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June 14, 2018

Hon. Anthony Portantino, Chair
Senate Appropriations Committee
State Capitol, Room 3086
Sacramento, California 95814

Subject: AB 2177 (Jones-Sawyer), introduced February 12, 2018– Fiscal Impact Statement

Dear Senator Portantino:

AB 2177 would specify that the criminal laboratory analysis fee and the drug program fee are not subject to a variety of state and county penalty assessments.

Fiscal Impacts
AB 2177, as introduced, could lead to annual revenue losses of approximately $3.6 million for court funds and an additional $10.0 million for state and county funds that courts collect these assessments on behalf of. We stress that this is a low estimate of the potential revenue loss as we were unable to obtain case volume data for both of the specified fees. The state's assessment of criminal fines, fees, and penalties has become increasingly complex. Recent reports from the Legislative Analyst's Office and the State Auditor provide additional details on the issues associated with the state's penalty assessment system.[1] We note that the variety of county

[1] California State Auditor, *Penalty Assessment Funds* (report 2017-126, Apr. 2018), https://www.auditor.ca.gov/reports/2017-126/summary.html (as of Jun. 11, 2018) and Legislative Analyst's Office, *Improving California's Criminal Fine and Fee System* (report , Jan. 5, 2016), http://www.lao.ca.gov/Publications/Report/3322 (as of Jun. 11, 2018).

assessments impacted by this bill effect each county differently. For the purposes of this estimate, we selected Los Angeles County as that court's infraction caseload provides an adequate sample size for this analysis.[2] Table 1 illustrates how exempting the laboratory analysis fee from this bills identified assessments for one offense, a cannabis possession infraction, could impact state and county penalty assessment formulas.[3]

Table 1. Summary of Reduction to Penalty Assessments for the Laboratory Analysis Fee

Assessments Impacting Court Funds	**Statutory Authority**	**Current Assessment**	**Under AB 2177**
Court Operations Assessment	PC 1465.8	$40	$40
Criminal Conviction Assessment-Infraction	GC 70373[4]	35	0
Court Construction: State Court Facilities	GC 70372(f)(1)(c)	45	30
Court Construction: Immediate and Critical Needs	GC 70372(a)	30	20
Subtotal		*$150*	*$90*
Assessments Impacting Other State Funds			
Infraction Assessment: State share of State Penalty Fund	PC 1464	150	100
Infraction Surcharge: General Fund	PC 1465.7	30	20
DNA Identification Fund	GC 76104.7	60	40
Subtotal		*$240*	*$160*
Assessments Impacting County Funds			
Base Fine to County (HSC 11357(a))	PC 1463.001	100	100
County Share of State Penalty Fund	PC1464	105	70
Criminal Laboratory Analysis Fee	HSC 11372.5	50	50
Local Criminal Justice Facilities Construction Fund	GC 76101	37.5	25
Local Courthouse Construction Fund	GC 76100	30	20
Local Emergency Medical Services Fund	GC 76104	30	20
Maddy Emergency Medical Services Penalty	GC 76000.5	30	20
DNA Fingerprint, Unsolved Crime and Innocence Protection Act	GC 76104.6	15	10
Automated Fingerprint Identification Fund	GC 76102	7.5	5
Subtotal		*$405*	*$320*
Total Fine		**$795**	**$570**

[2] In 2015-16, the Los Angeles Superior court represented 22% of total statewide non-traffic infraction criminal case filings. Judicial Council of Cal., 2017 *Court Statistics Report* (report, Oct. 20, 2016), http://www.courts.ca.gov/documents/2017-Court-Statistics-Report.pdf (as of Jun. 11, 2018).

[3] Table 1 summarizes the revenue loss from the exemption of the $50 criminal laboratory analysis fee, authorized under Health and Safety Code section 11372.5, from state and county penalty assessment for a first time cannabis possession infraction case under Health and Safety Code section 11357(a).

[4] Although this assessment applies to the infraction conviction, this bill indicates it should not be levied for cases where an individual is convicted of this offense.

Additionally, we obtained data which indicates that over the past three fiscal years, an average of 60,500 annually cases were assessed and paid the $50 laboratory analysis fee.[5] Table 2 utilizes the $225 per case reduction in penalty assessments identified in Table 1 with the three year case average to produce an estimate of the revenue reduction for the laboratory analysis fee.

Table 2. Assessment Revenue Loss Estimate for the Criminal Laboratory Analysis Fee

Entity	Case Average	Per Offense Reduction	Revenue Loss*
Court Funds		$60	$3,630,000
Other State Funds	60,500	80	4,840,000
County Funds		85	5,143,000
Total Revenue Loss			$13,613,000

**Rounded to the nearest thousand*.

This bills removal of the laboratory analysis and drug program fees from the variety of state and county penalty assessments is the primary factor driving the estimated revenue loss. However, while the State Controller's Office has indicated to courts that the laboratory analysis and drug program fees are subject to the statutory penalty assessments, trial courts judges can waive these fees.[6] We also note that this is only a partial estimate as we were unable to develop a projection of the revenue loss associated with the elimination of assessments for the drug program fee.[7] Therefore, it is likely that total revenue losses attributable to this bill could be greater than the current estimate of $3.6 million for court funds and $10.0 million for state and county funds.

[5]The average was calculated from the following case volume data, which indicates the number of cases where the $50 criminal laboratory analysis fee, authorized under Health and Safety Code section 11372.5, was paid:

Fiscal Year	Case Volumes
2014-15	38,220
2015-16	42,631
2016-17	100,611
3 year average:	60,487

[6] Page 43, State Controller's Office, *Trial Court Revenue Distribution Guidelines: Revision 28* (guide, Jan. 1, 2018), https://www.sco.ca.gov/Files-ARD-Local/Trial_Court_Revenue_Distribution_Guidelines_Rev.28.pdf (as of Jun. 11, 2018).

[7] Health and Safety Code section 11372.7.

Please contact Mark Neuburger if you have questions about the information contained in this letter at mark.neuburger@jud.ca.gov or 916-323-3121.

Sincerely,

Mailed June 14, 2018

Cory T. Jasperson
Director, Governmental Affairs

CTJ/MN/jh
cc: Members, Senate Appropriations Committee
Hon. Reginald Jones-Sawyer, Member of the Assembly
Ms. Shaun Naidu, Consultant, Senate Appropriations Committee
Mr. Mary Kennedy, Chief Counsel, Senate Public Safety Committee
Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Secretary, Office of the Governor
Ms. Rebecca Kirk, Budget Analyst, Department of Finance
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