

Undesignated Fees: A Fact Sheet

AB 1759 (CH. 159, STATS. OF 2003) • TRANSFER OF UNDESIGNATED COURT REVENUE FROM COUNTY

BACKGROUND. As counties are aware, part of the state budget solution for fiscal year 2003–04 involved a sweep of certain undesignated fees. Counties will recall that the Governor’s January budget — in an effort to offset substantial reductions to the judiciary’s budget — introduced the concept of transferring revenue from the counties to the state associated with a number of fees and fines connected to court functions whose disposition was not specifically provided for in the Trial Court Funding Act of 1997 (AB 233, Escutia and Pringle). CSAC staff and other county representatives attempted to inform legislators and their staff regarding the negative implications of this proposal, arguing that (1) the redirection of these fees represented, in effect, an improper increase in county support of trial court operations that is wholly inconsistent with the spirit and intent of the trial court funding reforms initiated in 1997, and (2) the proposed redirection of all these fees would, in fact, constitute a revenue loss ranging between \$100 and \$150 million.

NEGOTIATED AGREEMENT. Despite county efforts to prevent the undesignated fee transfer, it was clear that the revenue sweep had garnered strong legislative support. CSAC and the Administrative Office of the Courts (AOC) met jointly over several months and were able to negotiate an agreement that contains the following elements:

- Existing local agreements regarding sharing or distribution of these undesignated fees shall be maintained through the 2004-05 budget year. A process for entering new agreements, where none exist, will require AOC involvement to ensure that expenditures from revenue sharing agreements are consistent with Judicial Council policies and procedures.
- County exposure regarding the transfer of any undesignated fee revenue will be **limited to \$31 million on a statewide basis for budget years 2003-04 and 2004-05. The plan for allocating a county’s responsibility for its portion of the \$31 million shall be jointly developed by CSAC and AOC by January 1, 2004.**
- The \$31 million in revenue to be deposited in the state Trial Court Trust Fund (TCTF) shall come from any revenues above the amount currently received by courts (e.g., new revenues from any transferred fees to the TCTF). [NOTE: Fees to be transferred include those directly related to court services and **do not include civil penalty assessments.**]
- Courts and counties shall provide detailed quarterly reports of undesignated fee revenues from the date of enactment of trailer bill legislation in order to determine an equitable and permanent split of revenues.
- The AOC and CSAC will develop a long-term revenue allocation schedule at the end of the 2004-05 fiscal year, after taking into account any adjustments that are needed as a result of under or over payment made pursuant to the trailer bill.
- No other transfers of these fees shall take effect between the 2003-04 and 2004-05 fiscal years.

BUDGET TRAILER BILL CHAPTERED. The agreed-upon approach to carry out the undesignated fee transfer was codified in budget trailer bill AB 1759; relevant provisions are contained in Code of Civil Procedure Section 116.820 and Government Code Section 68085.5. [[Click here for bill text as chaptered.](#)] Counties should be sure to review the language and begin to assess the potential local impact. The AOC has distributed a comprehensive packet of information and instructions regarding new and increased court fees contained in AB 1759, which includes discussion of the transfer of undesignated fees. (Contact Elizabeth Howard at ehoward@counties.org to receive a copy of this packet.)

MID-YEAR ACTION TO FOLLOW. Perhaps most importantly, counties need to be mindful that the full impact of the transfer of \$31 million statewide will not be immediately felt. Given that there is no accurate way to predict the level of revenue that will result from fees newly designated for transfer under AB 1759, counties and courts will be asked to provide detailed reporting of revenue for the first two quarters of the 2003–04 fiscal year. It is not anticipated — particularly because the fees that typically generate the most revenue continue to flow for two years under existing local agreements or practice — that “new” revenue accruing to the benefit of the court will rise to the \$31 million level. After a mid-year assessment of revenue levels, CSAC and the AOC will examine the receipts, “credit” new court revenue against the \$31 million defined as counties’ liability, and determine a methodology by which the remaining amount (the difference between \$31 million and the credit) will be spread among the 58 counties. Counties may wish to reserve funds that will be assessed in the third quarter of this year based on their own estimates. CSAC will keep counties posted as developments in this area occur.

QUESTIONS? Please contact Rubin Lopez (916/327-7500, ext. 513 or rlopez@counties.org) or Elizabeth Howard (916/327-7500, ext. 537 or ehoward@counties.org) to discuss this matter in further detail.