



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 26, 2013

Title

Judicial Council–Sponsored Legislation:
Court Operational Efficiencies, Cost Savings,
and New Revenue Proposals

Agenda Item Type

Action Required

Effective Date

April 26, 2013

Rules, Forms, Standards, or Statutes Affected

Amend Evid. Code, § 452.5, Fam. Code, §
3176, Gov. Code, § 70377, Pen. Code, §
1000(a); repeal Gov. Code, §§ 70045.1,
70045.2, 70045.4, 70045.6, 70045.75,
70045.77, 70045.8, 70045.9, 70045.10,
70046.4, 70050.6, 70056.7, 70059.8, 70059.9,
and 70063; and Veh. Code, § 23622(c)

Date of Report

April 11, 2013

Contact

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Recommended by

Policy Coordination and Liaison Committee
Hon. Marvin R. Baxter, Chair

Executive Summary

The Policy Coordination and Liaison Committee recommends Judicial Council sponsorship of legislation related to six proposals for operational efficiencies, cost savings, and new revenue.

Recommendation

The Policy Coordination and Liaison Committee recommends, pertaining to the following efficiency proposals, that the Judicial Council take the following immediate actions:

1. Sponsor legislation to amend Penal Code section 1000(a) for the efficiency proposal that excludes infractions for marijuana possession, per Health and Safety Code section 11357(b), from eligibility for deferred entry of judgment (see proposal description at page A-2 in Attachment A);

2. Sponsor legislation to repeal Vehicle Code section 23622(c) for the efficiency proposal that eliminates as the court’s responsibility notification of a subsequent DUI to courts that previously convicted the defendant of a DUI (see proposal description at page A-3 in Attachment A);
3. Sponsor legislation to amend Evidence Code section 452.5 for the efficiency proposal that authorizes courts to prepare and pre-certify electronic “prior packets” (see proposal description at page A-3 in Attachment A);
4. Sponsor legislation to amend Government Code section 70377 for the efficiency proposal that calculates interest on late payments to the judicial branch construction funds at the Local Agency Investment Fund rate. Note: AB 619 (Garcia) has been introduced to accomplish this very proposal. It is sponsored by the State Association of California Auditors. If Judicial Council approves this proposal for sponsorship, the council may wish to consider joining as a co-sponsor to AB 619 rather than seeking a separate legislative vehicle (see proposal description at page A-4 in Attachment A);
5. Sponsor legislation to repeal Government Code sections 70045.1, 70045.2, 70045.4, 70045.6, 70045.75, 70045.77, 70045.8, 70045.9, 70045.10, 70046.4, 70050.6, 70056.7, 70059.8, 70059.9, and 70063 for the efficiency proposal that eliminates the requirement that the enumerated courts (i.e., Trinity, Modoc, Merced, Kern, Nevada, El Dorado, Butte, Shasta, Tehama, Lake, Tuolumne, Monterey, Solano, San Luis Obispo, and Mendocino) use court reporters in specified case types (see proposal description at page A-6 in Attachment A); and
6. Sponsor legislation to amend Family Code section 3176 for the efficiency proposal that eliminates the requirement for service by certified, return receipt postage prepaid mail for notice of mediation and clarifies that the court is responsible for sending the notice (see proposal description at page A-18 in Attachment A).

Previous Council Action

Per rule 10.12(a)(2) of the California Rules of Court, the Policy Coordination and Liaison Committee (PCLC) is charged, among other things, with “[m]aking recommendations to the council on all proposals for [Judicial] [C]ouncil–sponsored legislation . . . after evaluating input from council advisory bodies and the Administrative Office of the Courts, and any other input received from the courts.” Although PCLC makes legislative recommendations annually, this is the first time that the committee is making recommendations for council action on the proposals listed in this report’s recommendation section. These proposals, though recommended by PCLC, were not previously vetted through the traditional public comment process that proposals for Judicial Council-sponsored legislation typically undertake. In creating the Trial Court Efficiencies Working Group, the Judicial Council deemed that time was of the essence, and that the review and evaluation of proposals for operational efficiencies, cost savings, and new revenue would be expedited through that specially appointed committee, co-chaired by Orange

County Presiding Judge Tom Borris, and Santa Clara Court Executive Officer David Yamasaki, and consisting of seven additional presiding judges and seven additional court executive officers.

Recommendation 1: Amend Penal Code section 1000(a)

1. Sponsor legislation to amend Penal Code section 1000(a) for the efficiency proposal that excludes infractions for marijuana possession, per Health and Safety Code section 11357(b), from eligibility for deferred entry of judgment (see proposed legislative text at page A-2 in Attachment A).

Rationale for recommendation 1

The deferred entry process does not lend itself to infractions charged under Health and Safety Code section 11357(b) because deferred entry of judgment refers to diversion from confinement pending the satisfactory completion of a treatment program. Punishment for an infraction, however, does not include confinement, so there is nothing to defer. Moreover, deferred entry of judgment procedures impose significant burdens, and therefore costs, on the courts in terms of paperwork, additional and follow-up hearings, and reinstatement processes for defendants who fail their diversion programs, etc.

Fiscal Impact

Savings are estimated to range from a low of several thousand dollars per court per year, to as much as \$10,000 per court in savings per year, depending on the number of diversions a county has that are specifically related to Health and Safety Code section 11357(b), which makes possession of not more than 28.5 grams of marijuana an infraction. Since this section is an infraction, and because infractions typically are resolved with fines rather than other penalties, courts believe it would be a significant savings to not have to provide diversion services for these charges.

Alternatives considered and policy implications

Since PCLC's charge was to consider proposing to the Judicial Council that it sponsor this efficiency proposal as put forward by the Trial Court Efficiencies Working Group and the Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, alternatives were not considered.

Recommendation 2: Repeal Vehicle Code section 23622(c)

2. Sponsor legislation to repeal Vehicle Code section 23622(c) for the efficiency proposal that eliminates as the court's responsibility notification of a subsequent DUI to courts that previously convicted the defendant of a DUI (see proposed legislative text at page A-3 in Attachment A).

Rationale for recommendation 2

The notification process is time-consuming for courts and therefore costly. Additionally, district attorneys are better situated to take on this role because it is consistent with other reporting duties

district attorneys have, such as notifications related to subsequent domestic violence and sex offenses.

Fiscal Impact

DMV records show there are approximately 50,000 DUI convictions per year. And, according to one court, a full 25 percent of their DUI convictions would require the court to perform the DUI notification required under this code section. Court staff say that the procedure for assembling the information and reporting/sending it to another court takes approximately 15 minutes per record. This does not include the costs of postage, printing, or materials (envelopes, paper, and ink). Taking into account the time expended by the judicial officer and courtroom staff, the average cost of a day in court, as calculated by the Office of Court Research, is approximately \$4,000 based on average court costs. Divided by an eight-hour day, 15 minutes of court time costs \$125. With 50,000 records annually, the annual savings from this proposal will be \$6.25 million before other costs. Even if just one-quarter of the DMV reported DUIs required notices to other jurisdictions, the annual savings to courts would be \$1,562,500. As noted above, however, some district attorneys already have assumed this responsibility, reducing the savings in those courts. It should be noted that, as this proposal saves courts millions of dollars, it likely places a burden on district attorneys' offices. That some district attorneys' offices already have begun to take on this effort may be an indication that the burden is not formidable. Nevertheless, there is no additional information with which to conclude that this is not a burden for prosecuting agencies in exchange for relieving the courts of the responsibility.

Alternatives considered and policy implications

Since PCLC's charge was to consider proposing to the Judicial Council that it sponsor this efficiency proposal as put forward by the Trial Court Efficiencies Working Group and the Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, alternatives were not considered.

Recommendation 3: Amend Evidence Code section; 452.5

3. Sponsor legislation to amend Evidence Code section 452.5 for the efficiency proposal that authorizes courts to prepare and pre-certify electronic "prior packets" (see proposed legislative text at page A-3 in Attachment A).

Rationale for recommendation 3

With the increased use of and reliance on electronic data management and document storage, courts can save significant money by preparing and certifying an electronic "prior packet" file one time rather than incurring the costs associated with producing and certifying multiple hard copies.

Fiscal Impact

In larger counties, there may be 400 or more prior packets required in any given month, with smaller courts estimating between 50 and 100 packets required each month. Depending on the record of the prior conviction, current practices of disassembling, photocopying, and

reassembling original documents could take anywhere from 10 to 30 minutes (much longer for very intricate and paper-laden files). At the low end, calculated at just 50 packets per court per year at 10 minutes each, the savings would amount to nearly \$2.9 million per year.

Alternatives considered and policy implications

Since PCLC's charge was to consider proposing to the Judicial Council that it sponsor this efficiency proposal as put forward by the Trial Court Efficiencies Working Group and the Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, alternatives were not considered.

Recommendation 4: Amend Government Code section 70377

4. Sponsor legislation to amend Government Code section 70377 for the efficiency proposal that calculates interest on late payments to the judicial branch construction funds at the Local Agency Investment Fund rate. Note: AB 619 (Garcia) has been introduced to accomplish this very proposal. It is sponsored by the State Association of California Auditors. If Judicial Council approves this proposal for sponsorship, the council may wish to consider joining as a co-sponsor to AB 619 rather than seeking a separate legislative vehicle (see proposed legislative text at page A-4 in Attachment A).

Rationale for recommendation 4

The proposal could save money for those trial courts found to have inadvertently made incorrect remittances to the State Court Facilities Construction Fund (SCFCF) or the Immediate and Critical Needs Account (ICNA). The proposal also will make the calculation rate for late remittance payments to judicial branch construction funds consistent with the calculation rate for late payments to the Trial Court Trust Fund, which was changed to the Local Agency Investment Fund (LAIF) rate in 2007.

Fiscal Impact

In commenting on the fiscal impact of AB 1289, OGA informed the Legislature that there would be no cost to the branch if this proposal were enacted. The branch does not assume the payment of penalties, nor does it assume the revenue (saved/reduced payments) in its budgeting, so a reduction in the rate paid from date of the error until 30 days after the audit would not impact judicial branch revenue expectations. The proposal could save trial court resources for those trial courts found to have inadvertently made incorrect remittances to SCFCF or ICNA.

Alternatives considered and policy implications

Since PCLC's charge was to consider proposing to the Judicial Council that it sponsor this efficiency proposal as put forward by the Trial Court Efficiencies Working Group and the Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, alternatives were not considered.

Recommendation 5: Repeal Government Code sections 70045.1, 70045.2, 70045.4, 70045.6, 70045.75, 70045.77, 70045.8, 70045.9, 70045.10, 70046.4, 70050.6, 70056.7, 70059.8, 70059.9, and 70063

5. Sponsor legislation to repeal Government Code sections 70045.1, 70045.2, 70045.4, 70045.6, 70045.75, 70045.77, 70045.8, 70045.9, 70045.10, 70046.4, 70050.6, 70056.7, 70059.8, 70059.9, and 70063 for the efficiency proposal that eliminates the requirement that the enumerated courts (i.e., Trinity, Modoc, Merced, Kern, Nevada, El Dorado, Butte, Shasta, Tehama, Lake, Tuolumne, Monterey, Solano, San Luis Obispo, and Mendocino) use court reporters in specified case types (see proposed legislative text at page A-6 in Attachment A).

Rationale for recommendation 5

These statutes originally were enacted prior to state trial court funding to help courts secure court reporting dollars from their county boards of supervisors; this is the first time they are being addressed since state trial court funding. While most courts around the state have the flexibility to determine if their budget circumstances can accommodate court reporting in non-mandated case types, some courts expressed concern that the continued existence of these statutes may prohibit these specific courts from exercising appropriate discretion over their court reporting options.

Fiscal Impact

To the extent a court believes it is constrained by the existing law, court executives estimate that they will save as much as 35 percent in their budgets related to court reporting by no longer needing to provide official court reporters in the specified case types contemplated by these code sections.

Alternatives considered and policy implications

Since PCLC's charge was to consider proposing to the Judicial Council that it sponsor this efficiency proposal as put forward by the Trial Court Efficiencies Working Group and the Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, alternatives were not considered.

Recommendation 6: Amend Family Code section 3176

6. Sponsor legislation to amend Family Code section 3176 for the efficiency proposal that eliminates the requirement for service by certified, return receipt postage prepaid mail for notice of mediation and clarifies that the court is responsible for sending the notice (see proposed legislative text at page A-18 in Attachment A).

Rationale for recommendation 6

This proposed efficiency reduces costs to the courts by eliminating the requirement that notice of family law mediation be sent by the more costly certified, return receipt and postage prepaid mail and adds clarity to the law by stating that the court must serve the notice.

Fiscal Impact

Costs of notice required by this section would be reduced from approximately \$11.50 per notice (\$5.75 for certified, return receipt mail for the minimum of two parties) to less than \$1.00 for notice to two parties using first class postage. Savings will be realized if the courts have been serving notice as provided in this section. Staff does not have sufficient information to determine the potential cost savings to trial courts without additional information from the courts about how many do provide notice and, of those that do, how many use the required certified mail return receipt postage.

Alternatives considered and policy implications

PCLC considered eliminating the language clarifying that the court must serve the notice. Current statutory language is silent as to which party is required to serve such notice, but it is generally agreed that the responsibility ought to fall to the courts. PCLC determined that because of the nature of family law mediation, with its high number of self-represented litigants, the statute should be clear and the responsibility for service of notice should fall to the courts.

Comments From Interested Parties

The Trial Court Efficiencies Working Group and the Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue provided the majority of the feedback that was used in the analyses of these measures. Additional information was provided by the Criminal Law Advisory Committee on the efficiencies that propose changes to the Penal Code. And a group of court subject matter experts convened for the purpose of determining fiscal impacts of the proposals on the courts also provided input on these proposals. At the March 7, 2013, PCLC meeting, in addition to the PCLC members, Judge Richard Couzens and District Attorney Nancy O'Malley, co-chairs of the Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, participated.

Implementation Requirements, Costs, and Operational Impacts

No funds are required to implement any of the recommendations in this report.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendations contained in this report serve Goal II, Independence and Accountability by advocating for the authority necessary to aid the branch in managing its fiscal and operational responsibilities, and by securing sufficient judicial branch resources to ensure accessible, safe, efficient, and effective services to the public.

Attachment

1. Attachment A: Efficiencies Background

Efficiencies Background

First round of efficiencies

On December 13, 2011, the Judicial Council adopted legislative priorities for 2012. The first priority was to “advocate for a combination of solutions to restore some of the funding eliminated from the branch in recent years.” The action included pursuing legislation to implement cost savings, efficiencies, and new revenue. As part of this action, the council, for 2012, delegated “to the PCLC the responsibility to act on behalf of the council to sponsor legislative proposals to advance judicial branch cost savings, new revenue, and operational efficiencies.” PCLC was directed to ensure that its actions for the council are consistent with the current strategic and operational plans and with council’s annually adopted legislative policy guidelines.

The Judicial Council established the Trial Court Efficiencies Working Group in order to collect and review proposals for efficiencies, costs savings, and new revenue. The chairs of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee each appointed seven members for a 14-person PJ/CEO Trial Court Efficiencies Working Group. Proposals initially were solicited by the newly formed committee from presiding judges and court executive officers. The working group recommended that roughly one-half of the proposals from the PJs and CEOs be forwarded on for consideration for Judicial Council sponsorship. In the meantime, at the direction of the chair of the Executive and Planning Committee (Justice Douglas Miller) and the chair of PCLC (Justice Marvin Baxter), the chairs of most of the council’s subject matter advisory committees, the Open Courts Coalition, and the president of the California Judges Association, were asked to designate members to participate on an Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue. The committee was created to ensure that all of the proposals could be acted on timely, while providing the council with the benefit of the expertise of the various advisory committees. The Ad Hoc Advisory Committee further winnowed the proposals for recommendation to the PCLC for council sponsorship.

Both the PJ/CEO Working Group and the Ad Hoc Advisory Committee expressly acknowledged that in determining which measures the council should pursue, the PCLC would be considering, to a much greater degree than either of these groups did, the political landscape, the opposition the proposals could face, and the extent to which a proposal may be outside council purview. The groups understood that proposals they recommended to move forward to create greater efficiencies for the courts could be deemed untenable and interfere with the council’s chances of success on any of the other proposals.

The 17 proposals approved for sponsorship by the council were forwarded to the Legislature for possible inclusion in budget trailer bill language, which would take effect on or about July 1, 2012, concurrent with the adoption of the current year budget. Although the council was not able to get these proposals adopted in 2012, it recommended continued sponsorship of the 17

proposals as part of the legislative priorities for 2013. Ten of the seventeen proposals have been approved to be included in the Governor's budget trailer bill language for the 2013-2014 budget.

The remaining seven proposals are included in a package of four policy bills currently pending in the Legislature.

Second round of efficiencies

In October and November 2012, the Presiding Judges/Court Executive Officer Trial Court Efficiencies Working Group (TCEWG) reconvened to take a fresh look at the efficiency and cost-savings proposals previously not adopted for Judicial Council sponsorship. The Ad Hoc Advisory Committee on Court Efficiencies (Ad Hoc Committee) reconvened in late November and early December 2012 for its review. The action to reconvene these review committees was taken in response to the branch suffering deeper and more significant budget cuts in the current fiscal year, and the concern that trial courts would lose all but 1 percent of their fund balances at the end of fiscal year 2013-14, prompting the need for more aggressive and financially beneficial measures to generate revenue, or more carefully spend existing money.

PCLC considered *all* proposals for operational efficiencies, cost savings, and new revenue if at least one of the reviewing groups recommended it for Judicial Council sponsorship. The following proposals are those that were recommended for JC sponsorship by PCLC.

1. Exclusion of infractions for marijuana possession from eligibility for deferred entry of judgment

Description of Proposal

The proposal would eliminate infractions from the list of drug convictions eligible for deferred entry of judgment per Penal Code section 1000. This proposal was put forward in response to SB 1449 (Stats. 2010, ch. 708) which reduced simple marijuana possession of less than 28.5 grams to an infraction from a misdemeanor. Penal Code section 1000 et seq. sets forth a procedure for deferred entry of judgment for certain marijuana offenses to allow a defendant to avoid a judgment if he/she meets certain eligibility criteria. The deferred entry process does not lend itself to infractions charged under Health and Safety Code section 11357(b) because deferred entry of judgment refers to diversion from confinement pending the satisfactory completion of a treatment program. Punishment for an infraction, however, does not include confinement, so there is nothing to defer. Moreover, deferred entry of judgment procedures impose significant burdens, and therefore costs, on the courts in terms of paperwork, additional and follow-up hearings, reinstatement processes for defendants who fail their diversion programs, etc. There is ongoing confusion among courts on this issue—some courts believe SB 1449 resulted in the de facto change (removing charges under Health and Safety Code section 11357(b) from the option of deferred entry of judgment), while others believe a statutory change is required.

Statutory Change

Penal Code section 1000(a) would be amended to read:

1000. (a) With the exception of a violation of Section 11357(b) of the Health and Safety Code, this chapter shall apply whenever a case is before any court upon an accusatory pleading for a violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or subdivision (b) of Section 23222 of the Vehicle Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4060 of the Business and Professions Code, and it appears to the prosecuting attorney that, ~~except as provided in subdivision (b) of Section 11357 of the Health and Safety Code,~~ all of the following apply to the defendant:

2. Eliminate court’s responsibility to notify other courts of prior DUI convictions

Description of Proposal

This proposal would shift the responsibility for reporting prior DUI convictions onto the prosecuting agency. Under current law, a convicting court is required to notify courts in which the defendant previously was convicted of a DUI in one or more other jurisdictions, for the purpose of enforcing terms and conditions of probation. It should be noted that some district attorneys’ offices already have taken on this responsibility.

Statutory Change

Vehicle Code section 23622(c) would be repealed:

~~23622(e) If any separate convictions of violations of Section 23152 or 23153 are reported to have occurred within 10 years of the charged offense, the court shall notify each court where any of the separate convictions occurred for the purpose of enforcing terms and conditions of probation pursuant to Section 23602.~~

3. Authorizes courts to pre-certify electronic “prior packets”

Description of Proposal

This proposed efficiency would allow criminal courts to pre-certify an electronic version of the materials to be included in a “prior packet” rather than requiring a clerk to prepare (photocopy) a full set of documents every time a request is made by defense or prosecution counsel in a case in which the defendant is charged with a new crime and for which the prior may constitute an enhancement for purposes of sentencing.

Statutory Change

Evidence Code section 452.5 would be amended as follows:

452.5 (a) The official acts and records specified in subdivisions (c) and (d) of Section 452 include:

- i) any computer-generated official court records, as specified by the Judicial Council which relate to criminal convictions, when the record is certified by a clerk of the superior court pursuant to Section 69844.5 of the Government Code at the time of computer entry; or
 - ii) any computer generated document consisting of copies of court records related to the conviction and sentencing of a defendant and the certification required by section 1531.
- (b) An official record of conviction certified in accordance with subdivision (a) of Section 1530 is admissible pursuant to Section 1280 to prove the commission, attempted commission, or solicitation of a criminal offense, prior conviction, service of a prison term, or other act, condition, or event recorded by the record.

4. Would calculate the interest on late payments to branch construction funds at the Local Agency Investment Fund (LAIF) rate.

Description of Proposal

The State Controller audits court and county distributions and remittances of fine, fee, and penalty assessments. Failure to have accurately remitted payments to the State Court Facilities Construction Fund (SCFCF) or the Immediate and Critical Needs Account (ICNA) can subject a court and county to significant penalties. Unfortunately, it may take years for the State Controller to conduct an audit and discover what may have been an entirely inadvertent error. Under current law, the penalties are imposed back to the date of the error. This proposal would calculate the interest on any late payments to branch construction funds from courts and counties at the LAIF rate from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay, or the date of payment by the entity responsible for the delinquent payment, whichever comes first. If the payment is not remitted in this time frame, then a penalty would be imposed at a daily rate equivalent to 1½ percent per month (the 18 percent rate in current law) from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay. The proposed language would amend Government Code section 70377 in an identical manner as the change made to Government Code section 68085 in 2007 relating to payments made to the Trial Court Trust Fund. That change, made pursuant to SB 539, (Stats. 2007, ch. 435) was supported by the council.

Note: AB 619 (Garcia) has been introduced to accomplish this very proposal. It is sponsored by the State Association of California Auditors. If Judicial Council approves this proposal for sponsorship, it may wish to consider joining as a co-sponsor to AB 619.

Statutory Change

Government Code section 70377 would be amended as follows:

70377. (a) Any amounts required to be transmitted by a ~~county~~ county, city and county, or court to the ~~Controller~~ state pursuant to this ~~article~~ section shall be remitted to the State Treasurer no later than 45 days after the end of the month in which the fees, assessments, or penalties were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the State Court Facilities Construction Fund or the Immediate and Critical Needs Account of the State Court Facilities Construction Fund to which

it is to be deposited. Any remittance made later than this time shall be considered delinquent and subject to the interest and penalties specified in this section.

(b) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall do the following:

~~(b) (1) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any~~ Calculate the interest on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to ~~± the $\frac{1}{2}$ percent per month for the number of days the payment is delinquent.~~ rate of return on money deposited in the Local Agency Investment Fund pursuant to Section 16429.1 from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first. In calculating the interest under this paragraph, the Controller shall apply the average monthly Local Agency Investment Fund rate over the period of delinquency.

(2) Calculate a penalty at a daily rate equivalent to $1\frac{1}{2}$ percent per month from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay.

~~(c) Penalty- Interest or penalty~~ amounts calculated pursuant to subdivision (b) shall be paid by ~~the county to the Controller- county, city and county, or court to the State Court Facilities Construction Fund or the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, whichever is appropriate,~~ no later than 45 days after the end of the month in which the interest or penalty was calculated. ~~All money received by the Controller under this section shall be deposited in the State Court Facilities Construction Fund.~~ Payment shall be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in a notice given to that party by the Controller.

~~(d) If the penalty imposed by this section results from a court's failure to comply with the requirements for timely deposit of money with the county treasury, the court shall reimburse the county general fund in an amount equal to the actual penalty. Notwithstanding Section 77009, the court may pay this penalty-~~ Notwithstanding Section 77009, the court may pay any penalty or interest imposed pursuant to this section due to an error or other action by the court from money received from the Trial Court Trust Fund. This section does not require an increase in a court's allocation from the Trial Court Trust Fund.

(e) The Controller may permit a county, city and county, or court to pay the interest or penalty amounts according to a payment schedule in the event of a large interest or penalty amount that causes a hardship to the paying entity.

(f) The party responsible for the error or other action that caused the failure to pay may include, but is not limited to, the party that collected the funds who is not the party responsible for remitting the funds to the State Court Facilities Construction Fund or the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, if the collecting party failed or delayed providing the remitting party with sufficient information needed by the remitting party to distribute the funds.

(g) The changes made to this section by the act adding this subdivision shall apply to all delinquent payments for which the Controller has not issued a final audit before January 1, 2014.

5. Eliminates statutory requirements for court reporters for specified case types in enumerated counties

Description of Proposal

For certain courts, the Government Code specifies types of services to be provided by court reporters. These code sections, and others, also set forth salaries to be paid court reporters. For the most part, these statutes are obsolete. The salary indicated is considerably below what is paid in those courts today. In the statutes that define services, they may set out obligations to transcribe coroner inquests, county tax hearings, civil commitment proceedings, contempt, juvenile proceedings, family law proceedings, civil jury trials, and hearings on petitions for extraordinary relief. Because these statutes may be read to limit courts' authority, their repeal brings clarity and consistency to the courts generally. Some courts have expressed concern that the statutory language obligates them to keep court reporter employees in civil cases, for example, if that is what is provided in the statute. While other courts around the state have the flexibility to determine if their budget circumstances make it such that they can no longer afford to employ court reporters for civil matters, these courts feel that they are prohibited from considering this option. This proposal would repeal the Government Code sections that specify the case types for which specified counties are required to provide an official court reporter.

Statutory Change

Repeal the following Government Code sections:

- 70045.1 – Trinity County
- 70045.2 – Modoc County
- 70045.4 – Merced County
- 70045.6 – Kern County
- 70045.75 – Nevada County
- 70045.77 – El Dorado County
- 70045.8 – Butte County
- 70045.9 – Shasta County
- 70045.10 – Tehama County
- 70046.4 – Lake County
- 70050.6 – Tuolumne County
- 70056.7 – Monterey County
- 70059.8 – Solano County
- 70059.9 – San Luis Obispo County
- 70063 – Mendocino County

Text of proposed code sections follows.

Government Code sections 70045.1, 70045.2, 70045.4, 70045.6, 70045.75, 70045.77, 70045.8, 70049.9, 70045.10, 70046.4, 70050.6, 70056.7, 70059.8, 70059.9, and 70063 would be repealed:

~~70045.1. Notwithstanding the provisions of Section 70045 of this code, in Trinity County, each regular official court reporter shall receive an annual salary of ten thousand dollars (\$10,000) unless the board of supervisors shall by ordinance provide for compensation in excess of that amount, payable in monthly installments out of the salary fund of the county, for the reporting and taking notes in criminal cases and juvenile court cases in the superior court, and in preliminary examinations of those accused of crime before magistrates, and of proceedings before the grand jury and at coroner's inquests when requested by the coroner, and for other services such reporters shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of Title 8, such fees in civil cases to be paid by the litigants as provided by law.~~

~~—Reporters pro tempore may be paid a per diem of seventy five dollars (\$75) as provided in Section 69948 and other fees set forth in Article 9 (commencing with Section 69941) of Chapter 5 of Title 8, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties, but a reporter pro tempore shall be paid a per diem or expenses by the county only when the regular official court reporters are occupied in the superior court, or at preliminary examinations, grand jury hearings or coroner's inquests.~~

~~—The board of supervisors of such a county may provide the court reporters with equipment for the performance of their duties.~~

~~70045.2. Notwithstanding Section 70045, in Modoc County each regular official court reporter shall receive an annual salary to be determined by ordinance by the board of supervisors, payable in monthly installments out of the salary fund of the county, for the reporting and taking notes in criminal cases and juvenile court cases in the superior court, and in preliminary examination of those accused of crime before magistrates, and of proceedings before the grand jury and at coroner's inquests when requested by the coroner.~~

~~—In Modoc County, reporters pro tempore shall be paid a per diem, as set by law, and shall receive from the county their necessary traveling and other expenses when called from other counties. However, a reporter pro tempore shall be paid a per diem or expenses by the county only when the regular official court reporters are occupied in the superior court, or at preliminary examinations, grand jury hearings, or coroner's inquests.~~

~~—For all reporter's services in Modoc County in civil cases as set forth in Article 9 (commencing with Section 69941) of Chapter 5 of Title 8, litigants shall pay such fees as are provided by law to the county clerk for deposit in the county general fund.~~

~~—The Board of Supervisors of Modoc County may provide court reporters with equipment for the performance of their duties.~~

~~70045.4. Notwithstanding the provisions of Section 70045 or any other provision of this article, in Merced County:~~

~~—(a) The regular full-time official court reporters shall perform the following duties:~~

~~—(1) Report all criminal proceedings in the superior court.~~

~~—(2) Report all civil commitment proceedings and all contempt proceedings in the superior court.~~

~~—(3) Report all juvenile proceedings in the superior court other than those heard by a juvenile court referee or traffic hearing officer.~~

~~—(4) Report all family law proceedings in the superior court.~~

~~—(5) Report all civil jury trials in the superior court.~~

- ~~—(6) Report all hearings on petitions for extraordinary relief, including but not limited to proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram nobis in the superior court.~~
- ~~—(7) Report any other court proceedings in the superior court when a party requests a court reporter in accordance with the rules of court.~~
- ~~—(8) Report all criminal proceedings of the grand jury.~~
- ~~—(9) Report proceedings for the board of equalization, when requested by the board.~~
- ~~—(b) Each regular full-time court reporter shall be paid an annual salary of sixteen thousand seven hundred thirty-five dollars and ninety-four cents (\$16,735.94), unless the board of supervisors of the county provides for compensation in excess of that amount.~~
- ~~—The foregoing salary is for compensation for reporting services under subdivision (a). For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941).~~
- ~~—The regular full-time official court reporters shall be entitled to the same privileges with respect to group insurance and retirement as other employees of that county. Retirement contributions shall be based upon the annual salary provided for in subdivision (b).~~
- ~~—The salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Those changes in compensation made pursuant to this provision shall be on an interim basis and shall expire January 1 following adjournment of the next regular session of the Legislature unless ratified at that session.~~
- ~~—(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts and county may require, in order that the business of the courts and county may be carried on without delay. They shall be paid in accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941). That per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.~~

70045.6. ~~(a) In Kern County each regular reporter shall be paid the biweekly salary specified in range 52.4 of the salary schedule. The court reporter shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.~~

~~—(b) Beginning January 1, 1980, the board of supervisors may adjust the salary of each regular official reporter as part of its county employee compensation plan. Any adjustment to reporter salaries shall be effective on the same date as the effective date of the board's action to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.~~

~~—(c) In addition to the compensation provided for in this section, each regular official reporter shall be entitled to and shall receive, on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacations. Court reporters shall observe the same holidays as other court employees. For the purposes of determining participation in the county retirement system, the salary provided for such reporters in this section shall be deemed their entire compensation.~~

~~—(d) Each pro tempore official reporter shall be paid one hundred fifty dollars (\$150) a day for the days he or she is actually on duty under order of the court.~~

~~70045.75. Notwithstanding any other provision of law including, but not limited to, Sections 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the full-time official court reporters, if any, in Nevada County:~~

- ~~—(a) The regular full-time official court reporters shall perform the following duties:~~
- ~~—(1) Report all criminal proceedings.~~
- ~~—(2) Report all civil commitment proceedings and all contempt proceedings.~~
- ~~—(3) Report all juvenile proceedings, other than those heard by a juvenile court referee or traffic hearing officer.~~
- ~~—(4) Report all family law proceedings.~~
- ~~—(5) Report all civil jury trials.~~
- ~~—(6) Report all hearings on petitions for extraordinary relief, including but not limited to, proceedings for injunctions, mandate, prohibition, certiorari review, habeas corpus, and coram nobis.~~
- ~~—(7) Report all proceedings of the grand jury when requested by the foreman, or by the district attorney or by the county counsel.~~
- ~~—(8) Report any other court proceedings when a party requests a court reporter in accordance with rules of the court.~~
- ~~—(9) Report the preliminary examination of those accused of crimes before magistrates within Nevada County. Report coroner's inquests when requested by coroner.~~
- ~~—(b) Each regular full-time court reporter shall be paid at a monthly salary rate established according to the following salary schedule:~~

—(Range)	—(Month)	—(Annual)
—Step A	\$1,271	\$15,246
—Step B	1,334	16,012
—Step C	1,400	16,804
—Step D	1,471	17,648
—Step E	1,546	18,546

~~—Each such reporter shall receive a monthly salary under the schedule corresponding to the length of time that as an official court reporter he has been included within either directly or indirectly by contract the Public Employees' Retirement System of the State of California. Except as provided herein, the initial hiring rate for each position shall be step A; provided further, however, the judges of the superior court may appoint any such court reporter at a higher initial step if in the opinion of the judges of the superior court an individual to be appointed has such experience and qualifications as to entitle that individual to such higher initial step. A step advancement from step A to step B may be granted on the first day of the month following the completion of six full months of service in the position. A person may advance to steps C, D, and E upon completion of successive 12-month periods of service. All merit increases as provided herein shall be made at the determination of the judges of the superior court.~~

~~—The foregoing salary is for compensation for reporting services in the superior court under subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.~~

~~—In the event a cost of living increase is given to the employees of Nevada County on or after July 1, 1979, the aforementioned salary schedule shall be deemed amended so as to give the court reporters the same cost of living increase as is given Nevada County employees.~~

~~—The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other employees of the county.~~

~~—(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court in such county may be carried on without delay. They shall be paid in accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941) of this chapter. Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.~~

~~**70045.77.** Notwithstanding any other provision of law, including, but not limited to, Sections 70040, 70041, 70042, and **70045**, the following provisions shall be applicable to the full-time official court reporters, if any, in El Dorado County:~~

~~—(a) The regular full-time official court reporters shall perform the following duties:~~

~~—(1) Report all criminal proceedings.~~

~~—(2) Report all civil commitment proceedings and all contempt proceedings.~~

~~—(3) Report all juvenile proceedings, other than those heard by a juvenile court referee or traffic hearing officer.~~

~~—(4) Report all family law proceedings.~~

~~—(5) Report all civil jury trials.~~

~~—(6) Report all hearings on petitions for extraordinary relief, including, but not limited to, proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram nobis.~~

~~—(7) Report all proceedings of the grand jury when requested by the foreman, or by the district attorney or by the county counsel.~~

~~—(8) Report any other court proceedings when a party requests a court reporter in accordance with rules of the court.~~

~~—(9) Report the preliminary examination of those accused of crimes before magistrates within El Dorado County.~~

~~—(10) Report coroner's inquests when requested by the coroner.~~

~~—(11) Report proceedings for the El Dorado County Board of Equalization when requested by the board.~~

~~—(b) The regular full-time official court reporter shall be compensated at a range recommended by the judges of the superior court and approved by the board of supervisors by ordinance or resolution.~~

~~—The foregoing salary is for compensation for reporting services in the superior court under subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.~~

~~—The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other employees of the county.~~

~~—(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court in such county may be carried on without delay. They shall be paid in accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941) of this chapter. Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.~~

70045.8. ~~(a) Notwithstanding any other provision of law, including, but not limited to, Sections 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the official court reporters in Butte County Superior Court:~~

~~—(1) The regular full-time official court reporters under the direction of the presiding judge of the superior court shall perform the following duties:~~

~~—(A) Report all criminal proceedings.~~

~~—(B) Report all civil commitment proceedings and all contempt proceedings.~~

~~—(C) Report all juvenile proceedings other than those heard by juvenile court referee or traffic hearing officer.~~

~~—(D) Report all civil jury trials.~~

~~—(E) Report all hearings on petitions for extraordinary relief, including, but not limited to, proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram nobis.~~

~~—(F) Report all proceedings of the grand jury when requested by the foreman, or by the district attorney or by the county counsel.~~

~~—(G) Report any other court proceedings when a party requests a court reporter in accordance with rules of court.~~

~~—(H) Report coroner's inquests when requested by the coroner.~~

~~—(I) Report proceedings for the Butte County Board of Equalization when requested by the board.~~

~~—(J) When not occupied with the above duties, and upon request of a presiding judge of the municipal court and approval of the presiding judge of the superior court, he or she shall report matters listed under paragraph (1) of subdivision (b).~~

~~(b) Notwithstanding any other provision of law, including, but not limited to, Sections 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the official court reporters in the Butte County Municipal Courts:~~

~~—(1) The regular full-time official municipal court reporters under the direction of the presiding judges of the municipal courts shall perform the following duties:~~

~~—(A) Report the preliminary examination of those accused of crimes before magistrates within Butte County.~~

~~—(B) Report all felony pleas.~~

~~—(C) Report any other court proceeding as required by law.~~

~~—(D) When not occupied with the above duties, and upon request of the presiding judge of the superior court and approval of a presiding judge of the municipal court, he or she shall report matters listed under paragraph (1) of subdivision (a) above.~~

~~—(c) The board of supervisors shall, by ordinance, specify the salary rates for official court reporters in Butte County.~~

~~—In addition to the aforementioned compensation, each official court reporter shall receive twenty-five dollars (\$25) per month as reimbursement for the cost of necessary supplies.~~

~~—The foregoing salary established pursuant to county ordinance is for compensation for reporting services in the superior and municipal courts under subdivisions (a) and (b) of this section. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.~~

~~—The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other employees of the county.~~

~~—(d) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to subdivisions (a) and (b), the judge or judges of the superior and municipal courts may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the courts in the county may be carried on without delay. They shall be paid in accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941) of this chapter. The per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.~~

70045.9. ~~Notwithstanding any other provision of law, the provisions of this section shall apply to the official court reporters in Shasta County:~~

~~—(a) The regular full-time official court reporters shall perform the following duties:~~

~~—(1) Report all criminal proceedings in superior court.~~

~~—(2) Report all juvenile proceedings other than those heard by juvenile court referee or traffic hearing officer.~~

~~—(3) Report all civil jury trials in superior court, unless the court determines it is not required.~~

~~—(4) Report any other proceeding in the superior court at the request of the judge of the superior court.~~

~~—(5) Report any superior court proceeding when a party requests a court reporter in accordance with the rules of court.~~

~~—(6) Report all criminal investigations of the grand jury, when requested by the foreman, or by the district attorney.~~

~~—(7) Report the preliminary examination of those accused of crime before magistrates or municipal court judges within Shasta County, or before both.~~

~~—(8) Report coroner's inquests, when requested by the coroner.~~

~~—(9) Report hearings of the Board of Equalization of the County of Shasta, as requested by that board.~~

~~—(10) Other reporting or related services, as directed by the judges of the superior court.~~

~~—(11) When not occupied with the above duties, and upon request of the board of supervisors and approval of the presiding judge of the superior court, he or she shall report matters before the board of supervisors.~~

~~—(b) Each regular full-time court reporter shall be paid a monthly salary of one thousand four hundred seventy dollars (\$1,470), unless the Board of Supervisors of Shasta County provides for compensation in excess of that amount, in which event the amount set shall apply. The salary is for compensation for reporting services set forth under subdivision (a). For all transcriptions~~

~~incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941).~~

~~—The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group insurance, which either now or hereafter may be provided by ordinance or resolution to other comparable employees of the County of Shasta.~~

~~—(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court may be carried on without delay. In the event the board of supervisors has entered into a contract for supplemental reporter services with a qualified person or persons first approved by the presiding judge of the superior court, the person or persons shall be appointed as reporter pro tempore. However, if the person or persons are not reasonably available, the judge may appoint any qualified person. Notwithstanding other provisions of this section, when an assignment of a pro tempore reporter is made to proceedings in the superior court, the assignment shall be deemed to run to the completion of the proceeding.~~

~~—Reporters pro tempore shall be paid in accordance with the contract with the board of supervisors or, in absence thereof, with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941). Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.~~

~~—(d) During the hours during which the court is open as prescribed by the Shasta County Superior Court for the transaction of judicial business, official court reporters shall devote full time to the performance of the duties required of them by law and shall not engage or solicit to engage in any other employment in their professional capacity.~~

~~—(e) Court reporters pro tempore serving in the superior and municipal courts shall receive a per diem equal to the base wage of the official court reporter for an eight-hour day, excluding benefits. This fee shall be adjusted by the same, general across-the-board salary adjustment enacted by the county in any salary ordinance applicable to official court reporters. For services of less than four hours in any day, the pro tempore reporter will receive a per diem equal to 65 percent of the base wage.~~

~~**70045.10.** Notwithstanding any other provision of law, the provisions of this section shall apply to the official court reporters in Tehama County.~~

~~—(a) The regular full-time official court reporters shall perform the following duties:~~

~~—(1) Report all criminal proceedings in superior court.~~

~~—(2) Report all juvenile proceedings other than those heard by the juvenile court referee or traffic hearing officer.~~

~~—(3) Report all civil jury trials in superior court, unless the court determines it is not required.~~

~~—(4) Report any other proceeding in the superior court at the request of the judge of the superior court.~~

~~—(5) Report any superior court proceeding when a party requests a court reporter in accordance with the rules of court.~~

~~—(6) Report all criminal investigations of the grand jury, when requested by the foreman or the district attorney.~~

- ~~—(7) Report the preliminary examination of those accused of crime before magistrates or municipal court judges within Tehama County, or both.~~
- ~~—(8) Report coroner's inquests, when requested by the coroner.~~
- ~~—(9) Report hearings of the Board of Equalization of the County of Tehama, as requested by that board.~~
- ~~—(10) Other reporting or related services, as directed by the judges of the superior court.~~
- ~~—(11) When not occupied with the above duties, and upon request of the board of supervisors and approval of the presiding judge of the superior court, they shall report matters before the board of supervisors.~~
- ~~—(12) Such other duties as are required to insure the provision of court reporter services.~~
- ~~—(b) Each regular full time court reporter shall be paid a monthly salary of two thousand two hundred sixty seven dollars (\$2,267), unless the Board of Supervisors of Tehama County, by ordinance, provides for compensation in excess of that amount, in which event the compensation set by ordinance shall apply. The salary is for compensation for reporting services set forth under subdivision (a). For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941).~~
- ~~—The regular, full time official court reporters shall be entitled the same privileges with respect to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group insurance, which either is now, or hereafter may be, provided by ordinance to other comparable employees of the County of Tehama.~~
- ~~—For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all salary and transcription fees paid by the County of Tehama to each regular official reporter up to a maximum of thirty five thousand dollars (\$35,000).~~
- ~~—(c) When the regular full time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the court may be carried on without delay. Notwithstanding other provisions of this section, when an assignment of a pro tempore reporter is made to proceedings in the superior court, the assignment shall be deemed to run to the completion of the proceeding.~~
- ~~—Reporters pro tempore shall be paid in accordance with the rate of compensation as set by the board of supervisors. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941). The per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.~~
- ~~—(d) During the hours during which the court is open, as prescribed by the Tehama County Superior Court for the transaction of judicial business, official court reporters shall devote full time to the performance of the duties required of them by law and shall not engage, or solicit to engage, in any other employment in their professional capacity unless otherwise excused by a judge of the superior court.~~
- ~~—If the official court reporter or a pro tempore reporter serves past 5:30 p.m., he or she shall receive an additional fee equal to one half the per diem rate established by the board of supervisors. If the official court reporter or a pro tempore reporter serves past 8:30 p.m., he or she shall receive a second additional fee equal to one half the per diem rate. Accumulation of hours in a given day shall be without regard as to the number of courts in which the reporter provides reporting service.~~

~~—In order that the salary provided for regular full-time official court reporters shall remain equitable and competitive, the salary herein provided for shall be adjusted and increased by the same salary adjustment percentage for the classification entitled the superior court clerk enacted on or before July 1, 1985, by the County of Tehama.~~

~~70046.4. (a) In Lake County, the official phonographic reporters shall perform the following duties:~~

~~—(1) Report all proceedings before the superior court.~~

~~—(2) Report all the proceedings of the grand jury.~~

~~—(3) Act as the secretary of, and render stenographic and clerical assistance to, the judge of the department to which they are assigned by the presiding judge.~~

~~—(4) Any other duties assigned by the board of supervisors upon the request of a judge of the superior court.~~

~~—The official phonographic reporters of such county shall receive a salary recommended by the superior court and approved by the board of supervisors. Such salary is for compensation for reporting services in the superior court under subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter. Such fees shall be paid to the County of Lake when the conditions of the official phonographic reporter's employment so provide.~~

~~—Any appointee to an official reporter position shall be compensated at the first step and advance to each higher step upon completion of each year of service. Upon the recommendation of the superior court and approval of the board of supervisors, official reporters may be employed at or may be granted a special step increase to any step within the salary range on the basis of experience or qualifications.~~

~~—(b) The compensation for each official reporter pro tempore shall be the equivalent of the daily wage of the first step in the salary range for full-time official reporters for each day he actually is on duty under order of the court.~~

~~—(c) In addition to the compensation provided in this article, each full-time reporter of the superior court shall be entitled to, and shall receive, the same vacation, sick leave, and similar privileges and benefits as are now, or may hereafter be provided for the employees of the County of Lake including the right to participate in any group, accident, health or life insurance plan adopted by the board of supervisors of the county.~~

~~—(d) Until such time as the salaries of full-time official reporters and official reporters pro tempore are approved by the board of supervisors pursuant to subdivision (a), such reporters shall receive the salaries in effect immediately prior to the effective date of this section enacted by the Legislature at its 1977-78 Regular Session.~~

~~70050.6. (a) In Tuolumne County, the official reporters of the superior court shall perform the following duties:~~

~~—(1) Report all criminal proceedings.~~

~~—(2) Report all civil proceedings.~~

~~—(3) Report all domestic relations proceedings.~~

~~—(4) Report all proceedings of the grand jury.~~

~~—(5) Report all coroner's inquests.~~

~~—(b) The official reporters of Tuolumne County shall receive a salary as established by the Board of Supervisors of Tuolumne County. Such salary is for compensation for reporting services in the superior court under subdivision (a) of this section.~~

~~—For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The court reporter shall also be allowed his or her actual traveling expenses when reporting outside of the county seat.~~

~~70056.7. Notwithstanding any other provision of law to the contrary, the following provisions shall be applicable to the official superior court reporters in Monterey County:~~

~~—(a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts and report all grand jury proceedings. When not engaged in the performance of other duties imposed on him or her by law and when approved by the presiding judge, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in or solicit any other employment in their professional capacity.~~

~~—(b) Each regular official court reporter shall be paid a salary to be established by the Monterey County Board of Supervisors upon the joint recommendation of the county administrative officer and the judges of the superior court.~~

~~—(c) A regular official court reporter shall serve at the pleasure of the judge of the court for which appointed but shall receive the same vacation, sick leave, retirement, and other financial or monetary benefits as are now, or may be hereafter provided for the classification of superior court clerk. The benefits include the right to participate in any group accident, group health, or group life insurance plan adopted for and made available to the classification of superior court clerk.~~

~~—For the purposes of retirement under the Public Employees' Retirement System, the salary provided for in subdivision (b) shall be deemed the entire salary for each court reporter.~~

~~—(d) Judges of the superior court may appoint as many official superior court reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive a per diem at a rate to be established by joint action of the board of supervisors and a majority of the judges of the superior court.~~

~~70059.8. (a) Notwithstanding any other provision of law, including but not limited to Sections 70040, 70041, 70042, and **70045**, the following provisions shall be applicable to the official court reporters in Solano County:~~

~~—(b) Regular official court reporters shall report all criminal and civil proceedings in their respective courts; all juvenile proceedings, other than those heard by referees or traffic officers when official reporters are unavailable; grand jury proceedings, coroner's inquests, and proceedings before the county board of equalization. When not engaged in the performance of other duties imposed upon him or her by law, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, public hearings and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.~~

~~—(c) In Solano County the annual salary of each official court reporter shall be based on a regular five step plan as established by joint action and approval of the board of supervisors and a majority of the judges of the court.~~

~~—(d) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him or her to such higher initial step.~~

~~—(e) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1990, unless ratified by statute by the Legislature prior to that date.~~

~~—(f) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 of this chapter, which fees, upon order of the court, shall be a proper charge against the general fund of the county.~~

70059.9. In San Luis Obispo County, each regular official reporter shall be paid a monthly salary which shall be recommended by the superior court and approved by the board of supervisors. This salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroner's inquests. The initial hiring rate for each position shall be step 1, provided, however, that the judges of the court may appoint a reporter at a higher step if such person has the experience and qualifications to entitle that individual to appointment at a higher initial step. Step advancement from step 1 to step 2 may be granted following completion of six full months of service in the position. Thereafter, a person may advance to each succeeding step upon completion of a 12 month period of full time service at the previous step. All step advancements pursuant to this section shall be determined by the judges of the court. In addition to the duties required by the provisions of this section, and notwithstanding the provisions of Section 69956, regular official reporters, when not actually engaged in the performance of other lawfully imposed duties, shall, at no additional compensation, render stenographic or Clerical assistance or both, to the superior court as may be directed by the presiding judge.

~~—Reporters pro tem shall be paid at a per diem rate of seventy six dollars (\$76) for the days they are actually on duty under order of the court, and shall receive from the county their necessary travel and other expenses when necessarily called from other counties. Rates of compensation of official reporters pro tem may be adjusted by approval of the board of supervisors upon the recommendation of a majority of the judges of the court.~~

~~—Each official court reporter shall be an attaché of the superior court and shall serve at the pleasure of the appointing judges, but shall be entitled to the same benefits and privileges respecting retirement, group insurance, social security, vacation, sick leave and other fringe benefits which are provided to county employees.~~

70063. ~~In Mendocino County, the official phonographic reporters shall perform the following duties:~~

- ~~—(a) Report all proceedings before the superior court.~~
- ~~—(b) Report the proceedings of the grand jury.~~
- ~~—(c) Act as the secretary of, and render stenographic and clerical assistance to, the judge of the department to which they are assigned by the presiding judge.~~

6. Eliminates the requirement for service by certified mail per Family Code section 3176.

Description of Proposal

As originally proposed to the TCEWG, this proposal would have eliminated the requirement for service by certified mail in cases in which mediation is required pursuant to Family Code section 3176. The proposal also would clarify that the moving party provide the required notice of mediation.

In November, the TCEWG met and generally liked the proposal, but revised it to keep the notice requirement with the courts, where they believe it is vested, but to allow courts the flexibility to utilize more cost-effective methods for notice. On December 4, 2012, the Ad Hoc Advisory Committee clarified the proposed language of the TCEWG.

On January 9, 2013, subject matter experts convened to discuss fiscal impacts of the efficiencies. The meeting participants disagreed with the TCEWG's interpretation, saying the statute in its current form is ambiguous as to who is responsible for notice. They specifically discouraged making it the explicit responsibility of the courts.

Statutory Change

Family Code section 3176 would be amended, per TCEWG and Ad Hoc recommendations, as follows:

3176. (a) Notice of mediation and of any hearing to be held pursuant to this chapter shall be given to the following persons:

(1) Where mediation is required to settle a contested issue of custody or visitation, to each party and to each party's counsel of record.

(2) Where a stepparent or grandparent seeks visitation rights, to the stepparent or grandparent seeking visitation rights, to each parent of the child, and to each parent's counsel of record.

(b) Notice shall be given ~~by certified mail, return receipt requested, postage prepaid, to the last known address~~ served by the court on the persons entitled to notice under subdivision (a).

(c) Notice of mediation pursuant to Section 3188 shall state that all communications involving the mediator shall be kept confidential between the mediator and the disputing parties.