

Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 233 (Umberg) – As Amended June 16, 2022

Policy Committee:	Rules	Vote:	8 - 0
	Judiciary		11 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill repeals provisions of law related to telephonic court calls.

FISCAL EFFECT:

Loss of revenue (Trial Court Trust Fund (TCTF)) of an unknown, but potentially significant amount from fees assessed to appear telephonically. Most of the loss in revenue is likely offset by significant budget funds for court modernization including the continued implementation of remote access pursuant to Code of Civil Procedure section 367.75. However, as explained below, JCC estimates TCTF backfill will cover the loss in revenue, but not the legacy payments associated with telephonic appearances. JCC reports legacy costs of approximately \$950,000. Judicial Council will receive \$34.7 million General Fund in 2022-23, increasing to \$40.3 million in 2025-26 and ongoing, for information technology initiatives to modernize the Judicial Branch and increase access to justice for the public.

COMMENTS:

- 1) **Purpose.** This bill repeals older sections of the Code of Civil Procedure and Government Codes pertaining to telephonic court appearances. According to the author:

With last year’s passage of SB 241, telephonic appearances were incorporated into the broader definitions of remote technology as authorized by Code of Civil Procedure Section 367.75. This inclusion reflects a growing acknowledgement that there is little practical distinction among the various methods to connect to a judicial hearing (e.g. by phone, digital audio and/or digital video). Unfortunately, this inclusion also left the statutes specifically authorizing telephonic appearances in question. SB 233 seeks to repeal these telephonic appearance statutes, thus providing courts with clarity over the use of telephonic appearances as part of the larger remote technology.

- 2) **SB 241 (Umberg), Chapter 214, Statutes of 2021.** SB 241 provides a temporary statutory framework for remote court appearances following the significant impact of court closures during the pandemic. The SB 241 framework does not differentiate between means of “remote” appearances, and therefore, the term has been used to include both audio and video appearances by parties not physically in the court. By eliminating these old code sections,

this bill moves telephonic appearances into the existing framework for remote appearances and provides statutory consistency for all appearances for parties not physically in a courtroom.

- 3) **JCC revenue.** JCC reports some loss of revenue by eliminating court call, but specifies that TCTF backfill will cover any loss of revenue from telephonic appearances. JCC estimates:

TCTF revenues from telephonic appearance averaged \$6.498M annually from 2018-19 through 2021-22. This amount has likely reduced due to increased use of alternative forms of remote technology since the pandemic began. The revenue from telephonic appearances is included in the annual TCTF backfill calculation and would therefore be covered by that backfill. The annual legacy payment of \$944,000 to TCTF is passed through to the participating courts for the purpose of preventing significant disruption in services in courts that previously received telephone appearance revenues from vendors. It is not currently included in the annual TCTF backfill calculation.

	2018-19	2019-20	2020-21	2021-22
Telephonic Appearances (GC 72011(a))	\$6,533,000	\$5,451,000	\$6,618,000	\$3,612,000
Legacy Payment (GC 72011(c))	\$944,000	\$944,000	\$944,000	\$944,000
Total Annual	\$7,477,000	\$6,395,000	\$7,562,000	\$4,556,000

Based on the 4-year average of telephonic appearance revenues, the estimated revenue loss to the branch is \$5.6 million plus \$944,000 for the legacy payments. **That revenue, except for the legacy payments, is part of the annual TCTF revenue backfill process.** The provisions of this bill would impact courts across the state. If funding is not provided for the loss in revenue created by this bill, it would likely result in delays and prioritization of court cases and would impact access to justice. (Emphasis added.)

- 4) **Related Legislation.** SB 848 (Umberg) extends the sunset date of the provisions of law authorizing remote court appearances in civil cases and requires the Judicial Council of California to provide an annual report to the Legislature regarding the efficacy of remote appearance in court. SB 848 is pending in this committee.

5) **Argument in Support.** According to the Judicial Council of California:

Removing these code sections benefits court users, the state, and the courts by properly harmonizing statutory authority over remote appearances under CCP section 367.75 and greatly reducing fees to users wanting to make their remote appearance telephonically. It also reduces state work and costs by eliminating the now unnecessary requirement for a master service agreement for only a small subset of remote proceedings.

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