Legislative Fiscal Bureau

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Justice Information System Surcharge Overview
(DOA -- Justice Information System Surcharge)

[LFB 2011-13 Budget Summary: Page 36, #1]

CURRENT LAW

The $21.50 justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment action, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action.

GOVERNOR

Delete the current law allocation mechanism for justice information system surcharge revenue, which provides that for every assessed $21.50 justice information system surcharge, revenue will be allocated as follows: (a) $7.50 to the Department of Administration (DOA) for justice information systems (otherwise known as the district attorney information technology (DA IT) program); (b) $6 to the court system for the circuit court automation program (CCAP); (c) $4 for grants for indigent civil legal services; (d) $1.50 to DOA's Office of Justice Assistance (OJA) for the treatment, alternatives, and diversion (TAD) grant program; (e) $1.50 to OJA to fund the gathering and analyzing of statistics on the justice system, including racial disparity, uniform crime reporting, and incident-based reporting (this funding may also be transferred to OJA appropriations for traffic stop data collection implementation); and (f) $1 to the general fund.

Instead, provide that all justice information system surcharge revenue be deposited to a new PR continuing justice information fee receipts appropriation under DOA. As a first draw, $700,000 annually would be allocated from this appropriation and deposited to the general fund. This new appropriation would subsequently allocate surcharge revenue to 11 specified appropriations, based on the amounts specified for these appropriations.

DISCUSSION POINTS

1.	Under the Governor's recommendations: (a) three programs currently funded with justice information system surcharge revenue would be deleted; (b) six programs currently funded from other revenue sources would be moved in whole or in part to funding under this surcharge; (c) in addition to the deposit of $1 from every assessed surcharge to the general fund, an additional $962,900 in surcharge revenues would be lapsed annually in the 2011-13 biennium to the general fund; and (d) the means of allocating the surcharge revenue would be altered. This paper provides an overview of the changes being made to the fund under the budget bill, addresses the recommendation to change the allocation mechanism for surcharge revenue, and addresses the purpose of the fund for 2011-13. The following additional papers address individual programs affected by the justice information system surcharge recommendations under the bill: (a) District Attorney Information Technology, Paper #125; (b) Circuit Court Automated Information Systems, Paper #625; (c) Civil Legal Services for the Indigent, Paper #121; (d) Traffic Stop Data Collection Initiative, Paper #123; (e) Treatment, Alternatives and Diversion Program, Paper #127; (f) Law Enforcement Officer Supplement Grants, Paper #122; (g) Compensation for Assistant District Attorneys, Paper #282; (h) Child Advocacy Centers, Paper #126; (i) Court Interpreter Reimbursement, Paper #230; (j) Statewide Interoperable Communication System, Paper #124; and (k) Victim Information and Notification Everyday (VINE), Paper #260.

2.	Under 1987 Act 27, the Legislature first created the justice information system surcharge. At the time it was called the circuit court automation fee and the fee was set at $1. All of the revenue from the fee was to be deposited to the general fund. With the additional revenue generated from the fee, the courts were provided project positions and funding to conduct a needs assessment and implementation plan for the development of a unified circuit court automation system to improve court case management and record keeping. This court information system would come to be known as the circuit court automation program (CCAP).

3.	Until the 2009-11 biennium, the primary purpose of this fund remained supporting justice information systems. Prior to 2009 Act 28, of every $12 justice information system surcharge assessed, $6 was allocated to the court system for CCAP, $5 was allocated to DOA for DA IT, and $1 was credited to the general fund.

4.	However, under 2009 Act 28, the justice information system surcharge was increased from $12 to $21.50. Act 28 provided that: (a) $4 from each assessed surcharge be allocated for grants for indigent civil legal services; (b) DOA receive an additional $2.50, or $7.50 total, from each assessed surcharge for DA IT; (c) $1.50 from each assessed surcharge be allocated to OJA to fund the gathering and analyzing of statistics on the justice system, including racial disparity, uniform crime reporting, and incident-based reporting (this funding may also be utilized for traffic stop data collection implementation); and (d) $1.50 from each assessed surcharge be allocated to OJA for the TAD grant program.

5.	Under the budget bill, the Governor recommends deleting all funding for indigent civil legal services and for gathering and analyzing of statistics on the justice system at OJA (including funding for the traffic stop data collection initiative). Under the bill, the only program added to the fund in 2009-11 that would remain funded would be OJA's TAD grant program. Table 1 summarizes the changes to the justice information system surcharge fund under the bill.

TABLE 1

Justice Information System Surcharge Fund Under SB 27/AB 40

Program	Surcharge Revenue* 2010-11	Expenditure Authority	
		2011-12	2012-13
Opening Balance		$0	$82,800
Revenue		15,050,000	15,050,000
Information systems supported by fund			
DOA Justice information systems (DA IT)	$5,225,000	$4,428,300	$4,428,300
CCAP Automated information systems	4,177,400	3,780,000	3,780,000
Subtotal	$9,402,400	$8,208,300	$8,208,300
Programs transferred to fund 2009-11			
Indigent civil legal services	$2,785,200	Deleted	
OJA Data gathering and analysis**	1,047,200	Deleted	
Traffic stop data collection; state		$0	$0
Traffic stop data collection; local		0	0
Treatment, alternatives and diversion program	1,047,200	744,500	744,500
Subtotal	$4,879,600	$744,500	$744,500
Program costs transferred from general fund 2011-13			
Law enforcement officer supplement grants		$1,224,900	$1,224,900
Assistant district attorneys		1,000,000	1,000,000
Child advocacy centers		238,100	238,100
Court interpreters		134,000	232,700
Subtotal		$2,597,000	$2,695,700
General fund transfers and lapses			
Transfer to general fund***	$691,000	$700,000	$700,000
Lapses to general fund		962,900	962,900
Subtotal		$1,662,900	$1,662,900
Program costs transferred from federal funds 2011-13			
Interoperable communications systems		$1,062,200	$421,700
Victim notification		511,900	692,600
Subtotal		$1,574,100	$1,114,300
Supplements and reserves		$180,400	$124,900
Total	$14,973,000	$14,967,200	$14,550,600
Closing Balance		$82,800	$582,200

  * Estimated.

** Revenue allocated for data gathering and analysis could also be transferred and utilized for traffic stop data collection expenses.

*** Estimates for DOA must be reduced by -$15,000 annually, from $715,000 annually to $700,000 annually, to conform to the bill language.

6. The bill would reduce available surcharge funding provided to justice information systems that have historically been supported by the justice information system surcharge fund. While it is estimated that DA IT will receive $5,225,000 in revenue from the surcharge in the current fiscal year, under the budget bill DA IT would be appropriated $4,428,300 PR annually. Similarly, while it is estimated that CCAP will receive $4,177,400 in revenue from the surcharge in the current fiscal year, under the budget bill CCAP would be appropriated $3,780,000 PR annually.

7. In addition to deleting all but the TAD program that was added to the fund during 2009-11, under the bill costs associated with four different programs that receive GPR funding would be added to the fund. These programs would receive funding totaling $2,597,000 PR in 2011-12, and $2,695,700 PR in 2012-13, and include: (a) $1,224,900 PR annually for law enforcement officer supplement grants to cities to employ additional uniformed law enforcement officers whose primary duty is beat patrolling; (b) $1,000,000 PR annually for salary and fringe benefit costs of assistant district attorneys; (c) $238,100 PR annually for child advocacy centers to provide comprehensive services for child crime victims and their families; and (d) $134,000 PR in 2011-12, and $232,700 PR in 2012-13, to the Circuit Courts to fund court interpreters. In the case of the law enforcement officer supplement grants program and the child advocacy centers program, the funding for these programs would be shifted entirely to the justice information system surcharge fund with offsetting savings to the general fund.

8. While under current law $1 from every assessed surcharge is deposited to the general fund (estimated to generate $691,000 GPR in 2010-11), the bill would provide that a comparable $700,000 annually be deposited to the general fund. In addition, DOA staff indicate that it is the intent of the administration to lapse an additional $962,900 annually in justice information system surcharge revenue to the general fund during the 2011-13 biennium.

9. Finally, the bill would add the costs of two programs to the fund that have been supported with federal funding. These programs are the interoperable communications program under OJA and the victim notification program under the Department of Corrections.

10. Beginning with 2009 Act 28, the purpose of the justice information system surcharge fund has expanded beyond its historical function of supporting justice information systems, specifically CCAP and DA IT. As a result, the Committee could consider approving the Governor's recommendation to alter the current allocation mechanism for surcharge revenue and approve the changes to how the surcharge funding is utilized. [Alternative 1]

11. On the other hand, the Committee could consider restoring the justice information system surcharge fund to its historical function. This alternative would delete the Governor's recommendations. In addition, under this alternative, the justice information system surcharge could be reduced from $21.50 per assessment to $14.50 per assessment. For every assessed $14.50 justice information system surcharge, revenue would be allocated as follows: (a) $7.50 to DOA for DA IT; (b) $6 to the court system for CCAP; and (c) $1 to the general fund. This alternative would reduce estimated revenue from the surcharge by $4.9 million annually. [Alternative 2]

12. Under companion issue papers, the Committee may decide whether to maintain current law on a program-by-program basis for non-justice information system programs that are

currently supported by the surcharge. These alternatives could potentially return the surcharge to $21.50 per assessment. Further, under companion issue papers, the Committee may also decide whether to fund programs that would have been added to the justice information system surcharge fund under the bill, from general fund revenue.

13. When debating the increase to the justice information system surcharge during 2009-11 biennial budget deliberations, the Chief Justice of the Supreme Court expressed her concerns about further increases in the costs to citizens to access their courts. Some could also question whether individuals commencing or filing civil actions have a special responsibility to fund some of the programs that would be added to the fund under the bill.

14. In addition, it should be noted that the state has experienced increasing challenges in recent years associated with funds supported by surcharges collected in the criminal and civil forfeiture context (for example, a speeding ticket). In recent biennia the penalty surcharge fund has operated in deficit. The justice information system surcharge is also assessed in civil forfeiture actions in circuit court. In the civil context, if an individual does not or cannot fully satisfy his or her surcharge obligations after conviction, the individual's payment is prorated among the various surcharges owed. Decreasing the justice information system surcharge could improve the collections rate for other surcharges collected in the civil forfeiture context, such as the penalty surcharge. As a result of these considerations, the Committee could consider deleting the recommendations under the bill and reducing the justice information system surcharge from $21.50 per assessment to $14.50 per assessment.

15. On the other hand, the provisions of the bill would not provide for any additional increase to the surcharge. In addition, beginning with 2009 Act 28, the nature of the fund has been broadened beyond supporting justice information systems. Arguably, the provisions of the bill would not change the nature of the fund any more than was done under 2009 Act 28, but would re-direct the funding to other priorities. As a result, the Committee could consider adopting the recommendations for the fund contained in the bill.

16. Finally, in lieu of the priorities identified by the administration for the use of the fund under the bill, the Committee could make other allocation determinations, including the amount to fund individual programs and any amounts that might be lapsed to the general fund. Under this alternative, the Committee could adopt the change to the allocation mechanism for surcharge revenue, maintain the surcharge at $21.50, but make other allocation determinations. As there are many possible variations the Committee could select, the specifics of this alternative would need to be developed by motion. In developing the motion, the Committee could consult Table 1 to identify estimated annual revenue and programs which are currently funded or would be funded under the bill. [Alternative 3]

ALTERNATIVES

1. Approve the Governor's recommendation to delete the current law allocation mechanism for justice information system surcharge revenue, which provides that for every assessed $21.50 justice information system surcharge, revenue will be allocated as follows: (a)

$7.50 to the Department of Administration (DOA) for justice information systems; (b) $6 to the court system for the circuit court automation program (CCAP); (c) $4 for grants for indigent civil legal services; (d) $1.50 to DOA's Office of Justice Assistance (OJA) for the treatment, alternatives, and diversion grant program; (e) $1.50 to OJA to fund the gathering and analyzing of statistics on the justice system, including racial disparity, uniform crime reporting, and incident-based reporting (this funding may also be transferred to OJA appropriations for traffic stop data collection implementation); and (f) $1 to the general fund.

Instead, provide that all justice information system surcharge revenue be deposited to a new PR continuing justice information fee receipts appropriation under DOA. As a first draw, $700,000 annually would be allocated from this appropriation and deposited to the general fund. This new appropriation would subsequently allocate surcharge revenue to 11 specified appropriations, based on the amounts specified for these appropriations. Re-estimate GPR-Earned from DOA by -$15,000 GPR annually to reflect that the appropriation provides for a $700,000 annual deposit to the general fund, not $715,000.

[Subsequent modifications the Committee may adopt in other justice information system surcharge issue papers could alter the funding levels and allocation of the surcharge.]

ALT 1	Change to Bill
	Revenue
GPR	- $30,000

2.   Delete the provision. In addition, reduce the justice information system surcharge from $21.50 per assessment to $14.50 per assessment. Reduce estimated revenue from the surcharge by $4.9 million annually associated with this change. Provide that for every assessed $14.50 justice information system surcharge, revenue will be allocated as follows: (a) $7.50 to DOA for justice information systems; (b) $6 to the court system for CCAP; and (c) $1 to the general fund.

ALT 2	Change to Bill
	Revenue
PR	- $9,800,000

3.   Maintain the current law justice information system surcharge at $21.50 per assessment. Approve the recommendation to delete the current law allocation mechanism for justice information system surcharge revenue. Specify the allocation of justice information system surcharge revenue to individual programs and any lapses to the general fund for 2011-12, and for 2012-13. As there are many possible variations the Committee could select, the specifics of this alternative would have to be developed by motion. In developing the motion, the Committee could consult Table 1 of this paper.

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