

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2076

Introduced by Assembly Member Ma

February 23, 2012

An act to amend Sections 68085.1, 68086, 68086.1, and 69953.5 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2076, as amended, Ma. Official court reporter fee.

Existing law requires the charge of an official court reporter fee, in addition to any other fee required in civil actions or cases, for each proceeding lasting more than one hour, in an amount equal to the actual cost of providing that service per ½ 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, as specified. Fees collected pursuant to this provision may be used only to pay for services of an official court reporter in civil proceedings. Existing law further requires that, whenever a daily transcript is ordered in a civil case requiring the services of more than one reporter, the party requesting the transcript ~~must~~ pay a fee equal to the per diem rate for pro tempore reporters in addition to any other required fee.

This bill would *additionally* require ~~the~~ *an* official court reporter fee to be charged for each proceeding lasting ~~more~~ *less* than an ~~unspecified number of minutes~~ *hour*, and would authorize the court in which ~~the~~ *an* official court reporter fee was collected to retain that fee. The bill would also authorize the court collecting a per diem fee for a daily

transcript to retain that fee to offset the cost of the additional court reporter.

Existing law establishes filing fees in specified civil proceedings. Existing law further establishes the Trial Court Trust Fund and requires that \$30 of the amount distributed to the Trial Court Trust Fund from specified filing fees be used for the services of an official court reporter in civil proceedings.

~~The~~

This bill, instead, would require that \$30 of specified filing fees be retained by the court in which the fee was collected and be used for official court reporter services in civil proceedings.

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 68085.1 of the Government Code, as
2 amended by Section 4 of Chapter 457 of the Statutes of 2009, is
3 amended to read:

4 68085.1. (a) This section applies to all fees and fines that are
5 collected on or after January 1, 2006, under all of the following:

6 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,
7 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,
8 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of
9 Section 411.21 of, and Chapter 5.5 (commencing with Section
10 116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.

11 (2) Section 3112 of the Family Code.

12 (3) Section 31622 of the Food and Agricultural Code.

13 (4) Subdivision (d) of Section 6103.5, subdivision (d) of Section
14 68511.3, Section 68926.1, and Chapter 5.8 (commencing with
15 Section 70600).

16 (5) Section 103470 of the Health and Safety Code.

17 (6) Subdivisions (b) and (c) of Section 166 and Section 1214.1
18 of the Penal Code.

19 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate
20 Code.

21 (8) Sections 14607.6 and 16373 of the Vehicle Code.

22 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002
23 of the Family Code, and Section 1513.1 of the Probate Code, if
24 the reimbursement is for expenses incurred by the court.

1 (10) Section 3153 of the Family Code, if the amount is paid to
2 the court for the cost of counsel appointed by the court to represent
3 a child.

4 (b) On and after January 1, 2006, each superior court shall
5 deposit all fees and fines listed in subdivision (a), as soon as
6 practicable after collection and on a regular basis, into a bank
7 account established for this purpose by the Administrative Office
8 of the Courts. Upon direction of the Administrative Office of the
9 Courts, the county shall deposit civil assessments under Section
10 1214.1 of the Penal Code and any other money it collects under
11 the sections listed in subdivision (a) as soon as practicable after
12 collection and on a regular basis into the bank account established
13 for this purpose and specified by the Administrative Office of the
14 Courts. The deposits shall be made as required by rules adopted
15 by, and financial policies and procedures authorized by, the Judicial
16 Council under subdivision (a) of Section 77206. Within 15 days
17 after the end of the month in which the fees and fines are collected,
18 each court, and each county that collects any fines or fees under
19 subdivision (a), shall provide the Administrative Office of the
20 Courts with a report of the fees by categories as specified by the
21 Administrative Office of the Courts. The Administrative Office
22 of the Courts and any court may agree upon a time period greater
23 than 15 days, but in no case more than 30 days after the end of the
24 month in which the fees and fines are collected. The fees and fines
25 listed in subdivision (a) shall be distributed as provided in this
26 section.

27 (c) (1) Within 45 calendar days after the end of the month in
28 which the fees and fines listed in subdivision (a) are collected, the
29 Administrative Office of the Courts shall make the following
30 distributions:

31 (A) To the small claims advisory services, as described in
32 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

33 (B) To dispute resolution programs, as described in subdivision
34 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

35 (C) To the county law library funds, as described in Sections
36 116.230 and 116.760 of the Code of Civil Procedure, subdivision
37 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
38 Section 70621 of this code, and Section 14607.6 of the Vehicle
39 Code.

1 (D) To the courthouse construction funds in the Counties of
2 Riverside, San Bernardino, and San Francisco, as described in
3 Sections 70622, 70624, and 70625.

4 (E) Commencing July 1, 2011, to the Trial Court Trust Fund,
5 as described in subdivision (d) of Section 70626, to be used by the
6 Judicial Council to implement and administer the civil
7 representation pilot program under Section 68651.

8 (2) If any distribution under this subdivision is delinquent, the
9 Administrative Office of the Courts shall add a penalty to the
10 distribution as specified in subdivision (i).

11 (d) Within 45 calendar days after the end of the month in which
12 the fees and fines listed in subdivision (a) are collected, the
13 amounts remaining after the distributions in subdivision (c) shall
14 be transmitted to the State Treasury for deposit in the Trial Court
15 Trust Fund and other funds as required by law. This remittance
16 shall be accompanied by a remittance advice identifying the
17 collection month and the appropriate account in the Trial Court
18 Trust Fund or other fund to which it is to be deposited. Upon the
19 receipt of any delinquent payment required under this subdivision,
20 the Controller shall calculate a penalty as provided under
21 subdivision (i).

22 (e) From the money transmitted to the State Treasury under
23 subdivision (d), the Controller shall make deposits as follows:

24 (1) Into the State Court Facilities Construction Fund, the Judges'
25 Retirement Fund, and the Equal Access Fund, as described in
26 subdivision (c) of Section 68085.3 and subdivision (c) of Section
27 68085.4.

28 (2) Into the Health Statistics Special Fund, as described in
29 subdivision (b) of Section 70670 of this code and Section 103730
30 of the Health and Safety Code.

31 (3) Into the Family Law Trust Fund, as described in Section
32 70674.

33 (4) Into the Immediate and Critical Needs Account of the State
34 Court Facilities Construction Fund, established in Section 70371.5,
35 as described in Sections 68085.3, 68085.4, and 70657.5, and
36 subdivision (e) of Section 70617.

37 (5) The remainder of the money shall be deposited into the Trial
38 Court Trust Fund.

39 (f) The amounts collected by each superior court under Section
40 116.232, subdivision (g) of Section 411.20, and subdivision (g) of

Section 411.21 of the Code of Civil Procedure, Sections 304, 3112, 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of Section 6103.5, subdivision (d) of Section 68511.3, and Sections 68926.1, 70627, 70631, 70640, 70661, 70678, and 71386 of this code, and Sections 1513.1, 1835, 1851.5, and 2343 of the Probate Code shall be added to the monthly apportionment for that court under subdivision (a) of Section 68085.

(g) If any of the fees provided in subdivision (a) are partially waived by court order or otherwise reduced, and the fee is to be divided between the Trial Court Trust Fund and any other fund or account, the amount of the reduction shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee. If the fee is paid by installment payments, the amount distributed to each fund or account from each installment shall bear the same proportion to the installment payment as the full distribution to that fund or account does to the full fee. If a court collects a fee that was incurred before January 1, 2006, under a provision that was the predecessor to one of the paragraphs contained in subdivision (a), the fee may be deposited as if it were collected under the paragraph of subdivision (a) that corresponds to the predecessor of that paragraph and distributed in prorated amounts to each fund or account to which the fee in subdivision (a) must be distributed.

(h) Except as provided in Sections 470.5 and 6322.1 of the Business and Professions Code, and Sections 70622, 70624, and 70625 of this code, no agency may take action to change the amounts allocated to any of the funds described in subdivision (c), (d), or (e).

(i) The amount of the penalty on any delinquent payment under subdivision (c) or (d) shall be calculated by multiplying the amount of the delinquent payment at a daily rate equivalent to 1 ½ percent per month for the number of days the payment is delinquent. The penalty shall be paid from the Trial Court Trust Fund. Penalties on delinquent payments under subdivision (d) shall be calculated only on the amounts to be distributed to the Trial Court Trust Fund and the State Court Facilities Construction Fund, and each penalty shall be distributed proportionately to the funds to which the delinquent payment was to be distributed.

(j) If a delinquent payment under subdivision (c) or (d) results from a delinquency by a superior court under subdivision (b), the court shall reimburse the Trial Court Trust Fund for the amount of the penalty. Notwithstanding Section 77009, any penalty on a delinquent payment that a court is required to reimburse pursuant to this section shall be paid from the court operations fund for that court. The penalty shall be paid by the court to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated. If the penalty is not paid within the specified time, the Administrative Office of the Courts may reduce the amount of a subsequent monthly allocation to the court by the amount of the penalty on the delinquent payment.

(k) If a delinquent payment under subdivision (c) or (d) results from a delinquency by a county in transmitting fees and fines listed in subdivision (a) to the bank account established for this purpose, as described in subdivision (b), the county shall reimburse the Trial Court Trust Fund for the amount of the penalty. The penalty shall be paid by the county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(l) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 68085.1 of the Government Code, as added by Section 5 of Chapter 457 of the Statutes of 2009, is amended to read:

68085.1. (a) This section applies to all fees and fines that are collected on or after January 1, 2006, under all of the following:

(1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150, 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of, subdivision (g) of Section 411.20 and subdivisions (c) and (g) of Section 411.21 of, and Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.

(2) Section 3112 of the Family Code.

(3) Section 31622 of the Food and Agricultural Code.

(4) Subdivision (d) of Section 6103.5, subdivision (d) of Section 68511.3, Section 68926.1, and Chapter 5.8 (commencing with Section 70600).

(5) Section 103470 of the Health and Safety Code.

1 (6) Subdivisions (b) and (c) of Section 166 and Section 1214.1
2 of the Penal Code.

3 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate
4 Code.

5 (8) Sections 14607.6 and 16373 of the Vehicle Code.

6 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002
7 of the Family Code, and Section 1513.1 of the Probate Code, if
8 the reimbursement is for expenses incurred by the court.

9 (10) Section 3153 of the Family Code, if the amount is paid to
10 the court for the cost of counsel appointed by the court to represent
11 a child.

12 (b) On and after January 1, 2006, each superior court shall
13 deposit all fees and fines listed in subdivision (a), as soon as
14 practicable after collection and on a regular basis, into a bank
15 account established for this purpose by the Administrative Office
16 of the Courts. Upon direction of the Administrative Office of the
17 Courts, the county shall deposit civil assessments under Section
18 1214.1 of the Penal Code and any other money it collects under
19 the sections listed in subdivision (a) as soon as practicable after
20 collection and on a regular basis into the bank account established
21 for this purpose and specified by the Administrative Office of the
22 Courts. The deposits shall be made as required by rules adopted
23 by, and financial policies and procedures authorized by, the Judicial
24 Council under subdivision (a) of Section 77206. Within 15 days
25 after the end of the month in which the fees and fines are collected,
26 each court, and each county that collects any fines or fees under
27 subdivision (a), shall provide the Administrative Office of the
28 Courts with a report of the fees by categories as specified by the
29 Administrative Office of the Courts. The Administrative Office
30 of the Courts and any court may agree upon a time period greater
31 than 15 days, but in no case more than 30 days after the end of the
32 month in which the fees and fines are collected. The fees and fines
33 listed in subdivision (a) shall be distributed as provided in this
34 section.

35 (c) (1) Within 45 calendar days after the end of the month in
36 which the fees and fines listed in subdivision (a) are collected, the
37 Administrative Office of the Courts shall make the following
38 distributions:

39 (A) To the small claims advisory services, as described in
40 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

1 (B) To dispute resolution programs, as described in subdivision
2 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

3 (C) To the county law library funds, as described in Sections
4 116.230 and 116.760 of the Code of Civil Procedure, subdivision
5 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
6 Section 70621 of this code, and Section 14607.6 of the Vehicle
7 Code.

8 (D) To the courthouse construction funds in the Counties of
9 Riverside, San Bernardino, and San Francisco, as described in
10 Sections 70622, 70624, and 70625.

11 (2) If any distribution under this subdivision is delinquent, the
12 Administrative Office of the Courts shall add a penalty to the
13 distribution as specified in subdivision (i).

14 (d) Within 45 calendar days after the end of the month in which
15 the fees and fines listed in subdivision (a) are collected, the
16 amounts remaining after the distributions in subdivision (c) shall
17 be transmitted to the State Treasury for deposit in the Trial Court
18 Trust Fund and other funds as required by law. This remittance
19 shall be accompanied by a remittance advice identifying the
20 collection month and the appropriate account in the Trial Court
21 Trust Fund or other fund to which it is to be deposited. Upon the
22 receipt of any delinquent payment required under this subdivision,
23 the Controller shall calculate a penalty as provided under
24 subdivision (i).

25 (e) From the money transmitted to the State Treasury under
26 subdivision (d), the Controller shall make deposits as follows:

27 (1) Into the State Court Facilities Construction Fund, the Judges'
28 Retirement Fund, and the Equal Access Fund, as described in
29 subdivision (c) of Section 68085.3 and subdivision (c) of Section
30 68085.4.

31 (2) Into the Health Statistics Special Fund, as described in
32 subdivision (b) of Section 70670 of this code and Section 103730
33 of the Health and Safety Code.

34 (3) Into the Family Law Trust Fund, as described in Section
35 70674.

36 (4) Into the Immediate and Critical Needs Account of the State
37 Court Facilities Construction Fund, established in Section 70371.5,
38 as described in Sections 68085.3, 68085.4, and 70657.5, and
39 subdivision (e) of Section 70617.

1 (5) The remainder of the money shall be deposited into the Trial
2 Court Trust Fund.

3 (f) The amounts collected by each superior court under Section
4 116.232, subdivision (g) of Section 411.20, and subdivision (g) of
5 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,
6 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of
7 Section 6103.5, subdivision (d) of Section 68511.3, and Sections
8 68926.1, 70627, 70631, 70640, 70661, 70678, and 71386 of this
9 code, and Sections 1513.1, 1835, 1851.5, and 2343 of the Probate
10 Code shall be added to the monthly apportionment for that court
11 under subdivision (a) of Section 68085.

12 (g) If any of the fees provided in subdivision (a) are partially
13 waived by court order or otherwise reduced, and the fee is to be
14 divided between the Trial Court Trust Fund and any other fund or
15 account, the amount of the reduction shall be deducted from the
16 amount to be distributed to each fund in the same proportion as
17 the amount of each distribution bears to the total amount of the
18 fee. If the fee is paid by installment payments, the amount
19 distributed to each fund or account from each installment shall
20 bear the same proportion to the installment payment as the full
21 distribution to that fund or account does to the full fee. If a court
22 collects a fee that was incurred before January 1, 2006, under a
23 provision that was the predecessor to one of the paragraphs
24 contained in subdivision (a), the fee may be deposited as if it were
25 collected under the paragraph of subdivision (a) that corresponds
26 to the predecessor of that paragraph and distributed in prorated
27 amounts to each fund or account to which the fee in subdivision
28 (a) must be distributed.

29 (h) Except as provided in Sections 470.5 and 6322.1 of the
30 Business and Professions Code, and Sections 70622, 70624, and
31 70625 of this code, no agency may take action to change the
32 amounts allocated to any of the funds described in subdivision (c),
33 (d), or (e).

34 (i) The amount of the penalty on any delinquent payment under
35 subdivision (c) or (d) shall be calculated by multiplying the amount
36 of the delinquent payment at a daily rate equivalent to 1 ½ percent
37 per month for the number of days the payment is delinquent. The
38 penalty shall be paid from the Trial Court Trust Fund. Penalties
39 on delinquent payments under subdivision (d) shall be calculated
40 only on the amounts to be distributed to the Trial Court Trust Fund

1 and the State Court Facilities Construction Fund, and each penalty
2 shall be distributed proportionately to the funds to which the
3 delinquent payment was to be distributed.

4 (j) If a delinquent payment under subdivision (c) or (d) results
5 from a delinquency by a superior court under subdivision (b), the
6 court shall reimburse the Trial Court Trust Fund for the amount
7 of the penalty. Notwithstanding Section 77009, any penalty on a
8 delinquent payment that a court is required to reimburse pursuant
9 to this section shall be paid from the court operations fund for that
10 court. The penalty shall be paid by the court to the Trial Court
11 Trust Fund no later than 45 days after the end of the month in
12 which the penalty was calculated. If the penalty is not paid within
13 the specified time, the Administrative Office of the Courts may
14 reduce the amount of a subsequent monthly allocation to the court
15 by the amount of the penalty on the delinquent payment.

16 (k) If a delinquent payment under subdivision (c) or (d) results
17 from a delinquency by a county in transmitting fees and fines listed
18 in subdivision (a) to the bank account established for this purpose,
19 as described in subdivision (b), the county shall reimburse the Trial
20 Court Trust Fund for the amount of the penalty. The penalty shall
21 be paid by the county to the Trial Court Trust Fund no later than
22 45 days after the end of the month in which the penalty was
23 calculated.

24 (l) This section shall become operative on July 1, 2017.

25 SEC. 3. Section 68086 of the Government Code is amended
26 to read:

27 68086. (a) The following provisions apply in superior court:

28 (1) In addition to any other fee required in civil actions or cases,
29 cases:

30 (A) *For each proceeding lasting less than an hour, a fee of thirty*
31 *dollars (\$30) shall be charged to the parties for each proceeding*
32 *lasting more than ___ minutes, on a pro rata basis, for the actual*
33 *cost of providing for the reasonable cost of the services of an*
34 *official court reporter pursuant to Section 269 of the Code of Civil*
35 *Procedure.*

36 (B) *For each proceeding lasting more than one hour, a fee equal*
37 *to the actual cost of providing that service shall be charged per*
38 *one-half day of services to the parties, on a pro rata basis, for the*
39 *services of an official court reporter on the first and each*

1 *succeeding judicial day those services are provided pursuant to*
2 *Section 269 of the Code of Civil Procedure.*

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

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

9 ~~(3)~~

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

13 ~~(4)~~

14 (5) The Judicial Council shall adopt rules to ensure all of the
15 following:

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

18 (B) That if an official court reporter is not available, a party
19 may arrange for the presence of a certified shorthand reporter to
20 serve as an official pro tempore reporter, the costs therefor
21 recoverable as provided in paragraph~~(3)~~ (4).

22 (C) That if the services of an official pro tempore reporter are
23 utilized pursuant to subparagraph (B), no other charge shall be
24 made to the parties.

25 (b) The fees collected pursuant to this section shall be used only
26 to pay the cost for services of an official court reporter in civil
27 proceedings and shall be retained by the court in which the fee
28 was collected.

29 (c) It is the intent of the Legislature to continue an incentive to
30 courts to use the services of an official court reporter in civil
31 proceedings.

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

37 SEC. 4. Section 68086.1 of the Government Code is amended
38 to read:

39 68086.1. (a) For each three-hundred-fifty-five-dollar (\$355)
40 fee collected under Section 70611, 70612, 70650, or 70670, thirty

1 dollars (\$30) shall be retained by the court in which the fee was
2 collected and shall be used for services of an official court reporter
3 in civil proceedings.

4 (b) For each three-hundred-thirty-dollar (\$330) fee collected
5 under subdivision (a) of Section 70613 or subdivision (a) of Section
6 70614, thirty dollars (\$30) shall be retained by the court in which
7 the fee was collected and shall be used for services of an official
8 court reporter in civil proceedings.

9 (c) It is the intent of the Legislature, in approving the
10 thirty-dollar (\$30) distribution out of each filing fee listed in
11 subdivisions (a) and (b), to continue an incentive to courts to use
12 the services of an official court reporter in civil proceedings.

13 SEC. 5. Section 69953.5 of the Government Code is amended
14 to read:

15 69953.5. Notwithstanding any other provision of law, whenever
16 a daily transcript is ordered in a civil case requiring the services
17 of more than one phonographic reporter, the party requesting the
18 daily transcript, in addition to any other required fee, shall pay a
19 fee per day, or portion thereof, equal to the per diem rate for pro
20 tempore reporters established by statute, local rule, or ordinance
21 for the services of each additional reporter for the first day and
22 each subsequent day the additional reporters are required. This fee
23 shall be retained by the court in which it was collected to offset
24 the cost of the additional reporter.