

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1401 (Fong) – As Introduced February 22, 2019

SUBJECT: Surcharges on parking violations

SUMMARY: Removes state court construction penalties for parking violations. **Specifically,** this bill:

- 1) Removes a state court construction penalty of \$5 for every \$10 in fines if the violation is parking related.
- 2) Removes an additional \$4.50 state court construction penalty levied on every parking offense.
- 3) Removes, on every parking offense, a \$2.50 assessment that is used for the Victim Compensation Fund, if applicable, and to reimburse counties for the costs of the collection of the forfeited property, if applicable, and otherwise deposited into the county's General Fund.
- 4) Restates existing law that a \$7 penalty for every \$10 in fines should not be applied to parking tickets.

EXISTING LAW:

- 1) Levies a state court construction penalty in the amount of \$5 for every \$10 of fines, penalties, or forfeitures imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of a section of the Fish and Game Code, Health and Safety Code, Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.
- 2) Levies an additional \$4.50 state court construction penalty for every parking offense.
- 3) Levies a \$2.50 penalty first to be placed in a Victim's Compensation Fund, if applicable, then split between the Trial Court Trust Fund and the county in which the ticket was issued General Fund.
- 4) Requires each agency that elects to process parking violations to pay the county treasurer \$4.50 for the parking penalty imposed, even if the violation is not filed in court, on a monthly basis.
- 5) Requires the County Treasurer to submit the sum of the revenue generated from the court construction penalty to the Immediate and Critical Needs Account of the State Court Facilities Construction Fund and the remainder in States Courts Facility Construction Fund based on a formula, as specified.
- 6) Provides that any parking violation that is not a misdemeanor is subject to a civil penalty, and not a criminal fine.

- 7) Prohibits a person from stopping, parking, or leaving standing a vehicle in certain locations, and authorizes local authorities, by ordinances, to also prohibit stopping, parking, or leaving standing a vehicle in certain locations.

FISCAL EFFECT: Unknown

COMMENTS: The costs of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. After adding on fees to base fines, tickets can total in the hundreds of dollars. Add-on fees for minor offenses double or quadruple the original fine, and up until recently California suspended driver's licenses for failure to pay traffic fines.

The cost from being late on payment of a parking ticket could easily spiral out of control for an indigent person. In Sacramento, the fine for a parking ticket amounts to \$52. If someone is unable to pay that ticket on time, the late fee adds an additional \$52. If Sacramento then were to ask the Department of Motor Vehicles (DMV) to collect the unpaid debt, before the passage of AB 503 (Lackey), Chapter 741, Statutes of 2017, DMV could add the entire cost of the ticket to vehicle registration fees. If someone were unable to pay the \$104 all at once on top of their vehicle registration fees, late fees for vehicle registration increase by 60% of the original fee for payments over 30 days late, which can increase the registration fee as much as \$100. If a person is then pulled over for having an unregistered vehicle, the fine for driving unregistered vehicles is currently \$285. All totaled, these fines alone add up to \$489. This would amount to nearly 1/4 of a single individual's monthly income if they made the maximum amount of money to be eligible for SNAP benefits.

Unpaid traffic fine debt has been adding up. According to the Legislative Analyst's Office (LAO), the state now has over \$10 billion in unpaid court ordered debt. The Legislature and Governor have made several efforts to collect unpaid debt and to address the negative consequences of unpaid fines. In the 2017 budget, the state removed the court's authority to notify the DMV for the suspension of individuals' driver's licenses for unpaid traffic fines. Last year's budget created a pilot program that would allow a pilot court to issue an ability-to-pay determination prior to a court hearing date. This determination could result in an individual either completing community service in lieu of the total fine amount, or suspend the total amount due in whole or in part. Governor Brown also signed AB 503 (Lackey), Chapter 741, Statutes of 2017, which requires a payment program to be offered to indigent individuals before agencies can use DMV to collect unpaid parking tickets.

Unlike previous legislation that has attempted to reduce the penalties for traffic or parking fines based on an ability to pay determination, this bill eliminates certain fee assessments placed on parking violations altogether. These assessments include a \$5 assessment for every \$10 in a base fine, and a \$4.50 additional assessment placed on all parking tickets that goes to various court funds, and a \$2.50 assessment placed on all parking tickets to a Victims Compensation Fund, if applicable, and then the remainder to the General Fund of the county in which the ticket was issued.

According to the author, "AB 1401 seeks to remove the hidden fees that are attached to parking violations. These additional costs do not reflect the true price of the ticket. A ticket that originally costs around \$35, can end up totaling as much as \$238, or more than 600% the original fine. These tickets disproportionately affect those who least can afford it. Increased transparency needs to be reflected in every part of government, including how we as a body administer parking tickets."

It is important to note that parking tickets range from city to city, but are generally under \$100 and are closer to the \$50 range. The \$238 ticket the author is referring to in his statement is for parking in front of a fire lane, which, unlike failing to pay a parking meter, has other safety related implications.

According to the Judicial Council, the fees eliminated by this bill would result in an average annual loss of \$63 million to the judicial branch. The LAO has been critical of using such penalties to pay for the courts, noting that the amount of such revenue has declined over the past ten years and is expected to decline in the future. Instead, the LAO has suggested redirecting the additional assessments to the General Fund, allowing the Legislature to make the determination of how and where the money should be spent.

After the Great Recession in 2008, more than \$1.1 billion was cut from the Judicial Branch. As of September 17, 2018, 45 courthouses and 191 courtrooms remain closed. As a result of these closures, approximately 2.1 million Californians no longer have access to courthouses in their communities. Last year's budget included a \$64 million General Fund allocation to the courts to backfill the reduction of fines and penalty revenue. Governor Newsom has proposed providing a \$52 million General Fund allocation to backfill the reduction of fines and penalty revenue for 2019.

Committee comments: While this committee has previously supported bills that either make it easier for low income individuals to pay traffic fines and penalties or have those fines reduced based on an ability to pay determination, this bill eliminates additional assessments placed on parking tickets for court construction for everyone, regardless of their ability to pay, leaving a potential loss of revenue of \$63 million that would otherwise go to the judicial branch. The Legislature should consider the effect this bill would have on the court system and court funding.

Related legislation:

AB 1325 (Jones-Sawyer, 2019) requires processing agencies to offer community service to individuals who are both homeless and indigent before they can file an itemization of unpaid parking penalties and service fees to DMV for collection purposes. That bill is set for a hearing in this committee on April 22, 2019.

Previous legislation:

SB 847 (Committee on Budget and Fiscal Review) Chapter 45, Statutes of 2018, among other things, established a pilot program for courts to provide relief to individuals for traffic fines and penalties based on their ability to pay.

AB 2544 (Lackey) Chapter 494, Statutes of 2018, clarified existing law by requiring processing agencies, beginning on July 1, 2018, to provide a payment plan and waiver of late fees to indigent persons before they are able to send an itemization of unpaid parking penalties to the DMV regardless of whether the tickets were issued before or after July 1, 2018.

AB 503 (Lackey), Chapter 741, Statutes of 2017, required processing agencies to take several steps prior to asking DMV to collect their unpaid debt from indigent individuals, including establishing a payment program and waiving late fees and penalty assessments

SB 85 (Committee on Budget and Fiscal Review), Chapter 26, Statutes of 2015, authorizes an 18-month traffic amnesty program, by October 1, 2015, for delinquent debt. This program expired on March 31, 2017.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

None on file

Analysis Prepared by: David Sforza / TRANS. / (916) 319-2093