

2021-22 Governor's Budget Proposal Implementation of the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 (AB 3088)

Budget Request Summary

The Judicial Council requests \$11.7 million one-time General Fund in 2020-21, which is available for expenditure through 2021-22, for the trial courts to process the anticipated increase in unlawful detainer and small claims filings resulting from Chapter 37, Statutes of 2020 (AB 3088). This proposal is based on the Judicial Council's current projections for the number of unlawful detainers and small claims filings that could be processed. The proposed funding is available to be spent over two fiscal years to give the trial courts and the Judicial Council flexibility to implement the provisions of AB 3088, as well as any potential legislation that impacts the requirements of AB 3088. This allocation would only be used to implement this bill, and any unspent funds would be returned to the General Fund.

Justification

The provisions of AB 3088 modify the existing litigation options in unlawful detainer cases to an extent that will increase the number of cases being filed and the average workload minutes that trial courts currently require to process these cases. Many of the provisions of AB 3088 apply immediately; therefore, the workload costs of this bill will begin in the current year.

The Judicial Council utilized a UC Berkeley study titled "COVID-19 and California's Vulnerable Renter" as a starting point to develop an estimate of the impacts of AB 3088. The study indicates that economic factors support an estimate that approximately 903,000 households statewide are at risk of being unable to pay rent and therefore are at risk of having an unlawful detainer case filed against them as a result of the COVID-19 crisis.

The Judicial Council recognizes that many variables (tenant personal finances, landlord choices, case litigation strategies, etc..) influence whether an unlawful detainer case is filed. Further, the Judicial Council recognizes that courts currently handle a volume of unlawful detainer filings. Based on the current 5-year trend, which reflects a 6 percent decline, the Judicial Council projects existing workload of approximately 120,000 filings in 2019-20. Furthermore, the Judicial Council believes it is not unreasonable to estimate that the courts will experience a potential doubling in the number of unlawful detainer case filings to 240,000 cases (a 120,000 increase in unlawful detainer cases), given the potential universe of 903,000 households at risk. Feedback from courts indicates it is reasonable to estimate the provisions of AB 3088 will add 5.5 minutes of additional clerk filing time workload. The Judicial Council assumes that the workload for the existing cases will continue at the current caseweight estimate. Table 1 presents the workload calculations associated with the marginal increase in clerk workload for the additional cases.

Table 1: Clerk Workload Marginal Increase:

Case Estimate	Clerk Processing Time (per case)	Clerk Processing Cost (per case)	Workload Impact
120,000	5.5 minutes	\$6	\$700,000

Courts also indicated that AB 3088 will result in more tenants requesting a court hearing to contest the eviction action and estimate those provisions will add 5 minutes to court hearing time to the existing 13-minute caseweight for unlawful detainer cases. Court data indicates approximately 15 percent of unlawful detainer cases are resolved after a court hearing. The Judicial Council believes it is reasonable to estimate that the provisions of AB 3088 will lead to a 10 percent increase in the number of cases resolved after a court hearing. This results in a hearing workload increase of 30,000 cases (25 percent hearing rate x 120,000 cases). Table 2 presents the workload calculations associated with the marginal increase in court hearing workload for unlawful detainer cases.

Table 2: Court Hearing Workload Marginal Increase:

Case Estimate	Court Hearing Time (per case)	Court Hearing Cost (per case)	Workload Impact
30,000	18 minutes	\$288	\$8,600,000

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Beginning March 1, 2021, AB 3088 allows landlords to pursue delinquent rent payments through the civil small claims process, which will lead to increases in small claims filings. The Judicial Council also indicates that the provisions of the bill do not prohibit landlords from immediately filing a civil case for a judgement against a tenant instead of waiting until March 2021 to file a small claims case.

These provisions of AB 3088 will lead to an increase in civil case filings, although the Judicial Council indicates that a variety of issues (amount of delinquent rent, case litigation strategies, etc..) factor into whether a landlord will pursue a judgement for delinquent rent through a civil case.

The Judicial Council believes it is reasonable to assume that 5 percent of the increase in unlawful detainer cases, estimated in Table 1, will also result in a small claims filing (5 percent increase x 120,000 additional unlawful detainer cases = 6,000 new small claims filings).

Of the projected 6,000 case increase in small claims filings, approximately 3,000 of these cases will be resolved after a court hearing. This is based on court data that indicates approximately 50 percent of small claims cases result in a 20-minute court trial.

Table 3 presents the clerk processing and court hearing workload costs associated with the increase in fully litigated small claims filings.

Table 3: Fully Litigate Small Claims Filings Increase

Filings Estimate	Trial Estimate	Workload Time (per case)	Workload Cost (per case)	Workload Impact
6,000	N/A	239 minutes	\$239	\$1,400,000
N/A	3,000	20 Minutes	\$320	\$1,000,000

Based on the assumptions explained above, an additional \$11.7 million is needed to fund trial court workload in 2020-21 and 2021-22.