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Judicial Council of California
Administrative Office of the Courts ♦ Office of Governmental Affairs
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DATE: August 15, 2005

TO: County Administrative Officers
Executive Officers of the Superior Courts

FROM: Rubin R. Lopez and Elizabeth Howard, Administration of Justice Staff
California State Association of Counties

Christine M. Hansen, Director and Chief Financial Officer
Administrative Office of the Courts

Over the past few weeks, the Administrative Office of the Courts (AOC) and the California State Association of Counties (CSAC) have communicated separately with the courts and counties respectively on the pending implementation of the undesignated fees resolution codified in Chapter 74, Statutes of 2005 (AB 139). The purpose of this memorandum is to jointly communicate critical information to courts and counties relating to the implementation of the provisions laid out in AB 139 as well as to provide assistance throughout the process. It is essential that courts and counties work together to ensure that the implementation is as fair and equitable as possible.

Highlights of AB 139

Specifically, the undesignated fees compromise includes the following provisions:

- Effective July 1, 2005, the civil assessment maximum allowable is increased from \$250 to \$300. (See amended Penal Code section (PC) 1214.1(a).) While the counties will not receive new civil assessment revenue going forward (PC 1214.1), they will be credited through a reduction to their Fine and Forfeiture Revenue Maintenance of Effort (MOE) in an amount equal to the net civil assessment amount they benefited from in fiscal year (FY) 2003–2004. (See new Government Code section (GC) 68085.7(b).) In addition, certain fees, sanctions and penalties identified in former GC 68085.5(a) and (f) are to be deposited into the State Trial Court Trust Fund. (See amended GC 68085(c)(2) and new GC 68085.7.)
- The statute incrementally reduces and eventually eliminates over a 4-year period the counties' obligation to pay \$31 million to the State Trial Court Trust Fund annually pursuant to former GC 68085.5. (See new GC 68085.6.)

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- Counties are obligated to pay a total of \$20 million in FY 2005–2006 in two equal installments; \$15 million in FY 2006–2007, \$10 million in FY 2007–2008, and \$5 million in FY 2008–2009 in four equal installments; and nothing in subsequent years. (See new GC 68085.6(c).)
- Counties not receiving an MOE reduction due to loss of civil assessment revenue will not be obligated to pay anything toward the counties' transfer obligations to the State through FY 2008–2009 described above. (See new GC 68085.6(g)(1).)
- Counties receiving an MOE reduction due to loss of civil assessment revenue will pay in FY 2005–2006 no more than 90 percent of its portion of the \$31 million obligation of the past two years. (See new GC 68085.6(g)(2).)
- The last year of the counties' transfer obligation to the State may be forgiven, in whole or in part, if revenues collected under new GC 68085.6 exceed estimates. (See new GC 68085.6(h).)
- All civil assessments (see PC 1214.1(f)) and former GC 68085.5(a) and (f) fees collected beginning July 1, 2005 shall be deposited in the State Trial Court Trust Fund. Bank accounts will be established as soon as practicable for the deposit of these revenues by the court. The counties will remit any revenues they collect under new GC 68085(c)(2), including PC 1214.1, through the usual TC-31 process.
- Cost of collections under a comprehensive collection program must comply with the "pro rata" guidelines related to the distribution of revenues determined by the State Controller's Office in its *"Comprehensive Collection Program Accounting Guidelines: Penal Code section 1463.007"* issued in 1997 and currently being updated. (See PC 1463.007 and new GC 68085.7(f).) If gross civil assessments are remitted to the State Trial Court Trust Fund, the court/county costs will be covered from the monthly distributions back to the courts of their share of the civil assessments.
- County MOEs will be reduced by the net amount of civil assessments received in FY 2003–2004. (See new GC 68085.7(b).) Courts and counties are to report to the AOC and CSAC on or before August 31, 2005 the actual gross civil assessments collected, the actual costs deducted from these, and net civil assessments retained by both the local county and court for FY 2003–2004. (See new GC 68085.7(c). A template is to be provided for this purpose.)
- If the court and the county do not agree on the civil assessment figures for FY 2003–2004, each shall report the amount each believes is correct to the AOC and CSAC on or before August 31, 2005. The AOC and CSAC shall agree on the amount of the MOE reduction for each county on or before October 31, 2005. (See new GC 68085.7(d).) If agreement cannot be reached, the amount will be determined by third-party arbitration by December 31, 2005. (See new GC 68085.7(e).)

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- By this fall, a process for resolving any inequities will be established. (See new GC 68085.8.) On or before December 31, 2005, the AOC and CSAC shall complete an initial review of the impact of the changes in revenue distributions upon individual counties and courts. (See new GC 68085.8.)

For your review and reference, a document detailing the key provisions of AB 139 and a copy of the legislation accompany this memorandum. In addition, other materials include 1) a timeline highlighting key dates to remember during implementation of AB 139 as well as components that also relate to AB 145 (Chapter 75, Statutes of 2005), which implements the Uniform Civil Fee legislation sponsored by the Judicial Council; and 2) a table of changes pursuant to AB 139. (See attached.)

Operational Issues

As indicated above, all civil assessments and former GC 68085.5(a) and (f) fees collected beginning July 1, 2005 shall be deposited in the State Trial Court Trust Fund. The counties will remit any revenues they collect under new GC 68085(c)(2), including PC 1214.1, through the usual process using the *Report to State Controller of Remittance to State Treasurer – TC-31* (TC-31). The State Controller's Office is updating the TC-31 and will post it to their website in the near future. In the meantime, the State Controller's Office advises that each of the code sections listed in GC 68085(c)(2) be written in on the form pending approval of the revised TC-31. The AOC is in the process of establishing bank accounts for the deposit of these revenues by the courts. It is currently anticipated that these accounts will be in place by mid-September. The AOC will be responsible for remitting any revenues collected by the courts and deposited into the new bank accounts on a consolidated TC-31.

Deposit and Accounting of FY 2005–2006 Civil Assessment Revenues Collected

Until such time that bank accounts are established for the deposit of the fees pursuant to GC 68085(c)(2), careful and detailed records should be kept to ensure that the proper amounts are remitted to the State Trial Court Trust Fund. The original intent of the changes to the civil assessment imposed pursuant to PC 1214.1 in AB 139 was to have gross civil assessments, including those collected under a comprehensive collection program (CCP) pursuant to PC 1463.007, remitted to the State Trial Court Trust Fund.

An effect of AB 139 designating the civil assessment imposed pursuant to PC 1214.1 as State revenue is that the cost of collections can only be deducted if a CCP is in place, and that deducted costs are required to be apportioned equitably across all revenues received based upon the percentage of the total amount collected of court ordered debt. The change in distribution of the civil assessment does not change its installment payment priority pursuant to PC 1203.1d at this time. It is still a Priority 4.

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While the original intent was to have gross civil assessments deposited into the State Trial Court Trust Fund, due to the timing of the legislation, and current contractual obligations and agreements, it is understood that some courts and counties may only be able to deposit net civil collections into the State Trial Court Trust Fund. To the extent that all allowable collection costs from a CCP are not deducted before deposit, remaining allowable collection costs will be covered from the courts' share of civil assessments. All courts and counties shall report to the AOC gross civil assessment collections by all sources, including the Franchise Tax Board and private collection agencies.

To enable the AOC and the CSAC to determine how costs were determined and deducted, additional backup information and documentation may also be required from the courts and counties. The additional backup information or documentation should be sent to the AOC and not to the State Treasurer with the TC-31 remittance form. Under separate cover the AOC will provide a form and instructions for reporting additional information and submitting requested documentation.

Certification of FY 2003–2004 Civil Assessment Revenues Collected

As highlighted in the recent memo from CSAC to the counties, a key component of AB 139 requires each court and county to jointly report to the AOC and CSAC the actual civil assessments collected for FY 2003–2004, both gross and net after costs, **on or before August 31, 2005**. A certification sheet with instructions for completion is being developed and will be provided separately. While this same information was previously requested as part of the undesignated fees survey required by GC 68085.5(f), each court and county is being asked to re-certify this information due to reporting issues and continued disagreement between some courts and counties.

NOTE: Once the State Controller's Office has provided the revenue/object codes for the breakout of each of the fees listed in GC 68085(c)(2) and given their final approval of the revised TC-31, a final version will be distributed.

Identification of Services Associated with Revenue Sharing Agreements

As each court and county works together to certify FY 2003–2004 figures, it is particularly important that each also identify any services that may be affected as a result of changes to court/county revenue sharing MOUs. The identification of crucial services that may be impacted as a result of changes to court/county MOUs is important to assist the AOC and CSAC in determining how to address any inequities. This memorandum is the first in a series of communications to provide courts and counties with implementation assistance. In future transmissions, additional details will be provided and new information may be requested, particularly on specific effects the change in revenue distributions will have on local agreements.

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Addressing Questions and Concerns

Implementation of AB 139 will likely present a challenge for many courts and counties. As this process moves forward, the AOC and CSAC will continue to provide necessary support and assistance as we continue working to resolve any outstanding issues. If you have any questions or require assistance, please contact one of the following individuals:

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Attachments (4)

- Attachment A: Key Provisions of AB 139
- Attachment B: Copy of AB 139
- Attachment C: Timeline of key dates in AB 139 and AB 145
- Attachment D: Table of Changes Pursuant to Undesignated Fees Legislation

cc: James Keene, Exec. Director, California State Association of Counties
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