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## **Legislative Analyst's Office Suggests Giving Courts Incentive to Push for Collection of Unpaid Fines, Fees**

*Says Latest Statistics Show Debts Amount to About \$10.2 Billion*

By a MetNews Staff Writer

The state Legislative Analyst's Office has called for a restructuring of procedures for collecting unpaid fines, fees, and other "court ordered debts," noting that about \$10.2 billion is owed statewide.

An alarm over the amount of uncollected revenues was sounded two years ago by former Los Angeles County Counsel Lloyd Pellman. The LAO's recommended approach mirrors his, to the extent that it is based on creating the incentive to pursue collections by giving the courts a larger share of the revenues.

Despite the take-over of trial courts by the state in 1997 as an adjunct of state funding, counties were left with the task of collecting "court ordered debts"—which, an LAO report says, includes all "fines, fees, forfeitures, penalty surcharges, assessments, and restitution assessed in the disposition of traffic and criminal cases."

For courts and county agencies, there has been "a lack of clear fiscal incentives for programs to collect debt in a cost-effective

manner or to maximize the total amount of debt they collect,” according to the report.

State law provides that if a trial court collects more than a specified amount of “fee, fine and forfeiture revenue,” half of the excess is to be placed in the statewide Trial Court Improvement Fund, with the other half going to the county general fund. Under Government Code §77205, the Judicial Council may distribute 80 percent of the moneys “each fiscal year that exceeds the amount deposited in the 2002-03 fiscal year” among “[t]he trial court in the county from which the revenue was deposited,” or “[o]ther trial courts,” or may retain them in the fund.

### **Pellman’s Suggestion**

Pellman’s proposal, expressed in a letter to Chief Justice Tani Cantil-Sakauye, and brought to the attention of the Judicial Council, was to institute a five-year pilot program under which the full 80 percent would be returned to the court that made the collection. Pellman, a partner in Nossaman LLP, explained that this would “provide at least a partial solution on at least a temporary basis” to the trial courts, which have pared services in light of slashed budgets.

The LAO’s recommendation is for a three-year pilot program. Courts—not county agencies—would undertake all collections, and procedures would be instituted to “reward courts for collecting cost-effectively or increasing the total amount collected.”

Under an “incentive model,” the report says, “once a court collects the same amount of total debt (both delinquent and nondelinquent) it collected in the fixed base year, the court would then be able to retain a set percentage of the amount of *new* revenue it collects above the amount collected in the fixed base year.”

### **25 Percent Commission**

It recommends that the courts participating in the program be allowed to retain 25 cents out of every dollar they collect over and above the amounts they garnered in 2011-2012.

The report notes that because the money remitted to the court is tied to the total amount collected, “programs would no longer have an incentive to neglect nondelinquent collections.”

It observes that at present, “[b]ecause collection programs are not reimbursed for the costs of collecting nondelinquent debt, they have little fiscal incentive to use a large share of their resources to improve the collection of such debt, such as by purchasing kiosks or constructing payment windows to bypass security to make it easier for debtors to pay.”

The report was prepared by Anita Lee, a senior fiscal and policy analyst, and reviewed by Drew Soderborg, the managing principal analyst for the LAO’s Corrections, Transportation, and Environment Department.