

EL DORADO COUNTY
AB 143 Backfill Allocation Narrative
Probation, Public Defender, & Sheriff Recommendation
PENDING BOARD OF SUPERVISORS APPROVAL
May 17, 2022 - AGENDA#22-0653

Background

This document will serve as the FY 2022/2023 recommendation for the distribution of the El Dorado County AB 1869 / AB 143 Backfill Allocation. AB 1869 repealed 23 various criminal administrative fees charged by local governments to individuals arrested, prosecuted or convicted of a crime. In addition, AB 1869 set aside \$65 million annually from fiscal years 2021-2022 through 2025-2026 to backfill counties for the estimated loss of revenue. Pursuant to Chapter 79, Statutes of 2021 (AB 143), the Department of Finance has provided the attached allocation schedule to backfill counties as a result of revenues lost from the repeal of 23 criminal administrative fees. The Department of Finance has established this allocation schedule based on the methodology provided by AB 143. The allocation for each county is based on its percentage for the statewide average of the following three variables for the calendar years 2017, 2018, 2019: 1) adult population (50 percent of the allocation); 2) felony and misdemeanor arrests (25 percent of the allocation); and 3) traffic and non-traffic felony and misdemeanor filings (25 percent of the allocation).

Legislation

Assembly Bill No. 1869 Chapter 92 – September 18, 2020

(1) Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and mandatory supervision, processing arrests and citations, and administering home detention programs, continuous electronic monitoring programs, work furlough programs, and work release programs. This bill would repeal the authority to collect many of these fees, among others. The bill would make the unpaid balance of these court-imposed costs unenforceable and uncollectible and would require any portion of a judgment imposing those costs to be vacated. (2) Existing law allows the board of supervisors of any county to establish the office of the public defender and requires the public defender to defend, without expense to the defendant, any person who is not financially able to employ counsel and who is charged with the commission of a crime. Existing law allows the court to hold a hearing to determine whether a defendant owns an interest in real property or other assets and to impose a lien on the property. Upon conclusion of trial, existing law allows the court to make a determination of a defendant's present ability to pay all or a portion of the cost of the public defender. If the court finds that the defendant has the financial ability to pay, existing law requires the court to order the defendant to pay all or a part of the costs the court believes reasonable and compatible with the defendant's financial ability. This bill would delete the authority of the court to impose liens on the defendant's property and make a post-trial determination of the defendant's ability to pay and to order the defendant to pay the costs of the public defender. By requiring a county to provide a public defender without charge to a defendant who may have the ability to pay, this bill would impose a state-mandated local program. (3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory

provisions noted above. (4) The bill would appropriate \$50,000 from the General Fund to the Department of Finance to begin to implement the provisions of this bill, and would annually appropriate \$65,000,000 from the General Fund to the Controller beginning in the 2021–22 fiscal year to the 2025–26 fiscal year, inclusive, for allocation to counties to backfill revenues lost from the repeal of fees specified in this bill, as provided, thereby making an appropriation. The bill would state the intent of the Legislature to pursue legislation with the Budget Act of 2021 to finalize the funding allocation methodology for distribution to counties. (5) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Assembly Bill No. 143 Chapter 79 – July 16, 2021

(3) Existing law repealed the authority to collect various fees contingent upon criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and mandatory supervision, processing arrests and citations, and administering home detention programs, continuous electronic monitoring programs, work furlough programs, and work release programs. Existing law annually appropriates \$65,000,000 from the General Fund to the Controller for allocation to counties to backfill revenues lost from the repeal of fees, as specified. Existing law states the intent of the Legislature to finalize the funding allocation methodology for distribution to counties, as specified. This bill would, until July 1, 2026, require the Director of Finance to finalize a methodology to determine per-county allocations based on a county’s adult population, felony and misdemeanor arrests, and felony and misdemeanor filings, as specified. The bill would authorize each county’s board of supervisors to determine how the money will be spent. The bill would, no later than October 1, 2021, require the Director of Finance to provide the Assembly and Senate budget subcommittees on public safety, the Legislative Analyst’s Office, and the Joint Legislative Budget Committee with the county allocation schedule. The bill would require, no later than May 1, 2022, each county’s board of supervisors receiving relief to submit a report to the Director of Finance, the Legislative Analyst’s Office, and the Joint Legislative Budget Committee, as specified. The bill would require, for the years in which funding is allocated pursuant to this bill’s methodology, a county to submit a report documenting how the allocation was spent, as specified. By imposing new duties on counties, the bill would impose a state-mandated local program.

The El Dorado County Probation Department, Public Defender, and Sheriff’s Office, have met and prepared the attached distribution schedule for the backfill allocation at the direction of the CAO’s Office. In addition to the distribution schedule, the required Fiscal Loss of Revenue Report for Fees Eliminated by AB 1869 (Chapter 92, Statute 2020) has been converted into an Excel Spreadsheet, and includes the Fee Schedule and the most recent Fiscal Year Actual Revenue received by each affected Department. The primary objective in our recommendation is to utilize the allocation in a way that supports the rehabilitation and re-entry of justice involved individuals.

El Dorado County

Prior to AB 1869 implementation, the Probation Department realized an average of \$83, 507, with the Sheriff realizing an average of \$65,204, annually from 2017 through 2021. The Public Defender’s Office was in the process of establishing a comprehensive fee schedule, anticipating approximately \$40,000 annually in revenue. This is not a true reflection of potential revenue, as the order of payment application placed both the Probation Department and Public Defenders Office in the last tier. The Sheriff’s Office is still able to charge the Work Furlough Program Fee of \$40.00, and receives an allocation of approximately \$7,500 per month from the State of California for booking fees.

Probation Department

The Probation Department will utilize:

- 17% (\$250,000) of the allocation to the Department to establish a Mobile Outreach Vehicle, following a similar model to Placer County Probation Department. This will require either the purchase of a new vehicle, or the refurbishment and outfitting of an existing county vehicle that is currently in surplus, the former Bookmobile. The concept includes outfitting the vehicle with a restroom for urinalysis testing, technology suitable and effective enough to accommodate Court appearances, computers for online learning and occupational opportunities, materials and equipment for assessments and access by law and justice partners in addition to Health and Human Services staff. The requested drone and mountain bikes would assist officers in access to areas throughout the community. Officers could assess known homeless camps the area prior to visits, and access these areas in teams. The Mobile Outreach Vehicle will operate as a community services hub for justice involved individuals in need of access in order to appear before the Court, complete their term of Probation and successfully re-enter into El Dorado County. The costs outlined include the vehicle, outfitting, mountain bikes, computers, drone, and fuel and maintenance costs.
- 11% (\$165,695) of the allocation for staffing, to include one Adult Supervision Services assigned .5 FTE Deputy Probation Officer, and 1 FTE Administrative Analyst for Grant Writing and Management on behalf of the Law & Justice Agencies (Sheriff, DA, Probation, Public Defender, Alternate Public Defender) in Year 2 (FY 22/23) with the intent that funding opportunities would fund the position in subsequent years.
- 7% (\$100,000) of the allocation for The Bridge (transitional home) operated by the Adult Supervision Services Unit, located at 2980 Coloma Street, Placerville, CA. This will include the lease agreement, services, supplies, and utilities.

Public Defender's Office

The Public Defender's Office will utilize:

- 51% (\$735,405) of the of the allocation to staff 1 FTE Program Assistant, and 1 FTE Deputy Public Defender, who will interview, assess, and assist clients on the arraignment calendars who may be eligible for Mental Health Diversion, Misdemeanor Diversion, Veterans Court, Behavioral Health Court, and any post-conviction relief in El Dorado County. The early assessment of clients eligible for diversion or post-conviction relief is critical to provision of early services, reducing negative consequences to clients, and increasing efficiencies and outcomes for all Law & Justice partners. These 2 positions are currently funded only through June 30, 2023. The backfill allocation would fund these positions from July 1, 2023, through June 30, 2026.

El Dorado County Sheriff's Office

The Sheriff's Office will utilize:

- 5% (\$75,000) of the allocation to offset the General Fund expense for the dietician costs in the South Lake Tahoe and Placerville Jails, class materials and supplies for the Culinary Arts Programs, and Relias Training for staff.

Currently, 9% or \$127,333 of the allocation is not slated for any specific purpose, however with the requirement that the Board of Supervisors submit a report annually on the intended use of the allocation each May 1, the Probation Department, Public Defender, & Sheriff's Office plan to coordinate

and bring any subsequent recommendations before the Board of Supervisors as directed by the CAO's Office.

Timeline

November 9, 2021 – Probation Department received notification from Nevada County Probation Department that the Allocation Schedule and Methodology had been released from Department of Finance and CSAC.

December 2, 2021 – Deputy Chief Administrative Officer Laura Schwartz placed the funds in Department 15, in anticipation of direction from the CAO's Office as to where the Revenue would be disbursed. The Probation Department, Public Defender's Office, and Sheriff's Office did not include the revenue in 21/22 Mid Year Projections, or the 22/23 Requested Budgets on behalf of our respective Departments.

March 29, 2022 – Probation Department received notification from Deputy Chief Administrative Officer Sue Hennike to coordinate the County's recommendation for the allocation.

April 22, 2022 – Probation, Public Defender, and Sheriff submitted recommendation to CAO's Office.

May 1, 2022 – The Fiscal Loss of Revenue and Backfill Allocation Spending reports are due to:

- Joint Legislative Budget Committee (JLBC) email directly to Hans.Hemann@sen.ca.gov
- Legislative Analyst's Office (LAO), 925 L St. Suite 1000, Sacramento, CA 95814, Attention: Anita Lee, Public Safety and Business Regulation
- Department of Finance (DOF), 915 L St., Sacramento, CA 95814, Attention Amy Jarvis, Corrections, Justice, and General Government
- CSAC Administration of Justice Legislative Representative Ryan Morimune at rmorimune@counties.org
- Stanicia Boatner, CSAC Administration of Justice Legislative Analyst at sboatner@counties.org