

Commission on Local Government

Estimate of Local Fiscal Impact

2020 General Assembly Session

Bill: SB803

Patron: Morrissey

Date: 1/30/2020

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:

Attorneys for the Commonwealth; compensation and collection of fees. Prohibits the Compensation Board, when determining staffing and funding levels for offices of attorneys for the Commonwealth, from (i) considering the number of charges brought or the number of convictions obtained by such attorney for the Commonwealth; (ii) relying on standards devised or recommended by the attorney for the Commonwealth, law-enforcement agencies, or professional associations representing attorneys for the Commonwealth or law-enforcement officers; or (iii) using measures that increase if an attorney for the Commonwealth (a) elects to prosecute a more serious charge, (b) elects to prosecute additional charges from a single arrest or criminal incident, (c) obtains convictions rather than dismissing charges or offering reduced charges, or (d) proceeds with prosecution rather than diversion. The bill also requires attorneys for the Commonwealth to pay all fees collected by them in consideration of the performance of official duties or functions into the state treasury, instead of only half of such fees. The bill requires the State Treasurer to pay to the treasuries of the respective counties and cities of the attorneys for the Commonwealth a proportion of half of all such fees collected by all attorneys for the Commonwealth, as determined by each county or city's crime rate, criminal incident rate, or arrest rate. Finally, the bill changes the fees collected by attorneys for the Commonwealth on trials of felony indictments from \$40 on each count to \$120 for each trial of a Class 1 or Class 2 felony indictment, or other felony that carries a possible penalty of life in prison, except robbery, and \$40 for each trial on robbery and all other felony indictments regardless of the number of counts. The bill contains technical amendments.

~~~~~

### Executive Summary:

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$2,858,317.00. A majority of the localities responded that the cost of the bill is indeterminate, but would be significant. Other localities noted that the bill would not directly impact them because they are towns and do not fund or receive funding for the Commonwealth Attorneys. Only two localities responded with a cost, and noted that the impact of the bill is indeterminate because the impact would be based on a funding formula yet to be determined, and the estimate they provided is based on their Commonwealth Wealth Attorneys (CWA) annual budget or the amount they collect annually in CWA fees.

\*\*\*\*\*

### Local Analysis:

**Locality:** Augusta County

**Estimated Fiscal Impact:** \$7,000.00

The bill reduces the Commonwealth Attorney's Association's ability to determine its own staffing standards. The number of charges does affect revenue. It is hard to determine the fiscal impact as it would be based on a funding formula yet to be provided or as a ratio of Statewide statistics? The County collects \$7,000 in CWA fees annually, which appear to be remitted to the State in SB803.

~~~~~

Locality: City of Roanoke

Estimated Fiscal Impact: \$0.00

Though the estimated fiscal impact is being listed as \$0, in fact if this bill is passed, there will be significant expense to our Commonwealth Attorney's Office. The Virginia Association of Commonwealth's Attorneys is opposed to this bill as well as the corresponding House bill 1035 as it prevents their Offices from providing input into what they actually do in their jobs. They are concerned that this is an effort to throw the funding issue to the localities, and it is going to be expensive. Unfortunately, our Commonwealth Attorney's Office could not supply a dollar figure.

Locality: City of Virginia Beach

Estimated Fiscal Impact:
\$2,858,317.00

It is impossible for an individual locality to accurately assess this bill. The only entity that is qualified to comprehensively examine this bill's initial sections is the Compensation Board. Accordingly, this bill should be continued in committee until 2021 and referred to the Compensation Board for an impact study that compares the current Comp Board Staffing Standards and funding allocations to those that would occur if the provisions of this bill were implemented. Further, the bill should be sent to the State Treasurer to determine to possible re-allocation of fees in the second section of the bill and how that compares with present practice. We anticipate that this bill will alter CWA funding; therefore for the purposes of fiscal impact, we place our entire Comp Board CWA Budget to reflect the fact this will be altered under this bill. We simply can not answer what the incremental change may be, however. Bills of this magnitude should not be passed, then the provisions implemented and impacts discovered, they should be known initially and then, if deemed acceptable, passed.

Locality: Frederick County

Estimated Fiscal Impact: \$0.00

SB 803 was shared with pertinent staff for review and analysis. The consensus was that it would be extremely difficult to determine the fiscal impact of this proposal on the locality and staff did not even know how or where to begin that analysis. The fiscal impact was undetermined.

Locality: Rappahannock County

Estimated Fiscal Impact: \$0.00

Discussed with Commonwealth's Attorney for Rappahannock and confirmed that there would be no fiscal impact to Rappahannock County. He suggested there would be little to no impact to most localities.

Locality: Town of Blacksburg

Estimated Fiscal Impact: \$0.00

The Town does not have responsibility for the Commonwealth Attorneys.

Locality: Town of Christiansburg

Estimated Fiscal Impact: \$0.00

The Town of Christiansburg does not fund or receive funding from these fees so there would be no fiscal impact on the Town.

Locality: Town of Herndon

Estimated Fiscal Impact: \$0.00

No Comments.

~~~~~  
**Locality:** Town of Scottsville

**Estimated Fiscal Impact:** \$0.00

The bill has no effect on towns, which do not fund constitutional officers such as commonwealth's attorneys.

For example, in this small town, the CA office is funded entirely through the county government, with no billing or pass-through costs to the Town. This change in state-level cost sharing has no direct effect on the Town budget.

~~~~~  
Professional and Other Organization

Analysis:

Organization: Northern Neck PDC

With the fee structure rebalanced to weigh more heavily on attorneys for the Commonwealth rather than localities, the bill has a will not have a negative fiscal impact on localities.