

First Supplement to Memorandum 2002-14

Statutes Made Obsolete by Trial Court Restructuring (Comments on Tentative Recommendation): General Issues

This memorandum presents further discussion of general issues raised in Memorandum 2002-14.

COURT FEES v. COUNTY TREASURY

Memorandum 2002-14 notes the general approach of the Commission to avoid addressing fees that are still paid to the county, even though it may appear they would be more appropriately paid to the court.

One exception to the general approach of the tentative recommendation is found in Food and Agriculture Code Section 31622(a). That statute provides for judicial review of a preliminary or administrative determination that a dog is potentially dangerous or vicious:

... If the petitioner or the owner or keeper of the dog contests the determination, he or she may, within five days of the receipt of the notice of determination, appeal the decision of the court or hearing entity of original jurisdiction to a court authorized to hear the appeal. The fee for filing an appeal shall be twenty dollars (\$20), payable to the county clerk of the court. If the original hearing held pursuant to Section 31621 was before a hearing entity other than a court of the jurisdiction, appeal shall be to the municipal court or superior court in a county in which there is no municipal court. If the original hearing was held in the municipal court, appeal shall be to the superior court. If the original hearing was held in the superior court, appeal shall be to the superior court before a judge other than the judge who originally heard the petition. ...

The argument here is one of administrative simplicity. The appeal is to the court, but the court has no way of knowing whether the filing fee has been paid if it goes to the county clerk. There could be a certification or receipt scheme established, but these types of proceedings are infrequent and the fee is small. It's simpler just to pay the filing fee to the court clerk. This was suggested to the

Commission by one of the superior courts. The Commission solicited comment on the approach.

The Contra Costa County Superior Court comments that the fee in this case should be handled like other court filing fees. The fees are deposited to the county treasury, and the county is obligated to deposit the fees with the state. Memorandum 2002-14, Exhibit pp. 20-21.

That comment, if correct, would tend to support the change proposed. Shifting the office to which the fee is paid would not disrupt the ultimate financial relationship between the court, county, and state. **The staff would proceed with the tentative recommendation** as proposed.

COMPENSATION OF OFFICIAL REPORTER

Los Angeles Reporters' Salary Fund

We have received further comments from representatives of the Los Angeles County Superior Court relating to the proposed revisions to the Reporter's Salary Fund discussed in Memorandum 2002-14.

The court points out that under existing law, the Reporter's Salary Fund statutes apply to the former Municipal Court of the Los Angeles Judicial District (one of 24 separate judicial districts in Los Angeles County). However, as proposed for revision in Memorandum 2002-14, the statutes would encompass cases throughout the entire county — the superior court's territorial jurisdiction. No comments on this point have been received from Los Angeles County.

Based on the court's comments, **the staff recommends that a new section be added to make clear the limitation on scope** of the Reporter's Salary Fund statutes:

§ 72708. Application of chapter

72708. This chapter applies to proceedings in the Los Angeles County Superior Court that would have been within the jurisdiction of the former Municipal Court of the Los Angeles Judicial District as of January 21, 2000.

Comment. Section 72708 is added to make clear that Chapter 9 applies only to superior court proceedings that would have been within the jurisdiction of the former Municipal Court of the Los Angeles Judicial District prior to unification.

The court representatives also note that the proposed revision of Section 72712 fails to accurately describe the revenue that is the basis of the fund. As proposed in Memorandum 2002-14, the section would be revised to narrow the definition of “revenue” of the court:

Gov’t Code § 72712 (amended). Reporters’ salary fund

SEC. ____ . Section 72712 of the Government Code is amended to read:

72712. There shall be set aside from the revenue of the court a revolving fund in the amount of seven hundred fifty thousand dollars (\$750,000). The fund shall be known as the Reporters’ Salary Fund.

At the time of each monthly distribution of the revenue of the court to the cities within the ~~judicial district~~ former Los Angeles Judicial District and to the county within which the ~~court is district~~ was established, the clerk of the court shall deduct proportionately from their respective total shares such sum as will, when added to the sum then remaining in the fund, equal seven hundred fifty thousand dollars (\$750,000) and deposit it in the fund. Such sum shall include the cost incurred pursuant to Section 72194.5 from electronic recording devices, appurtenant equipment, supplies, recordings and transcriptions produced from electronic recording of testimony and proceedings in the court.

Deductions from the county’s share of the revenue shall be made from that portion of it distributable to the ~~salary~~ general fund of the county, and deductions from each city’s share shall be made from that portion of it distributable to the general fund of each city.

For the purposes of this section the “revenue” of the court includes all fines, forfeitures, and fees accruing to the cities or the county in misdemeanor cases, except law library fees.

Comment. Section 72712 is amended to reflect unification of the municipal and superior courts in Los Angeles County pursuant to Article VI, Section 5(e), of the California Constitution, effective January 22, 2000. See Code Civ. Proc. § 38 (judicial district).

The section is also amended to replace a reference to the “salary fund of the county” with a reference to the “general fund of the county” to reflect enactment of the Trial Court Funding Act. See Sections 77003 (“court operations” defined), 77200 (state funding of trial court operations).

The court points out that this provision should apply to infraction cases as well. (The court indicates that the section traditionally has not been applied in civil cases.)

In light of these comments, **the staff would leave the definition of revenue in Section 72712 unchanged**, without any references to misdemeanors, infractions, or limited civil cases:

For the purposes of this section the “revenue” of the court includes all fines, forfeitures, and fees accruing to the cities or the county, except law library fees.

This will continue existing law exactly. Court representatives contend that it has never been the practice or policy of the court to use civil fees as a source of funding for the reporters’ fund, so limiting the definition of revenue to misdemeanors and infractions would reflect court practices. But by keeping existing law exactly, the parties can continue whatever practices have developed, without change.

Respectfully submitted,

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