

DEPARTMENT: Auditor

BY: Christopher Ebie  
PHONE: 209 966-7606

RECOMMENDED ACTION AND JUSTIFICATION: Approve this resolution reducing general fund contingency and appropriating \$25,670 to pay the interest penalty in accordance with Government Code 68085(i) as a result of the court revenue audit.

(4/5)

BACKGROUND AND HISTORY OF BOARD ACTIONS: The County is routinely audited in five year periods on the revenues the court collects and the distribution of those fines and fees. The county auditor is also required to compile the amounts collected on certain code sections under the Government Code, Penal Code and Vehicle Code and is required to split those monies collected (50% to the State, 50% to the County) in excess of a base amount listed in GC 77201.1 (b)(2). This interest penalty is a result of those amounts not calculated correctly predominately in fiscal years 2003-04, 2004-05, and 2005-06.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: Government Code Section 68085 (j) requires the county to pay the penalty no later than 45 days after the end of the month in which the interest or penalty was calculated. Failure to do so would result in further interest accrual and possible recompensive action from the State Controller.

Financial Impact? <input checked="" type="checkbox"/> Yes ( ) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? ( ) Yes ( ) No <input checked="" type="checkbox"/> Partially Funded.		
Amount in Budget: <u>2,1654</u>		List Attachments, number pages consecutively
Additional Funding Needed: # <u>25,670</u>		<u>Budget Action</u>
Source:		<u>delinquent letter</u>
Internal Transfer		<u>Government Code</u>
Unanticipated Revenue	_____ 4/5's vote	_____
Transfer Between Funds	_____ 4/5's vote	_____
Contingency	_____ 4/5's vote	_____
<input checked="" type="checkbox"/> General ( ) Other		_____

CLERK'S USE ONLY:

Res. No.: 10-282 Ord. No. \_\_\_\_\_  
 Vote - Ayes: 5 Noes: \_\_\_\_\_  
 Absent: \_\_\_\_\_  
 Approved  
 Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
 Attest: MARGIE WILLIAMS, Clerk of the Board  
 County of Mariposa, State of California

By: \_\_\_\_\_  
 Deputy

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended  
 No Opinion  
 Comments:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

CAO: [Signature]

# BUDGET ACTION FORM

FUND	DEP/DIV	ACCOUNT	DESCRIPTION	PROJECT	INCREASE	DECREASE
001	0161	427.04-56	50/50 Excess Fines to AOC		25,670	
001	0104	414.10-90	General Fund Contingency			25,670
<b>TOTALS</b>					<b>25,670</b>	<b>25,670</b>

TRANSFER BETWEEN FUNDS				DEBIT	CREDIT
<b>TOTALS</b>				<b>0</b>	<b>0</b>

ACTION REQUESTED: (Check all that apply)

Budget appropriation by Board of Supervisors (4/5ths Vote Required): Amending the total amount available in the county budget, or in any one fund of the budget, or transferring appropriation from Contingencies

Transfer by Board of Supervisors (3/5ths Vote Required): Moving existing appropriations from one budget to another, or between categories within a budget unit;

To appropriate the interest penalty calculated by the State Controller pursuant to Government Code 68085 as a result of the audit on Court revenues.

DEPT HEAD SIGNATURE *Christopher A. Quinn* DATE 5-18-10  
 APPROVED BY RES NO. 10-282 CLERK *MM* DATE 6-1-10

DEPARTMENT AUDITOR AUDITOR'S USE ONLY  
BA #



JOHN CHIANG  
California State Controller  
Division of Accounting and Reporting

April 30, 2010

The Honorable Christopher Ebie  
Auditor-Controller  
County of Mariposa  
P.O. Box 729  
Mariposa, CA 95338-0729

Re: Penalty on Delinquent Remittance of Revenue Amount

Dear Mr. Ebie:

Your county's remittances to the Trial Court Improvement Fund for the Revenue Audit of July 1, 2003, through June 30, 2008, are delinquent and subject to penalty. Government Code (GC) section 68085(i), as amended by Chapter 435, Statutes of 2007, concerning the Trial Court Improvement Fund penalties states;

*(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall do the following:*

*(1) Calculate interest on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to the rate of return of money deposited in the Local Agency Investment Fund pursuant to Section 16429.1 from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first.*

In accordance with GC sections 77205(b) and 70377(a), your remittances were due 45 days after the end of the month/year in which they were collected. Based on your county's audit findings, amounts were not submitted within 45 days and are considered delinquent.

The penalty calculated by this office is \$28,323.49. Please complete the enclosed CA 25/TC-31 form, submit a check payable to the State Treasurer, and mail per the CA 25/TC-31 instructions. Based on GC sections 68085(j) and 70377(c), which reads, "The penalty shall be paid by the county...no later than 45 days after the end of the month in which the penalty was calculated," your penalty is due by June 14, 2010.

The Honorable Christopher Ebie  
April 30, 2010  
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For your convenience, a copy of the remittance (TC-31) in question, the postmarked envelope, and the penalty worksheet are enclosed.

If you have any questions about this matter, please contact Sandi Rowland in the State Accounting Section at (916) 327-1703.

Sincerely,



KATHY PERRY, Chief  
Bureau of Accounting

Enclosures

cc: Stephen Nash, Director  
Division of Finance  
Administrative Office of the Courts

Krista Champlin  
Division of Finance  
Administrative Office of the Courts

Mariposa County  
Audit Period July 1, 2003, through June 30, 2008  
Penalty Calculation

This worksheet applies the overpayments to underpayments with applicable penalties to minimize the amount due.  
0159 Fund subject to penalty effective 08/15/03.

Collection Month/Year	0932 Fund Amount Subject to Penalty	0159 Fund Amount Subject to Penalty	Total Amount Subject to Penalty	Less Amount Overpaid Various Funds	Net Amount Subject to Penalty	Penalty Effective Date	Date Paid	Number of Days Delinquent	Qtr ending on 09/30/2004 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty
FY 2003-04	\$ -	\$ -	\$ 64,688.00	\$ -	\$ 64,688.00	08/15/04	01/12/10	1,976	46	0.004575%	\$ 136.15
FY 2004-05	\$ -	\$ -	\$ 69,480.00	\$ -	\$ 69,480.00	08/15/05	01/12/10	1,611			
FY 2005-06	\$ -	\$ -	\$ 42,380.00	\$ -	\$ 42,380.00	08/15/06	01/12/10	1,246			
FY 2006-07	\$ -	\$ -	\$ 4,218.00	\$ -	\$ 4,218.00	08/15/07	01/12/10	881			
FY 2007-08	\$ -	\$ -	\$ 27,059.00	\$ -	\$ 27,059.00	08/15/08	01/12/10	515			

Collection Month/Year	Qtr ending on 12/31/2004 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 03/31/2005 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 06/30/2005 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 09/30/2005 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty
FY 2003-04	92	0.005479%	\$ 326.10	90	0.006521%	\$ 379.62	91	0.007808%	\$ 459.64	92	0.008712%	\$ 518.50
FY 2004-05										46	0.008712%	\$ 278.45

Collection Month/Year	Qtr ending on 12/31/2005 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 03/31/2006 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 06/30/2006 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 09/30/2006 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty
FY 2003-04	92	0.009945%	\$ 591.87	90	0.011041%	\$ 642.80	91	0.012411%	\$ 730.58	92	0.013507%	\$ 803.83
FY 2004-05	92	0.009945%	\$ 635.71	90	0.011041%	\$ 690.42	91	0.012411%	\$ 784.71	92	0.013507%	\$ 863.38
FY 2005-06										46	0.013507%	\$ 263.31

Collection Month/Year	Qtr ending on 12/31/2006 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 03/31/2007 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 06/30/2007 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 09/30/2007 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty
FY 2003-04	92	0.014000%	\$ 833.18	90	0.014164%	\$ 824.64	91	0.014329%	\$ 843.48	92	0.014356%	\$ 854.38
FY 2004-05	92	0.014000%	\$ 894.90	90	0.014164%	\$ 885.73	91	0.014329%	\$ 905.96	92	0.014356%	\$ 917.67
FY 2005-06	92	0.014000%	\$ 545.85	90	0.014164%	\$ 540.26	91	0.014329%	\$ 552.60	92	0.014356%	\$ 559.74
FY 2006-07										46	0.014356%	\$ 27.85

Collection Month/Year	Qtr ending on 12/31/2007 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 03/31/2008 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 06/30/2008 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty	Qtr ending on 09/30/2008 Days Late	Daily Penalty Rate LAIF Rate py qtr / 365 days	Penalty
FY 2003-04	92	0.013589%	\$ 808.72	91	0.011452%	\$ 674.14	91	0.008521%	\$ 501.57	92	0.007589%	\$ 451.65
FY 2004-05	92	0.013589%	\$ 868.63	91	0.011452%	\$ 724.08	91	0.008521%	\$ 538.73	92	0.007589%	\$ 485.10
FY 2005-06	92	0.013589%	\$ 529.83	91	0.011452%	\$ 441.66	91	0.008521%	\$ 328.60	92	0.007589%	\$ 295.89
FY 2006-07	92	0.013589%	\$ 52.73	91	0.011452%	\$ 43.96	91	0.008521%	\$ 32.71	92	0.007589%	\$ 29.45
FY 2007-08										46	0.007589%	\$ 94.46

Collection Month/Year	Qtr ending on 12/31/2008		Daily Penalty Rate		Qtr ending on 03/31/2009		Daily Penalty Rate		Qtr ending on 06/30/2009		Daily Penalty Rate		Qtr ending on 09/30/2009		Daily Penalty Rate	
	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days
FY 2003-04	92	\$ 414.14	0.006959%	0.005233%	90	\$ 304.65	0.005233%	0.004137%	91	\$ 304.65	0.004137%	0.002466%	92	\$ 243.53	0.002466%	0.002466%
FY 2004-05	92	\$ 444.82	0.006959%	0.005233%	90	\$ 327.22	0.005233%	0.004137%	91	\$ 327.22	0.004137%	0.002466%	92	\$ 261.57	0.002466%	0.002466%
FY 2005-06	92	\$ 271.32	0.006959%	0.005233%	90	\$ 199.59	0.005233%	0.004137%	91	\$ 199.59	0.004137%	0.002466%	92	\$ 159.55	0.002466%	0.002466%
FY 2006-07	92	\$ 27.00	0.006959%	0.005233%	90	\$ 19.87	0.005233%	0.004137%	91	\$ 19.87	0.004137%	0.002466%	92	\$ 15.88	0.002466%	0.002466%
FY 2007-08	92	\$ 173.24	0.006959%	0.005233%	90	\$ 127.44	0.005233%	0.004137%	91	\$ 127.44	0.004137%	0.002466%	92	\$ 101.87	0.002466%	0.002466%

Collection Month/Year	Qtr ending on 12/31/2009		Daily Penalty Rate		Qtr ending on 03/15/2010		Daily Penalty Rate		Qtr ending on 06/30/2010		Daily Penalty Rate		Qtr ending on 09/30/2010		Daily Penalty Rate	
	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days	Days Late	Penalty	LAIF Rate py qtr / 365 days	LAIF Rate py qtr / 365 days
FY 2003-04	92	\$ 97.83	0.001644%	0.001644%	74	\$ 78.69	0.001644%	0.001644%	91	\$ 11,666.44	0.001644%	0.001644%	92	\$ 10,854.30	0.001644%	0.001644%
FY 2004-05	92	\$ 105.08	0.001644%	0.001644%	74	\$ 84.52	0.001644%	0.001644%	91	\$ 4,900.00	0.001644%	0.001644%	92	\$ 270.53	0.001644%	0.001644%
FY 2005-06	92	\$ 64.09	0.001644%	0.001644%	74	\$ 5.13	0.001644%	0.001644%	91	\$ 32.92	0.001644%	0.001644%	92	\$ 632.22	0.001644%	0.001644%
FY 2006-07	92	\$ 6.38	0.001644%	0.001644%	74	\$ 40.92	0.001644%	0.001644%	91	\$ 32.92	0.001644%	0.001644%	92	\$ 632.22	0.001644%	0.001644%
FY 2007-08	92	\$ 40.92	0.001644%	0.001644%	74	\$ 40.92	0.001644%	0.001644%	91	\$ 32.92	0.001644%	0.001644%	92	\$ 632.22	0.001644%	0.001644%
Grand Total													\$	28,323.49		

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68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned for the purposes authorized in this section, including apportionment to the trial courts to fund trial court operations, as defined in Section 77003.

(2) The apportionment payments shall be made by the Controller. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

(A) Notwithstanding any other provision of law, in order to promote statewide efficiency, the Judicial Council may authorize the direct payment or reimbursement or both of actual costs from the Trial Court Trust Fund or the Trial Court Improvement Fund to fund the costs of operating one or more trial courts upon the consent of participating courts. These paid or reimbursed costs may be for services provided to the court or courts by the Administrative Office of the Courts or payment for services or property of any kind contracted for by the court or courts or on behalf of the courts by the Administrative Office of the Courts. The amount of appropriations from the Trial Court Improvement Fund under this subdivision may not exceed 20 percent of the amount deposited in the Trial Court Improvement Fund pursuant to subdivision (a) of Section 77205. The direct payment or reimbursement of costs from the Trial Court Trust Fund may be supported by the reduction of a participating court's allocation from the Trial Court Trust Fund to the extent that the court's expenditures for the program are reduced and the court is supported by the expenditure. The Judicial Council shall provide the affected trial courts with quarterly reports on expenditures from the Trial Court Trust Fund incurred as authorized by this subdivision. The Judicial Council shall establish procedures to provide for the administration of this paragraph in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.

(B) As used in subparagraph (A), the term "costs of operating one or more trial courts" includes any expenses related to operation of the court or performance of its functions, including, but not limited to, statewide administrative and information technology infrastructure supporting the courts. The term "costs of operating one or more trial courts" is not restricted to items considered "court operations" pursuant to Section 77003, but is subject to policies, procedures, and criteria established by the Judicial Council, and may not include an item that is a cost that must otherwise be paid by the county or city and county in which the court is located.

(b) Notwithstanding any other provision of law, the fees listed in subdivision (c) shall all be deposited upon collection in a special account in the county treasury, and transmitted monthly to the State Treasury for deposit in the Trial Court Trust Fund.

(c) (1) Except as specified in subdivision (d), this section applies to all fees collected on or before December 31, 2005, pursuant to Sections 631.3, 116.230, and 403.060 of the Code of Civil Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862, 68086, 72055, 72056, 72056.01, and 72060.

(2) Notwithstanding any other provision of law, except as specified in subdivision (d) of this section and subdivision (a) of Section 68085.7, this section applies to all fees and fines collected on or before December 31, 2005, pursuant to Sections 116.390, 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160, 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure, Sections

26824, 26828, 26829, 26834, and 72059 of the Government Code, and subdivisions (b) and (c) of Section 166 and Section 1214.1 of the Penal Code.

(3) If any of the fees provided for in this subdivision are partially waived by court order, and the fee is to be divided between the Trial Court Trust Fund and any other fund, the amount of the partial waiver shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 that is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238. This section also does not apply to fees collected pursuant to subdivisions (a) and (c) of Section 27361.

(e) This section applies to all payments required to be made to the State Treasury by any county or city and county pursuant to Section 77201, 77201.1, or 77205.

(f) Notwithstanding any other provision of law, no agency may take action to change the amounts allocated to any of the funds described in subdivision (a), (b), (c), or (d).

(g) The Judicial Council shall reimburse the Controller for the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(h) Any amounts required to be transmitted by a county or city and county to the state pursuant to this section shall be remitted to the State Treasury no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance that is not made by the county or city and county in accordance with this section shall be considered delinquent, and subject to the interest and penalties specified in this section.

(i) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall do the following:

(1) Calculate interest on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to the rate of return of money deposited in the Local Agency Investment Fund pursuant to Section 16429.1 from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first.

(2) Calculate a penalty at a daily rate equivalent to 1 1/2 percent per month from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay.

(j) (1) Interest or penalty amounts calculated pursuant to subdivision (i) shall be paid by the county, city and county, or court to the Trial Court Trust Fund no later than 45 days after the end of the month in which the interest or penalty was calculated. Payment shall be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in notice given to that party by the Controller.



(2) Notwithstanding Section 77009, any interest or penalty on a delinquent payment that a court is required to make pursuant to this section and Section 24353 shall be paid from the Trial Court Operations Fund for that court.

(3) The Controller may permit a county, city and county, or court to pay the interest or penalty amounts according to a payment schedule in the event of a large interest or penalty amount that causes a hardship to the paying entity.

(4) The party responsible for the error or other action that caused the failure to pay may include, but is not limited to, the party that collected the funds who is not the party responsible for remitting the funds to the Trial Court Trust Fund, if the collecting party failed or delayed in providing the remitting party with sufficient information needed by the remitting party to distribute the funds.

(k) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund quarterly and shall be allocated among the courts in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council.

(l) It is the intent of the Legislature that the revenues required to be deposited into the Trial Court Trust Fund be remitted as soon after collection by the courts as possible.

(m) Except for subdivisions (a) and (k), this section does not apply to fees and fines that are listed in subdivision (a) of Section 68085.1 that are collected on or after January 1, 2006.

(n) The changes made to subdivisions (i) and (j) of this section by the act adding this subdivision shall apply to all delinquent payments for which no final audit has been issued by the Controller prior to January 1, 2008.