



## Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 1240 • Sacramento, California 95814-3358  
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

JODY PATEL  
*Interim Administrative Director of the Courts*

CURT SODERLUND  
*Interim Chief Deputy Director*

CURTIS L. CHILD  
*Director, Office of Governmental Affairs*

April 17, 2012

Hon. Fiona Ma  
Member of the Assembly  
State Capitol, Room 3173  
Sacramento, California 95814

Subject: AB 2076 (Ma), as amended April 9, 2012 – No position in part; oppose in part

Dear Assembly Member Ma:

The Judicial Council takes no position at this time on the principal part of your AB 2076, providing that fees collected for court reporter services be retained by the trial courts in which the fees are collected. As you know, this matter, and the intricacies of its implementation, have been referred to the Judicial Council's Trial Court Budget Working Group, comprised of 15 presiding judges and 15 court executive officers from trial courts around the state. This issue was considered by that group in 2010, but the complexities of implementation led them not to pursue it at that time. We will be in frequent contact with your staff to ensure you are updated on the progress of the group. The Judicial Council's position may, of course, change, based on the outcome of the work of this group.

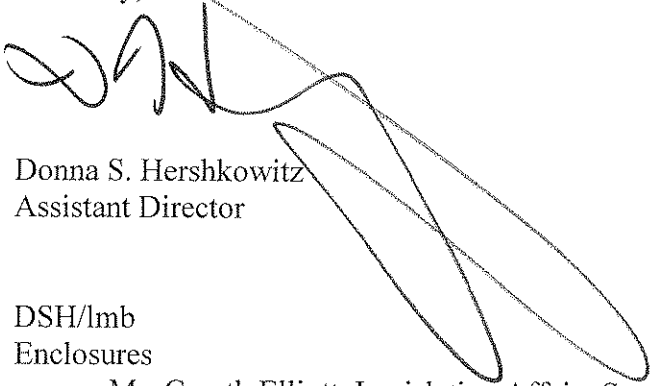
Unfortunately, the Judicial Council must oppose some of the recent amendments made to AB 2076. Specifically, AB 2076 eliminates language that requires the collection of court reporter fees in cases lasting more than one hour, and instead requires the collection of fees in cases lasting an unspecified amount of time less than one hour. The bill also directs that the court collect actual costs, based on the exact length of the proceeding, and no longer in one-half day increments, as is the current law. The Judicial Council has significant concerns that the

administrative cost and burden of assessing, monitoring, and collecting the fees in such cases may exceed any revenue that would be collected. A law and motion calendar, for example, might contain 20 or 50 different cases for a half-day calendar. Some cases will last 7 minutes, some 11, some 17, etc. Under the bill, the clerk would have to assess costs for each of the cases, keeping track of the exact number of minutes each case required the use of a court reporter. Two flowcharts (attached) provided by one large court are helpful in understanding the several steps involved in this process.

Additionally, the Judicial Council opposes the bill's repeal of existing law which expressly allows the council to redirect specific filing fee revenue intended to support reporters in civil proceedings, to replace reductions in the General Fund appropriation to the Trial Court Trust Fund. Over the past four years, reductions to the trial courts have exceeded \$600 million. When the council is evaluating options to ensure courts can continue to keep their doors open, meet their constitutional and statutory obligations, and provide basic services to litigants, the council needs to have this flexibility available to it.

For these reasons, the Judicial Council takes no position on the primary concept of AB 2076, but opposes other elements.

Sincerely,

A handwritten signature in black ink, appearing to read 'DSH', followed by a large, loopy flourish that extends downwards and to the right.

Donna S. Hershkowitz  
Assistant Director

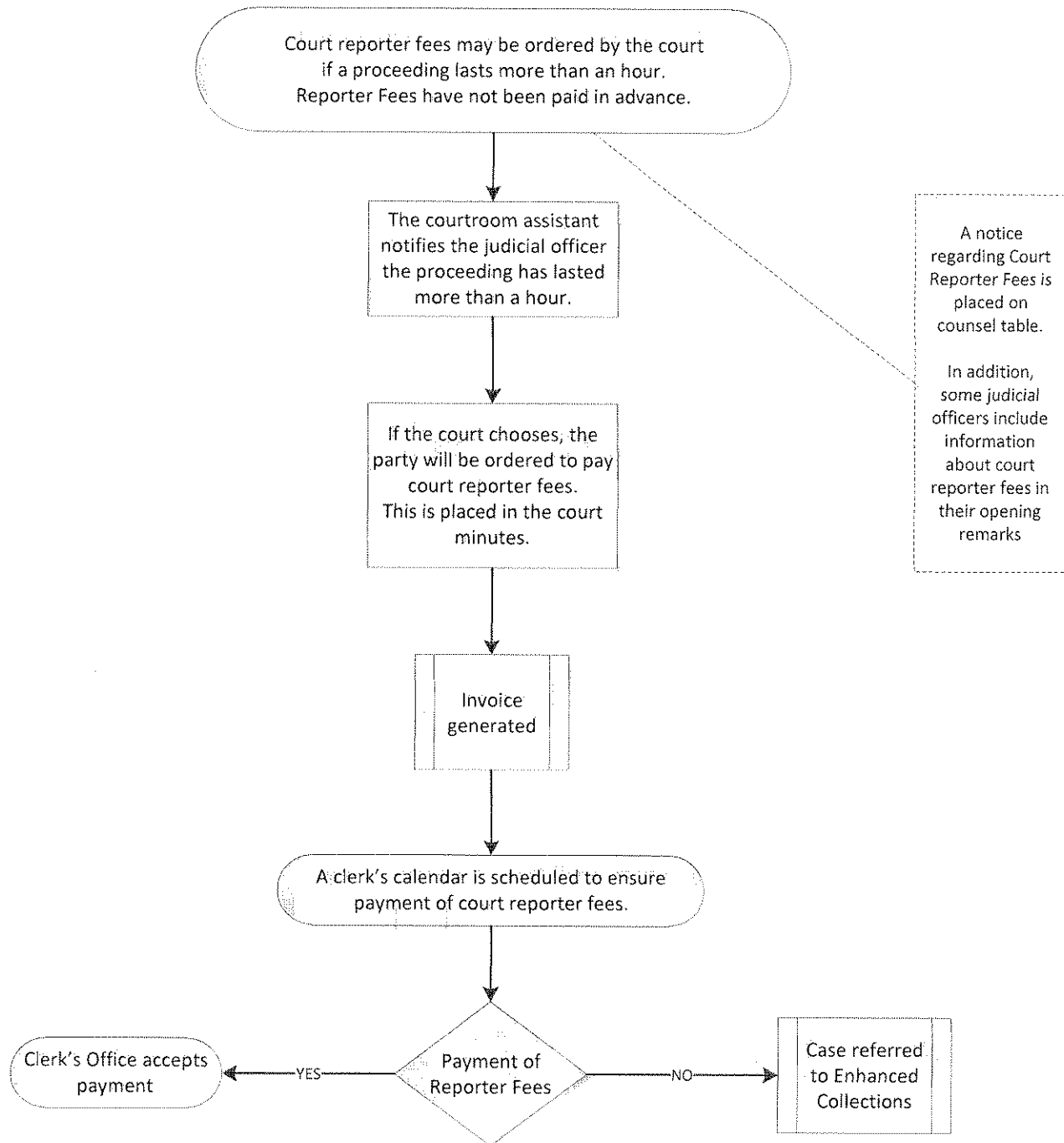
DSH/lmb  
Enclosures

cc: Mr. Gareth Elliott, Legislative Affairs Secretary, Office of the Governor  
Mr. James R. Cassie, California Court Reporters Association  
Mr. Shane A. Gusman, California Official Court Reporters Association

# Court Reporter Fees

April 5, 2012

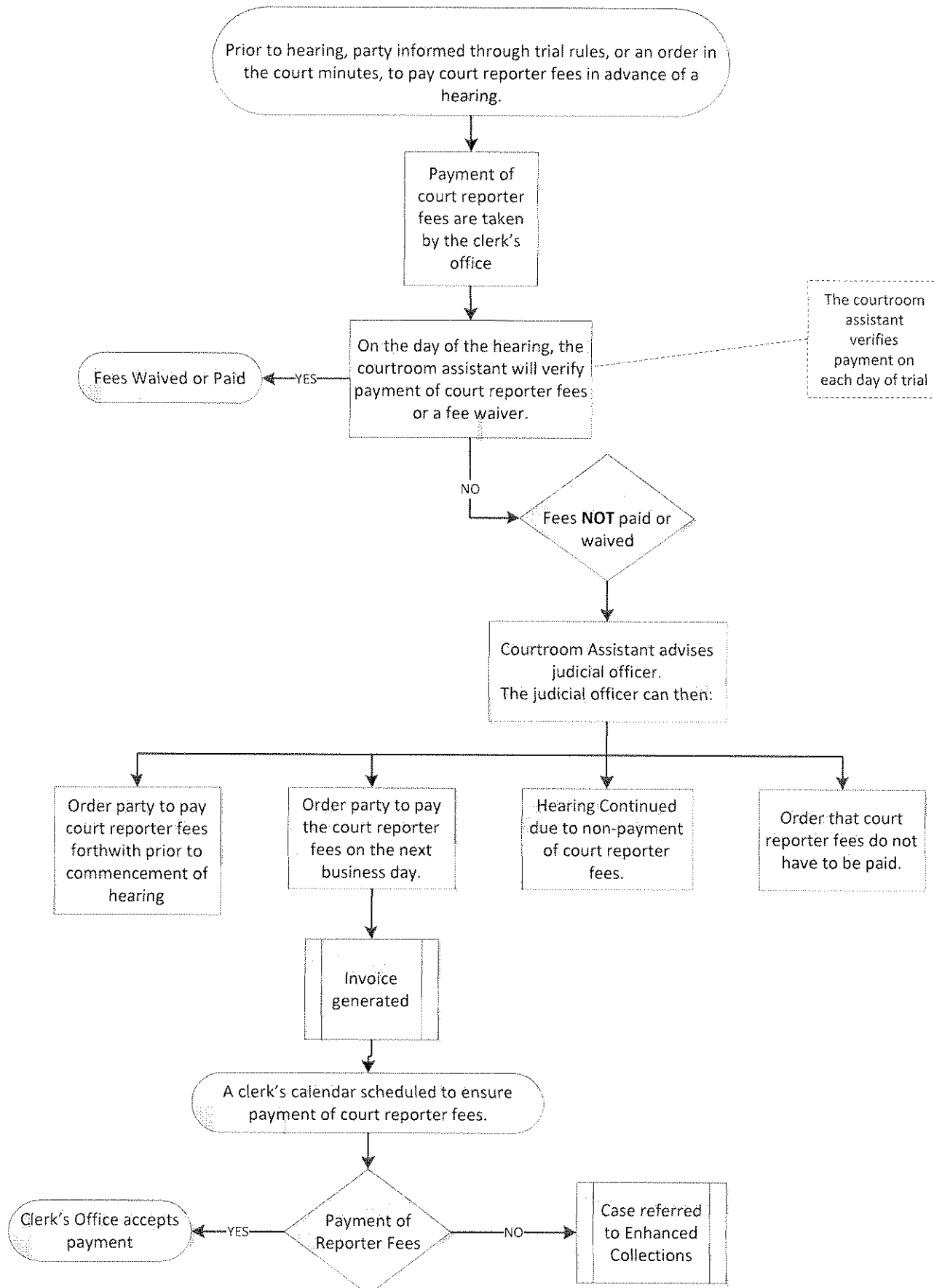
Hearing More than One Hour; Not Paid in Advance



# Court Reporter Fees

April 5, 2012

Paid in Advance of the Hearing





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April 19, 2012

Hon. Felipe Fuentes, Chair  
Assembly Appropriations Committee  
State Capitol, Room 2114  
Sacramento, California 95814

Subject: AB 2076 (Ma), as amended April 9, 2012 – Fiscal Impact Statement  
Hearing: Assembly Appropriations Committee – April 25, 2012

Dear Assembly Member Fuentes:

AB 2076 changes the way in which fees for court reporter services are distributed amongst the trial courts. Currently, when courts collect fees from parties for the use of court reporters in civil matters, the fees are deposited into the Trial Court Trust Fund and distributed to all trial courts pro rata. AB 2076 would instead provide that the court that collects the fees would retain them. AB 2076 also requires the courts to collect for court reporter services in civil cases lasting less than one hour, and changes from 1/2 day increments to actual costs the formula courts must use to calculate the fees assessed.

### *Fiscal Impact*

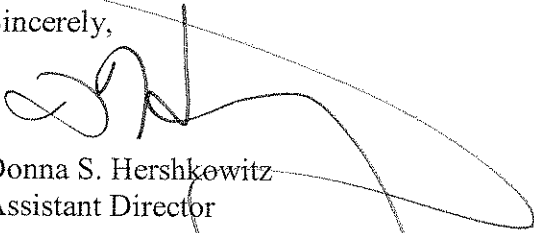
Permitting courts to retain the court reporter fees that court collects, instead of pooling the approximately \$12 million collected annually and allocating it back to all courts pro rata, whether or not they collected any fees, will increase revenue for some courts and decrease it for others. Statewide, the result will be cost neutral. Requiring courts to assess and collect court reporter fees for civil cases lasting less than one hour will impose an unknown, but potentially significant administrative burden and cost on the courts which would reduce the benefit of any new revenue received from implementation of the provision. The Judicial Council in fact opposes this provision because of the significant concerns that the administrative cost and burden of assessing, monitoring, and collecting the fees in such cases may exceed any revenue that

would be collected. A law and motion calendar, for example, might contain 20 or 50 different cases for a half-day calendar. Some cases will last 7 minutes, some 11, some 17, etc. Under the bill, the clerk would have to assess costs for each of the cases, keeping track of the exact number of minutes each case required the use of a court reporter. Two flowcharts (attached) provided by one large court are helpful in understanding the several steps involved in this process.

Additionally, the bill's repeal of existing law which allows the council to redirect specific filing fee revenue intended to support reporters in civil proceedings, to replace reductions in the General Fund appropriation to the Trial Court Trust Fund will have unknown impacts. Over the past four years, reductions to the trial courts have exceeded \$600 million. When the council is evaluating options to ensure courts can continue to keep their doors open, meet their constitutional and statutory obligations, and provide basic services to litigants, the council needs to have this flexibility available to it.

Please contact me at 916-323-3121 or [donna.hershkowitz@jud.ca.gov](mailto:donna.hershkowitz@jud.ca.gov) if you would like further information or have any questions about the fiscal impact of this legislation on the judicial branch.

Sincerely,



Donna S. Hershkowitz  
Assistant Director

DSH/yc

Attachments

cc: Members, Assembly Appropriations Committee

Hon. Fiona Ma, Member of the Assembly

Mr. Chuck Nicol, Consultant, Assembly Appropriations Committee

Mr. Allan Cooper, Fiscal Consultant, Assembly Republican Fiscal Office

Ms. Leora Gershenzon, Counsel, Assembly Judiciary Committee

Mr. Mark Redmond, Counsel, Assembly Republican Office of Policy

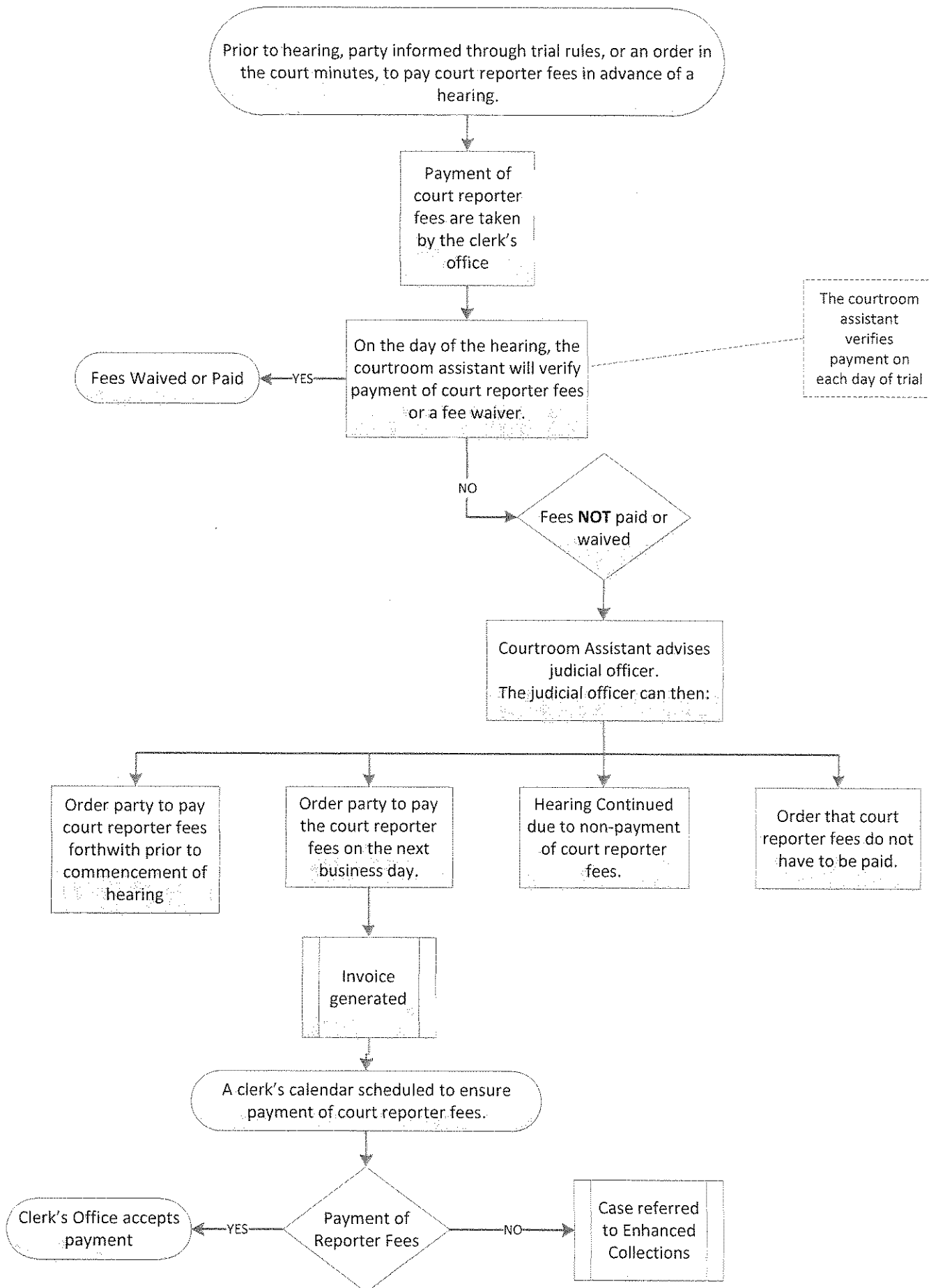
Mr. Gareth Elliott, Legislative Secretary, Office of the Governor

Ms. Madelynn McClain, Budget Analyst, Department of Finance

# Court Reporter Fees

April 5, 2012

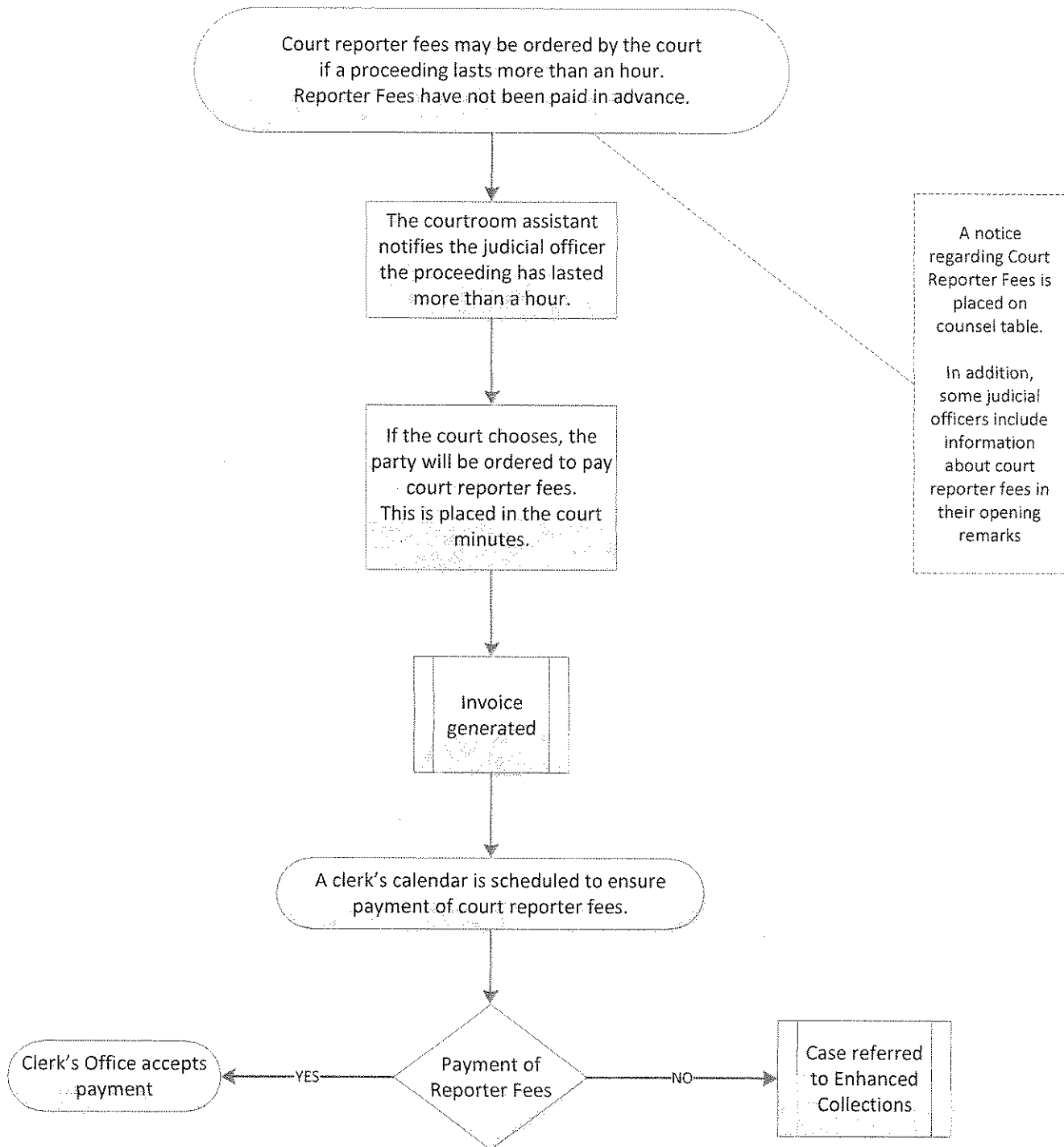
Paid in Advance of the Hearing



# Court Reporter Fees

April 5, 2012

Hearing More than One Hour; Not Paid in Advance







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CURTIS L. CHILD

*Director, Office of Governmental Affairs*

June 20, 2012

Hon. Noreen Evans, Chair  
Senate Judiciary Committee  
State Capitol, Room 4032  
Sacramento, California 95814

Subject: AB 2076 (Ma), as amended May 25, 2012 – No position in part; oppose in part

Dear Senator Evans:

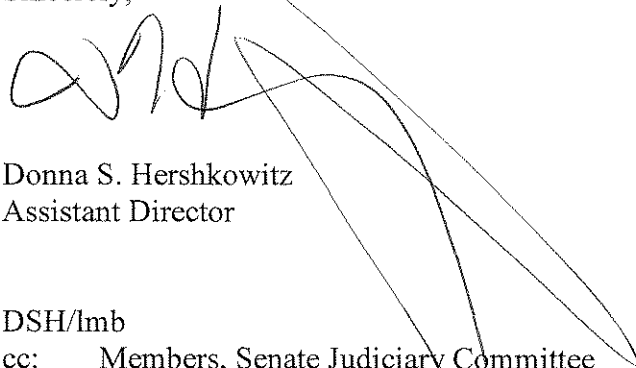
AB 2076 presents a multipart approach to fees related to court reporters in trial courts. As a result, the Judicial Council takes a multipart position, and regrets that it must oppose parts of AB 2076.

AB 2076 amends Government Code section 68086 relating to fees charged to parties by courts for the services of a court reporter in civil proceedings. The bill directs that these collections be retained by the court in which it was collected and creates a new fee of \$30 for the services of court reporters in civil proceedings lasting less than one hour. The Judicial Council has no position on this provision at this time. Rather, the council has referred this matter, and the intricacies of its implementation, to the council's Trial Court Budget Working Group, comprised of 15 presiding judges and 15 court executive officers from trial courts around the state. This issue was considered by that group in 2010, but the complexities of implementation led them not to pursue it at that time. This year, a subcommittee of the working group was assigned to this issue. The subcommittee will meet again later this week and we are hopeful they will complete their analysis and recommendations at that time. We believe the input of this group of presiding judges and court executives on the impact of these provisions on courts and their dwindling resources should provide useful information in your decision making process. The council's "no position" may be revised upon the completion of their work.

Unfortunately, the Judicial Council must oppose the amendments to Government Code section 68086.1, which direct that \$30 of the civil filing fees be retained by the trial court in which it is assessed and used for the purposes of providing court reporters in civil actions. Currently, revenue collected from the filing fee (amounting to \$19.1 million in 2010–11) is transmitted to the Trial Court Trust Fund, and is allocated pro rata to all courts. Because the Judicial Council aggregated all the fees collected for this purpose and the fees for court reporter services, and the total amount of these fees was dwarfed by the estimated expenditures on court reporters in civil matters, courts were not excluded from receiving this revenue if they did not provide court reporters in civil matters. AB 2076 may inadvertently require courts that are not providing court reporters in civil cases to reduce the filing fees assessed. This could result in a significant reduction in revenue and would eliminate the uniform nature of civil filing fees. Additionally, the Judicial Council opposes the bill's repeal of existing law which expressly allows the council to redirect specific filing fee revenue intended to support reporters in civil proceedings, to replace reductions in the General Fund appropriation to the Trial Court Trust Fund. Over the past four years, reductions to the trial courts have exceeded \$600 million. For the coming budget year, the trial courts face an additional one-half billion budget reduction. When the council is evaluating options to ensure courts can continue to keep their doors open, meet their constitutional and statutory obligations, and provide basic services to litigants, the council needs to have this flexibility available to it.

For these reasons, the Judicial Council must oppose the amendments to Government Code section 68086.1, and, pending the outcome of the work of the Trial Court Budget Working Group, take no position on the amendments to section 68086.

Sincerely,



Donna S. Hershkowitz  
Assistant Director

DSH/lmb

cc: Members, Senate Judiciary Committee  
Hon. Fiona Ma, Member of the Assembly  
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor  
Ms. Ronak Daylami, Counsel, Senate Judiciary Committee  
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



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*Interim Administrative Director of the Courts*

CURT SODERLUND

*Interim Chief Deputy Director*

CURTIS L. CHILD

*Director, Office of Governmental Affairs*

June 26, 2012

Hon. Noreen Evans, Chair  
Senate Judiciary Committee  
State Capitol, Room 4032  
Sacramento, California 95814

Subject: AB 2076 (Ma), as amended June 25, 2012 – No position in part; oppose in part

Dear Senator Evans:

AB 2076 presents a multipart approach to fees related to court reporters in trial courts. As a result, the Judicial Council takes a multipart position, and regrets that it must oppose parts of AB 2076.

AB 2076 amends Government Code section 68086 relating to fees charged to parties by courts for the services of a court reporter in civil proceedings. The bill directs that these collections be retained by the court in which it was collected and creates a new fee of \$30 for the services of court reporters in civil proceedings lasting less than one hour. The Judicial Council has no position on this provision at this time. Rather, the council has referred this matter, and the intricacies of its implementation, to the council's Trial Court Budget Working Group, comprised of 15 presiding judges and 15 court executive officers from trial courts around the state. This issue was considered by that group in 2010, but the complexities of implementation led them not to pursue it at that time. This year, a subcommittee of the working group was assigned to this issue. The subcommittee will meet again later this week and we are hopeful they will complete their analysis and recommendations at that time. We believe the input of this group of presiding judges and court executives on the impact of these provisions on courts and their dwindling resources should provide useful information in your decision making process. The council's "no position" may be revised upon the completion of their work.

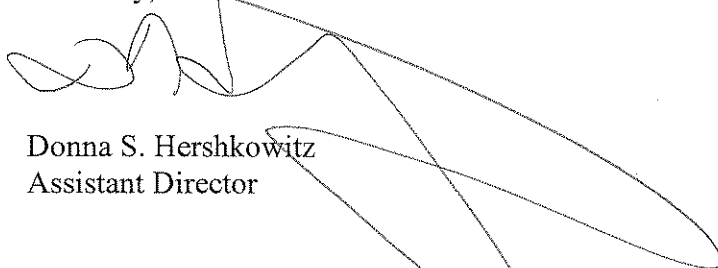
Unfortunately, the Judicial Council must oppose the amendments to Government Code section 68086.1, which direct that \$30 of the civil filing fees be retained by the trial court in which it is assessed, or redistributed to courts that do provide court reporters in civil proceedings, and used for the purposes of providing court reporters in civil actions. Currently, revenue collected from the filing fee (amounting to \$19.1 million in 2010–11) is transmitted to the Trial Court Trust Fund,

and is allocated pro rata to all courts. Because the Judicial Council aggregated all the fees collected for this purpose and the fees for court reporter services, and the total amount of these fees was dwarfed by the estimated expenditures on court reporters in civil matters, courts were not excluded from receiving this revenue if they did not provide court reporters in civil matters. The council appreciates the author's consideration of our concerns that the bill may have inadvertently required courts that are not providing court reporters in civil cases to reduce the filing fees assessed, resulting in a significant reduction in revenue and eliminating the uniform nature of civil filing fees. The June 25, amendments, however, do not remove the council's opposition. Although the amendments do not risk loss of total filing fee revenue, they would result in a significant reduction to some courts, on top of all the budget reductions courts have been, and will continue to grapple with. The council cannot support reductions of this nature to trial court operations funding at this time. Furthermore, the amendments pose a number of implementation issues: are courts that provide reporters in some civil law and motion hearings, but not all, and not in civil trials, eligible to receive this funding? Are courts eligible to receive this funding if they provide reporters in family law, but not unlimited civil proceedings? What if a court re-deployed court reporters in the middle of a month, is the court eligible to receive the fee revenue for that month? These are but a few examples of the implementation issues.

Additionally, the Judicial Council opposes the bill's repeal of existing law which expressly allows the council to redirect specific filing fee revenue intended to support reporters in civil proceedings, to replace reductions in the General Fund appropriation to the Trial Court Trust Fund. Over the past four years, reductions to the trial courts have exceeded \$600 million. For the coming budget year, the trial courts face an additional one-half billion budget reduction. When the council is evaluating options to ensure courts can continue to keep their doors open, meet their constitutional and statutory obligations, and provide basic services to litigants, the council needs to have this flexibility available to it.

For these reasons, the Judicial Council must oppose the amendments to Government Code section 68086.1, and, pending the outcome of the work of the Trial Court Budget Working Group, take no position on the amendments to section 68086.

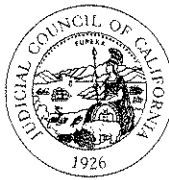
Sincerely,



Donna S. Hershkowitz  
Assistant Director

DSH/lmb

cc: Members, Senate Judiciary Committee  
Hon. Fiona Ma, Member of the Assembly  
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor  
Ms. Ronak Daylami, Counsel, Senate Judiciary Committee  
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



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JODY PATEL

Interim Administrative Director of the Courts

CURT SODERLUND

Interim Chief Deputy Director

July 31, 2012

CURTIS L. CHILD

Director, Office of Governmental Affairs

Hon. Christine Kehoe, Chair  
Senate Appropriations Committee  
State Capitol, Room 5050  
Sacramento, California 95814

Subject: AB 2076 (Ma), as amended June 25, 2012 – Opposition and Fiscal Impact Statement  
Hearing: Senate Appropriations Committee – August 6, 2012

Dear Senator Kehoe:

AB 2076 changes the way in which fees for court reporter services are distributed amongst the trial courts. Currently, when courts collect fees from parties for the use of court reporters in civil matters, the fees are deposited into the Trial Court Trust Fund and distributed to all trial courts pro rata. AB 2076 would instead provide that the court collecting the fees would retain them. AB 2076 further directs that a portion of the civil filing fee (totaling \$19 million in fiscal year 2010-11) be retained by those courts that provide court reporters in civil proceedings and, when collected in other courts, be redistributed to those courts that do provide these services. Finally, the bill deletes critical statutory authority for the Judicial Council to redirect some of this revenue to offset other General Fund reductions to the branch.

### *Fiscal Impact*

At this time, we are reluctant to provide a fiscal analysis of AB 2076, as we anticipate significant changes to the bill. In a Senate Judiciary Committee hearing, the author agreed to work closely with Judicial Council to address the issues we have articulated, and further, committed to the Judiciary Committee that the bill would not move forward if agreement was not reached. (Because of that commitment, we also are not detailing our policy objections in this letter.) Scheduling conflicts have delayed our ability to resolve the issues that remain. We believe it would be unfair to the author, however, in light of the commitment she made, to assess the fiscal

Hon. Christine Kehoe  
July 31, 2012  
Page 2

impact on the judicial branch of the current version of the bill. We will keep the committee apprised of any agreements that we reach.

In the meantime, please contact me at 916-323-3121 or [andi.liebenbaum@jud.ca.gov](mailto:andi.liebenbaum@jud.ca.gov) if you would like further information or have any questions about the issues we are considering and that, without further amendment, would be a financial burden on the judicial branch.

Sincerely,

A handwritten signature in black ink, reading "Andi Liebenbaum". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Andi Liebenbaum  
Senior Governmental Affairs Analyst

ABL/yc

cc: Members, Senate Appropriations Committee

Hon. Fiona Ma, Member of the Assembly

Ms. Jolie Onodera, Consultant, Senate Appropriations Committee

Mr. Matt Osterli, Fiscal Consultant, Senate Republican Fiscal Office

Ms. Ronak Daylami, Counsel, Senate Judiciary Committee

Mr. Mike Petersen, Consultant, Senate Republican Office of Policy

Ms. June Clark, Deputy Legislative Secretary, Office of the Governor

Ms. Madelynn McClain, Budget Analyst, Department of Finance