



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

NATHAN FLETCHER
Fourth District

JIM DESMOND
Fifth District

DATE: October 11, 2022 and October 25, 2022

08

TO: Board of Supervisors

SUBJECT

**SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES CHANGES
PURSUANT TO ASSEMBLY BILL 177 (DISTRICTS: ALL)**

OVERVIEW

Effective January 1, 2022, California Assembly Bill (AB) 177 rescinds the authority of counties and state agencies to collect specific criminal administrative fees. Additionally, the unpaid balance related to administrative fees of any court-imposed costs for these specified sections is unenforceable and uncollectable, and any portion of a judgment imposing those costs shall be vacated. Today's action seeks Board of Supervisors (Board) approval to amend Articles XX and XXV of the San Diego County Administrative Code to reflect the County of San Diego's implementation of, and to be consistent with, the provisions of AB 177. As of January 1, 2022, County departments ended the assessment of administrative fees as required by AB 177. The proposed changes to the San Diego County Administrative Code delete the references to County administrative fees which County departments no longer assess pursuant to the changes in state law.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Approve the introduction of the Ordinance (First Reading), read title and waive further reading of the Ordinance:

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO CRIMINAL ADMINISTRATIVE FEES.

If the Board takes the action recommended in item 1, then on October 25, 2022:

2. Submit the Ordinance for further Board consideration and adoption (Second Reading):

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO CRIMINAL ADMINISTRATIVE FEES.

EQUITY IMPACT STATEMENT

**SUBJECT: SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES
CHANGES PURSUANT TO ASSEMBLY BILL 177 (DISTRICTS: ALL)**

The proposed amendments to the San Diego County Administrative Code will align with changes to state law to end the assessment and collection of specific criminal administrative fees. According to a report by the Ella Baker Center for Human Rights, the average debt incurred by defendants for court-ordered fines and fees was roughly equal to the annual income for many survey respondents. Another national survey of formerly incarcerated people found that families often bear the burden of criminal administrative fees, and that 83 percent of the people responsible for paying these costs are women. Because these fees are often assigned to people who cannot afford to pay them, they exacerbate poverty and limit economic opportunities among low-income individuals in our justice system. Community engagement occurred through advocacy during the state legislative process. These actions to implement changes already passed through state law are anticipated to remove barriers to long-term success for individuals impacted by criminal justice administrative fees.

SUSTAINABILITY IMPACT STATEMENT

The implementation of an Ordinance amending the San Diego County Administrative Code contributes to the County of San Diego Sustainability Goals of providing just and equitable access to County services and transitioning to a green and carbon-free economy. Aligning the San Diego County Administrative Code with existing state law enables County programs, operations, and contracts to reflect the values of equity and sustainability set forth by the California State Legislature. Specifically, the proposed Ordinance reflects recognition of the economic impacts of criminal administrative fees and will remove barriers to economic opportunity for justice-involved individuals. Moreover, research shows that criminal administrative fees are difficult to collect and typically cost counties almost as much or more than they collect in revenue. Therefore, removing these fees from the San Diego County Administrative Code helps the County of San Diego transition to a green, carbon-free economy by working toward a circular economy, promoting sustainable collection of County revenue, and investing in the economic resilience of communities disproportionately affected by criminal administrative fees.

FISCAL IMPACT

The proposal to amend the San Diego County Administrative Code pursuant to California Assembly Bill (AB) 177, effective January 1, 2022, will result in reduced revenue of approximately \$1,450,000 for County departments as follows: Contribution for Trial Courts (\$650,000), Sheriff's Department (\$600,000) and Auditor and Controller - Revenue & Recovery (\$200,000). Reduced revenue is related to court-imposed administrative fees deemed unenforceable and uncollectable as well as any prior outstanding balances. The State Legislature allocated \$25 million in Fiscal Year 2021-22, and an additional \$50 million in Fiscal Year 2022-23 and each year thereafter, to be distributed to counties to backfill lost revenues. AB 199 defines the method of distributing these statewide funds. The State of California Director of Finance must release the county allocation schedule no later than October 1, 2022. If additional actions are required in Fiscal Year 2022-23 to adjust budgeted resources and operations, staff will return to the Board.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

**SUBJECT: SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES
CHANGES PURSUANT TO ASSEMBLY BILL 177 (DISTRICTS: ALL)**

N/A

BACKGROUND

Effective January 1, 2022, California Assembly Bill (AB) 177 rescinds the authority of counties and state agencies to collect specific criminal administrative fees. Additionally, the unpaid balance of any court-imposed costs for these specified sections is unenforceable and uncollectable, and any portion of a judgment imposing those costs shall be vacated.

Per AB 177, San Diego County (County) Departments are no longer authorized to assess and collect specified criminal administrative fees effective January 1, 2022. Under the new law, individuals involved in the criminal legal system cannot be charged the following fees:

- Administrative fee covering costs of collecting victim restitution (Cal. Penal Code § 1203.1(l)).
- Administrative fee covering costs of collecting additional victim restitution fines (Cal. Penal Code § 1202.4(l)).
- Administrative fee covering the costs of collecting fines paid in installments (Cal. Penal Code § 1205(e)).
- Fee covering costs of incarceration in county jails and local detention facilities (Cal. Penal Code § 1203.1(c))— *Though the Board determined Penal Code § 1203.1(c) was applicable to the County of San Diego, the fee was never levied on individuals in County facilities. It is not the practice of the San Diego Sheriff's Department to charge incarcerated people to cover the costs of incarceration in County jails or detention facilities.*

As of January 1, 2022, County departments ended the assessment of administrative fees as required by AB 177. The proposed changes to the San Diego County Administrative Code delete the references to County administrative fees which County departments no longer assess pursuant to the changes in state law. As described above, the County will also no longer collect amounts for any unpaid balances related to these fees and will additionally vacate judgments on behalf of individuals who have been assessed these fees.

The State Legislature allocated \$25 million in Fiscal Year 2021-22, and an additional \$50 million in Fiscal Year 2022-23 and each year thereafter, to be distributed statewide to counties to backfill lost revenues. The method of distributing these statewide funds has not been determined and the amount available to San Diego County is not known at this time. If state funding is not sufficient to mitigate the revenue loss due to AB 177, the County departments will include any net loss of revenue and the related impacts to county services in future Operational Plans.

This is a request for the Board to consider an ordinance amending Section 363 in Article XX and Section 441.2 in Article XXV of the San Diego County Administrative Code to reflect the County of San Diego's implementation of, and to be consistent with, provisions of AB 177. If the Board takes this action as recommended, then on October 25, 2022, it may consider adoption of the proposed ordinance.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

**SUBJECT: SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES
CHANGES PURSUANT TO ASSEMBLY BILL 177 (DISTRICTS: ALL)**

Today's proposed request supports the Equity and Justice initiatives of the County of San Diego's 2022–2027 Strategic Plan by implementing changes to state law which relieve financial obligations for people who encounter the criminal justice system, thereby decreasing barriers to clients' long-term success.

Respectfully submitted,



HELEN N. ROBBINS-MEYER
Chief Administrative Officer

ATTACHMENT(S)

ATTACHMENT A – AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO CRIMINAL ADMINISTRATIVE FEES.

(Clean copy)

ATTACHMENT B – AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO CRIMINAL ADMINISTRATIVE FEES.

(Informational copy)

ATTACHMENT C – SUMMARY OF PROPOSED ORDINANCE