



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 22-116*

For business meeting on July 15, 2022

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**Title**

Allocations and Reimbursements to Trial Courts: Distribution of Fee for Civil Remote Appearances by Video

**Agenda Item Type**

Action Required

**Effective Date**

July 15, 2022

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

None

**Date of Report**

June 23, 2022

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair  
Ms. Rebecca Fleming, Vice-Chair

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### Executive Summary

The Trial Court Budget Advisory Committee recommends the Judicial Council approve a recommendation that fees collected under Government Code section 70630—for remote appearances by video—be distributed back to trial courts on a dollar-for-dollar basis after deposit into the Trial Court Trust Fund retroactive to January 1, 2022, when Code of Civil Procedure section 367.75 became effective, greatly expanding the statutory authority for civil remote appearances, including by video. The Trial Court Budget Advisory Committee also recommends the council approve a recommendation to exclude this revenue stream from the Workload Formula, for consistency in allowing courts to offset costs as provided in Government Code section 70630, for civil remote appearances by video.

### Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 15, 2022, approve the following recommendations:

1. Distribute Government Code section 70630 fees, deposited into the Trial Court Trust Fund, back to trial courts on a dollar-for-dollar basis retroactive to January 1, 2022, when Code of

Civil Procedure section 367.75 became effective and greatly expanded the statutory authority for civil remote appearances; and

2. Exclude revenues collected under Government Code section 70630 as a funding category in the Workload Formula methodology for “Other Local Revenues,” effective July 1, 2022.

This recommendation was presented to the Judicial Branch Budget Committee on June 1, 2022 and approved for consideration by the Judicial Council.<sup>1</sup>

## **Relevant Previous Council Action**

On December 28, 2021, the Judicial Council adopted California Rules of Court, rule 3.672, effective January 1, 2022, which states that parties (1) who, by statute, are not charged filing fees or fees for court services, or (2) who have fee waivers, may not be charged the videoconference fee authorized under Government Code section 70630 (Link A). Neither Government Code section 70630 nor rule 3.672 (Link B) prescribes a specific distribution of fees collected for remote appearances by video.

## **Analysis/Rationale**

### **Government Code section 70630**

Government Code section 70630 states:

If the court has made videoconferencing services available, the clerk of the court shall charge a reasonable fee to cover the costs of permitting parties to appear by videoconferencing. This fee shall be deposited into the Trial Court Trust Fund.

Government Code section 70630 fees are currently deposited into the Trial Court Trust Fund (TCTF) on a statewide level and are dispersed to courts through the regular council-approved allocation process. It is the authority of the council to allocate funds from the TCTF, and Government Code section 70630 does not prescribe the specific distribution of fees collected for these appearances. The statute indicates that the purpose of the fee is “to cover the costs of permitting parties to appear by videoconferencing.” This proposal is consistent with the statutory language. By returning the fee dollar-for-dollar to a court that incurs expenses for providing videoconferencing, the allocation will achieve the statutory purpose of covering the court’s costs.

In January 2020, the council considered a recommendation regarding court reporter fees in hearings lasting more than one hour pursuant to Government Code section 68086(a)(2) (Link C). The Trial Court Budget Advisory Committee recommended, and the council approved, that fees collected under 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 TCTF and that this revenue stream be excluded from the Workload

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<sup>1</sup> The recommendations in this report affect only the fee authorized under Government Code section 70630 and do not affect the fees for telephone appearances in civil cases mandated by Code of Civil Procedure section 367.6, Government Code section 72011, and rule 3.670.

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*.

At its business meeting 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 D).

The Workload Formula is for standard, 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 and court reporter staff in nonmandated areas) are excluded. Therefore, it was determined that revenues due to court reporter proceedings under one hour would not be included in the Workload Formula.

### **Policy implications**

The allocation of the fee back to a court on a dollar-for-dollar basis would best achieve the stated purpose of the Government Code section 70630 fee, i.e., to cover the court’s costs of providing parties with videoconferencing services.

### **Comments**

Public comment was received from one court executive officer urging consideration that the fees collected under Government Code section 70630 be returned to courts dollar-for-dollar, consistent with other fees, retroactive to January 1, 2022.

### **Alternatives considered**

The advisory committee considered taking no action and making no recommendation, but concluded that returning the fee dollar-for-dollar to the court that collects the fee was fair and consistent with the express purpose of Government Code section 70630 in authorizing the fee.

## **Fiscal and Operational Impacts**

### **Revenues**

The revenues collected under Government Code section 70630 have ranged in the hundreds of dollars statewide in recent years as shown in Table 1 below. However, it is anticipated that these revenue amounts may increase based on the enactment of Code of Civil Procedure section 367.75, which expanded the statutory authority for remote appearances, including by use of video, effective January 1, 2022.

**Table 1: Government Code Section 70630 Remote Appearance Fee Revenues Deposited into the TCTF**

2017–18	2018–19	2019–20	2020–21	2021–22*
\$930	\$831	\$139	\$589	\$361

*\*Revenues through March 2022.*

### **Trial court impact**

Excluding Government Code section 70630 fees for remote appearances from the Workload Formula allocation is consistent with other fees such as court reporter fees, and would enable courts to offset the costs of these services with the associated fees without the amount impacting how their Workload Formula allocation is calculated.

### **Attachments and Links**

1. Link A: Judicial Council circulating order CO-21-05, *Civil Practice and Procedure: Remote Appearances*, Dec. 17, 2021,  
<https://jcc.legistar.com/View.ashx?M=M&ID=918636&GUID=BFA5B7E4-6AD9-42AA-BA44-3CCE361CDD7F>
2. Link B: Cal. Rules of Court, rule 3.672,  
[https://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3\\_672](https://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_672)
3. Link C: Judicial Council meeting minutes, Jan. 17, 2020, including Item 20-025: *Allocations and Reimbursements to Trial Courts: Distribution of the Fee for Court Reporter Services in Civil Proceedings Lasting More Than One Hour*,  
<https://jcc.legistar.com/View.ashx?M=M&ID=711572&GUID=AC46528C-6E37-406A-A1CE-B41CC33E29EB>
4. Link D: Judicial Council meeting minutes, July 18, 2019, including Item 19-109: *Trial Court Budget: Workload Formula: Workload Formula: Allocations*,  
<https://jcc.legistar.com/View.ashx?M=M&ID=640298&GUID=14C9B632-0D81-4D17-84F5-6E87545C6A17>