

Overview of Criminal Fine and Fee System

LEGISLATIVE ANALYST'S OFFICE

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Hon. Shirley N. Weber, Chair





How Are Criminal Fines and Fees Assessed?

- ***Criminal Fines and Fees Assessed for Criminal Offenses.*** During court proceedings, trial courts typically levy fines and fees upon individuals convicted of criminal offenses (including traffic violations).
- ***Total Amount Owed Consists of Various Fines and Fees.*** The total amount owed by an individual begins with a base fine that is set in state law for each criminal offense. State law then requires the courts to add certain charges to the base fine. On a limited basis, state law authorizes counties and courts to levy additional charges depending on the specific violations and other factors. Statute also gives judges some discretion to reduce the total amount owed by waiving or reducing certain charges.



How Are Criminal Fines and Fees Assessed?

(Continued)

Various Fines and Fees Substantially Add to Base Fines			
<i>As of January 1, 2017</i>			
	How Charge is Calculated	Stop Sign Violation (Infraction)	DUI of Alcohol/Drugs (Misdemeanor)
Standard Fines and Fees			
Base Fine	Depends on violation	\$35	\$390
State Penalty Assessment	\$10 for every \$10 of a base fine ^a	40	390
County Penalty Assessment	\$7 for every \$10 of a base fine ^a	28	273
Court Construction Penalty Assessment	\$5 for every \$10 of a base fine ^a	20	195
Proposition 69 DNA Penalty Assessment	\$1 for every \$10 of a base fine ^a	4	39
DNA Identification Fund Penalty Assessment	\$4 for every \$10 of a base fine ^a	16	156
EMS Penalty Assessment	\$2 for every \$10 of a base fine ^a	8	78
EMAT Penalty Assessment	\$4 per conviction	4	4
State Surcharge	20% of base fine	7	78
Court Operations Assessment	\$40 per conviction	40	40
Conviction Assessment Fee	\$35 per infraction conviction and \$30 per felony or misdemeanor conviction	35	30
Night Court Fee	\$1 per fine and fee imposed	1	1
Restitution Fine	\$150 minimum per misdemeanor conviction and \$300 minimum per felony conviction	—	150
Subtotals		(\$238)	(\$1,824)
Examples of Additional Fines and Fees That Could Apply			
DUI Lab Test Penalty Assessment	Actual costs up to \$50 for specific violations	—	\$50
Alcohol Education Penalty Assessment	Up to \$50	—	50
County Alcohol and Drug Program Penalty Assessment	Up to \$100	—	100
Subtotals		(—)	(\$200)
Totals		\$238	\$2,024

^a The base fine is rounded up to the nearest \$10 to calculate these additional charges. For example, the \$35 base fine for a failure to stop would be rounded up to \$40.
DUI = Driving Under Influence; EMS = Emergency Medical Services; and EMAT = Emergency Medical Air Transportation.



How Have Fine and Fee Levels Changed Over Time?

Total Fine and Fee Level for Stop Sign Violation Has Increased Significantly Since 2005^a

	Stop Sign Violation (Infraction)		
	2005	2017	Change
Base Fine	\$35	\$35	
State Penalty Assessment	40	40	—
County Penalty Assessment	28	28	—
Court Construction Penalty Assessment	20	20	—
Proposition 69 DNA Penalty Assessment	4	4	—
DNA Identification Fund Penalty Assessment	—	16	\$16
EMS Penalty Assessment	—	8	8
EMAT Penalty Assessment	—	4	4
State Surcharge	7	7	—
Court Operations Fee	20	40	20
Conviction Assessment Fee	—	35	35
Night Court Fee	1	1	—
Totals	\$155	\$238	\$83

^a Depending on the specific violation and other factors, additional county or state assessments may apply.
EMS = Emergency Medical Services and EMAT = Emergency Medical Air Transportation

- **Total Fine and Fee Levels Increased Significantly in Recent Years.** Over the past decade, the number and size of charges added to the base fine have increased significantly—resulting in increases in the total amount owed by individuals convicted of criminal offenses. As shown in the above figure, the total penalty for a stop sign violation has increased by 54 percent since 2005.
- **Fine and Fee Levels Set to Serve Multiple Purposes.** The state has enacted various fines and fees for various purposes. Some (such as the base fine) are generally tied to the seriousness of the crime. Others (such as the DNA assessments) were enacted to generate revenue to fund specific activities. Finally, some fines and fees were enacted to help offset state or local costs for providing particular services to individuals paying the specific charge.

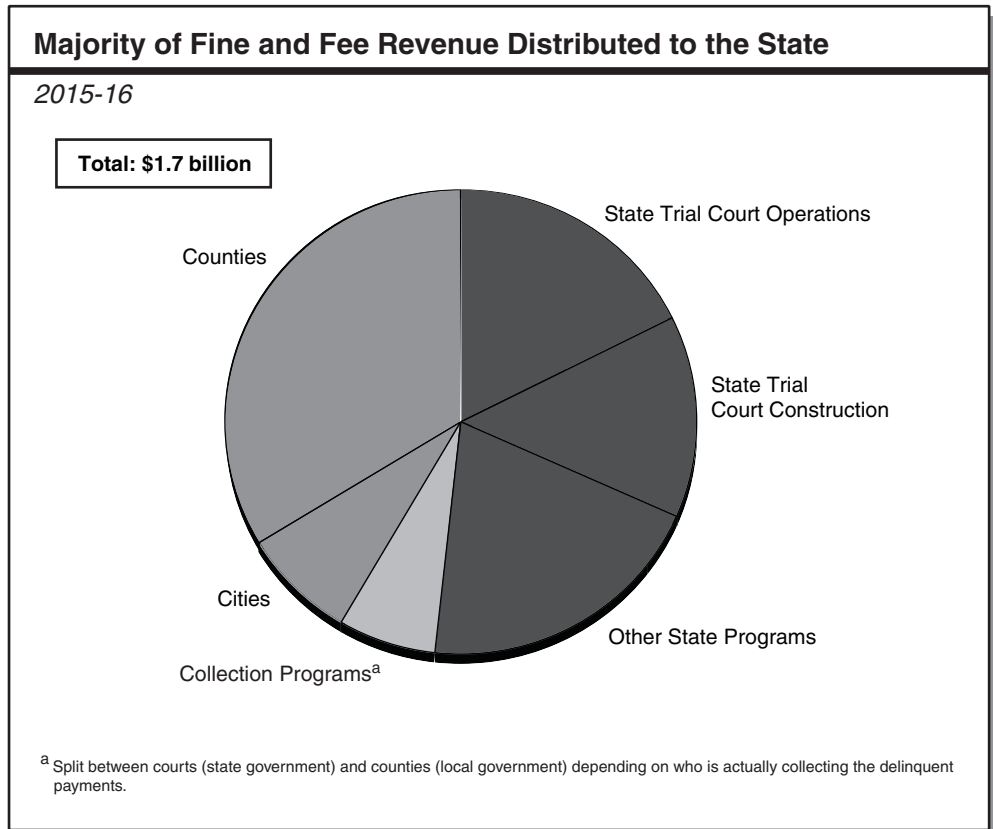


How Is Fine and Fee Revenue Distributed?

- Numerous Funds Eligible to Receive Fine and Fee Revenue.***
Over 50 state funds—in addition to many local funds throughout the state—are eligible to receive fine and fee revenue. However, some of these funds receive very little revenue, such as those that only receive revenue from fines and fees for specific offenses that occur infrequently.

- Complex Process for Distributing Fine and Fee Revenue.***
State law (and county resolutions for certain local charges) dictate a very complex process for the distribution of fine and fee revenue. State law currently contains at least 215 distinct code sections specifying how individual fines and fees are to be distributed to state and local funds, including additional requirements for when payments are not made in full. In order to comply with these requirements, collection programs must carefully track, distribute, and record the revenue they collect.

Who Benefits From Fine and Fee Revenue?



- **State Receives Majority of Revenue.** According to available data compiled by the State Controller's Office (SCO) and the judicial branch, we estimate that a total of \$1.7 billion in fine and fee revenue was distributed to state and local governments in 2015-16. As shown in the figure, the state received \$881 million (or roughly half) of this revenue. Of this amount, roughly 60 percent went to support trial court operations and construction.
- **Local Governments Receive Most of Remaining Revenue.** We estimate that local governments received \$707 million (or 42 percent) of the total amount distributed in 2015-16. Of this amount, about 80 percent went to the counties.



Who Benefits From Fine and Fee Revenue? *(Continued)*

- ***Collection Programs Receive Share of Revenue.***
Collection programs received \$114 million (or 7 percent) of the total amount distributed in 2015-16 for their operational costs related to the collection of delinquent payments. These funds are split between state trial courts and counties depending on which entity incurred the costs.



Key Problems With California's Fine and Fee System

- Difficult for Legislature to Control Use of Fine and Fee Revenue.*** The statutory formulas that dictate how monies are distributed to funds ensure certain programs receive funding annually, which often makes it difficult for the Legislature to control use of fine and fee revenue. This is because the statutory formulas result in the following effects: (1) limited information to guide legislative decisions, (2) difficulty for the Legislature to reprioritize the use of revenue, and (3) administering entities maintaining significant control over the use of funds.
- Revenue Distributions Generally Not Based on Need.*** By locking in formulas in statute, the existing system preserves levels of funding deemed appropriate when the formulas were established. This can result in programs receiving more or less funding than needed to provide legislatively desired service levels.
- Difficult to Distribute Revenue Accurately.*** The numerous statutory distribution requirements can make it difficult for courts and counties to track and distribute revenue accurately and audits have frequently found distribution errors.
- Lack of Complete and Accurate Data on Collections and Distributions.*** Although the SCO and judicial branch both collect information on the collection and distribution of fines and fees, each omit pieces of data (generally because the data is not required to be collected). It also appears that there are inconsistencies between similar pieces of data they report as well as in how collection programs report data. Without complete, consistent, and accurate data, it is difficult for the Legislature to conduct fiscal oversight to ensure that funds are being allocated and used in accordance with its priorities and state law.



Recommend Reevaluating Structure of Criminal Fine and Fee System

- What Should Be the Goals of the Criminal Fine and Fee System?*** A fine and fee system can service various purposes, such as deterring behavior or mitigating the negative effects of crime. Ultimately, the Legislature should set fines and fees to reflect these goals.
- Should Ability to Pay Be Incorporated?*** To the extent the Legislature is interested in incorporating ability to pay into the criminal fine and fee system, there are various ways to do so. One way is to calculate fines and fees based on an individual's ability to pay. Another option is to levy the same level of fines and fees on all offenders who commit the same violation, but implement alternative methods for addressing the debt (such as through community service).
- What Should Be the Consequences for Failing to Pay?*** The Legislature will want to consider what consequences individuals should face when they fail to pay their fines and fees and whether to authorize additional sanctions and/or modify existing sanctions (such as holds on drivers' licenses). The Legislature could also take action to help prevent individuals from becoming delinquent—such as by authorizing programs to offer a discount if offenders pay their debt in full.
- Should Fines and Fees Be Adjusted?*** Once the Legislature sets the appropriate fine level for criminal offenses, the Legislature will want to decide whether and how such fines are adjusted in the future. For example, the levels could be regularly reevaluated or automatically adjusted (such as by using a statewide economic indicator).



Recommend Increasing Legislative Control of Criminal Fine and Fee Expenditures

- Deposit Most Criminal Fine and Fee Revenue in the General Fund.*** We recommend requiring that nearly all fine and fee revenue be deposited into the state General Fund for subsequent appropriation by the Legislature. This would increase legislative oversight and ensure that funding is provided based on program workload and legislative priorities. Additionally, programs supported by such revenue would no longer be disproportionately impacted by fluctuations in fine and fee revenue.
- Consolidate Most Fines and Fees.*** We recommend consolidating most fines and fees into a single, statewide charge and eliminate the ability of trial courts and local governments to add charges. Such a consolidation would eliminate the need for the existing complex distribution model and make it easier for collection programs to track such revenue.
- Evaluate Existing Programs Supported by Criminal Fine and Fee Revenues.*** If the Legislature deposits most revenue into the General Fund as we recommend, it would need to determine the appropriate level of funding (if any) for the various programs currently supported by fine and fee revenue. Accordingly, the Legislature would want to review each program to determine whether the program is a statewide priority as well as to define its expectations on program service levels and the level of funding needed to meet those expectations.
- Mitigate Impacts on Local Governments.*** We recommend mitigating the fiscal impact any restructuring of fines and fees would have on local governments.