

SUPERIOR COURTS

The Courts Are Moving Toward a More Unified Administration; However, Diverse Service, Collection, and Accounting Systems Impede the Accurate Estimation and Equitable Distribution of Undesignated Fee Revenue

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Administrative Office of the Court's response as of March 2003

Audit Highlights . . .

Our review of certain court-related fees and the fiscal and administrative oversight of superior court operations found that:

- The Lockyer-Isenberg Trial Court Funding Act of 1997 addressed the disposition of some fees, but did not specify who would receive others, referred to as undesignated fees.*
- Due to the decentralized nature of the superior courts' accounting and collection processes, it is prohibitively complex to determine the precise amount of revenue generated by undesignated fees.*
- We estimated that the largest division in each of the three largest superior courts together generated \$17.4 million in undesignated fee revenue during fiscal year 2000-01, most of which was distributed to the counties in accordance with locally negotiated agreements.*

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The Joint Legislative Audit Committee requested that the Bureau of State Audits review a sample of superior courts to determine how much revenue is generated by fees not designated by the Lockyer-Isenberg Trial Court Funding Act of 1997 (funding act), which entities collect these revenues, and how the courts distribute them.

Finding #1: The working group inappropriately categorized certain fees as undesignated.

Although the funding act addressed the disposition of many court-related fees, it did not specify who should receive others, referred to as undesignated fees. To address this issue, a working group, comprised of representatives from selected courts and counties, was formed to recommend to the Legislature how to distribute these fees. The working group identified many fees and placed them in one of four categories. The first three categories recommended a particular distribution; however, the fourth category represented all those fees for which a recommendation could not be made. Our review of these fees found that some were in fact designated.

To ensure that all undesignated fees are properly identified and distributed, we recommended that the Administrative Office of the Courts (AOC) review and correct the working group's list of these fees.

☑ *Several issues must be resolved before the State can implement a consistent and equitable distribution of undesignated fee revenue.*

☑ *The Administrative Office of the Courts has initiated a wide-reaching management system for superior court resources; however, such actions will not ease efforts to determine how much revenue undesignated fees generate.*

AOC Action: Corrective action taken.

According to the AOC, the working group's listing of undesignated fees has been reviewed and corrected.

Finding #2: The California Constitution mandates that the entity incurring the cost in providing a service must retain the fees.

The California Constitution imposes the restriction that any revenue generated by certain undesignated fees must be distributed to the entity that incurs the cost of providing the service. This restriction does not apply to all governmental charges, including fines or penalties; however, it does apply to fees. Before a statewide designation could be assigned for any given fee, all 58 counties would have to fund the delivery of services in the same way. Therefore, when the State considers imposing a statewide designation for a particular fee it must first consider whether it is a court or county that provides the service, which we found varies from one jurisdiction to another. Currently, the superior courts and counties have made stipulations in their local agreements for the distribution of undesignated fee revenue.

Once the working group's listing of undesignated fees has been reviewed and corrected, we recommended that the AOC:

- Direct each superior court to identify the entity in its jurisdiction that incurs the cost of providing the service related to each undesignated fee on the list.
- Direct the superior courts to ensure that, in their agreements with their respective counties, the courts distribute each of these fees to the entity incurring the cost.
- Seek legislation designating the distribution of charges other than fees, such as penalties and fines.

AOC Action: Partial corrective action taken.

According to the AOC, it has surveyed each superior court regarding who incurs the cost, provides the service, and retains each undesignated fee. The AOC also stated that it has proposed language concerning the appropriate distribution of undesignated fees to be included in the local agreement between each superior court and its respective

county when the agreement is renewed. The AOC also stated that it has proposed legislation to clarify the disposition of undesignated fees, fines, and penalties where currently no statutory reference provides for their distribution and use.

