

Senate Bill No. 75

Passed the Senate September 10, 2009

Secretary of the Senate

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 68085.3, 68085.4, and 69957 of, and to add Section 20969.1 to, the Government Code, and to amend Section 1465.8 of the Penal Code, relating to the judiciary.

LEGISLATIVE COUNSEL'S DIGEST

SB 75, Committee on Budget and Fiscal Review. Judiciary.

(1) The Public Employees' Retirement System provides pension benefits based in part upon credited service. The Public Employees' Retirement Law provides that credit for service generally is accrued based upon service rendered and compensated in a fiscal year, and that time during which a member is absent without compensation is not allowed for computing service. Existing law, in effect until July 1, 2010, authorizes the Judicial Council to provide that the courts be closed for the transaction of judicial business for one day per month, which would be treated as a holiday, and to adopt court rules to implement these provisions, subject to specified conditions.

This bill would require that, for all retirement purposes, credit for service and compensation earnable for members of the Public Employees' Retirement System employed by a trial court that are subject to mandatory furloughs be based on the amount that would have been credited had the employee not been subject to mandatory furloughs. The bill would define mandatory furloughs and trial court employee in these regards.

(2) Existing law sets the fees for filing first papers and other filing fees in civil actions, including various probate proceedings.

This bill would make technical, conforming changes in related provisions specifying the distribution of the proceeds of those fees.

(3) Existing law authorizes a court to use electronic recording equipment for the internal personnel purpose of monitoring judicial officer performance, if notice is provided to litigants that the proceeding may be recorded for that purpose, as specified.

This bill would modify that provision to authorize a court to use electronic recording equipment for the internal personnel purpose of monitoring the performance of subordinate judicial officers, hearing officers, and temporary judges while proceedings are

conducted in the courtroom, if notice is provided to the subordinate judicial officer, hearing officer, or temporary judge, and to the litigants, that the proceeding may be recorded for that purpose, as specified.

(4) Existing law permits the referral of fines, state or local penalties, forfeitures, restitution fines, or restitution orders imposed by specified courts upon a person for criminal offenses under certain conditions to the Franchise Tax Board for collection. Existing law requires a board of supervisors to provide that disbursements of amounts collected by the Franchise Tax Board be made in accordance with specified priorities of payment. Existing law provides, until January 1, 2012, that any statute that takes effect after January 1, 2009, that increases the amount of any item that would be subject to disbursement under these provisions shall not be disbursed until all specified reimbursable costs have been disbursed.

Existing law imposes a fee of \$30, until July 1, 2011, and thereafter, a fee of \$20, upon every conviction for a criminal offense, other than parking offenses, for funding of court security.

This bill would provide that the court security fees collected pursuant to the latter provision shall be disbursed in accordance with the specified priorities of payment described above, and not first be subject to disbursement for those specified reimbursable costs.

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

SECTION 1. Section 20969.1 is added to the Government Code, to read:

20969.1. (a) For all retirement purposes, including benefit eligibility and calculations of retirement allowances for members employed by a trial court that are subject to mandatory furloughs, as defined in subdivision (c), credit for service and compensation earnable shall be based on the amount of service that would have been credited had the employee not been subject to mandatory furloughs.

(b) A trial court shall notify the board of the terms and conditions of any mandatory furlough, including, but not limited to, the amount of mandatory furlough time imposed on employees during a reporting period, and the date on which the mandatory

furlough ends. A trial court and a county in which the trial court is located that participates in this system by joint contract pursuant to Section 20460.1 shall provide that additional information as the board may require to implement this section.

(c) For the purposes of this section, “mandatory furloughs” is limited to the time during which a trial court employee is directed to be absent from work without pay in the 2009–10 fiscal year on the day designated by the Judicial Council for closure of the courts as authorized in Section 68106.

(d) For purposes of this section, “trial court employee” means a trial court employee, as that term is defined in Section 71601, whose employer has contracted for its employees to become members of the California Public Employees’ Retirement System.

SEC. 2. Section 68085.3 of the Government Code is amended to read:

68085.3. (a) Fees collected under Sections 70611, 70612, 70650, 70651, 70652, 70653, 70655, 70658, and 70670 shall be deposited in a bank account established by the Administrative Office of the Courts for deposit of fees collected by the courts.

(b) For each three-hundred-fifty-five-dollar (\$355) fee listed in subdivision (a), the Administrative Office of the Courts shall distribute specified amounts in each county as follows:

(1) To the county law library fund, the amount described in Sections 6321 and 6322.1 of the Business and Professions Code.

(2) To the account to support dispute resolution programs, the amount described in Section 470.5 of the Business and Professions Code.

(c) The remainder of the fees in subdivision (a) shall be transmitted monthly to the Treasurer for deposit. For each three-hundred-fifty-five-dollar (\$355) fee listed in subdivision (a), the Controller shall make deposits as follows:

(1) To the State Court Facilities Construction Fund, as provided in Article 6 (commencing with Section 70371) of Chapter 5.7, thirty-five dollars (\$35).

(2) To the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5, thirty dollars (\$30), unless the fee is collected under Section 70658, in which case the amount distributed to that fund shall be one hundred seventy dollars (\$170).

(3) To the Judges' Retirement Fund, as established in Section 75100, two dollars and fifty cents (\$2.50).

(4) To the Trial Court Trust Fund for use as part of the Equal Access Fund program administered by the Judicial Council, four dollars and eighty cents (\$4.80).

(5) To the Trial Court Trust Fund, as provided in Section 68085.1, the remainder of the fee.

(d) If any of the fees listed in subdivision (a) are reduced or partially waived, the amount of the reduction or partial waiver shall be deducted from the amount to be distributed to each fund or account in the same proportion as the amount of each distribution bears to the total amount of the fee.

(e) As used in this section, "law library fund" includes a law library account described in Section 6320 of the Business and Professions Code.

SEC. 3. Section 68085.4 of the Government Code is amended to read:

68085.4. (a) Fees collected under Sections 70613, 70614, 70621, 70654, and 70656 of this code, Section 103470 of the Health and Safety Code, and Section 7660 of the Probate Code shall be deposited in a bank account established by the Administrative Office of the Courts for deposit of fees collected by the courts.

(b) For each three-hundred-thirty-dollar (\$330) fee and each two-hundred-five-dollar (\$205) fee listed in subdivision (a), the Administrative Office of the Courts shall distribute specified amounts in each county as follows:

(1) To the county law library fund, the amount described in Sections 6321 and 6322.1 of the Business and Professions Code.

(2) To the account to support dispute resolution programs, the amount described in Section 470.5 of the Business and Professions Code.

(c) The remainder of the fees in subdivision (a) shall be transmitted monthly to the Treasurer for deposit. For each three-hundred-thirty-dollar (\$330) fee and each two-hundred-five-dollar (\$205) fee listed in subdivision (a), the Controller shall make deposits as follows:

(1) To the State Court Facilities Construction Fund, as provided in Article 6 (commencing with Section 70371) of Chapter 5.7, twenty-five dollars (\$25) if the fee is three hundred thirty dollars

(\$330), and twenty dollars (\$20) if the fee is two hundred five dollars (\$205).

(2) To the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5, twenty-five dollars (\$25) if the fee is three hundred thirty dollars (\$330), and twenty dollars (\$20) if the fee is two hundred five dollars (\$205), except as otherwise provided in Section 6322.1 of the Business and Professions Code.

(3) To the Judges' Retirement Fund, as established in Section 75100, two dollars and fifty cents (\$2.50).

(4) To the Trial Court Trust Fund for use as part of the Equal Access Fund program administered by the Judicial Council, four dollars and eighty cents (\$4.80).

(5) To the Trial Court Trust Fund, as provided in Section 68085.1, the remainder of the fee.

(d) If any of the fees listed in subdivision (a) are reduced or partially waived, the amount of the reduction or partial waiver shall be deducted from the amount to be distributed to each fund or account in the same proportion as the amount of each distribution bears to the total amount of the fee.

(e) As used in this section, "law library fund" includes a law library account described in Section 6320 of the Business and Professions Code.

SEC. 4. Section 69957 of the Government Code is amended to read:

69957. (a) If an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use and shall only be purchased for use as provided by this section. A court shall not expend funds for or use

electronic recording technology or equipment to make an unofficial record of an action or proceeding, including for purposes of judicial notetaking, or to make the official record of an action or proceeding in circumstances not authorized by this section.

(b) Notwithstanding subdivision (a), a court may use electronic recording equipment for the internal personnel purpose of monitoring the performance of subordinate judicial officers, as defined in Section 71601 of the Government Code, hearing officers, and temporary judges while proceedings are conducted in the courtroom, if notice is provided to the subordinate judicial officer, hearing officer, or temporary judge, and to the litigants, that the proceeding may be recorded for that purpose. An electronic recording made for the purpose of monitoring that performance shall not be used for any other purpose and shall not be made publicly available. Any recording made pursuant to this subdivision shall be destroyed two years after the date of the proceeding unless a personnel matter is pending relating to performance of the subordinate judicial officer, hearing officer, or temporary judge.

(c) Prior to purchasing or leasing any electronic recording technology or equipment, a court shall obtain advance approval from the Judicial Council, which may grant that approval only if the use of the technology or equipment will be consistent with this section.

SEC. 5. Section 1465.8 of the Penal Code, as amended by Section 29 of Chapter 22 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

1465.8. (a) (1) To ensure and maintain adequate funding for court security, a fee of thirty dollars (\$30) shall be imposed on every conviction for a criminal offense, including a traffic offense, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) For the purposes of this section, “conviction” includes the dismissal of a traffic violation on the condition that the defendant attend a court-ordered traffic violator school, as authorized by Sections 41501 and 42005 of the Vehicle Code. This security fee shall be deposited in accordance with subdivision (d), and may not be included with the fee calculated and distributed pursuant to Section 42007 of the Vehicle Code.

(b) This fee shall be in addition to the state penalty assessed pursuant to Section 1464 and may not be included in the base fine to calculate the state penalty assessment as specified in subdivision (a) of Section 1464. The penalties authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the state surcharge authorized by Section 1465.7, do not apply to this fee.

(c) When bail is deposited for an offense to which this section applies, and for which a court appearance is not necessary, the person making the deposit shall also deposit a sufficient amount to include the fee prescribed by this section.

(d) Notwithstanding any other provision of law, the fees collected pursuant to subdivision (a) shall all be deposited in a special account in the county treasury and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund. The fees collected pursuant to this section shall not be subject to subdivision (e) of Section 1203.1d, but shall be disbursed under subdivision (b) of Section 1203.1d.

(e) The Judicial Council shall provide for the administration of this section.

(f) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

Approved _____, 2009

Governor