

A Historical Perspective on Counties' Policy Relative to Booking Fees

Legislative and Historical Background

Since 1990, counties have had statutory authority (Government Code Section 29550-29550.4)¹ to levy a charge against specified public entities — namely a city, special district, school district, community college district, college, or university — to recover costs associated with booking persons into the county jail. The Legislature granted this authority to counties as one of a number of measures intended to offset \$708 million in reductions to state support for county programs contained in the 1990–91 state budget.² The charge, commonly referred to as a “booking fee,” is intended to permit a county to recoup its actual costs³ associated with the booking and other processing of persons who are arrested by a peace officer from one of the specified public entities and brought to the county jail for booking or detention. Most counties, except for the few that either have no jail or in whose jurisdiction the sheriff provides general law enforcement countywide — opt to charge a booking fee; however, some have chosen not to for a variety of reasons.

In 1999, the Legislature took action to continuously appropriate up to \$50 million dollars to backfill cities and qualified special districts for their costs associated with paying booking fees to counties.⁴ The payments made to cities and eligible special districts by the State Controller’s Office have been as follows:⁵

¹ Pursuant to SB 2557 (Chapter 466, Statutes of 1990).

² According to a Senate Local Government policy committee analysis (dated Feb. 20, 1991) of SB 61 (C. Green, 1991), a measure seeking to repeal the booking fee authority, the 1990–91 state budget reduced state support for trial courts, medically indigent health programs, public health programs, welfare administration, GAIN programs, and welfare programs. SB 2557, the legislation authorizing the booking fee authority, was one of a package of 19 implementing bills giving counties various revenue-raising alternatives to partially make up for the significant budgetary cuts.

³ Government Code Section 29550 (e) specifies the actual administrative costs that may be recovered through a booking fee as follows:

As used in this section, “actual administrative costs” include only those costs for functions that are performed in order to receive an arrestee into a county detention facility. Operating expenses of the county jail facility including capitol costs and those costs involved in the housing, feeding, and care of inmates shall not be included in calculating “actual administrative costs.” “Actual administrative costs” may include the cost of notifying any local agency, special district, school district, community college district, college or university of any change in the fee charged by a county pursuant to this section. “Actual administrative costs” may include any one or more of the following as related to receiving an arrestee into the county detention facility:

- (1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.
- (2) Document preparation, retrieval, updating, filing, and court scheduling related to receiving an arrestee into the detention facility.
- (3) Warrant service, processing, and detainer.
- (4) Inventory of an arrestee's money and creation of cash accounts.
- (5) Inventory and storage of an arrestee's property.
- (6) Inventory, laundry, and storage of an arrestee's clothing.
- (7) The classification of an arrestee.
- (8) The direct costs of automated services utilized in paragraphs (1) to (7), inclusive.
- (9) Unit management and supervision of the detention function as related to paragraphs (1) to (8), inclusive.

⁴ Pursuant to AB 1662 (Chapter 79, Statutes of 1999); subsequently amended by SB 225 (Chapter 1075, Statutes of 2000) and AB 2219 (Chapter 1076, Statutes of 2000). AB 2219 clarified that cities and special districts also were

Fiscal Year	Statewide Reimbursement of Booking and Processing Fees
1999-2000	\$34,350,146
2000-2001	\$38,219,841
2001-2002	\$38,219,841
2002-2003	\$38,219,841
2003-2004	\$38,219,841
2004-2005	\$38,219,841

In 2004, the Legislature adopted a number of changes relating to booking fees as part the general government trailer bill.⁶ Those provisions amend both Government Code Sections 29550 and 29550.4, which deal, respectively, with (1) county authority to charge a booking fee and (2) the backfill paid to cities and special districts for actual administrative costs charged by counties. Taken together the amendments to the booking fee statute resulted in the following:

- Counties' authority to charge a booking fee remained unchanged for the 2004-05 fiscal year;
- For the 2004-05 year, booking fee rates were "locked in" at the level in place on January 1, 2004;
- Beginning in 2005-06, counties are permitted to charge one-half of their actual administrative costs associated with booking and processing of arrestees; and
- The \$38.2 million backfill to cities and special districts continued through 2004-05, but elapsed on July 1, 2005.

Counties' Perspective on Booking Fees

The California State Association of Counties (CSAC) has long-standing policy regarding booking fees. CSAC has consistently advocated for the retention of booking fees, citing the negative fiscal and policy implications that would likely result if counties lost the ability to charge fees to recover costs associated with booking services.

First, however, it is important to describe the context in which counties and sheriffs are attempting to operate county detention facilities. Demand on these facilities far outstrips capacity in most counties. According to recent Board of Correction (BOC) figures, an average of just over 15,300 criminally accused or sentenced detainees were released per month during the third quarter of 2004 before completing their court-imposed sentences due to

entitled to reimbursement for charges imposed by another city or special district that had a detention facility and the authority to charge for persons booked into such facilities.

⁵ See <http://www.sco.ca.gov/ard/payments/booking/bookingfee.pdf>

⁶ SB 1102 (Chapter 227, Statutes of 2004)

space constraints or under federal jail population cap requirements.⁷ Other data regarding detention facilities also make obvious the current demand for jail space: the current number of Board Rated Capacity (BRC) beds (beds that meet the Board of Corrections standards) is 74,000, or approximately 1,600 beds below the average daily population (ADP). The most recent Jail Profile Survey indicates that the ADP is 77,814 (105.2 percent of capacity) and that the highest one-day count totaled 83,211 (112.4 percent of capacity).

Counties believe that booking fees ensure that unnecessary arrests remain in check. Elimination of booking fees in the current environment of jail overcrowding, federal population caps, and early releases seems especially unwise. Below we reiterate our rationale for the need for booking fees and the potential implications that may ensue if the authority to collect these fees is eliminated.

➤ **Why are booking fees needed?**

Absent the ability to collect booking fees, counties will be forced to provide free services to cities and special districts or be faced with the inability to book arrestees.

Prior to the passage of Proposition 13 in 1978, costs of booking services were paid out of county general funds generated from property taxes. After passage of Proposition 13, unfunded state mandates on counties eroded their ability to provide a number of services, such as free administrative booking services. Without the ability to charge a booking fee, counties would be required to entirely underwrite administrative costs related to booking services to cities and special districts, when, in fact, counties have no control over the volume of arrestees. It should further be recognized that fees for the administrative costs of booking services cover only portion of the costs that are borne by counties when arrests are made; counties report that while they have the authority to charge a fee that allows for full recovery of costs, in most instances, a significant gap between the fee charged and the costs expended exists.

Proposition 13 required that counties become more reliant on user fees and fees for service in a number of areas.

The need to rely on such fees means that if one level of government receives services from another level of government, the recipient governmental entity must participate in the payment for those services. This reliance on user fees is a real consequence of Proposition 13 and is both the basis and justification for booking fees.

The fees authorized by SB 2557 (Maddy, 1990) implemented a legitimate public policy.

Prior to passage of SB 2557, a measure that sought to mitigate the impact of reduced state support for mandated programs by allowing counties to raise their own revenues through

⁷ See the Board of Correction's *Jail Profile Survey* – 2004 Third Quarter (July to September 2004) Survey Results at http://www.bdcorr.ca.gov/fsod/jail%20profile%20summary/jail_profile_survey.htm

booking and other user fees, counties paid 100 percent of the costs of administering the property tax system, yet only received 33 percent of the revenues from that system. The booking fee is simply a "cost-for-service." Before Proposition 13, cities paid their share of booking costs via increases in the county property tax rate. Since this option is no longer available, counties are faced with reducing municipal services to the unincorporated areas and/or changing user fees such as booking fees. Proposals that would further erode the ability of counties to "backfill" their recent losses will force counties to bear an unfair and unjustified portion of the loss of the state support for mandated programs.

➤ **Why do counties need the flexibility to maintain locally negotiated booking fees?**

Current law provides a statutory limitation on the amount a county may assess cities and special district for booking fee services and allows cities to recover costs incurred when booking fees are imposed.

Government Code section 29550 provides that booking fees shall be locally negotiated *and shall not exceed the actual administrative costs incurred in booking or otherwise processing arrested persons*. Existing law allows counties and cities to work out the proper level of fees to ensure that counties are able to collect their actual costs for services rendered. And, as indicated above, subsequent legislation (SB 1102, 2004) capped the booking fee for 2004–05 at the rate charged on January 1, 2004, and will permit counties to charge only half of their actual administrative costs beginning July 1, 2005.

Booking fees have brought about certain positive policy changes that must not be ignored.

It is counties' contention that booking fees have, to a large extent: (1) resulted in the avoidance or reduction of unnecessary arrests; (2) mitigated the pressure on local facilities under federal caps and created the availability of space in local detention facilities for serious offenders; and (3) fostered the development of local alternatives to deal with nonviolent less serious offenders. CSAC believes that it is critical and justifiable to retain the booking fee arrangement.

Booking fees have accomplished a sound public policy goal by imposing on the agency that generated governmental costs an obligation to share in a modest portion of those costs. Thus, booking fees establish an incentive to eliminate frivolous arrests that may inappropriately burden limited public resources.

CSAC recognizes that the issue of booking fees is particularly difficult within local jurisdictions. However, the resolution reached in 2004 and codified by SB 1102 has the effect of spreading the fiscal liability equally among cities and counties. Based on our long-standing policy regarding the need for maintaining the booking fee authority, CSAC must vigorously oppose efforts that seek to further erode counties' ability to charge booking fees to offset the cost of processing arrestees.