

Local Detention Facility Subventions, Booking Fees and Jail Access Fees

Background: Booking Fees

In the Budget Act of 1990,¹ counties were authorized to charge a “criminal justice administration fee” or “booking fee” to any local agency, college or university presenting an arrestee to the county for booking into a county jail or other local detention facility. When the arresting agency presents the arrestee to the county for booking, the arresting agency pays the booking fee to the county. The booking fee must not exceed the county costs incurred in processing or booking persons. If there is a finding of guilt, the booking fee is added to the fine that the convicted person pays and remitted to the arresting agency that paid the fee.

The purpose of booking fees is to enable counties to recover costs associated with booking persons into county detention facilities from the arresting agencies. More specifically, this “booking fee” authority was an attempt to mitigate the effects of reductions to state support for county programs. Prior to the authorization to charge booking fees, counties essentially paid for these services with general purpose revenues.

Government Code Section 29550 (e) specifies the actual costs of receiving an arrestee into a detention facility may include:

- (1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.
- (2) Document preparation, retrieval, updating, filing, and court scheduling related to receiving an arrestee into the detention facility.
- (3) Warrant service, processing, and detainer.
- (4) Inventory of an arrestee's money and creation of cash accounts.
- (5) Inventory and storage of an arrestee's property.
- (6) Inventory, laundry, and storage of an arrestee's clothing.
- (7) The classification of an arrestee.
- (8) The direct costs of related automated services.
- (9) Unit management and supervision of the detention function related to the above.

Operating expenses of the county jail facility including capital costs and those costs involved in the housing, feeding, and care of inmates may not be included in calculating "actual administrative costs."

The California State Association of Counties argued that in the absence of the authority to charge booking fees, counties would be forced to provide free services to cities and special districts. They argued that the reliance on user fees is necessary and justified as a consequence of the tax limitations imposed by Proposition 13. Moreover, they contended that booking fees 1) resulted in

¹ SB2557 (Maddy), Government Code Section 29550-29550.4.

the avoidance or reduction of unnecessary arrests; 2) mitigated the pressure on local facilities under federal caps and created the availability of space in local detention facilities for serious offenders; and 3) fostered the development of local alternatives to deal with nonviolent, less serious offenders.

Cities argued that jail booking services have been historically been provided by counties and paid from countywide tax revenues, and that the imposition of booking fees was merely a way for the state to shift its fiscal burdens to cities via counties.

In 1999, the Legislature appropriated funds to backfill cities and qualified special districts for their costs associated with paying booking fees to counties.² The booking fee reimbursement provided \$34.4 million in FY1999-2000 and \$38.2 million annually from FY2000-01 through FY2004-05.³

As a part of the Budget Act of 2004,⁴ the State:

- ceased funding the booking fee reimbursement after FY2004-05, and
- limited county booking fee charges to one-half of actual costs (as defined in Government Code Section 29550(e)) for FY2005-06 and each fiscal year thereafter.

Local Detention Facility Funding and Jail Access Fees

Representing a compromise between sheriffs, police chiefs, cities and counties, the 2006 State Budget agreement reflected a new accord on the booking fee issue. For FY2006-07, the state budget appropriated \$35 million to reimburse cities for actual booking fees paid during FY2005-06, consistent with current law at the time. However per the agreement, beginning July 1, 2007, the booking fee procedure was altered as follows:

1. In lieu of charging booking fees under Government Code Section 29550 et seq., counties receive \$35 million or more directly into local detention facility revenue accounts, subject to an annual appropriation by the state.
2. Funds in the local detention facility revenue accounts must be used “exclusively for the purpose of operation, renovation, remodeling, or constructing local detention facilities and related equipment.”
3. Counties have the authority to charge a “jail access fee” for each booking in excess of each agency’s three year average (recalculated annually) of bookings for the following low-level offenses:
 - a. municipal code violations, and
 - b. misdemeanor violations except driving under the influence, domestic violence offenses, and enforcement of protective orders.
4. Cities that operate Type One facilities are eligible to receive funds from their county’s local detention facility revenue account.

² SB1662 (Leonard) Chapter 79, Statutes of 1999.

³ A full record of booking fee reimbursements paid to cities and special districts during these years is available at <http://www.sco.ca.gov/ard/payments/booking/bookingfee.pdf>

⁴ See Section 54.5 - 55 of SB1102 (Chapter 227, Statutes of 2004)

5. If the State Legislature appropriates less than \$35 million in any given year, counties would have the option of charging booking fees under Gov Code Section 29550 in proportion to the level of under-appropriation.⁵ In this case, the booking fee rate would be the rate in effect on June 30, 2006, adjusted annually by the annual California Consumer Price Index plus 1% compounded annually and reduced in proportion to the extent the Legislature appropriates part of the \$35 million.⁶

The February 2009 Budget Act

In February 2009, the Legislature adopted and the Governor signed a budget act amending the FY2008-09 and adopting a FY2009-10 budget. Among other things, the February 2009 Budget Act adopted a new 0.15% Vehicle License Fee (actually a tax) to fund various state law enforcement grant programs including the Local Detention Facilities program. At the time the new 0.15% VLF rate was expected to produce about \$500 million, close to the funding of these programs in the FY2008-09 adopted budget. Pursuant to Government Code Section 29553, local detention facility funds are to be allocated 6.26% of these revenues, around \$31.5 million.

In January 2010, revised revenue estimates released by the Department of Finance estimated revenue collections from the 0.15% VLF rate would be about 17% less than previously estimated. The local Detention Facility (Booking Fees) program is now estimated to receive \$26 million in 2009-10. DOF forecasts a modest 6% increase in FY2010-11 taking this program to \$27.6 million.

The Three Scenarios for Booking Fees

Under current law, there are essentially three possible scenarios for booking fees, depending on the outcome of the annual state budget.

1. **If the state budget appropriates \$35 million or more** for local detention facilities under Government Code Section 29552:
 - a. Counties that charged booking fees during FY2006-07 may apply to receive funding in proportion to the share of fees received in FY2006-07 and total bookings in the prior year. [GovCode Sec. 29552]
 - b. Cities that operate Type One facilities within a county are eligible to receive funds from the county's local detention facility revenue account and those that charged booking fees during FY2006-07 are entitled to receive funds in proportion to the number of persons booked for which the city charged fees to the arresting agency. [GovCode Sec. 29551(c)]
 - c. Each agency must deposit these funds in a local detention facility revenue account. The funds in this account must be used for the operation, renovation, remodeling, or construction of local detention facilities and related equipment. [GovCode Sec. 29551(a)]
 - d. No booking fees under section 29550 and 29550.3 may be charged [GovCode Sec. 29551(d)].

⁵ Government Code Sec 29551(d)

⁶ Government Code Sec 29551(e)

- e. A “Jail Access Fee” may be imposed for bookings of low-level offenses in excess of an agency’s three year average of such bookings. The jail access fee may be charged at a rate not to exceed the actual cost of booking an arrested person into the local detention facility and must be deposited into the county’s Local Detention Facility Account [GovCode Sec. 29551(b)].
- f. In adopting and imposing these Jail Access Fees, counties must follow the procedural requirements contained in Gov Code Sec 29550(a)(2).

Current law provides that \$35 million per year is continuously appropriated from the Local Law Enforcement Services Account in the Local Revenue Fund 2011. As a part of the 2011 realignment of various public safety programs from the state to local government, the Legislature approved the Local Law Enforcement Services Act (AB118) and shifted all remaining motor vehicle license fee (MVLFF) revenue that was previously cities to pay for various local law enforcement grant programs including the COPS/SLESA programs (SB89). The MVLFF is a constitutionally guaranteed revenue to cities and counties and had been a critical general purpose revenue and the shift is under legal challenge by the League of California Cities. These law enforcement grants had previously been funded from the state general fund.

- 2. **If the state budget makes no appropriation** for local detention facilities under Government Code Section 29552, booking fees may be charged pursuant to GovCode Sec. 29550 and 29550.3 as follows:
 - a. These fees are limited to one-half the actual administrative costs, including applicable overhead costs. [GovCode Sec. 29550(a)(1) and Sec. 29551(e)]
 - b. Any increase in a fee charged by a county must be
 - i. adopted prior to the beginning of its fiscal year and
 - ii. only after the county has provided each city, special district, school district, community college district, college, or university 45 days written notice of a public meeting on the fee increase and the county has conducted the public meeting. [GovCode Sec. 29550(a)(2)]
 - c. Booking fee revenues received by counties and cities under these sections are not restricted in use but may be placed in the county or city general fund.
- 3. **If the state budget appropriates funding that is less than \$35 million** for local detention facilities under Government Code Section 29552:
 - a. Counties that charged booking fees during FY2006-07 may apply to receive funding in proportion to the share of fees received in FY2006-07 and total bookings in the prior year. [GovCode Sec. 29552]
 - b. Cities that operate Type One facilities within a county are be eligible to receive funds from the county's local detention facility revenue account and those that charged booking fees during FY2006-07 are entitled to receive funds in proportion to the number of persons booked for which the city charged fees to the arresting agency. [GovCode Sec. 29551(c)]

- c. Each agency must deposit these funds in a local detention facility revenue account to be used only for the operation, renovation, remodeling, or construction of local detention facilities and related equipment. [GovCode Sec. 29551(a)]
- d. Booking fees may be charged as follows:
 - i. A county may charge a booking fee rate limited to the rate in effect on June 30, 2006,⁷ adjusted annually by the annual California Consumer Price Index plus 1% compounded annually and reduced in proportion to the extent the Legislature appropriates part of the \$35 million. [GovCode Sec. 29551(d)]

For example, if the budget contains \$8.75 million for local detention facilities (25% of \$35 million), then booking fees may be charged up to 75% of the rate in effect on June 30, 2006 adjusted annually for the California CPI plus 1%.
 - ii. Any increase in a fee charged by a county must be
 - 1. adopted prior to the beginning of its fiscal year and
 - 2. only after the county has provided each city, special district, school district, community college district, college, or university 45 days written notice of a public meeting on the fee increase and the county has conducted the public meeting. [GovCode Sec. 29550(a)(2)]
 - iii. Booking fee revenues received by counties and cities under these sections are not restricted in use but may be placed in the county or city general fund.
- e. A “Jail Access Fee” may be imposed for bookings of low-level offenses in excess of an agency’s three year average of such bookings. The jail access fee may be charged at a rate not to exceed the actual cost of booking an arrested person into the local detention facility and must be deposited into the county’s Local Detention Facility Account [GovCode Sec. 29551(b)].

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⁷ For the FY2005-06 year, booking fee rates were limited to one-half of actual costs plus applicable overhead as defined. [GovCode Sec. 29550(a)(1)]