

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5160 E 2S SB	<b>Title:</b> Addressing landlord-tenant relations by providing certain tenant protections during the public health emergency, providing for legal representation in eviction cases, establishing an eviction resolution pilot program for nonpayment of rent cases, and auth
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## Estimated Cash Receipts

NONE

Agency Name	2021-23		2023-25		2025-27	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	Fiscal note not available					
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

## Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	Fiscal note not available											
Office of Civil Legal Aid	3.0	23,318,008	23,318,008	23,318,008	3.0	25,290,964	25,290,964	25,290,964	3.0	26,831,184	26,831,184	26,831,184
Office of Attorney General	Fiscal note not available											
Department of Commerce	Fiscal note not available											
<b>Total \$</b>	<b>3.0</b>	<b>23,318,008</b>	<b>23,318,008</b>	<b>23,318,008</b>	<b>3.0</b>	<b>25,290,964</b>	<b>25,290,964</b>	<b>25,290,964</b>	<b>3.0</b>	<b>26,831,184</b>	<b>26,831,184</b>	<b>26,831,184</b>

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

## Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	Fiscal note not available								
Office of Civil Legal Aid	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	Fiscal note not available								
Department of Commerce	Fiscal note not available								
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

## Estimated Capital Budget Breakout

NONE

<b>Prepared by:</b> Gaius Horton, OFM	<b>Phone:</b> (360) 819-3112	<b>Date Published:</b> Preliminary 3/13/2021
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5160 E 2S SB	<b>Title:</b> Addressing landlord-tenant relations by providing certain tenant protections during the public health emergency, providing for legal representation in eviction cases, establishing an eviction resolution pilot program for nonpayment of rent cases, and auth	<b>Agency:</b> 057-Office of Civil Legal Aid
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.0	3.0	3.0	3.0	3.0
<b>Account</b>					
General Fund-State      001-1	11,222,277	12,095,731	23,318,008	25,290,964	26,831,184
<b>Total \$</b>	11,222,277	12,095,731	23,318,008	25,290,964	26,831,184

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Lena Brodsky	Phone: 360-786-7192	Date: 03/11/2021
Agency Preparation: Jim Bamberger	Phone: (360) 704-4135	Date: 03/11/2021
Agency Approval: Jim Bamberger	Phone: (360) 704-4135	Date: 03/11/2021
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/12/2021

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

E2SSB 5160 makes a number of changes to the unlawful detainer and eviction process in Washington State. Sections 8 and 9 of the bill establish a right to counsel for indigent tenants in unlawful detainer cases and directs that, subject to appropriation, the Office of Civil Legal Aid contract with attorneys and agencies to represent tenants for whom an attorney is to be appointed. The right to counsel and eviction resolution program provisions remain unchanged from 2SSB 5160. This FN makes a modest adjustment that reflects additional thinking about how to assign/appoint attorneys in a manner that minimizes disruption of court operations as a result of consistent and regular requests for continuances from tenants for whom counsel is appointed at the show cause hearing.

Sec. 7 establishes an eviction resolution pilot program modeled on and authorized in accordance with emergency Supreme Court order no 25700-B-639 and relevant standing orders of individual superior courts. Sec. 7(4) requires landlords to serve mandatory notices relating to the availability of the eviction resolution program to the local housing justice project or other designee of the office of civil legal aid. OCLA projects no costs directly attributable to this provision.

Sec. 8(1) establishes a right to counsel for indigent tenants facing a judicial eviction proceeding. Subject to the availability of amounts appropriated for this program, Sec. 8(1) directs the court to appoint an attorney for indigent tenants at any show cause hearing or scheduled trial. It assigns responsibility to the office of civil legal aid to pay the costs of legal services provided by attorneys appointed under authority of the section. It prioritizes implementation in those counties in which the most evictions occur, as determined by the office of civil legal aid.

Section 8(2) defines the term “indigent” for the purpose of appointing counsel for indigent tenants. The provision is consistent with the standard used to determine income eligibility for civil legal aid for indigent persons under RCW 2.52.030 and Supreme Court GR 34.

Sec. 9(1) assigns responsibility for establishing a statewide tenant representation contract attorney program to OCLA. Under section 9(2), directs OCLA to submit to the appropriate legislative committees within 90 days a plan to fully implement the tenant representation program within 12 months of the effective date of the section.

Sec. 19 is an emergency clause making the act effective immediately upon approval by the Governor.

Assumptions used for this fiscal note:

1. On the basis of the 2/3/21 to 2/15/21 Census Pulse survey, 64% of all renter households (regardless of household size) in WA have total household income of \$75,000 or less. Of these households, 104,445 were behind in rental payments during the reporting period. These households represent 77% of all renter households behind in rent. This data, coupled with field service experience from programs representing tenant defendants, indicates that at least 75% of tenant defendants in filed Residential Landlord Tenant Act unlawful detainer actions will meet the indigency standard in Sec. 8(2).

2. Due to a combination of indigency standards, the percentage of unfiled case commencements (pocket-filed cases), and percentage of defaults (cases where the tenant does not appear/respond to an Order to Show Cause), OCLA predicts that courts will be required to appoint attorneys in about 60% of all filed unlawful detainer

actions.

3. Existing attorney staff (15 FTE statewide) dedicated to eviction defense services (and funded with other sources) will continue at pre-COVID baseline levels.
4. Attorneys fully dedicated to eviction defense practice will handle on average 150 cases per year and maintain an average open caseload of 15 active unlawful detainer cases at any particular time.
5. Contract attorneys will be compensated at \$150/hr. and will average 4 hours per case.
6. The scope of representation by appointed attorneys will include shelter defense and related matters, including but not limited to requests for orders of limited dissemination.
7. The average fully loaded cost of dedicated FTE attorneys employed by non-profit legal aid providers is \$160,000/yr.
8. OCLA will require 3 FTE staff to administer the program – a Program Manager (attorney), a staff attorney, and a contracts manager.
9. Local courts will adopt standing orders that require landlords in each judicial district to serve tenants with a Notice of Right to an Attorney along with the Summons and Complaint and, if one has been issued, an Order to Show Cause. The Notice of Right to Attorney will include contact information for the agency designated by OCLA to provide representation or assign cases to contracted private attorneys or agencies. This will substantially reduce the number of cases in which courts will be asked to continue the matter pending appointment of attorneys.
10. OCLA will establish and underwrite staff in six regional eligibility assessment/assignment entities (9 FTE staff) that will receive requests for assignment of attorneys from tenants and orders of appointment and assignment of attorneys. Regional eligibility assessment/assignment entities will serve: Spokane/NE WA, Central WA, SE WA, SW WA, Puget Sound region, NW WA.
11. OCLA will contract with a qualified third-party contractor to establish and operate a statewide eviction defense training and support center.
12. There will be a large first wave of post-moratorium evictions requiring short-term extraordinary contract attorney involvement; Depending on timing, attorney capacity, and implementation schedules, OCLA anticipates between 5,000 - to 7,500 tenants will receive appointed attorneys.  $5,000 \text{ cases @ } 4\text{hr./case} * 150 = \$3,000,000$  to  $7500 \text{ @ } 4 \text{ hr./cases} * \$150 = \$4,500,000$  in one-time expenses. For this fiscal note, OCLA assumes \$3,750,000 in one-time expenses.
13. After the first wave of post-moratorium evictions, the baseline level of filed evictions will revert to 2016 levels as documented in AOC/JIS system data.
14. The program is fully funded effective 7/1/2021

With these assumptions and using 2016 court filing data provided by the Administrative Office of the Courts, OCLA projects FY 2022 expense at \$11.222M, including a one-time expense of \$3,750,000 to address the first

wave of post-moratorium evictions. Once fully implemented, program expenses annualize in FY 2023 at \$11.666M. Costs of operations are projected to increase at 3%/year thereafter. See attached spreadsheet.

**II. B - Cash receipts Impact**

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

**II. C - Expenditures**

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Should Congress pass the American Rescue Plan (H.R. 1319) be enacted as currently written before the effective date of this act, the entirety of program expenses during FY 2022-23 would be eligible for federal funding made available to Washington State in accordance with Sec. 5001 of that legislation.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	11,222,277	12,095,731	23,318,008	25,290,964	26,831,184
<b>Total \$</b>			11,222,277	12,095,731	23,318,008	25,290,964	26,831,184

**III. B - Expenditures by Object Or Purpose**

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	3.0	3.0	3.0	3.0	3.0
A-Salaries and Wages	240,000	247,200	487,200	516,870	548,347
B-Employee Benefits	77,000	79,100	156,100	165,399	175,471
C-Professional Service Contracts	10,805,277	11,666,427	22,471,704	24,393,333	25,878,886
E-Goods and Other Services	87,500	90,504	178,004	190,362	203,480
G-Travel	12,500	12,500	25,000	25,000	25,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	11,222,277	12,095,731	23,318,008	25,290,964	26,831,184

**III. C - Operating FTE Detail:** List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
Eviction Defense Contract Manager	55,000	1.0	1.0	1.0	1.0	1.0
Eviction Defense Program Attorney	90,000	1.0	1.0	1.0	1.0	1.0
Eviction Defense Program Manager	95,000	1.0	1.0	1.0	1.0	1.0
<b>Total FTEs</b>		3.0	3.0	3.0	3.0	3.0

**III. D - Expenditures By Program (optional)**

NONE

## **Part IV: Capital Budget Impact**

### **IV. A - Capital Budget Expenditures**

NONE

### **IV. B - Expenditures by Object Or Purpose**

NONE

### **IV. C - Capital Budget Breakout**

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

### **IV. D - Capital FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

## **Part V: New Rule Making Required**