

AMENDED IN ASSEMBLY AUGUST 23, 2007

AMENDED IN SENATE APRIL 9, 2007

**SENATE BILL**

**No. 539**

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**Introduced by Senator Margett**

February 22, 2007

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An act to amend Section 68085 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 539, as amended, Margett. Trial Court Trust Fund.

Existing law establishes the Trial Court Trust Fund, the proceeds of which are apportioned for specified court purposes, including funding trial court operations. Existing law specifies certain fees, collected on or before December 31, 2005, that are to be deposited in a special account in the county treasury and transmitted monthly to the Controller for deposit in the Trial Court Trust Fund. Existing law requires the Controller to calculate a penalty on any delinquent payment, *as specified by multiplying the amount of the delinquent payment at a daily rate equivalent to 1 1/2% per month for the number of days the payment is delinquent.*

This bill would require those fees to be transmitted monthly from the county treasury to the State Treasury, instead of to the Controller. The bill would ~~provide that any penalty on a delinquent payment that a court is required to pay shall be paid from the Trial Court Operations Fund for that court~~ *require the Controller to calculate interest on any delinquent payment at a daily rate equivalent to the rate of return of money deposited in the Local Agency Investment Fund from the date the payment was originally due to either 30 days after the date of issuance by the Controller of the final audit report concerning the*

*failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first, and to calculate a penalty at a daily rate equivalent to 1½% per month from the date 30 days after the issuance of that final audit report. The bill would also allow for a payment schedule in the event of a large interest or penalty amount, as specified. The bill would provide that the party responsible for the error or other action that caused the failure to pay may include, but is not limited to, the party that collected the funds if that party failed or delayed in providing the party responsible for remitting the funds to the Trial Court Trust Fund with sufficient information needed by the remitting party to distribute the funds. The bill would provide that these changes shall apply to all delinquent payments for which no final audit has been issued by the Controller prior to January 1, 2008.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 68085 of the Government Code is  
2 amended to read:  
3 68085. (a) (1) There is hereby established the Trial Court  
4 Trust Fund, the proceeds of which shall be apportioned for the  
5 purposes authorized in this section, including apportionment to  
6 the trial courts to fund trial court operations, as defined in Section  
7 77003.  
8 (2) The apportionment payments shall be made by the  
9 Controller. The final payment from the Trial Court Trust Fund for  
10 each fiscal year shall be made on or before August 31 of the  
11 subsequent fiscal year.  
12 (A) Notwithstanding any other provision of law, in order to  
13 promote statewide efficiency, the Judicial Council may authorize  
14 the direct payment or reimbursement or both of actual costs from  
15 the Trial Court Trust Fund or the Trial Court Improvement Fund  
16 to fund the costs of operating one or more trial courts upon the  
17 consent of participating courts. These paid or reimbursed costs  
18 may be for services provided to the court or courts by the  
19 Administrative Office of the Courts or payment for services or  
20 property of any kind contracted for by the court or courts or on  
21 behalf of the courts by the Administrative Office of the Courts.  
22 The amount of appropriations from the Trial Court Improvement

1 Fund under this subdivision may not exceed 20 percent of the  
2 amount deposited in the Trial Court Improvement Fund pursuant  
3 to subdivision (a) of Section 77205. The direct payment or  
4 reimbursement of costs from the Trial Court Trust Fund may be  
5 supported by the reduction of a participating court's allocation  
6 from the Trial Court Trust Fund to the extent that the court's  
7 expenditures for the program are reduced and the court is supported  
8 by the expenditure. The Judicial Council shall provide the affected  
9 trial courts with quarterly reports on expenditures from the Trial  
10 Court Trust Fund incurred as authorized by this subdivision. The  
11 Judicial Council shall establish procedures to provide for the  
12 administration of this paragraph in a way that promotes the  
13 effective, efficient, reliable, and accountable operation of the trial  
14 courts.

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

25 (b) Notwithstanding any other provision of law, the fees listed  
26 in subdivision (c) shall all be deposited upon collection in a special  
27 account in the county treasury, and transmitted monthly to the  
28 State Treasury for deposit in the Trial Court Trust Fund.

29 (c) (1) Except as specified in subdivision (d), this section applies  
30 to all fees collected on or before December 31, 2005, pursuant to  
31 Sections 631.3, 116.230, and 403.060 of the Code of Civil  
32 Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827,  
33 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1,  
34 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862,  
35 68086, 72055, 72056, 72056.01, and 72060.

36 (2) Notwithstanding any other provision of law, except as  
37 specified in subdivision (d) of this section and subdivision (a) of  
38 Section 68085.7, this section applies to all fees and fines collected  
39 on or before December 31, 2005, pursuant to Sections 116.390,  
40 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,

1 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,  
2 Sections 26824, 26828, 26829, 26834, and 72059 of the  
3 Government Code, and subdivisions (b) and (c) of Section 166  
4 and Section 1214.1 of the Penal Code.

5 (3) If any of the fees provided for in this subdivision are partially  
6 waived by court order, and the fee is to be divided between the  
7 Trial Court Trust Fund and any other fund, the amount of the partial  
8 waiver shall be deducted from the amount to be distributed to each  
9 fund in the same proportion as the amount of each distribution  
10 bears to the total amount of the fee.

11 (d) This section does not apply to that portion of a filing fee  
12 collected pursuant to Section 26820.4, 26826, 26827, 72055, or  
13 72056 that is allocated for dispute resolution pursuant to Section  
14 470.3 of the Business and Professions Code, the county law library  
15 pursuant to Section 6320 of the Business and Professions Code,  
16 the Judges' Retirement Fund pursuant to Section 26822.3,  
17 automated recordkeeping or conversion to micrographics pursuant  
18 to Sections 26863 and 68090.7, and courthouse financing pursuant  
19 to Section 76238. This section also does not apply to fees collected  
20 pursuant to subdivisions (a) and (c) of Section 27361.

21 (e) This section applies to all payments required to be made to  
22 the State Treasury by any county or city and county pursuant to  
23 Section 77201, 77201.1, or 77205.

24 (f) Notwithstanding any other provision of law, no agency may  
25 take action to change the amounts allocated to any of the funds  
26 described in subdivision (a), (b), (c), or (d).

27 (g) The Judicial Council shall reimburse the Controller for the  
28 actual administrative costs that will be incurred under this section.  
29 Costs reimbursed under this section shall be determined on an  
30 annual basis in consultation with the Judicial Council.

31 (h) Any amounts required to be transmitted by a county or city  
32 and county to the state pursuant to this section shall be remitted  
33 to the State Treasury no later than 45 days after the end of the  
34 month in which the fees were collected. This remittance shall be  
35 accompanied by a remittance advice identifying the collection  
36 month and the appropriate account in the Trial Court Trust Fund  
37 to which it is to be deposited. Any remittance that is not made by  
38 the county or city and county in accordance with this section shall  
39 be considered delinquent, and subject to the *interest and* penalties  
40 specified in this section.

1 (i) Upon receipt of any delinquent payment required pursuant  
2 to this section, the Controller shall do the following:

3 (1) Calculate interest on the delinquent payment by multiplying  
4 the amount of the delinquent payment at a daily rate equivalent  
5 to the rate of return of money deposited in the Local Agency  
6 Investment Fund pursuant to Section 16429.1 from the date the  
7 payment was originally due to either 30 days after the date of the  
8 issuance by the Controller of the final audit report concerning the  
9 failure to pay or the date of payment by the entity responsible for  
10 the delinquent payment, whichever comes first.

11 (2) Calculate a penalty at a daily rate equivalent to  $1\frac{1}{2}$  percent  
12 per month from the date 30 days after the date of the issuance by  
13 the Controller of the final audit report concerning the failure to  
14 pay.

15 ~~(i) Upon receipt of any delinquent payment required pursuant~~  
16 ~~to this section, the Controller shall calculate a penalty on any~~  
17 ~~delinquent payment by multiplying the amount of the delinquent~~  
18 ~~payment at a daily rate equivalent to  $1\frac{1}{2}$  percent per month for~~  
19 ~~the number of days the payment is delinquent. Notwithstanding~~  
20 ~~Section 77009, any penalty on a delinquent payment that a court~~  
21 ~~is required to reimburse to a county's general fund pursuant to this~~  
22 ~~section and Section 24353 shall be paid from the Trial Court~~  
23 ~~Operations Fund for that court.~~

24 (j) ~~Penalty~~ (1) Interest or penalty amounts calculated pursuant  
25 to subdivision (i) shall be paid by the county, city and county, or  
26 court to the Trial Court Trust Fund no later than 45 days after the  
27 end of the month in which the *interest or* penalty was calculated.  
28 Payment shall be made by the entity responsible for the error or  
29 other action that caused the failure to pay, as determined by the  
30 Controller in notice given to that party by the Controller.  
31 Notwithstanding

32 (2) ~~Notwithstanding~~ Section 77009, any *interest or* penalty on  
33 a delinquent payment that a court is required to make pursuant to  
34 this section and Section 24353 shall be paid from the Trial Court  
35 Operations Fund for that court. ~~The~~

36 (3) ~~The~~ Controller may permit a county, city and county, or  
37 court to pay the *interest or* penalty amounts according to a payment  
38 schedule in the event of a large *interest or* penalty amount that  
39 causes a hardship to the paying entity.

1     (4) *The party responsible for the error or other action that*  
2 *caused the failure to pay may include, but is not limited to, the*  
3 *party that collected the funds who is not the party responsible for*  
4 *remitting the funds to the Trial Court Trust Fund, if the collecting*  
5 *party failed or delayed in providing the remitting party with*  
6 *sufficient information needed by the remitting party to distribute*  
7 *the funds.*

8     (k) The Trial Court Trust Fund shall be invested in the Surplus  
9 Money Investment Fund and all interest earned shall be allocated  
10 to the Trial Court Trust Fund quarterly and shall be allocated  
11 among the courts in accordance with the requirements of  
12 subdivision (a). The specific allocations shall be specified by the  
13 Judicial Council.

14     (l) It is the intent of the Legislature that the revenues required  
15 to be deposited into the Trial Court Trust Fund be remitted as soon  
16 after collection by the courts as possible.

17     (m) Except for subdivisions (a) and (k), this section does not  
18 apply to fees and fines that are listed in subdivision (a) of Section  
19 68085.1 that are collected on or after January 1, 2006.

20     (n) *The changes made to subdivisions (i) and (j) of this section*  
21 *by the act adding this subdivision shall apply to all delinquent*  
22 *payments for which no final audit has been issued by the Controller*  
23 *prior to January 1, 2008.*