

# Commission on Local Government

## Estimate of Local Fiscal Impact

2020 General Assembly Session: Special Session I

**Bill:** HB5026

**Patron:** Cole (by request)

**Date:** 8/21/2020

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:

Locality responsible for damages caused by inadequate police response. Provides that in any instance in which a locality intentionally or negligently fails to provide an adequate police response so as to prevent damage to the property of a property owner or business owner, the locality shall be responsible to the property owner or business owner for the resulting damages.

### Executive Summary:

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$3,000,000.00. A majority of localities that responded with a cost, noted that the bill would increase insurance premiums and legal fees because of the likely increase in litigation resulting from this bill. Others noted the subjectivity of the bill and difficulty in interpreting some of its terminology. It is worth noting that the estimate provided by the localities is a ballpark estimate with no justifications because it is hard to quantify. Of those localities that responded with no cost, one noted that the cost of the bill is indeterminate but it would be significant for defending locality's actions. Another locality responding with no cost indicated that it is meeting the standard of adequate police response.

### Local Analysis:

**Locality:** City of Virginia Beach

**Estimated Fiscal Impact:** \$0.00

There is no possible method that could lend itself to determination of cost estimates related to this bill, other than the fact that such a bill would expose governments to burdens that would be determined through findings of law. Without any precedent or standard, it is hard to state what fiscal impacts may be applied to local governments. However, there would surely be legal fees that would be assumed by local governments in defense of their actions. Outside of a future jury or judicial determination in specific cases, which is subject to change by venue, what is the definition of "adequate or inadequate police response" and what evidence must be submitted or found to prove "intentionally" or "negligently"?

**Locality:** City of Winchester

**Estimated Fiscal Impact:** \$25,000.00

No support for this bill. The language "intentionally or negligently" is too broad and potentially leaves the locality vulnerable to numerous lawsuits. It would be very hard to quantify a value for this bill. I just estimated a potential increase in our insurance coverage if this were passed.

**Locality:** Town of Ashland

**Estimated Fiscal Impact:**  
\$3,000,000.00

What entity will determine adequate? The town's insurance would increase and legal fees would skyrocket as we could be challenged on every action or perceived inaction. Or should every we hire enough police officers to provide a thirty second response time to every call? Will this subconsciously cause officers to prioritize property damage calls over physical altercations because of the lower threshold for legal action?

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**Locality:** Town of Blacksburg

**Estimated Fiscal Impact:** \$0.00

At this time, our police department has adequate police response for all calls so therefore the zero answer. If we had to lay off force due to financial impacts, we would try to minimize the impact to police response time.

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**Locality:** Town of Marion.

**Estimated Fiscal Impact:**  
\$1,000,000.00

This could open Pandora's Box for localities already suffering from reduced police staffing and increased incidents of civil unrest. In Marion, a single peaceful protest drew 150 protesters and 250 counterprotesters in July, but because of the heightened tensions between the two and throughout the community, a regional police force of over 200 was assembled and deployed for the day. In the end, no one was hurt, no one was arrested, and nothing was damaged, but the direct cost to the locality was in excess of \$30,000. Impact to local businesses that were essentially shut down by the event totalled nearly double. If a riot had broken out, and property damage was incurred that could be billed to the community, the costs could easily bankrupt us.

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**Locality:** Wise County

**Estimated Fiscal Impact:**  
\$1,000,000.00

This is a very subjective bill. What is adequate in my mind may not be adequate in the minds of others. This has the potential to increase litigation and costs to the County significantly dependent on the the interpretation.

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