



## Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

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RONALD M. GEORGE  
*Chief Justice of California  
Chair of the Judicial Council*

WILLIAM C. VICKREY  
*Administrative Director of the Courts*

RONALD G. OVERHOLT  
*Chief Deputy Director*

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

March 16, 2009

Hon. Ellen Corbett, Chair  
Senate Judiciary Committee  
State Capitol, Room 5108  
Sacramento, California 95814

Subject: SB 556 (Judiciary), as introduced February 27, 2009 – Sponsor/Support  
Hearing: Senate Judiciary Committee – March 31, 2009

Dear Senator Corbett:

Senate Bill 556, which is sponsored by the Judicial Council, is a non-controversial measure that makes several changes in the law to improve court operations. The bill clarifies the law governing post-judgment fees in small claims court. SB 556 also clarifies that a court is authorized to submit unpaid bail amounts to the Franchise Tax Board's Court-Ordered Debt program. Details regarding each of these provisions are set out below.

**Post-Judgment Fees Clarification:** The Small Claims Act states that small claims judgments may be enforced like other judgments as provided in title 9 (commencing with section 680.010) of the Code of Civil Procedure. However, the Act specifies post-judgment fees only with regard to the issuance of a writ of execution, application for an order of examination of a judgment debtor, and issuance of an abstract of judgment. The fee charged in such matters is the same as that charged for the enforcement of any civil judgment.

The Act does not identify a fee for a variety of post-judgment motions, including a motion opposing a claim of exemption or a motion to "reset" or continue examination of a judgment debtor, which occur routinely in the enforcement of a small claims judgment. Since such motions are similar to motions for the enforcement of any other civil judgment, the fee for such a motion in a general civil case would also be the appropriate fee to be charged in small claims cases. As a result of the lack of clarity in the statute, practices differ from court to court. SB 556 would clarify that a court is authorized to charge the same fees for post-judgment motions related

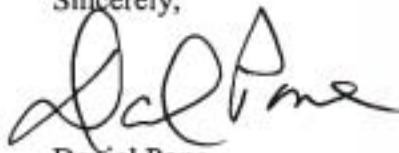
to the enforcement of a small claims judgment as a court charges for the enforcement of a regular civil judgment under title 9.

**Collection of Unpaid Bail Amounts:** There are two Franchise Tax Board (FTB) programs courts use to assist in the collection of court-ordered debt. The FTB's Tax Intercept Program (FTB-TIP) collects debt by sweeping state tax refunds. The FTB's Court-Ordered Debt Program (FTB-COD) collects debt by sweeping bank accounts and lottery winnings. Currently, although courts have explicit statutory authority to send unpaid bail amounts to the FTB-TIP, the statute is silent regarding whether courts may send similar amounts to the FTB-COD. There is no apparent basis (either in legislative history or court practice) for allowing certain debts to be collected by FTB-TIP but not FTB-COD. Most courts currently refer failure-to-appear (FTA) cases to either FTB-TIP or FTB-COD, and the amount owed as bail is collected by either program.

Recently, however, some courts have been concerned that they might not have the statutory authority to send FTA cases to the FTB-COD. The Legislature clarified its intent to permit courts to send FTA cases to either FTB-TIP or FTB-COD, with the passage of AB 1389 (Committee on Budget) of 2008. Although that measure was passed by the Legislature and signed by the Governor, it was inadvertently chaptered out by the subsequent enactment of AB 2928 (Spitzer). Interestingly, because AB 1389 was urgency legislation that took effect immediately upon signing by the Governor and AB 2928 did not take effect until January 1, 2009, the Judicial Council-sponsored clarification was in effect from September 30 to December 31, 2008.

For these reasons, the Judicial Council respectfully requests your "aye" vote on SB 556.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel Pone', written over a horizontal line.

Daniel Pone  
Senior Attorney

DP/op

cc: Members, Senate Judiciary Committee  
Ms. Alexandra Montgomery, Counsel, Senate Judiciary Committee  
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy  
Ms. Kirsten Kolpitzke, Director of Legislation, Governor's Office of Planning and Research  
Mr. Michael Prosio, Legislative Affairs Secretary, Office of the Governor



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*Chief Deputy Director*

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

April 16, 2009

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

Subject: SB 556 (Committee on Judiciary), as amended April 15, 2009 – Sponsor/Support  
Hearing: Senate Appropriations Committee – April 20, 2009

Dear Senator Kehoe:

Senate Bill 556, which is sponsored by the Judicial Council, is a non-controversial measure that makes several changes in the law to improve court operations. The bill clarifies the law governing post-judgment fees in small claims court. SB 556 also clarifies that a court is authorized to submit unpaid bail amounts to the Franchise Tax Board's Court-Ordered Debt program. In addition, the bill clarifies the rules for the escheat of unclaimed victim restitution, requiring those unclaimed funds to be deposited into the state Restitution fund. Details regarding each of these provisions are set out below.

**Post-Judgment Fees Clarification:** The Small Claims Act states that small claims judgments may be enforced like other judgments as provided in title 9 (commencing with section 680.010) of the Code of Civil Procedure. However, the Act specifies post-judgment fees only with regard to the issuance of a writ of execution, application for an order of examination of a judgment debtor, and



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The Act does not identify a fee for a variety of post-judgment motions, including a motion opposing a claim of exemption or a motion to “reset” or continue examination of a judgment debtor, which occur routinely in the enforcement of a small claims judgment. Since such motions are similar to motions for the enforcement of any other civil judgment, the fee for such a motion in a general civil case would also be the appropriate fee to be charged in small claims cases. As a result of the lack of clarity in the statute, practices differ from court to court. SB 556 would clarify that a court is authorized to charge the same fees for post-judgment motions related to the enforcement of a small claims judgment as a court charges for the enforcement of a regular civil judgment under title 9.

**Collection of Unpaid Bail Amounts:** There are two Franchise Tax Board (FTB) programs courts use to assist in the collection of court-ordered debt. The FTB’s Tax Intercept Program (FTB-TIP) collects debt by sweeping state tax refunds. The FTB’s Court-Ordered Debt Program (FTB-COD) collects debt by sweeping bank accounts and lottery winnings. Currently, although courts have explicit statutory authority to send unpaid bail amounts to the FTB-TIP, the statute is silent regarding whether courts may send similar amounts to the FTB-COD. There is no apparent basis (either in legislative history or court practice) for allowing certain debts to be collected by FTB-TIP but not FTB-COD. Most courts currently refer failure-to-appear (FTA) cases to either FTB-TIP or FTB-COD, and the amount owed as bail is collected by either program.

Recently, however, some courts have been concerned that they might not have the statutory authority to send FTA cases to the FTB-COD. The Legislature clarified its intent to permit courts to send FTA cases to either FTB-TIP or FTB-COD, with the passage of AB 1389 (Committee on Budget) of 2008. Although that measure was passed by the Legislature and signed by the Governor, it was inadvertently chaptered out by the subsequent enactment of AB 2928 (Spitzer). Interestingly, because AB 1389 was urgency legislation that took effect immediately upon signing by the Governor and AB 2928 did not take effect until January 1, 2009, the Judicial Council-sponsored clarification was in effect from September 30 to December 31, 2008.

**Unclaimed Victim Restitution:** Existing law prescribing the disposition of unclaimed money deposited with the court needs clarification with regard to money paid for restitution to a victim. The court escheat statute was added by Assembly Bill 145 (Committee on Budget), Stats. 2005, ch. 75, § 100 (see Government Code section 68084.1). It provides that, with certain exceptions, courts may escheat to themselves unclaimed money that they have been holding for three years, if they comply with specified notice and claims procedures.

The court escheat law, like the local agency escheat law, excludes victim restitution money from its purview. This means that courts may not escheat to themselves restitution money that a defendant has deposited with a court to be distributed to the victim. Unlike the local agency escheat law, however, the court escheat law does not include language directing courts how unclaimed victim restitution money is to be handled, which results in the money being left in limbo. SB 556 would require any unclaimed victim restitution money that courts are holding that is eligible for escheatment be forwarded to the California Victim Compensation and Government Claims Board for deposit into the Restitution fund, which indemnifies individuals who are injured and suffer financial hardship as a result of a crime.

SB 556 does not increase the duties and/or workload of the Superior Courts. Likewise, the prescribed activities can be accomplished within the existing budgetary appropriation and will not create additional General Fund cost pressures.

For these reasons, the Judicial Council respectfully requests your "aye" vote on SB 556.

Sincerely,



Daniel Pone  
Senior Attorney

DP/ljb

cc: Members, Senate Appropriations Committee  
Ms. Jacqueline Wong-Hernandez, Consultant, Senate Appropriations Committee  
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy  
Ms. Kirsten Kolpitke, Director of Legislation, Governor's Office of Planning and Research  
Mr. Michael Prosio, Legislative Affairs Secretary, Office of the Governor





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*Director, Office of Governmental Affairs*

May 29, 2009

Hon. Mike Feuer, Chair  
Assembly Judiciary Committee  
State Capitol, Room 3146  
Sacramento, California 95814

Subject: SB 556 (Committee on Judiciary), as amended May 28, 2009 – Sponsor/Support  
Hearing: Assembly Judiciary Committee – June 9, 2009

Dear Assembly Member Feuer:

Senate Bill 556, which is sponsored by the Judicial Council, is a non-controversial measure that makes several changes in the law to improve court operations. The bill clarifies the law governing post-judgment fees in small claims court. SB 556 also clarifies that a court is authorized to submit unpaid bail amounts to the Franchise Tax Board's Court-Ordered Debt program. In addition, the bill clarifies the rules for the escheat of unclaimed victim restitution, requiring those unclaimed funds to be deposited into the state Restitution fund. Finally, SB 556 makes a conforming change regarding the ability of courts to recover costs for court-ordered investigations. Details regarding each of these provisions are set out below.

Post-Judgment Fees Clarification: The Small Claims Act states that small claims judgments may be enforced like other judgments as provided in title 9 (commencing with section 680.010) of the Code of Civil Procedure. However, the Act specifies post-judgment fees only with regard to the issuance of a writ of execution, application for an order of examination of a judgment debtor, and

issuance of an abstract of judgment. The fee charged in such matters is the same as that charged for the enforcement of any civil judgment.

The Act does not identify a fee for a variety of post-judgment motions, including a motion opposing a claim of exemption or a motion to “reset” or continue examination of a judgment debtor, which occur routinely in the enforcement of a small claims judgment. Since such motions are similar to motions for the enforcement of any other civil judgment, the fee for such a motion in a general civil case would also be the appropriate fee to be charged in small claims cases. As a result of the lack of clarity in the statute, practices differ from court to court. SB 556 would clarify that a court is authorized to charge the same fees for post-judgment motions related to the enforcement of a small claims judgment as a court charges for the enforcement of a regular civil judgment under title 9.

**Collection of Unpaid Bail Amounts:** There are two Franchise Tax Board (FTB) programs courts use to assist in the collection of court-ordered debt. The FTB’s Tax Intercept Program (FTB-TIP) collects debt by sweeping state tax refunds. The FTB’s Court-Ordered Debt Program (FTB-COD) collects debt by sweeping bank accounts and lottery winnings. Currently, although courts have explicit statutory authority to send unpaid bail amounts to the FTB-TIP, the statute is silent regarding whether courts may send similar amounts to the FTB-COD. There is no apparent basis (either in legislative history or court practice) for allowing certain debts to be collected by FTB-TIP but not FTB-COD. Most courts currently refer failure-to-appear (FTA) cases to either FTB-TIP or FTB-COD, and the amount owed as bail is collected by either program.

Recently, however, some courts have been concerned that they might not have the statutory authority to send FTA cases to the FTB-COD. The Legislature clarified its intent to permit courts to send FTA cases to either FTB-TIP or FTB-COD, with the passage of AB 1389 (Committee on Budget) of 2008. Although that measure was passed by the Legislature and signed by the Governor, it was inadvertently chaptered out by the subsequent enactment of AB 2928 (Spitzer). Interestingly, because AB 1389 was urgency legislation that took effect immediately upon signing by the Governor and AB 2928 did not take effect until January 1, 2009, the Judicial Council–sponsored clarification was in effect from September 30 to December 31, 2008.

**Unclaimed Victim Restitution:** Existing law prescribing the disposition of unclaimed money deposited with the court needs clarification with regard to money paid for restitution to a victim. The court escheat statute was added by Assembly Bill 145 (Committee on Budget), Stats. 2005, ch. 75, § 100 (see Government Code section 68084.1). It provides that, with certain exceptions, courts may escheat to themselves unclaimed money that they have been holding for three years, if they comply with specified notice and claims procedures.



The court escheat law, like the local agency escheat law, excludes victim restitution money from its purview. This means that courts may not escheat to themselves restitution money that a defendant has deposited with a court to be distributed to the victim. Unlike the local agency escheat law, however, the court escheat law does not include language directing courts how unclaimed victim restitution money is to be handled, which results in the money being left in limbo. SB 556 would require any unclaimed victim restitution money that courts are holding that is eligible for escheatment be forwarded to the California Victim Compensation and Government Claims Board for deposit into the Restitution fund, which indemnifies individuals who are injured and suffer financial hardship as a result of a crime.

Court investigations cleanup: Recently enacted legislation (AB 1340 [Jones], Stats. 2007, ch. 293) authorizes a court to appoint an investigator in connection with its review of a proposed transaction involving the community property assets of an allegedly incompetent spouse. However, this change inadvertently left out the corresponding authority for the court to recover the cost of such investigations, similar to that which is provided for conservatorship investigations. SB 556 contains this technical fix.

SB 556 does not increase the duties and/or workload of the Superior Courts. Likewise, the prescribed activities can be accomplished within the existing budgetary appropriation and will not create additional General Fund cost pressures.

For these reasons, the Judicial Council respectfully requests your "aye" vote on SB 556.

Sincerely,



Daniel Pone  
Senior Attorney

DP/ljb

cc: Members, Assembly Judiciary Committee  
Ms. Leora Gershenzon, Counsel, Assembly Judiciary Committee  
Mr. Mark Redmond, Consultant, Assembly Republican Office of Policy  
Ms. Kirsten Kolpitke, Director of Legislation, Governor's Office of Planning and Research  
Mr. Michael Pro시오, Legislative Affairs Secretary, Office of the Governor





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*Chief Deputy Director*

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

July 8, 2009

Hon. Kevin de León, Chair  
Assembly Appropriations Committee  
State Capitol, Room 2114  
Sacramento, California 95814

Subject: SB 556 (Committee on Judiciary), as amended July 7, 2009 – Fiscal Impact  
Statement

Hearing: Assembly Appropriations Committee – July 15, 2009

Dear Assembly Member de León:

SB 556, sponsored by the Judicial Council, makes a series of clarifications to existing law with respect to post-judgment fees in small claims court and courts' authority to submit unpaid bail amounts to the Franchise Tax Board's Court-Ordered Debt program. SB 556 also makes a conforming change regarding the courts' ability to recover costs for court-ordered investigations in certain probate matters.

**Post-Judgment Fees Clarification:** The Small Claims Act states that small claims judgments may be enforced like other judgments as provided in title 9 (commencing with section 680.010) of the Code of Civil Procedure. However, the Act specifies post-judgment fees only with regard to the issuance of a writ of execution, application for an order of examination of a judgment debtor, and issuance of an abstract of judgment. The fee charged in such matters is the same as that charged for the enforcement of any civil judgment.

The Act does not identify a fee for a variety of post-judgment motions, including a motion opposing a claim of exemption or a motion to "reset" or continue examination of a judgment debtor, which occur routinely in the enforcement of a small claims judgment. Since such motions are similar to motions for the enforcement of any other civil judgment, the fee for such a

motion in a general civil case would also be the appropriate fee to be charged in small claims cases. As a result of the lack of clarity in the statute, practices differ from court to court. SB 556 would clarify that a court is authorized to charge the same fees for post-judgment motions related to the enforcement of a small claims judgment as a court charges for the enforcement of a regular civil judgment under title 9.

Fiscal Impact: To the extent that some small claims courts may have been collecting post-judgment fees that were less than authorized amounts set by title 9, there may a nominal increase in the annual amount of fee revenues collected for post-judgment small claims motions.

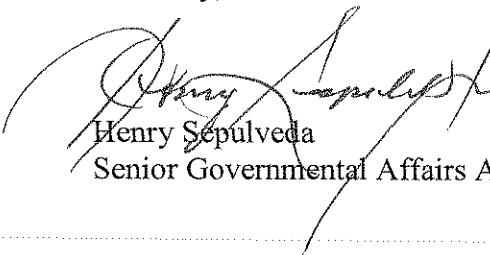
**Conforming Actions on Court Investigations:** Recently enacted legislation (AB 1340 [Jones], Stats. 2007, ch. 293) authorizes a court to appoint an investigator in connection with its review of a proposed transaction involving the community property assets of an allegedly incompetent spouse. However, this legislation inadvertently omitted the corresponding authority for the court to recover the cost of such investigations, similar to that which is provided for conservatorship investigations. SB 556 corrects the unintended omission.

Fiscal Impact: Though such cases are relatively rare, enactment of SB 556's provisions authorizing the court to recover the cost of investigations under these conditions would result in unknown, but likely minor, ongoing cost savings to the superior courts.

The other provisions in SB 556 with respect to courts' authority to refer unpaid bail amounts to the Franchise Tax Board have no fiscal impact on the courts.

Please contact me at 916-323-3121 or [henry.sepulveda@jud.ca.gov](mailto:henry.sepulveda@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,



Henry Sepulveda  
Senior Governmental Affairs Analyst

HS/yt

cc: Hon. Ellen Corbett, Chair, Senate Judiciary Committee  
Ms. Alexandra Montgomery, Counsel, Senate Judiciary Committee  
Mr. Chuck Nicol, Consultant, Assembly Appropriations Committee  
Mr. Allan Cooper, Consultant, Assembly Republican Office of Policy  
Ms. Teresa Calvert, Budget Analyst, Department of Finance





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*Director, Office of Governmental Affairs*

September 9, 2009

Hon. Arnold Schwarzenegger  
Governor of California  
State Capitol, First Floor  
Sacramento, California 95814

Subject: Senate Bill 556 (Committee on Judiciary) – Request for Signature

Dear Governor Schwarzenegger:

Senate Bill 556, which is sponsored by the Judicial Council, is a non-controversial measure that makes a few changes in the law to improve court operations. The bill clarifies the law governing post-judgment fees in small claims court, clarifies that a court is authorized to submit unpaid bail amounts to the Franchise Tax Board's Court-Ordered Debt program, and makes a conforming change regarding the ability of courts to recover costs for court-ordered investigations. Details regarding each of these provisions are set out below.

**Post-Judgment Fees Clarification:** The Small Claims Act states that small claims judgments may be enforced like other judgments as provided in title 9 (commencing with section 680.010) of the Code of Civil Procedure. However, the Act specifies post-judgment fees only with regard to the issuance of a writ of execution, application for an order of examination of a judgment debtor, and

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**Collection of Unpaid Bail Amounts:** There are two Franchise Tax Board (FTB) programs courts use to assist in the collection of court-ordered debt. The FTB’s Tax Intercept Program (FTB-TIP) collects past due court-ordered debt by intercepting state tax refunds. The FTB’s Court-Ordered Debt Program (FTB-COD) collects debt by levying bank accounts and lottery winnings. Currently, although courts have explicit statutory authority to send unpaid bail amounts to the FTB-TIP, the statute is silent regarding whether courts may send similar amounts to the FTB-COD. There is no apparent basis (either in legislative history or court practice) for allowing certain debts to be collected by FTB-TIP but not FTB-COD. Most courts currently refer failure-to-appear (FTA) cases to either FTB-TIP or FTB-COD, and the amount owed as bail is collected by either program.

Some courts have been concerned about the lack of clear statutory authority to send FTA cases to the FTB-COD. The Legislature clarified its intent to permit courts to send such cases to either FTB-TIP or FTB-COD, with the passage of AB 1389 (Committee on Budget) of 2008. Although that measure was passed by the Legislature and enacted into law, it was inadvertently chaptered out by the subsequent enactment of AB 2928 (Spitzer). This bill re-enacts that provision.

**Court investigations cleanup:** Recently enacted legislation (AB 1340 [Jones], Stats. 2007, ch. 293) authorized a court to appoint an investigator in connection with its review of a proposed transaction involving the community property assets of an allegedly incompetent spouse. However, this change inadvertently left out the corresponding authority for the court to recover the cost of such investigations, similar to that which is provided for conservatorship investigations. SB 556 contains this technical fix.

SB 556 does not increase the duties and/or workload of the Superior Courts. Likewise, the prescribed activities can be accomplished within the existing budgetary appropriation and will not create additional General Fund cost pressures.



Hon. Arnold Schwarzenegger  
September 9, 2009  
Page 3

For these reasons, the Judicial Council requests your signature on SB 556.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Pone", written in a cursive style.

Daniel Pone  
Senior Attorney

DP/ljb

cc: Members, Assembly Judiciary Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research