

Commission on Local Government
Estimate of Local Fiscal Impact

2020 General Assembly Session

Bill: HB869

Patron: Bourne

Date: 2/10/2020

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Supplementing compensation of public defender. Requires the governing body of any county or city that elects to supplement the compensation of the attorney for the Commonwealth, or any of their deputies or employees, above the salary of any such officer, deputy, or employee, to supplement the compensation of the public defender, or any of his deputies or employees, in the same amount as the supplement to the compensation of the attorney for the Commonwealth, or any of his deputies or employees.

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**Executive Summary:**

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$1,500,000.00. A majority of localities responded with a cost and noted that the cost is based on local supplement to the Commonwealth's attorney and support employees compared to funding and subsidies for the Public Defender's Office. Localities also noted technical matters such as position classification discrepancies and payroll tax issues, which could create additional fiscal impacts. Only one locality responded with no cost and noted that the bill would not impact them because they are a town and do not contribute to public defender salaries.

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**Local Analysis:**

**Locality:** City of Norfolk

**Estimated Fiscal Impact:** \$900,000.00

Based on the approximate number and type (attorney or support) of employees in the Public Defenders Office that are state subsidized, the city has estimated a fiscal impact of \$900,000 annually. With 24 attorneys receiving an average subsidy of \$24,000 and 15 support staff receiving an average subsidy of \$20,000; the total increase to the city is \$900,000. The subsidy is based on city and compensation board data.

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Locality: City of Roanoke

Estimated Fiscal Impact: \$292,500.00

The City of Roanoke supplements the full-time salaries of the City's Commonwealth Attorney's Office beyond the reimbursement we receive from the Va Compensation Board. For FY20 that is projected to be \$292,500. I am not aware of the size of the public defender's office in Roanoke or it's annual budget as we do not currently provide them with any funding. With that said, assuming that Office is comparable to our Commonwealth Attorney's Office, we could use that same dollar amt as the projected fiscal impact if we are required to provide a similar supplement.

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**Locality:** City of Virginia Beach

**Estimated Fiscal Impact:**  
\$1,500,000.00

Public Defender's Officers are not City departments. Accordingly, Public Defender's Offices are not on City pay plans, do not have City positions, and are not subject to City HR policies or job descriptions. In contrast, Commonwealth Attorney's Offices do have City positions and are on City pay plans. This discrepancy creates technical flaws with the bill as drafted that also creates fiscal impact calculation problems.

The Public Defender's position classifications are not aligned with either Compensation Board CWA positions or City ones. The bill does not address who is responsible for creating equivalences between Public Defender position classifications and Commonwealth Attorney's position classifications. Nor does it address the actual application of the supplement (defining "same amount") --- if this is an aggregate amount, based upon total supplements provided to CWA's Offices; or based on individual actuals given to specific CWA staff members; or based upon CWA's position classification pay ranges. These are all very different calculations and if the second method is prone to significant change per position. Moreover, the bill does not specify payment methods. As the Defender's Office is not a City department, would payment of the supplement be a transfer to the Defender's Office for them to distribute or would the City have to create Public Defenders employees as City positions for the purposes of this extra payment? There are payroll tax, and therefore fiscal impact, implications of this distinction.

Based on what we assume is the average Public Defender salary (as defenders are not City employees) and the presumed defender staff, this bill will likely cost between \$500,000 and \$1.5 million depending upon how the aforementioned equivalence and supplement calculation issues are resolved.

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Locality: City of Winchester

Estimated Fiscal Impact: \$120,786.00

I put the dollar amount the City of Winchester supplements our Commonwealths attorney salaries only (no fringes included). We do not currently fund the public defenders office at all, and as such I don't know how many employees they have, so this is hard to quantify.
Mary Blowe

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**Locality:** Town of Scottsville

**Estimated Fiscal Impact:** \$0.00

There appears to be no fiscal impact upon this responding small town. Towns do not contribute to county public defender salaries, nor is there a pass-through of county costs to the towns. Counties might need to increase taxes to cover the public defender pay increase, but the Town budget would not be affected.

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