding category in the Workload Formula.**

This will provide consistency in how local revenues affect the Workload Formula, as civil proceedings for less than one hour are excluded.

### **Policy implications**

None.

### **Comments**

This item was not circulated for comment, and no public comments were received.

**Alternatives considered**

None.

**Fiscal and Operational Impacts****Revenues**

The revenues collected and distributed under Government Code section 68086(a)(1–2) are provided to the council and reported to the Joint Legislative Budget Committee per Government Code section 68086(f). The last three fiscal years reported are as follows (Links C, D, and E):

Fiscal Year	GC 68086(a)(1) Fees Returned to Court (Less than One Hour)	GC 68086(a)(2) Fees Deposited to the TCTF (One Hour or More)
2018-19 Estimated	3,954,659	3,125,569
2017-18	3,912,289	2,696,123
2016-17	4,453,368	4,062,522
2015-16	4,644,543	3,786,656

**TCTF Fund Condition**

The most recent TCTF fund condition statement is reflected in Attachment B. The revenue stream would be impacted annually by a reduction of approximately \$3 million should the fees from Government Code section 68086(a)(2) be redirected to trial courts on a dollar-for-dollar basis beginning July 1, 2020.

In addition, redirecting revenue that supports base allocations in the TCTF would be removed from the backfill calculation and any General Fund benefit the TCTF is currently receiving. The potential loss is estimated at \$1.4 million when compared to the 2013–14 base value used for the backfill calculation.

To the extent TCTF revenues and available fund balance are not able to fully support current trial court base allocations in the future, there may need to be allocation adjustments to bring resources into balance with expenditures.

Additional fiscal impact includes financial relief to courts providing services for civil proceedings lasting one hour or more.

**Operations**

Operational impacts would include notifying courts and impacted Judicial Council staff of the change in how Government Code section 68086(a)(2) fees are processed, which includes gathering information on fees collected and distributing the fees to courts dollar-for-dollar in the current monthly distribution process.

## Attachments and Links

1. Attachment A: Gov. Code, § 68086
2. Attachment B: TCTF Fund Condition Statement, July 19, 2019
3. Link A: Judicial Council meeting minutes, Dec. 14, 2012, including Item H: *Judicial Council–Sponsored Legislation: Court Reporter Fee Cleanup*,  
<https://www.courts.ca.gov/documents/jc-20121214-minutes.pdf>
4. Link B: Judicial Council meeting minutes, July 18, 2019, including Item 19-109: *Trial Court Budget: Workload Formula: Allocations*,  
<https://jcc.legistar.com/View.ashx?M=M&ID=640298&GUID=14C9B632-0D81-4D17-84F5-6E87545C6A17>
5. Link C: Judicial Council meeting minutes, Mar. 15, 2019, including Item 19-040: *Report to the Legislature: 2017–18 Fee Revenues and Expenditures for Court Reporter Services in Superior Court Civil Proceedings*,  
<https://jcc.legistar.com/View.ashx?M=M&ID=640295&GUID=4C88EDD5-7207-4839-BB72-89B184E22C9B>
6. Link D: Judicial Council meeting minutes, Mar. 2, 2018, including Item 18-050: *Judicial Council Report to the Legislature: 2016–17 Fee Revenues and Expenditures for Court Reporter Services in Superior Court Civil Proceedings*,  
<https://jcc.legistar.com/View.ashx?M=M&ID=579086&GUID=AB5457A6-DC26-4764-A22F-45D730AE4FFC>
7. Link E: Judicial Council meeting minutes, Dec. 16, 2016, including Item 16-218: *Judicial Council Report to the Legislature: Fee Revenue and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2015–16*,  
<https://jcc.legistar.com/View.ashx?M=M&ID=463484&GUID=8E4B8E76-2D88-480D-843A-6576CC996914>

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**68086.**

The following provisions apply in superior court:

(a) In addition to any other fee required in civil actions or cases:

(1) For each proceeding anticipated to last one hour or less, a fee of thirty dollars (\$30) shall be charged for the reasonable cost of the court reporting services provided at the expense of the court by an official court reporter pursuant to Section 269 of the Code of Civil Procedure.

(A) The fee shall be charged to the party, or parties if filing jointly, that filed the paper that resulted in the proceeding being scheduled. If no fee has been charged, and a party subsequently requests a court reporter, that party shall be charged the fee if a reporter is to be provided by the court.

(B) All parties paying the fee shall deposit the fee with the clerk of the court as specified by the court, but not later than the conclusion of each day's court session.

(C) The fee shall be charged once per case for all proceedings conducted within the same hour if the total time taken by those proceedings is one hour or less. If the total time taken exceeds one hour, the fee shall be charged and collected pursuant to paragraph (2).

(D) The fee shall be deposited into the Trial Court Trust Fund and distributed back to the court from which the fee was collected on a dollar-for-dollar basis.

(E) The fee shall be refunded as soon as practicable to the remitting party or parties if no court reporting services were provided.

(2) For each proceeding lasting more than one hour, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for the services of an official court reporter on the first and each succeeding judicial day those services are provided pursuant to Section 269 of the Code of Civil Procedure.

(A) All parties shall deposit their pro rata shares of these fees with the clerk of the court as specified by the court, but not later than the conclusion of each day's court session.

(B) For purposes of this paragraph, "one-half day" means any period of judicial time, in excess of one hour, but not more than four hours, during either the morning or afternoon court session.

(b) The fee shall be waived for a person who has been granted a fee waiver under Section 68631.

(c) The costs for the services of the official court reporter shall be recoverable as taxable costs by the prevailing party as otherwise provided by law.

(d) The Judicial Council shall adopt rules to ensure all of the following:

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(1) That parties are given adequate and timely notice of the availability of an official court reporter.

(2) That if an official court reporter is not available, a party may arrange for, at the party's expense, the presence of a certified shorthand reporter to serve as an official pro tempore reporter. At the arranging party's request, the court shall appoint the certified shorthand reporter to be present in the courtroom and serve as the official reporter pro tempore unless there is good cause shown for the court to refuse that appointment. The fees and charges of the certified shorthand reporter shall be recoverable as taxable costs by the prevailing party as otherwise provided by law.

(3) That if the services of an official pro tempore reporter are utilized pursuant to paragraph (2), no other charge shall be made to the parties.

(e) The fees collected pursuant to this section shall be used only to pay the cost for services of an official court reporter in civil proceedings.

(f) The Judicial Council shall report on or before February 1 of each year to the Joint Legislative Budget Committee on the fees collected by courts pursuant to this section and Section 68086.1 and on the total amount spent for services of official court reporters in civil proceedings statewide in the prior fiscal year.

*(Amended by Stats. 2018, Ch. 497, Sec. 1. (AB 2664) Effective January 1, 2019.)*

Trial Court Trust Fund - Fund Condition Statement

#	Description	YEAR END FINANCIAL STATEMENTS		ESTIMATED		
		2016-17	2017-18	2018-19 <sup>1</sup>	2019-20	2020-21
A	B	C	D	E	F	
1	<b>Beginning Fund Balance</b>	<b>34,829,875</b>	<b>66,569,099</b>	<b>60,477,544</b>	<b>55,891,484</b>	<b>59,505,403</b>
2	Prior-Year Adjustments	5,759,000	8,556,629		-	-
3	<b>TOTAL REVENUES AND TRANSFERS</b>	<b>1,288,395,327</b>	<b>1,303,737,015</b>	<b>1,311,847,000</b>	<b>1,316,445,000</b>	<b>1,325,090,819</b>
4	<i>Total Revenues</i>	<i>1,270,421,327</i>	<i>1,283,589,015</i>	<i>1,291,879,000</i>	<i>1,296,968,000</i>	<i>1,306,775,819</i>
5	<b>Transfers/Charges/Reimbursements</b>					
6	General Fund Loan - Statewide E-Filing		671,000	491,000		(1,162,000)
7	Reduction Offset Transfers	6,080,000	6,080,000	6,080,000	6,080,000	6,080,000
8	Net Other Transfers/Charges/Reimbursements	11,894,000	13,397,000	13,397,000	13,397,000	13,397,000
9	<b>Total Resources</b>	<b>1,328,984,203</b>	<b>1,378,862,742</b>	<b>1,372,324,544</b>	<b>1,372,336,484</b>	<b>1,384,596,222</b>
10	<b>EXPENDITURES/ENCUMBRANCES/ALLOCATIONS</b>					
11	Program 0140010 - Judicial Council (Staff)	2,306,934	2,657,198	3,957,000	3,915,900	3,856,500
12	Program 0150010 - Support for Operation of the Trial Courts	1,860,003,547	1,857,899,805	1,982,502,691	2,039,916,181	2,039,916,181
13	Program 0150011 - Court-Appointed Dependency Counsel	114,699,919	130,146,303	136,700,000	156,700,000	156,700,000
14	Program 0150019 - Compensation of Superior Court Judges	335,384,000	348,583,021	375,051,369	413,807,000	413,807,000
15	Program 0150028 - Assigned Judges	25,923,351	28,063,247	28,117,000	29,090,000	29,090,000
16	Program 0150037 - Court Interpreters	102,282,915	108,537,000	116,781,000	120,686,000	120,686,000
17	Program 0150046 - Grants	8,147,000	9,554,900	10,329,000	10,329,000	10,329,000
18	Program 0150095 - Expenses on Behalf of the Trial Courts	11,391,069	9,543,398	11,207,000	10,015,000	11,431,000
19	<b>Total Local Assistance</b>	<b>2,446,549,101</b>	<b>2,493,406,000</b>	<b>2,660,688,060</b>	<b>2,780,543,181</b>	<b>2,781,959,181</b>
23	<i>Less Funding Provided by General Fund:</i>	<i>1,197,832,000</i>	<i>1,177,981,000</i>	<i>1,348,486,000</i>	<i>1,471,944,000</i>	<i>1,461,344,000</i>
24	<b>Total, Expenditures/Encumbrances/Allocations</b>	<b>1,262,415,104</b>	<b>1,318,385,198</b>	<b>1,316,433,060</b>	<b>1,312,831,081</b>	<b>1,324,880,681</b>
25	<b>Ending Fund Balance</b>	<b>66,569,099</b>	<b>60,477,544</b>	<b>55,891,484</b>	<b>59,505,403</b>	<b>59,715,541</b>
26	<b>Total Restricted Funds</b>	<b>28,450,583</b>	<b>31,355,448</b>	<b>27,157,424</b>	<b>26,506,585</b>	<b>25,648,733</b>
27	<b>Ending Unrestricted Fund Balance</b>	<b>38,118,516</b>	<b>29,122,096</b>	<b>28,734,060</b>	<b>32,998,818</b>	<b>34,066,808</b>

<sup>1</sup> 2018-19 revenues reflect the most current revenue projections (actuals through February 2019)