

Commission on Local Government

Estimate of Local Fiscal Impact

2023 General Assembly Session | 01/09/23

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 legislation impacting local governments.

HB 1429: Public defender; supplementing compensation. (Patron: Delegate Timothy V. Anderson)

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 his deputies or employees, above the salary set by the Compensation Board to proportionally supplement the compensation of the public defender, or any of his deputies or employees, commensurate with the compensation of the attorney for the Commonwealth, or any of his deputies or employees, and to pay for such additional compensation from the funds of the county or city.

Local Fiscal Impact: **Net Additional Expenditure:** X **Net Reduction of Revenues:**

Summary Analysis:

Number of Localities Responding: 5 Cities, 9 Counties, 7 Towns, 1 Other

Localities estimated a negative fiscal impact ranging from \$0 to \$1.1 million over the biennium.

Localities identified the bill's fiscal impact as the increase in expenditures needed to supplement the salaries of their public defenders. Localities indicated that salary increases for public defenders represented a recurring cost; however, the size of the fiscal impact varied between localities. One locality indicated an indeterminant fiscal impact as the bill did not define what "proportional" compensation meant, making estimation difficult. Several others indicated that the bill did not speak to salary adjustments for regional court district employees, or how a proportional salary was defined in that instance.

Some localities (Towns) reported no fiscal impact, as they are not responsible for courts and payment of public defenders. Others indicated no fiscal impact, likely because they supplement public defenders' salaries proportionate to the Commonwealth Attorney's offices.

The precise impact of the bill scales with the size of the locality; more populous localities reported greater fiscal impacts than less populous ones.

Net Increase in Expenditures: Itemized Estimates by Responding Localities

Locality	Juris	Recurring Expense- Personnel		Recurring Expense - Operating		Recurring Expense - Capital		Recurring Expense - Other	
		FY23	FY24	FY23	FY24	FY23	FY24	FY23	FY24
City of Alexandria	City	\$100,000	\$100,000						
City of Manassas	City			\$500,000	\$515,000				
City of Norfolk	City	\$0	\$442,800						
City of Richmond	City				\$1,127,984				
City of Winchester	City	\$20,000	\$25,000						
Amherst County	County								
Augusta County	County	\$3,553	\$3,660						
Fairfax County	County								\$202,000
Mecklenburg County	County								
Montgomery County	County								
Rappahannock County	County							\$20,000	\$21,000
Roanoke County	County								
Rockingham County	County								
Sussex County	County				\$318,150				
Northern Neck PDC	Other								
Town of Blacksburg	Town								
Town of Chincoteague	Town								
Town of Christiansburg	Town								
Town of Leesburg	Town								
Town of Luray	Town								
Town of Marion	Town								
Town of Scottsville	Town								

Net Increase in Expenditures: Itemized Estimates by Responding Localities

Locality	Nonrecurring Expense - Operating		Nonrecurring Expense - Capital		Nonrecurring Expense - Other		Penny Value of Increase on Real Estate Rate*	Total Increase in Expenses (Biennium Total)
	FY23	FY24	FY23	FY24	FY23	FY24		
City of Alexandria							0	\$200,000
City of Manassas							0.01	\$1,015,000
City of Norfolk							0.0025	\$442,800
City of Richmond							0.0033	\$1,127,984
City of Winchester								\$45,000
Amherst County								\$0
Augusta County							0	\$7,213
Fairfax County								\$202,000
Mecklenburg County								\$0
Montgomery County								\$0
Rappahannock County							0.11	\$41,000
Roanoke County							0	\$0
Rockingham County								\$0
Sussex County							0.03	\$318,150
Northern Neck PDC								\$0
Town of Blacksburg								\$0
Town of Chincoteague								\$0
Town of Christiansburg								\$0
Town of Leesburg								\$0
Town of Luray								\$0
Town of Marion								\$0
Town of Scottsville								\$0

Locality	Expenditure Narrative by Responding Localities
City of Alexandria	At this time, estimated fiscal impact is \$100,000 as the City's Commonwealth Attorney and equivalent Public Defender staff positions are similarly graded in the City's compensation plan. The Commonwealth Attorney office's salary and benefits is paid by the City and then reimbursed for most but not all of their positions by the Compensation Board. The Public Defender office's salary and benefits is paid by the State and the City continues to supplement their State salaries with City taxpayer funded dollars at a total cost of approximately \$300,000+ per fiscal year. If passed, the City will need to redirect additional City taxpayer funded dollars to supplement the Public Defender Office's State salaries to fulfill the proposed changes in the bill, leading to a (\$100K) net change in City taxpayer funded dollars available to be directed towards City projects and initiatives.
City of Manassas	The City of Manassas pays approximately 8% of the costs of the Prince William County Commonwealth Attorney's office through our cost-sharing agreement. This amounts to \$500,000 per year in supplementary pay and benefits. We used this same amount as the assumption of additional expense to Public Defender's office as we interpret the language of this bill.
City of Norfolk	The city started supplementing the Public Defenders for FY 2023. The impact on this bill would increase the FY 2024 budget by \$442,800 to have a similar supplement to the Commonwealth's Attorney.
City of Richmond	Passage of this bill would result in an additional, ongoing expense of \$1,127,984. However, currently the Compensation Board does not set the salaries for the Public Defender's office as they do the Commonwealth Attorney's office. To achieve parity between both offices, the Compensation Board should also set salaries for the Public Defender's Office. Position titles, job classifications, and job duties vary between the two offices, as such equalizing salary supplements for the comparable positions between the two offices will be inaccurate at best and moreover left to judgment calls.
City of Winchester	My analysis was based on an estimated \$5,000 supplement per staff member (City would have 4)
Amherst County	
Augusta County	<p>The calculation is based on one employee. I do not know how many public defenders are assigned to only Augusta County as the website notes a regional office.</p> <p>County does not supplement the Commonwealth Attorney.</p> <p>County only recently supplemented employees of the Commonwealth attorney, adding 5% to their current salary. New attorneys are hired at the Comp Board salary of \$59,532. The above amount was cacluated utlizing the Comp Board salary \$59,532 multiplied by the 5% increase to arrive at \$3553. The County will get a 3% increase as of January 2023, so therefore the raise is reflected in the second year. This is for one employee only.</p>

Locality	Expenditure Narrative by Responding Localities
Fairfax County	<p>Fairfax County provides over \$98 million for additional personnel and salary supplements for state positions. This bill states that if a jurisdiction elects to provide a salary supplement to the Commonwealth Attorney's Office, it shall proportionally supplement the salaries of the Public Defender's office to the equivalent of what is paid to the Commonwealth Attorney's staff. Depending on how the Public Defender positions are mapped to their equivalents at the Commonwealth Attorney's Office, the fiscal impact is estimated to be between \$48,000 and \$202,000.</p>
Mecklenburg County	<p>The amount of impact is unknown. It could be minimal or it could be several tens thousands of dollars. One problem with a calculation is that we have no access to the VIDC salaries or positions. More difficult, however, is that HB 1429 calls for a "proportional" supplement. What is the standard for calculation of this proportionally? Total dollars paid by the locality above the Compensation Board divided by the number of positions in the local VIDC office? A percent of the total above the Compensation Board then applied to each VIDC employee? A like for like position equivalence determination? What if there are more public defender attorneys in our district than attorneys in our Office of the Commonwealth's Attorney? Moreover, HB 1429 does not take into account a multi-jurisdictional VIDC office. Section 19.2-163.04(p) of the Code of Virginia establishes an office for "the counties of Halifax, Lunenburg, and Mecklenburg". HB 1429 calls for "the governing body of any county or city" to supplement. Therefore, is the supplement based on an average of supplements paid by each county? Is it based on workload by the VIDC office within each county? Are the payments to go to the government in which the office is located to distribute? Or is each county supposed to make payments to individual defenders?</p>
Montgomery County	<p>The County does not have public defenders. Defense attorneys are appointed by the state when necessary.</p>

Locality	Expenditure Narrative by Responding Localities
Rappahannock County	I am not able to accurately respond because I do not know the current salary of the public defender, but have entered an estimate. Rappahannock County provides a local supplement of approximately 15% above the State Compensation Board salary for the Commonwealth's Attorney. The SCB salary for the Commonwealth's Attorney for FY23 was \$131,800, so if the public defender earned the same salary, the compensation supplement would be approximately \$20,000 ($131,800 \times 0.15$). The state budget is set to increase comp board salaries by 5% in FY24, hence the increase from FY23 to FY24. FURTHER, it is not clear to me if there is one public defender who serves SOLELY Rappahannock County in our regional court district (on an FTE basis), so the impact could be more or less than noted based on the number of FTE's of public defenders that are attributable (the estimate assumes one public defender FTE to align with the one FTE of attorneys we have in the Commonwealth's Attorney Office). We have only one attorney in our Commonwealth's Attorney office.
Roanoke County	This number impact would be depending on the number of personnel increase.
Rockingham County	The County currently does not employ a Public Defender thus will not be affected by the change.
Sussex County	Sussex County's FY22 Commonwealth Attorney's office supplement is \$303,000. In addition to the FY24 proposed 5% salary increase, this would be an additional \$316,000 recurring increase, a .03 tax rate increase. These cases generate minimum to no revenue.
Northern Neck PDC	Planning Districts do not pay for public defenders. Please defer to county input for additional costs to counties.
Town of Blacksburg	Not applicable to the Town.
Town of Chincoteague	
Town of Christiansburg	We are a Town, therefore there is no cost.
Town of Leesburg	
Town of Luray	
Town of Marion	
Town of Scottsville	Small towns do not pay any kind of cost contribution to court operations, including public defenders. Our small-town budget would not be affected by this bill.

* Penny value is defined as the amount a locality would need to raise their real estate tax rate to cover the fiscal impacts of the bill, assuming no other changes to revenues or expenditures. It is represented in terms of dollars (e.g., 0.01 is a one cent increase in the real estate tax rate, etc.).