

ASSEMBLY BILL

No. 1293

Introduced by Assembly Member Bloom

February 22, 2013

An act to amend Sections 70375 and 76000 of the Government Code, to amend Section 1463.001 of the Penal Code, and to amend Section 19210 of the Public Contract Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1293, as introduced, Bloom. Courts.

(1) Existing law authorizes each county to establish a local courthouse construction fund for the purpose of assisting the county in the acquisition, rehabilitation, construction, and financing of court facilities. Existing law authorizes each county to collect an additional penalty in the amount of \$7 for every \$10, or part of \$10, upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses for deposit in various county funds at the direction of the board of supervisors, including the local courthouse construction fund. Existing law provides for the transfer of the funds in any county's courthouse construction fund to the State Court Facilities Construction Fund as part of the transition of funding of courthouses from the counties to the state upon the occurrence of specified events. Existing law requires a reduction of the \$7 additional penalty by an additional penalty amount assessed by a county for the local courthouse construction fund when the moneys in that local courthouse construction fund are transferred to the State Court Facilities Construction Fund.

This bill would provide that after moneys in the local courthouse construction fund are transferred to the State Court Facilities Construction Fund, a specified portion of the \$7 additional penalty shall

instead be transmitted to the State Court Facilities Construction Fund to be used for maintenance of court facilities. The bill would make additional conforming changes.

(2) Existing law, except as provided, requires that all fines and forfeitures imposed and collected for crimes other than parking offenses resulting from a filing in a court be deposited with the county treasurer and distributed as provided.

This bill would authorize each superior court to deposit the fines and forfeitures that it collects into its Trial Court Operations Fund instead of with the county treasurer and distribute the funds as provided.

(3) Existing law commencing not earlier than July 1, 2011, and not later than December 15, 2012, requires the State Auditor to establish a pilot program to audit 6 trial courts, as provided.

This bill would suspend these requirements until an appropriation is made by the Legislature expressly for this purpose.

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 70375 of the Government Code is
2 amended to read:

3 70375. (a) This article shall take effect on January 1, 2003,
4 and the fund, penalty, and fee assessment established by this article
5 shall become operative on January 1, 2003, except as otherwise
6 provided in this article.

7 (b) The authority for all of the following shall expire
8 proportionally on the June 30th following the date of transfer of
9 responsibility for facilities from the county to the Judicial Council,
10 except so long as money is needed to pay for construction provided
11 for in those sections and undertaken prior to the transfer of
12 responsibility for facilities from the county to the Judicial Council:

13 ~~(1) An additional penalty for a local courthouse construction~~
14 ~~fund established pursuant to Section 76100.~~

15 ~~(2)~~

16 (1) A filing fee surcharge in the County of Riverside established
17 pursuant to Section 70622.

18 ~~(3)~~

19 (2) A filing fee surcharge in the County of San Bernardino
20 established pursuant to Section 70624.

1 ~~(4)~~

2 (3) A filing fee surcharge in the City and County of San
3 Francisco established pursuant to Section 70625.

4 (c) For purposes of subdivision (c), the term “proportionally”
5 means that proportion of the fee or surcharge that shall expire upon
6 the transfer of responsibility for a facility that is the same
7 proportion as the square footage that facility bears to the total
8 square footage of court facilities in that county.

9 SEC. 2. Section 76000 of the Government Code is amended
10 to read:

11 76000. (a) (1) ~~Except as otherwise provided elsewhere in this~~
12 ~~section, in~~ In each county there shall be levied an additional penalty
13 in the amount of seven dollars (\$7) for every ten dollars (\$10), or
14 part of ten dollars (\$10), upon every fine, penalty, or forfeiture
15 imposed and collected by the courts for all criminal offenses,
16 including all offenses involving a violation of the Vehicle Code
17 or any local ordinance adopted pursuant to the Vehicle Code.

18 (2) This additional penalty shall be collected together with and
19 in the same manner as the amounts established by Section 1464
20 of the Penal Code. These moneys shall be taken from fines and
21 forfeitures deposited with the county treasurer prior to any division
22 pursuant to Section 1463 of the Penal Code. ~~The~~ *Except as*
23 *provided in subdivision (e), the* county treasurer shall deposit those
24 amounts specified by the board of supervisors by resolution in one
25 or more of the funds established pursuant to this chapter. However,
26 deposits to these funds shall continue through whatever period of
27 time is necessary to repay any borrowings made by the county on
28 or before January 1, 1991, to pay for construction provided for in
29 this chapter.

30 (3) This additional penalty does not apply to the following:

31 (A) Any restitution fine.

32 (B) Any penalty authorized by Section 1464 of the Penal Code
33 or this chapter.

34 (C) Any parking offense subject to Article 3 (commencing with
35 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

36 (D) The state surcharge authorized by Section 1465.7 of the
37 Penal Code.

38 (b) In each authorized county, ~~provided that~~ *if* the board of
39 supervisors has adopted a resolution stating that the implementation
40 of this subdivision is necessary to the county for the purposes

1 authorized, with respect to each authorized fund established
2 pursuant to Section 76100 or 76101, for every parking offense
3 where a parking penalty, fine, or forfeiture is imposed, an added
4 penalty of two dollars and fifty cents (\$2.50) shall be included in
5 the total penalty, fine, or forfeiture. Except as provided in
6 subdivision (c), for each parking case collected in the courts of the
7 county, the county treasurer shall place in each authorized fund
8 two dollars and fifty cents (\$2.50). These moneys shall be taken
9 from fines and forfeitures deposited with the county treasurer prior
10 to any division pursuant to Section ~~1462.3~~ or 1463.009 of the Penal
11 Code. The judges of the county shall increase the bail schedule
12 amounts as appropriate to reflect the added penalty provided for
13 by this section. In those cities, districts, or other issuing agencies
14 which elect to accept parking penalties, and otherwise process
15 parking violations pursuant to Article 3 (commencing with Section
16 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city,
17 district, or issuing agency shall observe the increased bail amounts
18 as established by the court reflecting the added penalty provided
19 for by this section. Each agency ~~which~~ *that* elects to process
20 parking violations shall pay to the county treasurer two dollars and
21 fifty cents (\$2.50) for each fund for each parking penalty collected
22 on each violation which is not filed in court. Those payments to
23 the county treasurer shall be made monthly, and the county
24 treasurer shall deposit all those sums in the authorized fund. ~~No~~
25 *An* issuing agency shall *not* be required to contribute revenues to
26 any fund in excess of those revenues generated from the surcharges
27 established in the resolution adopted pursuant to this chapter,
28 except as otherwise agreed upon by the local governmental entities
29 involved.

30 (c) The county treasurer shall deposit one dollar (\$1) of every
31 two dollars and fifty cents (\$2.50) collected pursuant to subdivision
32 (b) into the general fund of the county.

33 (d) The authority to impose the two-dollar-and-fifty-cent (\$2.50)
34 penalty authorized by subdivision (b) shall be reduced to one dollar
35 (\$1) as of the date of transfer of responsibility for facilities from
36 the county to the Judicial Council pursuant to Article 3
37 (commencing with Section 70321) of Chapter ~~5.1~~ 5.7, except as
38 money is needed to pay for construction provided for in Section
39 76100 and undertaken prior to the transfer of responsibility for
40 facilities from the county to the Judicial Council.

1 ~~(e) The seven-dollar (\$7) additional penalty authorized by~~
 2 ~~subdivision (a) shall be reduced in each county by the additional~~
 3 ~~penalty amount assessed by the county for the local courthouse~~
 4 ~~construction fund established by Section 76100 as of January 1,~~
 5 ~~1998, when the money in that fund is transferred to the state under~~
 6 ~~Section 70402. The amount each county shall charge as an~~
 7 ~~additional penalty under this section shall be as follows:~~

8 *(e) After money in the local courthouse construction fund,*
 9 *established by Section 76100, is transferred to the state under*
 10 *Section 70402, the amount of the seven-dollar (\$7) additional*
 11 *penalty authorized by subdivision (a) that is set forth in the chart*
 12 *below shall be transmitted to the State Court Facilities*
 13 *Construction Fund to be used for maintenance of court facilities.*

Alameda	\$5.00 \$1.65	Marin	\$5.00 \$0.00	San Luis Obispo	\$5.00 \$2.00
Alpine	\$5.00 \$0.00	Mariposa	\$2.50 \$0.00	San Mateo	\$4.75 \$2.25
Amador	\$5.00 \$2.00	Mendocino	\$7.00 \$0.00	Santa Barbara	\$3.50 \$2.52
Butte	\$7.00 \$0.00	Merced	\$4.75 \$2.25	Santa Clara	\$5.50 \$1.50
Calaveras	\$3.00 \$4.00	Modoc	\$3.50 \$0.00	Santa Cruz	\$7.00 \$0.00
Colusa	\$6.00 \$0.66	Mono	\$4.00 \$2.09	Shasta	\$3.50
Contra Costa	\$5.00 \$1.72	Monterey	\$5.00 \$2.00	Sierra	\$7.00 \$0.00
Del Norte	\$7.00 \$0.00	Napa	\$3.00 \$4.00	Siskiyou	\$5.00 \$1.98
El Dorado	\$5.00 \$2.00	Nevada	\$4.75 \$2.25	Solano	\$5.00 \$2.00
Fresno	\$7.00 \$0.00	Orange	\$5.29 \$1.61	Sonoma	\$5.00 \$1.97
Glenn	\$4.00 \$3.00	Placer	\$4.75 \$2.25	Stanislaus	\$5.00 \$2.00
Humboldt	\$5.00 \$1.82	Plumas	\$7.00 \$0.00	Sutter	\$6.00 \$1.00
Imperial	\$6.00	Riverside	\$4.60	Tehama	\$7.00

1		\$1.00		\$2.03		\$0.00
2		\$4.00		\$5.00		\$4.50
3	Inyo	\$3.00	Sacramento	\$2.00	Trinity	\$0.00
4		\$7.00		\$5.00		\$5.00
5	Kern	\$0.00	San Benito	\$1.85	Tulare	\$2.00
6		\$7.00		\$5.00		\$7.00
7	Kings	\$0.00	San Bernardino	\$1.95	Tuolumne	\$0.00
8		\$7.00		\$7.00		\$5.00
9	Lake	\$0.00	San Diego	\$0.00	Ventura	\$1.69
10		\$2.00		\$6.99		\$7.00
11	Lassen	\$1.69	San Francisco	\$0.01	Yolo	\$0.00
12		\$5.00		\$3.75		\$3.00
13	Los Angeles	\$2.00	San Joaquin	\$3.25	Yuba	\$4.00
14		\$7.00				
15	Madera	\$0.00				

17 SEC. 3. Section 1463.001 of the Penal Code is amended to
 18 read:

19 1463.001. Except as otherwise provided in this section, all
 20 fines and forfeitures imposed and collected for crimes other than
 21 parking offenses resulting from a filing in a court shall as soon as
 22 practicable after receipt thereof, be deposited with the county
 23 treasurer, and each month the total fines and forfeitures ~~which~~ *that*
 24 have accumulated within the past month shall be distributed, as
 25 follows:

26 (a) The state penalties, county penalties, special penalties,
 27 service charges, and penalty allocations shall be transferred to the
 28 proper funds as required by law.

29 (b) The base fines shall be distributed, as follows:

30 (1) Any base fines which are subject to specific distribution
 31 under any other section shall be distributed to the specified funds
 32 of the state or local agency.

33 (2) Base fines resulting from county arrest not included in
 34 paragraph (1), shall be transferred into the proper funds of the
 35 county.

36 (3) Base fines resulting from city arrests not included in
 37 paragraph (1), an amount equal to the applicable county
 38 percentages set forth in Section 1463.002, as modified by Section
 39 1463.28, shall be transferred into the proper funds of the county.

1 Until July 1, 1998, the remainder of base fines resulting from city
2 arrests shall be divided between each city and county, with 50
3 percent deposited to the county's general fund, and 50 percent
4 deposited to the treasury of the appropriate city, and thereafter the
5 remainder of base fines resulting from city arrests shall be
6 deposited to the treasury of the appropriate city.

7 (4) In a county that had an agreement as of March 22, 1977,
8 that provides for city fines and forfeitures to accrue to the county
9 in exchange for sales tax receipts, base fines resulting from city
10 arrests not included in paragraph (1) shall be deposited into the
11 proper funds of the county.

12 (c) *Notwithstanding any other law, each superior court may*
13 *deposit the fines and forfeitures that it collects into its Trial Court*
14 *Operations Fund, instead of depositing the total amount with the*
15 *county treasurer. In that case, the superior court shall make the*
16 *distributions required in subdivision (a).*

17 (e)

18 (d) *Each superior court and county shall keep a record of its*
19 *deposits to its treasury and its transmittal to each city treasury*
20 *transmittals pursuant to this section.*

21 (d)

22 (e) The distribution specified in subdivision (b) applies to all
23 funds subject thereto distributed on or after July 1, 1992, regardless
24 of whether the court has elected to allocate and distribute funds
25 pursuant to Section 1464.8.

26 (e)

27 (f) Any amounts remitted to the county *or the court* from
28 amounts collected by the Franchise Tax Board upon referral by a
29 county pursuant to Article 6 5.5 (commencing with Section 19280)
30 of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation
31 Code shall be allocated pursuant to this section.

32 SEC. 4. Section 19210 of the Public Contract Code is amended
33 to read:

34 19210. (a) Commencing not earlier than July 1, 2011, and not
35 later than December 15, 2012, the State Auditor shall establish a
36 pilot program to audit six trial courts. That entity shall select the
37 trial courts using the following criteria:

38 (1) Two trial courts selected from counties with a population
39 of 200,000 or less.

1 (2) Two trial courts selected from counties with a population
2 greater than 200,000 and less than 750,000.

3 (3) Two trial courts selected from counties with a population
4 of 750,000 or greater.

5 The audits shall assess the implementation of this part by the
6 judicial branch.

7 (b) Based on the results of the pilot program audits described
8 in subdivision (a), the State Auditor shall, on or before December
9 15, 2013, commence an audit of the trial courts, provided that
10 every trial court is audited in the manner prescribed by this section
11 at least once every four years. The audits shall assess the
12 implementation of this part by the judicial branch. The audits
13 required by this paragraph shall be in addition to any audit regularly
14 conducted pursuant to any other provision of law.

15 (c) Notwithstanding Section 10231.5 of the Government Code,
16 the State Auditor shall compile the trial court audit findings and
17 report the results of these audits to the Legislature, the Judicial
18 Council, and the Department of Finance no later than April 1 of
19 each year. An audit report shall not be considered final until the
20 audited entity is provided a reasonable opportunity to respond and
21 the response is included with, or incorporated into, the report.

22 (d) The reasonable and necessary contracted cost of the audits
23 conducted pursuant to this section shall be paid from funds of the
24 local trial court being audited.

25 (e) (1) On or before December 15, 2013, and biennially
26 thereafter, the State Auditor shall perform an audit of the
27 Administrative Office of the Courts, the Habeas Corpus Resource
28 Center, and the appellate courts to assess their implementation of
29 this part.

30 (2) The State Auditor shall provide a copy of the final audit
31 report of the Administrative Office of the Courts to the Legislature,
32 the Judicial Council, and the Department of Finance upon issuance.
33 An audit report shall not be considered final until the audited entity
34 is provided a reasonable opportunity to respond and the response
35 is included with, or incorporated into, the report.

36 (3) Any reasonable and necessary contracted costs incurred by
37 the auditing entity pursuant to this subdivision shall be reimbursed
38 by the Administrative Office of the Courts.

1 (f) The State Auditor shall conduct the audits required pursuant
2 to this section in accordance with Chapter 6.5 (commencing with
3 Section 8543) of Division 1 of Title 2 of the Government Code.

4 (g) If the State Auditor is selected as the auditing entity pursuant
5 to subdivision (j) of Section 77206 of the Government Code, then
6 the State Auditor may combine the results of any audit of a trial
7 court conducted pursuant to that section with an audit of the same
8 trial court conducted pursuant to this section. The State Auditor
9 may also combine the results of an audit of the Administrative
10 Office of the Courts pursuant to Section 77206 of the Government
11 Code with the results of an audit of the Administrative Office of
12 the Courts pursuant to this section.

13 (h) A report submitted pursuant to this section shall be submitted
14 in compliance with Section 9795 of the Government Code.

15 (i) *The requirements of this section shall be suspended until an*
16 *appropriation is made by the Legislature expressly for this purpose.*

O