

SENATE BILL REPORT

SB 5676

As of February 21, 2017

Title: An act relating to public defense fund distributions.

Brief Description: Clarifying public defense fund distributions.

Sponsors: Senators Takko, Palumbo and Hunt.

Brief History:

Committee Activity: Law & Justice: 2/14/17, 2/16/17 [DP].
Ways & Means: 2/20/17.

Brief Summary of Bill

- Requires that \$900,000 of the revenue generated per fiscal year by the 2015 Supreme Court order to increase the base traffic infraction fines is for the Office of Public Defense.
- Modifies the fund distribution for the \$900,000—pursuant to appropriation—to 50 percent for counties and 50 percent for cities.
- Directs the funds to be used to improve the quality of trial court indigent public defense services.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

Staff: Melissa Burke-Cain (786-7755)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Julie Murray (786-7711)

Background: The Office of Public Defense (OPD) manages and distributes state funds to county and city defense systems for the improvement of trial court criminal indigent defense.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Local jurisdictions may apply for funding if they meet certain requirements, including requiring public defenders to get annual training approved by the OPD. Applicants must also report financial and caseload information on public defense services for the previous year. Individuals and entities that contract with local jurisdictions to provide public defense services must report the hours billed for private legal defense services to the local jurisdiction. Local jurisdictions receiving state funding must document that they are meeting the standards for the provision of indigent defense services as endorsed by the Washington State Bar Association, or that the funding is making appreciable demonstrable improvements in the delivery of public defense services. These improvements may include the following:

- requiring cities and counties to adopt service delivery standards using Washington State Bar Association standards as a guideline;
- requiring training for public defense attorneys;
- requiring specified enhanced training and experience for attorneys handling Murder in the first or second degree, persistent offenders, or any Class A felony, with respect to counties only;
- requiring contracts to address compensation for extraordinary cases; and
- funding for the costs of expert witnesses and investigators.

If the OPD determines that local jurisdictions receiving funds have not substantially complied with these requirements, the OPD may terminate funding. A determination to terminate funding may be appealed to the OPD advisory board, whose decision is final. Distribution of total appropriated funds by the OPD is as follows:

- 90 percent of the total goes to eligible counties:
 - 6 percent of which is divided equally among eligible counties;
 - 94 percent of which is distributed as follows:
 - 50 percent pro rata, based on county population; and
 - 50 percent pro rata, based on county criminal filings; and
- 10 percent of the total goes to eligible cities as determined by the OPD based on grant applications.

In 2015, the Washington State Supreme Court ordered a \$6 increase in the base penalty schedule for traffic infractions. Revenue from this fee increase is split between three accounts: the local General Fund, the state General Fund, and the Judicial Information Systems Account. After the fee increase, an additional \$900,000 per fiscal year from the state General Fund was appropriated in the 2015-2017 Operating Budget to the OPD for the purpose of improving the quality of trial court public defense services.

Summary of Bill: Of the revenue generated by the Supreme Court order to increase the base traffic infraction fines, \$900,000 per year is designated for the OPD. The fund distribution for the base funding distributed to county and city defense systems for the improvement of trial court criminal indigent defense is retained. However, the \$900,000 in additional state funding per fiscal year shall be distributed by the OPD as follows:

- 50 percent of the funds appropriated shall be distributed to counties; and
- 50 percent of the funds appropriated shall be distributed to cities.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Law & Justice): PRO: This bill concerns the allocation of \$900,000 generated from an increase in the basic traffic fine based on a supreme court order. The \$900,000 would be split evenly between counties and cities. The 50-50 split is the result of agreement between the counties and cities. The bill is important to a number of different cities. Following the supreme court's caseload limit for indigent criminal defense, cities have been looking for ways to deliver services for indigent defense. The equal allocation between cities and counties will make a difference for cities experiencing population growth as many cities have in recent years. Without the Office of Public Defense (OPD) grants, the burden would fall on the city's general fund already burdened with costs such as police and fire protection. Twenty-four cities received grants this year from the OPD. The grant should be continued in the 50-50 allocation between cities and counties using the additional \$900,000 now coming in from the increase in the basic traffic fines.

Persons Testifying (Law & Justice): PRO: Senator Dean Takko, Prime Sponsor; Chelsea Hager, Cities of Kelso, Mountlake Terrace, SeaTac; Steve Taylor, City of Kelso; Candice Bock, AWC.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This increase in the General Fund from increasing the traffic infraction penalty is being used to support local government indigent defense costs which are rising. The counties and cities agree that the new revenue should be split evenly rather than the 90-10 county-city split in the current grant program. Helps cities fund their indigent defense obligations. Cities spend about \$33 million annually on indigent defense funding. Not a huge amount of money, but every little bit helps particularly to our smaller jurisdictions. In 2013, the WA Supreme Court created caseload standards on public defenders which means some jurisdictions need to increase their staff, which increases costs. Want to equalize this revenue sharing between the counties and cities.

Persons Testifying (Ways & Means): PRO: Senator Dean Takko, Prime Sponsor; Chelsea Hager, Cities of Kelso, Mountlake Terrace, SeaTac; Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.